

**Selected Materials  
from  
Mixed Use Real Estate  
Development  
in the Philadelphia Region**

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# MIXED USE REAL ESTATE DEVELOPMENT

in the Philadelphia Region



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# Foreword

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“Mixed Use” property development is happening all over the Philadelphia and Camden region. In this new course and book, our distinguished faculty discuss how the developer decides what to build and where. They examine the major issues with zoning, architectural design, use of condominiums, public/private partnerships and city involvement.

We wish to thank our course planner, **Adam M. Silverman**, for his guidance and leadership in developing this project and for assembling a stellar panel of presenters. We appreciate his tremendous expertise and thoughtful consideration of the most important issues to highlight.

Special thanks also go to the faculty members. Their names and biographical sketches can be found on the following pages along with the materials they provided. These outstanding individuals serve voluntarily out of a commitment to their profession, and on behalf of the entire bar of Pennsylvania, we thank them for their generosity.

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# Biographies

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## **COURSE PLANNER**

### **Adam M. Silverman, Esq,**

Mr. Silverman is a member of Cozen O'Connor in Philadelphia. He concentrates his practice in the area of commercial real estate and related transactions. He has represented a variety of regional and national developers (including several real estate investment trusts) in a wide array matters, including the development of high-rise office towers, shopping centers, warehouses and mixed use developments, as well as portfolio acquisitions, joint ventures and merger transactions. He also represents lenders (including banks, pension funds, insurance companies and private equity funds) and borrowers in matters ranging from structured project finance to secured and securitized loan transactions. He represents landlords and tenants in office, retail and industrial leasing transactions, including complex build-to-suit transactions. Mr. Silverman served as lead real estate counsel to Liberty Property Trust in the development of the new Comcast Innovation and Technology Center, including negotiating one of the largest single-tenant office leases in the history of Philadelphia. He represented Liberty Property Trust in the development of the original Comcast Center, including acquiring and assembling land parcels, developing the project's condominium structure, and negotiating complex easement and rights agreements with SEPTA and surrounding land owners. He handled a variety of build-to-suit development and leasing projects at the Philadelphia Navy Yard, including Tastykake's state of the art baking facility, Iroko Pharmaceuticals' corporate headquarters and Franklin Square Capital's corporate headquarters. Mr. Silverman earned his undergraduate degree from George Washington University. He earned his law degree, *magna cum laude*, from Temple University School of Law, where he was the recipient of the Reber Award for excellence in writing for the Temple Law Review. Following law school, he served as a law clerk for the Honorable Phyllis Beck, Superior Court of Pennsylvania (1995-1996), and the Honorable John Padova, United States District Court for the Eastern District of Pennsylvania (1996-1997). Mr. Silverman is a member of the American Bar Association, the Philadelphia Bar Association and the Urban Land Institute. He is the vice chair of the Montgomery County Industrial Development Authority and a member of the Montgomery County Commerce Cabinet, which advises the Montgomery County Commissioners on matters of economic development. He is also on the Board of Governors of the Achieving Independence Center (a program administered by Valley Youth House) and is the vice president of the Cheltenham Township Community Development Corporation. He was also one of the founding board members of CreekSide Co-op in Elkins Park.



## **FACULTY**

### **John Gattuso**

Mr. Gattuso is Senior Vice President and Regional Director of Liberty Property Trust, one of the nation's largest real estate investment trusts (NYSE: LRY) specializing in office and industrial properties. At Liberty, Mr. Gattuso is responsible for operations in the cities of Philadelphia and Washington, DC. He is also responsible for company's urban development projects. A native of the Philadelphia area, Mr. Gattuso joined Rouse and Associates, Liberty's predecessor, in 1987. At Liberty, Mr. Gattuso has been responsible for the development of 50 projects encompassing over 7.5 million square feet representing almost \$3 billion in investment. In his current position, Mr. Gattuso has advocated a move toward sustainable and environmentally responsible development. Completed projects for which Mr. Gattuso has been responsible include 1.3 million square foot TJX Distribution center in Northeast Philadelphia, a project recognized as a "Smart Growth" development by the Sierra Club, the Plaza at PPL Center in Allentown, Pennsylvania, a LEED Gold certified project which was the recipient of the 2004 ULI Award for Excellence, as well as Comcast Center, a 975' high, 1.25 million square foot LEED Gold certified, office development located in Philadelphia which received the 2009 ULI Award for Excellence. His current project roster includes the redevelopment of a significant portion of the former Philadelphia Navy Yard as well as the 60 story, 1,121' high, 1.7 million square foot Comcast Technology Center, also in Philadelphia. Mr. Gattuso is the current President of the Fairmount Park Conservancy. He serves on the board of the Center City District as well as the Central Philadelphia Development Corporation. Mr. Gattuso has a degree in Urban Studies from Washington University in St. Louis.

### **Philip B. Korb, Esq.**

Mr. Korb is a partner in the Real Estate Department of Ballard Spahr LLP. His practice includes real estate development, acquisitions, financing and taxation, leasing, condominium and planned community development, workouts and general real estate matters. Mr. Korb is a past chair of the Real Property, Probate and Trust Law Section of the Pennsylvania Bar Association and a past member of its House of Delegates. He is the former chair of the Philadelphia Bar Association's Committee on Condominiums and Cooperatives and the Pennsylvania Bar Association's Committee on Taxation of Real Estate. Mr. Korb is a member of the American College of Real Estate Lawyers and has served on its Board of Governors. He is a frequent lecturer and author on real estate issues, including real estate taxation, workout and condominium matters. Mr. Korb is listed in *Chambers USA: America's Leading Lawyers for Business* as one of the "Leaders in Their Field" in the area of real estate and in Best Lawyers in America. He received his B.A. from Johns Hopkins University and his J.D., *magna cum laude*, from the Temple University James E. Beasley School of Law.

### **Anne Bovaird Nevins**

Ms. Nevins is Senior Vice President of Marketing & Business Development for PIDC in Philadelphia. She is responsible for managing PIDC's marketing and communications, business development, and client relations initiatives and supervises a team of six. She also develops and manages PIDC's relationships with clients in the corporate and commercial development sector, including large scale office, retail, and hospitality businesses and development projects. She works in close partnership with the City of Philadelphia and other economic development partners to market Philadelphia as a smart location for business and to attract and retain companies, developers, and investors. Ms. Nevins is an active volunteer in her community. She co-chairs the Public Relations Committee for the Friends of Bache-Martin and formerly served as a member of the Board of the Fairmount Community Development Corporation. From 1999 to 2001, she served in the White House Office of Cabinet Affairs, which is responsible for coordination between the President and all cabinet agencies. She then joined the Salt Lake

Organizing Committee for the 2002 Olympic Winter Games and managed the logistical and hospitality arrangements for all U.S. dignitaries attending the Olympics. She returned to her native city of Philadelphia and managed corporate sponsorships for the Kimmel Center, Philadelphia's regional performing arts center. She then served as Director of Development for Historic Philadelphia, Inc. and raised substantial funds to renovate Franklin Square, an 8-acre urban park in the center of Philadelphia's historic district. Ms. Nevins has a Master's degree in Business Administration from the Wharton School and a Bachelor's degree in Political Science from the University of Pennsylvania.

**Michael L. Prifti, FAIA**

Mr. Prifti's architectural career spans over 41 years. He has led over 60 projects to date and encompasses major mixed-use, large-scale vertical projects ranging in size from \$10 million to \$2 billion USD. He is known for his design sensibility and acumen in matching the clients' needs with what is technically feasible and deliver value to the client, user and community. In addition to his role as Managing Principal for BLTa (Bower Lewis Throver Architects), Mr. Prifti is actively involved in the American Institute of Architects (AIA), and is a trustee of the AIA Trust, an appointed position. He has held numerous roles including those within the National Ethics Council, AIA National Past Director and AIA Philadelphia Past President. Among the many awards he has received, Mr. Prifti is proudest of his induction into the College of Fellows of the American Institute of Architects.

**Thomas P. Witt, Esq.**

Mr. Witt is a member of Cozen O'Connor in Philadelphia where he concentrates in real estate, zoning, land use and development. He has extensive experience in commercial real estate transactions, including sales, leasing, financing, brokers licensing, zoning and land development regulation. His practice includes zoning, land use, and historic preservation for projects in Philadelphia, including the Comcast Center (a 58-story tower and currently Philadelphia's tallest structure), 1706 Rittenhouse Square, a luxury condominium voted one of the best 20 projects in North and South America by Urban Land Institute for 2011; and the National Museum of American Jewish History. His experience includes handling all land use issues for the Comcast Innovation and Technology Center, currently in development; the East Market project, a Center City Philadelphia full block site as a mixed-use retail, multifamily apartment and office project; and the Pennsylvania Hospital Tower at 8th & Walnut Streets, a complex matter involving city ordinances and hearings before the City Council. He also handles sale leaseback transactions and the representation of office tenants in leasing. Mr. Witt earned his undergraduate degree, *magna cum laude*, from LaSalle College, his Master of Arts from Harvard University, and his law degree, *cum laude*, from Temple University. In 1968, he was a Woodrow Wilson Fellow. He has lectured on real estate practice and zoning, currently teaches a seminar at the University of Pennsylvania Law School in the practice of land use law, formerly taught the course in land use law at the University of Pennsylvania Law School, and is listed in *Who's Who in American Law*. Mr. Witt served as co-chair of the Zoning and Land Use Committee of the Real Property Section of the Philadelphia Bar Association and was active on committees of the Philadelphia Bar Association and Development Workshop commenting on Philadelphia's 2012 Zoning Ordinance. He is also a member of the board of directors of Regional Housing Legal Services. He is a past president and current publications chair of the Bicycle Club of Philadelphia, chairs the advisory committee of the LaSalle University Art Museum, and, with his wife, Loretta, is past co-president of the Science and Art Club of Germantown. He also served on the board of Historic RittenhouseTown, and was recently elected Treasurer of Historic RittenhouseTown.



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Chapter One

## Mixed-Use Development

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**Adam M. Silverman, Esq.**  
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## I. Background

Few design and development ideas in the real estate industry have taken root as firmly as the concept of the “mix-use development”. The popularity of these integrated mash-ups of residential, retail, office, entertainment, government and other uses have deep roots in our desire not just for location and convenience, but for community. In a sense, the appeal of these brand new state-of-the art developments is, to a large degree, the restoration of a very old idea – the town.

Perhaps the most organic example of mixed-use in action is the medieval hill-town. Often surrounded by a wall for protection, all aspects of human life had to take place within a confined space. By necessity, homes, shops, pubs and work places were all crowded together, often one on top of the other. Yet, as any tourist to Tuscany can tell you, there is a deep and abiding appeal to these villages and their seemingly haphazard yet endearing chaos. It is a very human environment, grown naturally over centuries through a Darwinian process of trial and error until the proper balance was achieved.

This Darwinian process, however, did not always yield positive results. One of the reasons Assisi and San Gimignano are tourist destinations today is because modern technologies have sanitized much of what was distasteful (and dangerous) about people living and working in such confined quarters. Sewers, running water, electricity, trash removal and (perhaps most importantly) government regulation, inspection and oversight have done away with the smell, filth and disease that characterized such places hundreds of year ago. Before the implementation of such technologies, life in a medieval town could be coarse, unpleasant and short.

These negative aspects began to multiply as towns grew into cities. By the mid-19<sup>th</sup> century, immigrants from abroad and migrants from other parts of the country began flooding into the great cities of the United States. There they encountered dangerous overcrowding in the tenement neighborhoods in which they settled. Congested living conditions combined with the close proximity to all sorts of industry – from slaughter houses to textile factories – increased the occurrence of fire, disease and injury. By the turn of the 20<sup>th</sup> century, it became apparent that such conditions could not continue. Local governments decided to act.

And thus was born the zoning code. With the advent of zoning, uses that had previously coexisted together (however uncomfortably) began to separate. Distinct categories of activity evolved in different parts of the community. City fathers channeled “nuisance” uses to more remote areas where they could be contained and regulated, and segregated residential uses away from less hygienic commercial and industrial activities. Eventually, different “zones” were established to accommodate the different kinds of uses, with everything from height, to density, to setbacks carefully prescribed. Gradually, residential developments began to lose some of the characteristics of the town as they became increasingly isolated from the other facets of society.

The explosion of suburbs after World War II exacerbated this relative isolation. With the end of the war, and the poverty of the Great Depression a thing of the past, the American Dream solidified into the desire for a home of one’s own located well away from the smoky factories of the city, preferably surrounded by a yard, with a car in the driveway.

From Levitt & Sons to Toll Brothers, developers leapt at the chance to make the American Dream a reality. But something was missing.

The modern suburb developed around the automobile. Residents had to commute to work and drive to malls and shopping centers to provide for the everyday essentials of life. While suburbs provided a safe and bucolic environment to raise a family, they could be less conducive to the multi-layered interactions common within a town or city. When done well, modern mixed-use developments help to remedy this problem.

## II. Practical Considerations for Mixed-Use Developers

The phrase “live, work, play” has frequently been used to describe the goal of the mixed-use development. But whether consisting of a skyscraper that incorporates retail, office and residential uses, or a master planned community on 100 acres of underdeveloped land, all mixed-use development seeks, on some level, to create community. The manner in which these communities may be structured, designed and implemented is as varied and diverse as the imagination of the people who create them. That being said, all mixed-use developments typically have certain things in common:

- 1) They all consist of two or more uses intended to be independent but compatible with each other. Common uses include residential, office, hotel, entertainment and retail uses, but may also include such things as religious institutions, governmental facilities and public spaces.
- 2) The different uses within the development need to be significant and seek to serve the greater community, not just the development. An office building with a bit of ancillary retail intended to serve primarily the occupants of the building (such as a coffee shop or a news stand) is not a mixed-use development.
- 3) The project should be pedestrian friendly and easily accessible. This does not mean that the automobile is banished entirely – but once the patron arrives and parks, he/she should be able to take advantage of all available services and amenities without having to get back in the car. Whether constructed near existing public transportation infrastructure as a Transit Oriented Development, or providing ample parking in structured or surface lots, these developments have to be easily accessible to the people who use them.
- 4) There needs to be sufficient critical mass/density. The success of mixed-use development relies on attracting enough people (whether as residents, shoppers, office tenants or otherwise) to make the project economically viable.
- 5) The developer should plan the project as a collection of coherent and interlocking uses and experiences integrated in a unified and pleasing design. Sometimes the design mimics the organic structure of the town or village. Other times the project functions within the common envelope of a single building. Sometimes, a little of both.

Creating a successful mixed-use development presents unique challenges to the developer, the most fundamental of which being what to build and where. I will not attempt to review here the myriad ways in which developers determine what to build, in what densities and in what locations. Suffice it to say that some developers rely heavily on metrics, feasibility studies and other data to make as scientific a decision as possible.

Others rely more on intuition and familiarity with the location to make such determinations. No method is 100% certain and mixed-use development, like all development, carries risks – although by diversifying the project into multiple uses, such risk may be ameliorated somewhat (if one use fails, another may flourish).

Another challenge stems from the fact that different kinds of development call upon different skill sets and areas of expertise. Residential development is very different than retail. Designing a hotel is different than designing an office building. Finding a single tenant to lease a 40,000 square foot grocery store is different than finding tenants to rent one-bedroom residential units. Office leases are often based on gross rent with the tenant paying its proportionate share above a base year, while retail leases are usually triple net and may have a percentage rent component. You get the picture.

Some developers have sufficient in-house expertise to handle all or most aspects of a project themselves. Others may focus on a particular area of expertise and seek partners or “sub-developers” to handle other aspect of the project. For example, a developer that historically develops only office buildings may have an opportunity to develop a master planned project that includes not only office, but hotel, residential and retail components. While the office component of the project may present an excellent business opportunity for the office developer, the office developer may not have the ability, or desire, to expand its core competency to develop the other components of the project. In such a scenario, the office developer may seek to bring in other developers to participate in particular elements of the project.

The structure of such an undertaking can take many forms. For example, the office developer could partner with a residential developer in a joint venture arrangement. The joint venture agreement could contain not only the financial arrangement between the partners, but also the design, management and operational criteria needed to ensure a cohesive development. The division of responsibilities would likely be aligned along each party’s area of expertise, with the residential developer in charge of the design and construction of the residential elements of the project, and the office developer responsible for the office elements of the project. Each party would have certain review and approval rights as to design, selection of contractors, etc.

If a joint venture is not the preferred way to proceed, an alternative could be for one “master developer” to sell, ground lease or otherwise convey portions of the project to other “sub-developers” with distinct areas of expertise. In this scenario, the Master Developer could retain rights to approve the design and configuration of the portions of the project that are being developed by others. Such rights and controls can be set forth in an agreement of sale, ground lease or other instrument, or could be styled as deed restrictions or a recorded declaration that runs with the land. But maintaining a singular cohesive vision for the project is critical to its success.

Whether the development takes the form of a vertically integrated single building with multiple uses or a campus of multiple buildings, the different users will need to share some amount of common infrastructure. The developer needs to carefully consider how that infrastructure gets designed, constructed and used. If the mixed-use development is in the form of a building or a series of connected buildings, common infrastructure could include such elements as common lobby areas, elevators, security systems, loading docks, trash facilities and similar components. If the project takes the form of a campus, infrastructure could include roads and sidewalks, utility lines, storm sewers, sanitary

sewers, parking facilities, public spaces, and perhaps even transportation facilities. How these common infrastructure facilities get designed and constructed, and who pays for their construction and use, is a critical consideration for any mixed-use development.

Because various end-users will utilize any number of shared or common facilities, the developer must provide for a system of governance to manage how those facilities are used and how the costs to operate and maintain them are allocated. The most common way to achieve this is through the creation of a condominium. The implementation of a condominium regime transforms the property into any number of three-dimensional condominium units, each of which is a separately assessed tax parcel that can be bought, sold, and leased just like a subdivided parcel of land. The condominium structure may incorporate shared facilities and infrastructure within the “common elements” or “limited common elements” of the condominium, and provide for easements and access rights allowing some or all of the unit owners to share in their use. The condominium structure also provides a means of governance in the form of an owner’s association that is empowered to oversee the operation of the common elements of the project and levy assessments to pay for their maintenance and upkeep.

Entire books could be written (and have) on the subject of condominiums, their advantages and disadvantages, and the laws governing their use and operation. For our purposes it is sufficient to note that the condominium regime provides enormous flexibility to sell, lease and finance different elements of the project independently from one another, while providing for the harmonious interrelationship and sharing of assets necessary to accommodate the diverse end users that make up the project. If for some reason a condominium is not viable for a particular project, similar results might be achievable through other legal structures such as subdivision, the creation of air-rights estates, or the imposition of recorded easements and declarations of covenants. In the end, however, the goal is the same – to provide for a smooth running development with rights and responsibilities equitably allocated among the end users.

### III. Practical Considerations for the Legal Practitioner

Whether the undertaking takes the form of a joint venture, or a “master developer” “sub-developer” structure, the attorney documenting a mixed-use development transaction will need to address numerous legal and practical considerations to draft effective legal documents. Some issues to consider include:

- A. Ownership Structure. If the project is made up of multiple parcels of land or condominium units the most common structure is for title to the parcels to be held in a series of separate single purpose entities that are directly or indirectly owned by the developer or joint venture (or its constitute partners). Having separate SPE entities own different elements of the development allows for flexibility in structuring the financial relationship of the constituent partners or investors with respect to capital flowing into the project and revenues flowing out. It also allows for each element of the project to be financed separately using a variety of potential lenders or investors that may want to participate in different aspects of the project at different levels. The SPE structure is particularly important if a portion of the project is to be financed using a securitized or CMBS loans where lenders are extremely sensitive to non-consolidation issues and the adherence to single purpose entity formalities. It also allows for multiple layers of ownership above the level of fee owner, which may be necessary to facilitate a mezzanine investor or tax

credit structure. And of course, the multiple SPE structure helps to isolate tort and other liabilities between one element of the project and another.

- B. Tax Considerations. Ownership structure is often driven by the desire to maximize tax efficiency. The form of the entities, and the structure of ownership, may vary from state to state based on local tax considerations. For example, while limited liability companies are the preferred ownership vehicle in most states, limited partnerships have historically been used in Pennsylvania (despite being more cumbersome) to minimize the impact of the Commonwealth's capital stock tax. However, while the capital stock tax technically remains on the books, Pennsylvania recently reduced the rate of the tax to 0%. As a result, practitioners are structuring more and more transactions in Pennsylvania using LLCs rather than LPs to hold real estate assets. Additionally, unlike most states, certain counties in Pennsylvania consider the assignment of an agreement of sale to purchase real estate a transfer taxable event. Even simply designating a separate entity to take title at closing may trigger a double transfer tax (one on account of the "assignment" of the agreement that took place by designating someone other than the buyer named therein to take title, and another on account of the actual conveyance of title by deed). Similarly, in Philadelphia, having the owner of a construction project pay all construction costs to its general contractor, who then in turn pays the subcontractors, who in turn pay the sub-subcontractors, may result in the gross receipts portion of the Business Income and Receipts Tax being assessed multiple times - at each level where the money stops on its way to the final recipient. This multiple taxation can, in some cases, be avoided with certain structures which, among other things, have the owner pay the subcontractors and sub-subcontractors directly. Every jurisdiction will have its own distinct quirks and unintended tax consequences. Structuring any real estate transaction to be tax efficient requires specialized expertise in tax law, and consultation with a qualified tax attorney is a best practice and always highly recommended.
- C. Project Control. To be successful, a mixed-use development needs to reflect a single unified vision. Where the project involves multiple developers, balancing that unified vision can be a delicate business. Real estate developers are not generally known for their shy and retiring dispositions, so this is an area where conflict is common. The party creating the vision will want to control how others execute it. Such controls usually take the form of approval right, which can extend to everything from the selection of architects and contractors, to design approval, to the selection of tenants and end users. The push-pull between the various participants in the project is obvious, with each wanting the maximum control possible over its portion of the project. The drafting attorney can add value for the client by suggesting reasonable compromises that facilitate the business deal but do not harm the client. For example, where a master developer that specialized in office development is working with a sub-developer to develop a hotel on the project, the master developer's interests are likely focused mainly on the quality of the exterior appearance and maintenance of the hotel. So, the attorney may counsel that the master developer's approval rights be limited to these areas of concern, while safely leaving interior design decisions in the hands of the sub-developer. In another scenario, a master developer that owns a master-planned tract of land may want the flexibility to change the master plan from time to time. When representing the sub-developer, counsel should be careful that any change in the master plan does not reduce the sub-developer's rights or reduce its business opportunities (by, for example, reducing the size of the parcel the sub-developer

intends to develop). Whatever the arrangement, the lawyer needs to determine the correct instrument to contain the necessary provisions. If the issues of control relate only to the initial buildout of the project, such provision could be incorporated into an agreement of sale (stated to survive closing) or other agreement, but need not run with the land. If the issues are intended to apply to the post-completion operation of the project, the provisions will need to run with the land in the form of a deed restriction or recorded declaration of covenants.

- D. Public Grants and Incentives. Governments at all levels (local, county, state and federal) often seek to encourage development in depressed or underutilized areas through tax incentives, low interest loan programs, grants and other offers of aid. Each program is unique and requires counsel that can help the client navigate the program's requirements and pitfalls. Standardized agreements prepared by governmental agencies may be non-negotiable, and the program may have arcane or onerous requirements. For example, federal tax credit programs such as the New Market Tax Credit or the Historic Restoration Tax Credit programs may potentially provide tremendous financial benefits for the client. But they also often require enormously complex (and expensive) structuring and documentation to allow the client to take advantage of the tax credits. Pennsylvania's Redevelopment Assistance Capital Program can provide much needed capital to a worthy project, but may restrict the use of the funds to a narrow category of costs and carry a high administrative burden for the recipient. Some programs, like New Jersey's Green Acres program, may require that funds not only be used for a limited purpose, but also require that they flow through a 501(c)(3) non-profit entity. Failure to comply with a program's requirements can result in loss of the benefits of the program and, in some cases, substantial penalties or fines. Lawyers representing clients seeking to take advantage of these sorts of programs need to educate themselves on the subtleties of the program and carefully guide the client through the potential pitfalls.
- E. Navigating Municipal and Public Agencies. Stick a shovel in the ground anywhere in Philadelphia or South Jersey and there are probably a dozen or more governmental, quasi-governmental, non-profit and citizen organizations, agencies and committees that have jurisdiction over the site. These may include industrial development authorities, economic development authorities, redevelopment authorities, environmental protection agencies, community development corporations, port authorities, local resident associations and even the U.S. Navy or the Army Corps of Engineers. Each of these entities has their own personnel, culture and way of doing things. Many of these organizations are intended to encourage certain kinds of preferred development in certain geographical areas, but are often hamstrung by the parameters of their charters or the documents (such as development agreements) that may govern who, and how, a particular parcel of land gets developed. Dealing with such agencies is not typically adversarial in the traditional sense, but tends to be more collaborative. Representatives of an agency may very much want to help move the project forward, but are reluctant to approve anything that does not fit squarely within their mandate. Therefore, the job of the attorney representing a developer before such an agency is often to convince the agency that the project fits within the parameters of the agency's requirements, or to conform the project to meet those requirements while maintaining its economic viability. It may also be necessary to garner the support of local official and politicians to help move projects through the bureaucracy and red tape.

#### IV. Conclusion

In summary, when executed well, a mixed-use development provides an inviting environment within which to “live, work and play”. So long as people continue to crave the interaction of community, and sense of place, that mixed-use developments can provide, they will continue to be popular development projects. The form and scale of these projects are limited only by the imagination of the designers and developers who create them. Whether redeveloping an outdated shopping mall into a modern town center or turning a former industrial site into a master planned community, the challenges and rewards of mixed-use development will continue to inspire builders and users alike for many years to come. And the complexity of the projects will call for equally sophisticated legal counsel to guide their client through the labyrinth of legal issues and potential hazards that such projects present.





Chapter One

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