

# Real Estate

Our real estate practice is one of the largest in the American West, including Arizona, California, Colorado, Nevada and Washington with experience in all aspects of the real estate development process, from due diligence, acquisition and finance, through land use permitting and entitlements, to leasing and sale.

Our attorneys represent a wide range of clients, including industrial, commercial, title/escrow companies, agricultural, financial institutions and residential clients. Our substantial experience allows for efficient, practical application of the law that is catered to each client's individual needs.

## LEADERSHIP



REAL ESTATE

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## ACQUISITION & DISPOSITION OF PROPERTY

Fennemore's real estate group works with clients to shape commercial and industrial development throughout the West. We support sellers, buyers, users, developers, and redevelopers as they move major commercial projects from concept to completion, guiding them through every phase from assemblage and acquisition to development and disposition.

Clients in the convenience store and motor fuels industry rely on us to help them pursue opportunities and manage risk across single-site transactions and large, multi-state portfolios. We assist with site acquisitions, due diligence, financing, zoning and land entitlements, and regulatory matters, often coordinating closely with government entities. Our long history in this sector allows us to anticipate challenges and streamline the path forward.

We also help develop and acquire notable golf course projects in the United States and abroad. Whether the goal is a public or private course, a club, or a large resort-style development, we support planning, membership documentation, and related needs. Our land use team's understanding of water rights and environmental considerations helps clients navigate complex issues that arise throughout the development process.

In addition, Fennemore's real estate attorneys bring deep experience with master-planned community developments of all sizes and complexities. We assist homebuilders with parcel and lot sales using innovative structures such as rolling option agreements, dual beneficiary trust arrangements, and financing solutions involving land bankers, master lenders, and other financial entities.

## **COMMERCIAL, RETAIL, OFFICE, & INDUSTRIAL LEASING**

Fennemore's real estate group provides comprehensive support in the leasing of commercial property, working with institutional landowners, developers, REITs, property management companies, commercial property owners, and condominium and owner associations. The team negotiates leases across retail, office, industrial, mixed-use, agricultural, and telecommunications properties, always with a focus on advancing the goals of the organizations we represent.

We develop and implement leasing procedures for office, industrial, and retail properties, creating forms that align with each organization's strategy. By producing standardized documents that address lender requirements, reflect day-to-day management needs, and streamline negotiation and execution, we help reduce transaction costs and increase efficiency. When working with major national real estate advisors, asset managers, developers, and institutional investors, we also operate seamlessly within their established leasing structures.

Our attorneys manage substantial transaction volumes and offer practical guidance shaped by years of hands-on work. The group negotiates hundreds of leases annually across multiple property types and is recognized in the Denver market for its strong landlord-side leasing capabilities. We serve as national leasing counsel for several restaurant concepts and offer clear, strategic direction in challenging market conditions. The team also supports developers and investors with the acquisition and sale of Native American ground lease interests, development efforts on tribal land, drafting of green lease provisions, and strategies for maximizing real estate holdings or disposing of surplus properties.

Members of the group frequently contribute to leading industry publications, including chapters for the California Continuing Education of the Bar on retail leasing, office leasing, real estate finance practices, and real property sales transactions, as well as the CEB volume Retail Leasing: Drafting and Negotiating the Lease.

## **REAL ESTATE FINANCE LAW**

The real estate group provides a broad range of commercial and real estate financing services, including the structuring, negotiation, and documentation of asset-based lending transactions, security agreements, project financing, leveraged leases, loan restructures and workouts, letters of credit, repurchase and reverse repurchase agreements, and acquisition financing. The team's experience covers complex national and international multilevel credit arrangements as well as smaller business and personal loans across the real estate and commercial finance sectors.

We collaborate closely with colleagues across the firm whenever additional insight helps move a project or transaction forward. Land use attorneys advise on environmental considerations that may arise during property foreclosures, while transactional attorneys contribute perspectives on tax, environmental, securities, water rights, corporate finance, partnership, utilities, and labor and employment matters. Real estate litigators handle issues involving creditors' rights, collection and enforcement, bankruptcy, and lender liability, allowing the group to support the full lifecycle of a financing arrangement or dispute.

## **LOAN AND CREDIT AGREEMENTS**

The group's work in structuring, negotiating, and drafting financing documentation covers a broad range of industries and transaction sizes. They represent lenders, borrowers, trustees, guarantors, shareholders, partners, insurance companies, and others involved in financing arrangements. Their experience includes transactions involving aircraft, mining equipment, utility facilities, refining companies, high-rise office buildings and campuses, master-planned communities, subdivisions, golf courses, hospitals, agricultural operations, resort hotels, professional sports arenas, performing arts facilities, shopping malls, and high-technology products. Their work also includes the use of credit enhancement tools such as letters of credit, guarantees, and other forms of standby assistance.

The team represents large national financial institutions as well as local community banks and credit unions in originating secured real estate loans, construction loans, warehouse lines of credit, and various other asset-based lending transactions. Their practice includes commercial real estate transactions involving commercial mortgage loans, construction loans, workouts and foreclosures, and the acquisition and disposition of properties ranging from vacant land to shopping centers and golf courses. They also handle commercial leases, including ground leases, and complex transactions within master-planned communities. Their experience extends to multi-million-dollar commercial developments, purchase and sale transactions, and financing arrangements, as well as representing banking institutions through every stage of the lending process, from origination to workout resolutions.

#### **WORKOUTS, LITIGATION AND BANKRUPTCY**

The real estate group represents lenders, creditors, and financial institutions in workouts, litigation, and bankruptcy matters, focusing on efficient strategies to resolve distressed situations whenever possible. Their work includes restructuring debt, negotiating and documenting financing agreements, loan workouts, forbearance arrangements, cash-collateral and debtor-in-possession financing, and navigating prejudgment remedies, receiverships, deeds in lieu of foreclosure, and judicial and non-judicial foreclosure actions. They also handle complex bankruptcy litigation, fraudulent transfer analysis, Uniform Commercial Code matters, transfers of claims or interests in bankrupt entities, plans of reorganization, consolidation opinions, and environmental issues arising in bankruptcy.

The team partners closely with the firm's bankruptcy, creditors' rights, and financial restructuring attorneys to assist with troubled commercial and residential real estate assets. They represent clients in state and federal proceedings, Chapter 11 cases, liquidations, out-of-court workouts, and asset recovery matters. Their work also includes administering and liquidating multimillion-dollar real estate portfolios, managing property and mortgage portfolio sales, and guiding buyers through due diligence, title insurance issues, contracts, and real property management for residential, multifamily, and commercial assets. Throughout each matter, they maintain consistent communication and pursue cost-effective solutions, including arbitration and mediation when appropriate.

#### **PURCHASE AND SALE OF REAL ESTATE**

The team handles purchase and sale agreements, non-taxable exchanges, financing, brokerage matters, environmental assessments, joint venture structures, title and escrow issues, eminent domain, foreclosures, and other due diligence needs.

#### **TITLE AND ESCROW COMPANIES**

They represent title and escrow companies and their insureds in disputes involving easements, predatory lending, negligence, fraud, quiet title actions, mechanic's and other property liens,

equitable subrogation, bad faith claims, and loan broker fraud.

## JOINT VENTURES & SYNDICATIONS

We have extensive experience in forming and representing real estate joint ventures and syndications (generally limited liability companies or limited partnerships) for a variety of project types, including industrial parks, office buildings, shopping centers, master-planned communities, residential developments and recreational communities and golf course communities.

Representative transactions range from \$1 million to more than \$600 million of equity, and include several projects that individually will produce revenues well in excess of \$1 billion. Our real estate attorneys have represented landowners, developers and financial partners (including tax-exempt entities) in these joint ventures on a broad range of real estate and tax issues.

Included in our real estate attorneys' syndication experience is forming "opportunity funds" that pool money for properties identified at a later date and that reinvest the proceeds into additional projects. Our experience with such syndications exceeds \$100 million.

## CONSTRUCTION LAW

Fennemore's [construction attorneys](#) handle the full scope of construction law, guiding general contractors, developers, architects, and engineers through every stage of their projects—from resorts, offices, and multifamily developments to major infrastructure such as bridges, roads, and dams. Working collaboratively across disciplines including real estate, business, environmental, and employment law, the team provides support on both transactional and litigation matters across the Mountain West.

Our attorneys manage construction disputes involving defects, delays, liens, and design issues through mediation, arbitration, and litigation. They also prosecute reimbursement and insurance coverage claims, handle government procurement and bid protests, and counsel clients on contract negotiation, compliance, and project delivery. Beyond dispute resolution, the team assists with strategic planning, permitting, and risk management, offering practical guidance to help clients complete complex construction and infrastructure projects efficiently and successfully.

## LAND USE AND DEVELOPMENT, PLANNING & ZONING

Fennemore's [land use practice](#) supports commercial, industrial, residential, and renewable energy developers, along with municipalities, government agencies, lenders, borrowers, and Indian communities. Our attorneys assist with subdivision and entitlement work, CEQA compliance, development agreements, zoning matters, construction contracts, water and agricultural issues, and environmental concerns. We guide clients through general plan amendments; master plans and PADs/PUDs; development, annexation, and economic incentive agreements; and all aspects of zoning district approvals, site plans, plats, use permits, sign packages, and zoning code interpretations. Our group also has significant experience with historic preservation districts, overlay zones, community facilities districts, and the full spectrum of legislative and administrative land use processes.

Our real estate attorneys handle a full range of condemnation, inverse condemnation, and eminent domain matters. Our work includes addressing condemnations and partial takings by state, county, municipal, and public agencies, as well as private entities, and managing both full and partial takings that involve severance damages, cost-of-cure evaluations, and other consequential impacts. We also navigate the apportionment of damages among property owners, tenants, and other interest holders, and have extensive experience challenging appraised values with the support of appraisers and specialized experts. The team has tried

condemnation cases to verdict, secured rulings preventing takings and immediate possession, and regularly contributes to continuing education programs for professionals involved in eminent domain.

The team brings deep experience in large-scale development, including master-planned communities, age-restricted developments, and homeowners associations. We represent clients purchasing, leasing, or entitling Arizona State Land Department property, and work extensively with federal and state agencies such as the Bureau of Land Management, U.S. Forest Service, and departments of transportation and water resources. We help our clients with assemblage acquisitions, infrastructure agreements, easements and rights-of-way, development agreements, CC&Rs, construction contracts, and cooperative arrangements with municipalities and master developers. We also assist homebuilders with parcel and lot sales through rolling option agreements, trust structures, and financing arrangements with land bankers and lenders, while advising on tax, entity formation, and other development-related issues.

## **PROPERTY TAX LAW**

Our real estate attorneys have extensive experience in real and personal property tax matters. Our property tax attorneys appear regularly in the state courts and before the various county and state administrative tribunals that review appeals of property tax valuations and related issues. Our attorneys have handled appeals determining significant legal issues related to all varieties of state and local tax issues.

We have handled property tax valuation cases, including residential property (predominantly apartment complexes); commercial buildings (resorts, hotels, shopping centers, high-rise and industrial manufacturing facilities); vacant land; agricultural property; producing copper mines; gas and electric utilities; and local exchange, long-distance and cellular telecommunications companies.

Our real estate tax attorneys have also represented numerous clients in actions in various United States district courts, the federal appeals courts for the Ninth and Tenth Circuits, the Arizona Tax Court, both divisions of the Arizona Court of Appeals and the Supreme Court of Arizona seeking the recovery of discriminatory or illegally collected taxes.

## **REAL ESTATE LITIGATION**

We are experienced in all facets of real estate **litigation**, including landlord/tenant, construction, condemnation, specific performance, adverse possession, injunction, and quiet title actions. Our real estate litigators have significant experience in drafting workout and settlement agreements, enforcing judgments obtained through settlements or trials, and collection procedures, including garnishments, property seizures, and attachments.

Our real estate attorneys represent clients in matters including breach of contract, business torts, fraud, entitlement litigation, boundary disputes, condemnation actions, title disputes, landlord-tenant matters, professional malpractice, and construction law.

Landlord or tenant representation with respect to the preparation, negotiation and enforcement of leases, leasehold financing, and options to purchase.

## **WATER & ENVIRONMENTAL LAW**

Our land use attorneys provide **water** and environmental counseling for industries and businesses across the country. We routinely work in the areas of federal and state Superfund laws, groundwater quality protection, wetlands regulation, environmental audits, and site assessments, environmental impact assessments, and permitting.

Our landmark work on the Groundwater Replenishment District Act in Arizona helped create a balance between growth and water conservation, and an assurance of long-term water supplies for the Phoenix Metro Area. Our attorneys are also active members of the California water law community by speaking and writing frequently for the California Law & Policy Reporter, and through their membership in the Groundwater Resources Association of California and CalWaterPAC.

Our team has substantial experience in water rights matters, including water rights conveyances, water farm transactions, demonstrations of assured water supply for residential subdivisions, water rights adjudications, golf course and real estate development, water service agreements, and infrastructure financing.

## **INSURANCE**

Our team frequently represents clients in defending construction defect claims and pursuing reimbursement and coverage claims, including actions against insurance carriers related to alleged faulty workmanship. We also advise a broad range of stakeholders in financing transactions, representing parties on virtually all sides, including lenders, borrowers, trustees, guarantors, shareholders, partners, and insurance companies, ensuring well-structured, compliant, and strategically sound deals.

## **TRIBAL LAND**

Our team possesses broad experience involving Native American land transactions, and understands the complexities of working with the Bureau of Indian Affairs (BIA). We have represented dozens of developers and investors in acquiring and selling Native American ground lease interests and managing the development process on tribal land.

## **CONVENIENCE STORES & MOTOR FUEL FACILITIES**

Our team supports owners and operators of convenience stores and motor fuels facilities nationwide, including some of the industry's most recognizable brands. We work on everything from single-site deals to large portfolios spanning hundreds of locations, helping organizations pursue growth and manage complex operational and transactional demands.

Our experience covers the full scope of the convenience store and motor fuels sector. This includes acquisitions and due diligence, financing, zoning and land entitlements, regulatory and antitrust considerations, operational and branding matters, licensing and cobranding arrangements, franchisee issues under the Petroleum Marketing Practices Act, leasing and subleasing, assignments, enforcement of lease rights, environmental concerns tied to fuel storage tanks, fuels matters involving alternative and renewable resources, site divestments, and post-sale contractual and environmental issues.