



Creating Value For Our Clients

Distressed Asset Resolution Team

Cyclical Industry

The cyclical nature of the real estate market is well documented and known to industry participants. Seyfarth Shaw LLP recognizes the importance to the real estate lending community of being prepared to react in a timely and effective manner to defaulted loan situations. We have the knowledge and experience to help our lending clients optimize their positions with respect to their distressed real estate loan assets.

Team Description

Seyfarth Shaw has established the Distressed Asset Resolution Team (DART), a dedicated interdepartmental team composed of attorneys drawn from several practice areas, including structured and real estate finance, bankruptcy, tax, and real estate litigation. DART specializes in real estate loan restructures, bankruptcy matters, foreclosure actions, UCC enforcement, and the exercise of other loan document and state law remedies. Members of DART have extensive experience in real estate finance, real estate litigation, mezzanine financing and UCC sales, bankruptcy, real estate tax, ERISA, environmental matters, and construction matters, many of which come into play when handling defaulted loans. Seyfarth Shaw is well positioned to handle loan defaults across the country.

Breadth. Depth. Results.

Interdepartmental Service Offerings


Structured and Real Estate Finance. Our real estate finance attorneys are well versed in structuring and closing securitizable and conventional real estate financings and are intimately familiar with all aspects of mortgage and mezzanine loan documentation and real estate-related security, including mortgages, assignments of rent, cash management systems, pledge and security agreements, loan reserves, letters of credit and guarantees. We have extensive experience with cross-collateralized pools and multi-tier loan structures, including handling intercreditor agreements, participation agreements, co-lender facilities and syndicated loans. We represent clients across the country, assisting with all property types—from multifamily, retail, and office to industrial and warehouse—including significant lending experience with health care facilities and hotels. Our attorneys also have considerable experience originating and working out construction loans and are supported in that regard by the firm's nationally recognized construction attorneys.

Distressed Financings. In defaulted loan matters, our attorneys work closely with those on the team with requisite subject matter experience to leverage their sophisticated knowledge of the representation of lenders in distressed situations. We have significant experience handling workouts, including the drafting and negotiation of pre-negotiation letters and forbearance agreements and the conduct of workout meetings, as well as in the enforcement of remedies, including foreclosures (contested and “consensual”), deeds in lieu of foreclosure, receiverships, and other remedies in law and equity.

We draft, negotiate, and implement comprehensive loan modifications, designed to reflect not only the then-current status of the property and the applicable loan, but also the possibility of the loan principals or the property not meeting leasing, financial, or other loan benchmarks. Our team members with a creditors' rights focus have years of experience representing secured lenders in bankruptcy matters, including handling cash collateral, relief from stay, prepackaged bankruptcies, plan confirmation and opposition, and other matters that typically arise in real estate bankruptcy cases. Our tax attorneys are “REMIC savvy” and, where applicable, are able to apply their knowledge to defaulted, securitized loan scenarios. Our team members include lawyers with mezzanine loan enforcement experience. Such experience, when combined with our capital markets knowledge, leads to our ability to provide comprehensive coverage and results for clients.

Strategic Approach

Members of the team are accustomed to counseling clients on workout strategies, with an emphasis not only on yielding optimal results and on expected borrower, borrower principal, and guarantor actions and reactions under alternative scenarios, but on time and cost factors. We approach these assignments in a proactive manner and value the importance of taking timely steps to protect and enforce our clients' collateral positions.



We are mindful of the borrower's and its principals' possible tax situations and the subsequent potential impact on their actions and reactions, and are also familiar with the not infrequent conflicting positions among the various parties composing the borrower side and the influence thereof on our client's strategies and actions.

We also focus on environmental concerns and the properties' leasing status with a view to protecting a loan's collateral structure, including its income stream. Additionally, we focus on REO structures and seek to help maximize our clients' economic position and minimize their exposure when taking over property ownership. We also address issues in syndicated transactions and bankruptcies with multiple "debt stack" levels. Our attorneys are fully familiar with lender liability issues and defenses, and we counsel clients on avoiding exposure to, and limiting, such claims.

Added Value for Clients Through Partnering

Our team members work with clients to evaluate and update their documents and processes, streamlining where appropriate to address security and enforcement issues and to achieve efficiencies. Additionally, upon request, we will provide a web-based method for tracking the progress of workout and bankruptcy matters.

Seyfarth Shaw's Distressed Asset Resolution Team provides a client-focused approach. With experienced attorneys in virtually every region of the United States, this unique team provides high quality, competitively priced and comprehensive legal support solutions for its clients.

About Seyfarth Shaw

Seyfarth Shaw was founded in 1945 by three lawyers and has grown to more than 750 lawyers across ten offices. We handle issues for our clients in all key areas including labor and employment, commercial litigation, construction, corporate and finance, employee benefits, environmental, government contracts, intellectual property, litigation, real estate, securities litigation, trade secrets, trusts and estates, and workouts and bankruptcy, among others.

Our success is the result of a constant, unrelenting focus on the needs of our clients. Our commitment to excellence and our belief in the strength of a team-based approach to the delivery of our services offers an atmosphere of creative and innovative thinking.

Our clients are our partners in business and we are committed to listening to their needs and to aligning the skills and abilities of our people to respond to those needs. Our clients range from *Fortune* 100 to midsize companies, and include publicly traded and privately held companies. We represent clients of all sizes across all industries and we are diligent in providing the same level of commitment to each client.

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