

Prospering from the Opportunities in – Yes – Real Estate

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Many lawyers are enjoying prosperous real estate practices, despite the triple whammy of the recession, unemployment and foreclosures that have slowed sales and shrunken prices in real estate. Like vines wrapped around a zigzagging tree, smart lawyers have adapted to the market and found opportunities to grow.

A lawyer must adapt to the market to thrive. While it may sound obvious, to succeed a lawyer must practice where the activity is. Lawyers waiting for the 2006 torrent of closings and transactions to return will go out of business first. Lawyers may have to learn new aspects of real estate law such as:

- Foreclosures
- Tax Appeals
- Lease modifications for retail tenants
- Finding financing or investors for developers
- “Green Building” certifications
- Advising on the Americans with Disabilities Act



As is true in all aspects of business development, you must realize that new business comes through relationships. It is essential for a lawyer to get out of the office and meet people, to get active in organizations of clients and to connect with people online.

The current market

Foreclosures define the real estate market today. In 2010, there were 529,000 bank repossessions by July 1, according to RealtyTrac, which is up 38% from last year. A total of 1,654,634 households received a foreclosure notices in the first six months of 2010, and put the country on a pace to set a record for bank repossessions and foreclosures this year. “This is a clear sign that the foreclosure crisis has not ended,” said RealtyTrac Senior Vice President Rick Sharga.

Meanwhile the unemployment rate remains stuck at 9.6%, as of September 3, 2010. Further, during the first quarter of 2010, 14,607 businesses filed for bankruptcy as did 373,551 individuals.

In this economy, two sources of new business for lawyers are banks and lenders seeking to foreclose or repossess property, or to sell off the debt to investors. Meanwhile, an industry of foreclosure defense law firms has also cropped up. A famous example is Orlando lawyer Mark P. Stopa, who earns \$500,000+ per year representing 350 clients in foreclosure. Because many loan documents are flawed or violate RESPA, he often stops a foreclosure completely by simply filing a motion to dismiss. This buys Florida homeowners an average of 500+ days before repossession.

Target clients

Lawyers can find good clients among:

1. **Retail businesses.** They enjoy a tenant's market and can demand lease reductions or threaten to move out.
2. **Office, retail and industrial landlords** who fear empty buildings. They are looking for buyers who include private investors, broker-dealer funds, private REITS and foreign investors.
3. **Developers** need loan extensions on unfinished neighborhoods whose value has plummeted. Lawyers take them through the "amend, extend and pretend" process, where the lender has to "pretend" the real estate is worth the loan amount.
4. **Owners of older buildings** who can take advantage of historic preservation, weatherization and energy tax credits and grants.

Issues that all property owners face

The US Department of Justice proposed new regulations for the Americans with Disabilities Act on July 26. They take effect in 6 months and apply to existing buildings, new construction and alterations. Smart lawyers will alert their clients and start work on compliance plans.

Many of the ADA regulations are high-tech and involve video remote interpreting, mobility devices, service animals, screen reader software, and auxiliary aids and services. They will affect clients who own playgrounds, swimming pools, amusement parks, golf courses, stadiums, hotels, theaters and gyms.

Tax appeals and green buildings

Many Americans are now receiving notice of increased property taxes, at a time when 60% of the nation's taxable property may be over-assessed, according to the National Taxpayer's Union. Lawyers can charge up to 50% of the tax savings when they

represent a property owner in a tax appeal. The best clients are owners of the highest-priced real estate — large hotels, businesses and mega-homes.

For example, the Westin Diplomat Resort & Spa in Hollywood, FL appealed its 2008 property tax assessment and got a \$7 million value reduction.

Finally, lawyers should offer to get a “green building” certification for commercial building owners. Some 70% of office buildings are 20+ years old, and a certification by the US Green Building Council’s Leadership in Energy & Environmental Design (LEED) will lower an owner’s costs, increase tenant satisfaction and add value to the building. Typical modifications include updating to cut energy use, recycle waste, using low-emitting paint, motion sensors for lights, and building with recycled materials.

“The housing market has a long way to go before it recovers,” Sharga said, but there are still many ways that smart real estate lawyers can find clients to help.

For more on this topic, call:

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