

Commercial Real Estate

SUMMARY

Clients need nothing less than a knowledgeable law firm that possesses the expertise to develop creative solutions to solve their issues in a timely manner.

At Borden Ladner Gervais LLP (BLG) we are serious about our clients' success: this drives everything we do.

Our integrated real estate group has the experience and expertise needed to serve all facets of the Canadian commercial real estate industry. The responsiveness and creativity of our team of more than 50 lawyers allows us to develop effective and practical solutions to fulfill our clients' objectives.

Using a multi-faceted approach that incorporates team work, the capacity to seamlessly manage multi-jurisdictional transactions, our knowledge about our clients' businesses, and the ability to utilize the expertise we have in all areas of commercial real estate, we are proficient in assisting our clients in achieving their objectives.

By focusing on solutions rather than obstacles, our Commercial Real Estate Group facilitates transactions for a broad range of clients including national and international businesses with commercial real estate, investors, pension funds, developers and builders as well as governments, governmental agencies, and lending institutions.

Professionals in the Commercial Real Estate Group have consistently been featured in the top national and international legal ranking publications, including the 2017 edition of *Best Lawyers in Canada*® and the 2016 edition of the *Canadian Legal Lexpert*® Directory.

Our clients value BLG for its commitment to service, clear strategic thinking and practical advice.

PUBLICATIONS

- ""Forever" means 40 years for Restrictive Covenants in Ontario-The Andrews v. Rago Decision," September 2019.
- "New Requirements Regarding Beneficial Ownership of Real Estate in British Columbia," June 2019.
- "Ontario Superior Court Reaffirms Legal Test for Certificates of Pending Litigation," June 2019.
- "Hail the ROFR: Another Non-Compete Bites the Dust at the Ontario Appeal Court," March 2019.
- "Adam Perzow Joins BLG," March 2019.
- "Important GST/HST Developments in Real Estate Transactions from 2018," December 2018.
- "Reminder: Record-Keeping Requirements for Ontario Corporations," November 2018.
- "Cannabis: Transitional Period Granted to Prohibit Smoking under Leases," September 2018.
- "New Toronto Cultural Co-location By-law," May 2018.
- "Government Imposes Standard Lease on Ontario Landlords as of April 30, 2018," May 2018.

- "[Protect Your Rights: Purchasers Warned to be Cautious Regarding a Vendor Reserving Rights on a Sale,](#)" January 2018.
- "[Tenants Beware of Estoppel Certificates — Don't Inadvertently Waive Your Existing Lease Rights,](#)" January 2018.
- "[Do I have an Enforceable Contract?: The Importance of Entering into a Third Party Agreement in a Sublease,](#)" October 2017.
- "[Surplus Property Transition Initiative,](#)" August 2017.
- "[New Land Transfer Tax Rules Proposed for Certain Trusts and Partnerships,](#)" August 2017.
- "[BLG Partner Wins RBC Top 25 Canadian Immigrant Award,](#)" June 2017.
- "[New Energy and Water Consumption Reporting to be Phased in for Large Buildings,](#)" March 2017.
- "[The New FCPA — Changes to Ontario's Corporate Record-Keeping Requirements and Corporate Forfeiture Regime,](#)" December 2016.
- "[New and Improved Funding Options for Community Hubs,](#)" December 2016.
- "[New Reporting Obligations for Ontario Corporations: What You Need to Know,](#)" November 2016.
- "[Significant changes to the Land Transfer Tax Act,](#)" November 2016.

REPRESENTATIVE WORK

Counsel to Northern Property REIT, in its creation of a \$3 billion national multi-family REIT through the acquisition of True North Apartment REIT and C\$535 million multi-family portfolio from Starlight Investment Ltd.

Counsel to National Power Producer on a Long-Term Contract with the Ontario Power Authority

- Contract was to efficiently and cleanly produce electricity for 100,000 Ontario residents, while also providing steam for a recycling manufacturing paper plant in the Niagara region. As the power facility was to be built directly on the land of the paper plant, the project had multiple complex infrastructure elements and therefore required sophisticated legal arrangements to ensure maximum benefit for each party.

Counsel to an International Renewable Energy Company for the Creation of its Wind Power Project

- The 101.2-megawatt project, with 44 wind turbines, located on the north shore of Lake Erie generates over 300 gigawatt hours (GWh) of power per year; producing enough electricity to power approximately 30,000 Ontario households annually. Securing the land was the number one priority for the project to be successful. 4800 hectares of farmland was needed, with perfect contiguity in the title to the legal rights from one end of the project to the other to connect with the power grid. Securing the land rights was complex and especially challenging due to prior registered leasing of the land to other parties. Through the creative use of title insurance, and the negotiation of special policy endorsements, the financial lenders were protected and the project, valued at CDN\$240 million, was successfully completed.

Represented a Multi-Campus Community College on Campus Redevelopment and the Creation of a Unique New Campus in Toronto and Region Conservation Authority Park Setting on Lake Ontario, with Heritage Implications

- Represented the College with respect to several matters related to campus redevelopment, including the current initiative to restore and redevelop the site on Lake Ontario for a cultural institute. This project required negotiation with the City of Toronto, and the Toronto and Region Conservation Authority, and incorporated a diverse number of issues in terms of public sector development, heritage issues, and the protection of parkland within a historic setting.

Represented a Major Canadian Financial Institution in its Loan to Owners of a Large, Multi-Building Office Complex in Halifax, Nova Scotia.

- Represented the financial institution with respect to the refinancing of this multi-building office complex located on the waterfront in downtown Halifax. This was a significant loan in dollar amount, and a complex transaction, including multi-party ownership of this unique complex of buildings.

Represented a Downtown University with Significant Space Challenges to Double its Space

- Assisted the University's implementation of its master capital plan. This included the building of the iconic new Sharp Centre for Design (built on stilts above the existing building and over a part of a park), acquisition of a ten storey office building, acquisition of a ground lease interest by way of a sublease and most recently, the negotiation of a ground lease rent and acquisition of additional space in a key location. This latest acquisition was complex since the land was part of a condominium being purchased from the owner of all the rest of the condominium units. There were issues as to appropriate cost sharing, reserve fund contributions and restrictions on use. The ground lease rent negotiation, which is still in progress, is made more complex since there are two other arms-length parties who are shareholders in the ground lease tenant and with whom strategy must be coordinated.

Worked with Tri-lateral Government Entity on the Revitalization of Toronto's Waterfront

- This is a site of over 800 hectares of Brownfield lands and is one of the largest infrastructure projects in North America, with a 25-year timeline and estimated government funding in excess of over \$1.5 billion. It is expected that the private sector will contribute many multiples of the government contributions. We have handled the real estate aspects of several sites including, most recently, the acquisition and lease of a contaminated site (in progress).

Represented a Pension Fund on Sale of Office Tower

- Assisted on the cash sale of a landmark office tower in downtown Vancouver to a German Investment Firm for \$300 million.

Represented an Iconic Canadian Communications Company on the Development of their Campus in Mississauga, Ontario

- This campus has been developed over a period of years and now comprises well over 1,000,000 sq. ft. of leasable area. While the campus functionally operates in an integrated fashion, legal severances were effected to create separate legal parcels, with separate ownerships, separate financing and separate leases, legally integrated by means of reciprocal easements and agreements and certain integrated terms between and amongst the leases. We worked closely with the clients project team, including without limitation, project management, planning, architectural and internal legal resources, in dealings with the municipal authorities, the prime contractor, the owners and their lenders.

Acted for National Retail Chain in Negotiations on Lease Arrangements with Commercial Property Owners regarding Store Building Specifications.

- Negotiation of lease arrangements with owners that are willing to obtain development approvals and construct a prototypical base building design to our client's specifications.

Like many retail operations, our client has seasonal requirements respecting opening and operations, as well as requirements with respect to the interrelationship between the common areas of the retail centre and our client's store. Our client's requirements with respect to the interrelationship of uses at the retail centre also formed part of the lease negotiations in each case. This retail chain has locations across Canada and recently opened a store in Mississauga, Ontario.

Represented National Real Estate Owner and Developer on a Number of Significant Real Estate Transactions in Western Canada.

- Represented client on the acquisition development, management and disposition of various industrial/warehouse, office, retail and residential properties in British Columbia and Alberta. Also worked on the negotiation and documentation of various joint venture agreements with institutional and private investors for joint ownership of investment properties, of significant leases of retail tenant, and of financing for various real estate projects. Provided corporate structuring, tax and regulatory advice with respect to our client's properties and investments.

RANKINGS & RECOGNITIONS

The Commercial Real Estate Group or its members have been recognized:

- The 2020 edition of *Chambers Canada — Canada's Leading Lawyers for Business*.
- The 2019 (and since 2017) edition of *The Legal 500 Canada*.
- The 2018 edition of *The Best Lawyers in Canada®*.
- The 2017 edition of *The Canadian Legal Lexpert® Directory*.
- The 2016 edition of *Chambers Global — The World's Leading Lawyers for Business*.