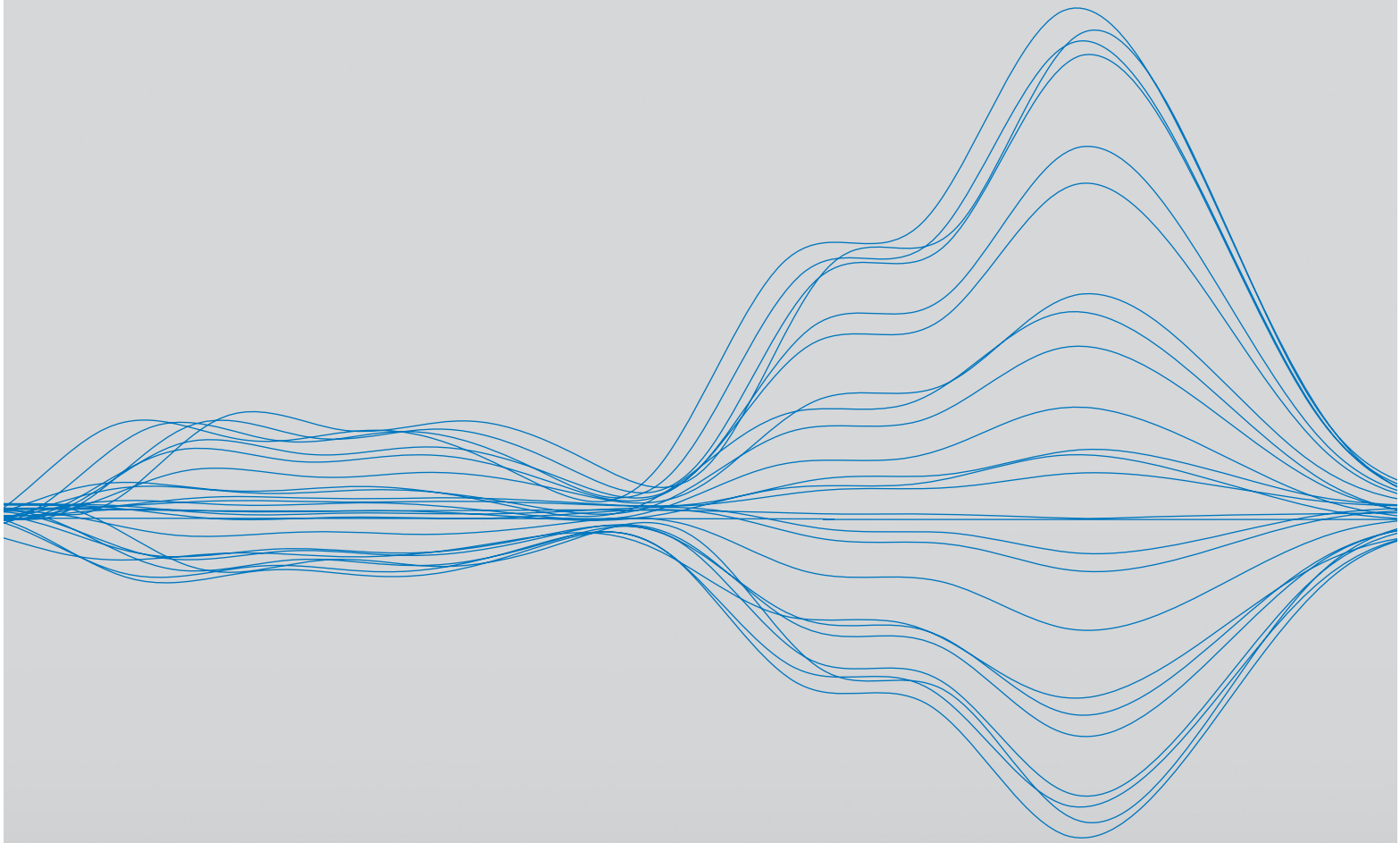


The DLA Piper 2022 Year-End Real Estate Trends Report



With more than 500 attorneys globally, including approximately 200 real estate legal professionals in 21 offices across the Americas, each year we are involved in a very large number of real estate transactions involving virtually every real estate asset class. We work with our knowledge management (KM) team to track and analyze the transactions handled by our group. With over 550 purchase and sale agreements now included in our database, we are able to analyze key transaction metrics in real time and use this information as we counsel our clients in evolving markets. As we flip the calendar from 2022 to 2023, we want to share with you some of the key trends we saw last year.

Trends

Transaction volume

In our 2022 mid-year trends report, we noted that transactional volume handled by our group in the first half of 2022 was nearly double that of the first half of 2021. In the second half of last year, we saw transaction volume slow to a pace that was more consistent with pre-pandemic levels.

Despite the reduction in transaction volume in the second half of 2022, we remained very busy. In the US, our clients were most active in Boston, New York City, the Greater Los Angeles Metro Area, and Texas and took an increased interest in the Chicago and Washington, DC metro areas. We worked on more than 2,000 matters in 2022, with acquisitions and dispositions, financing, and asset management transactions leading the way. Workflow in joint ventures, leasing, construction, and land use and development also remained steady, rounding out our top activities by work volume.

US Real Estate Leadership



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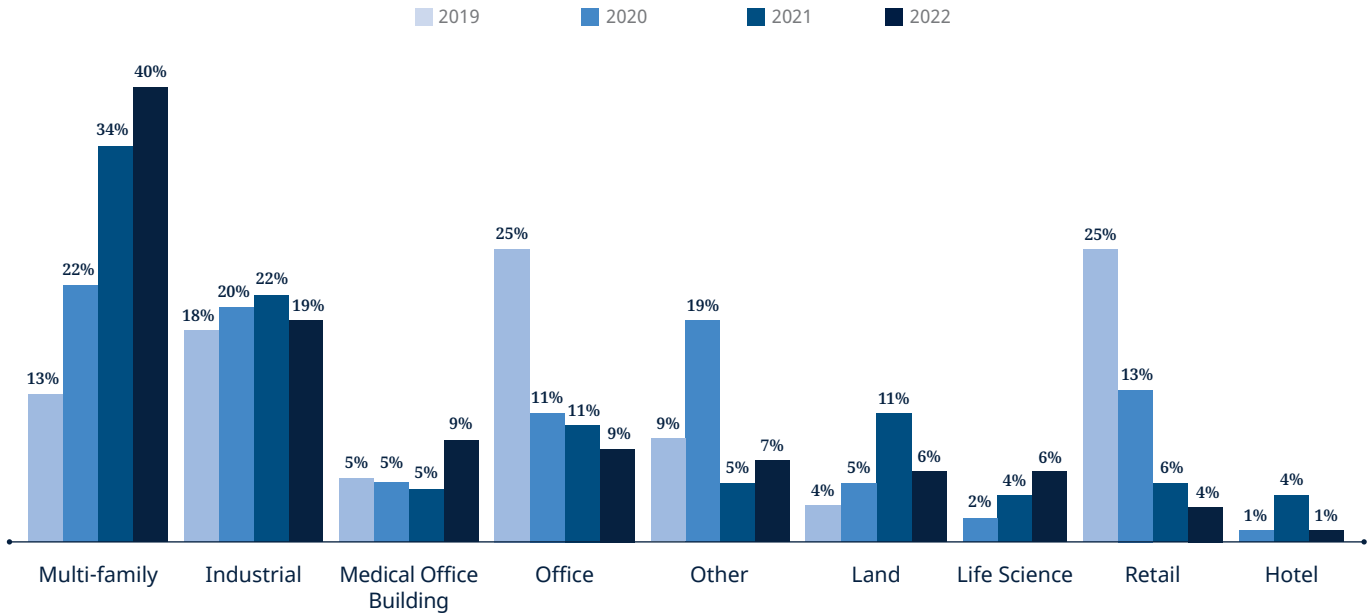
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Pricing

Purchase prices for the transactions we handled in 2022 ranged from approximately \$850,000 to over \$1 billion. In contrast to the market conditions of the last few years, in approximately 16 percent of the purchase/sale transactions we surveyed last year, the buyer was successful in getting the seller to agree to lower the sale price from the originally agreed upon amount. And although we began to see financing contingencies for the first time in quite a while, they occurred in less than 5 percent of the transactions we tracked last year. Almost all of the transactions we handled last year that had these purchase price reductions or financing contingencies occurred during Q2. We saw only one price reduction in Q4, suggesting that pricing may be stabilizing. We will continue to monitor these metrics to see if they become a trend in 2023.

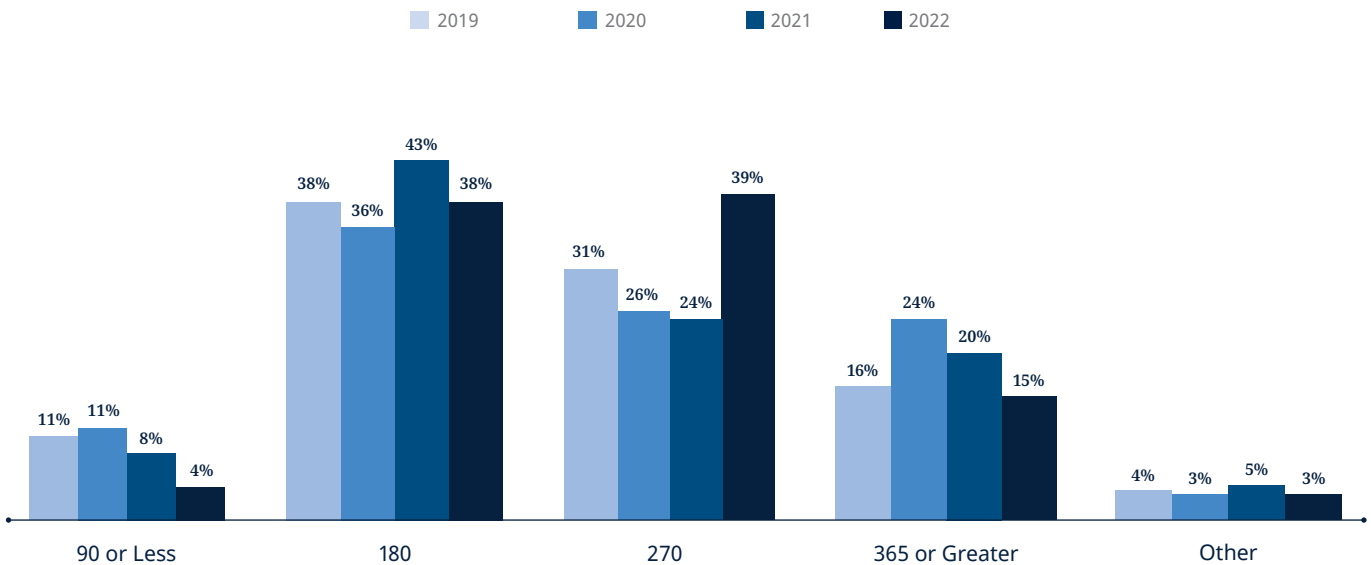
Asset classes

Multi-family continues to be a highly sought-after asset class for our clients, along with medical office buildings and life science facilities. Logistics cooled slightly in 2022. Office and retail investment activity remained sluggish, though we did not see the type of precipitous decline that we experienced in 2020. As loans near maturity on these assets, we will be interested to see whether sales volume increases. The slowdown in hotel deals is consistent with trends in the hospitality market, as many owners of these assets are holding on to them now that travel is recovering.



Survival period

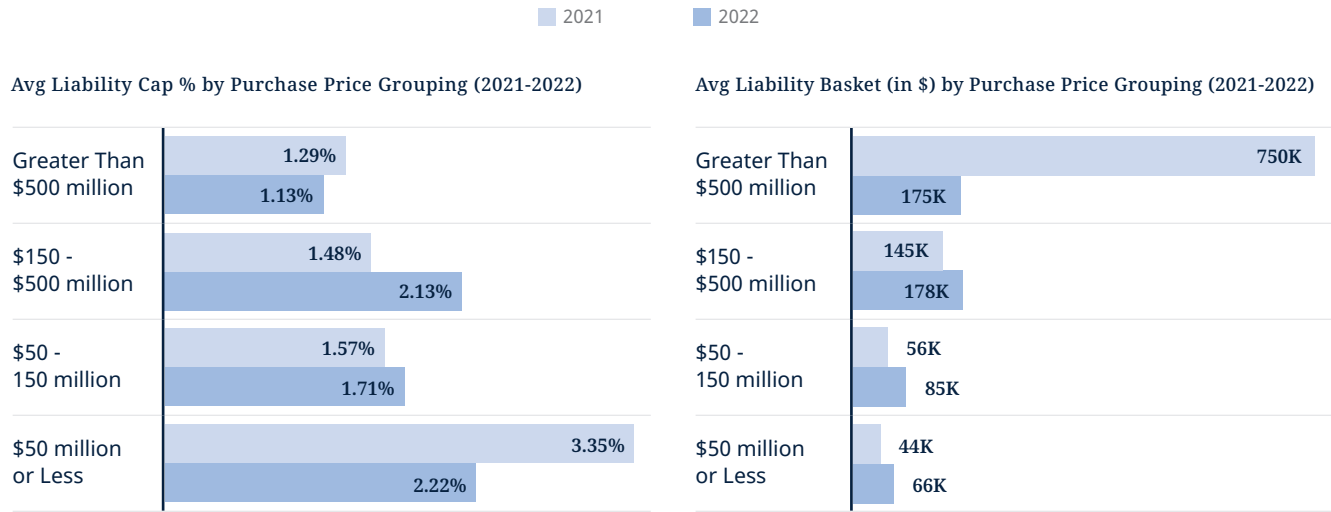
Nine months edged out six months as the most common representation and warranty survival period in purchase and sale agreements in 2022. It will be interesting to see if the longer survival period trend continues (or increases) as negotiating leverage shifts to the buyers.



Liability caps and baskets

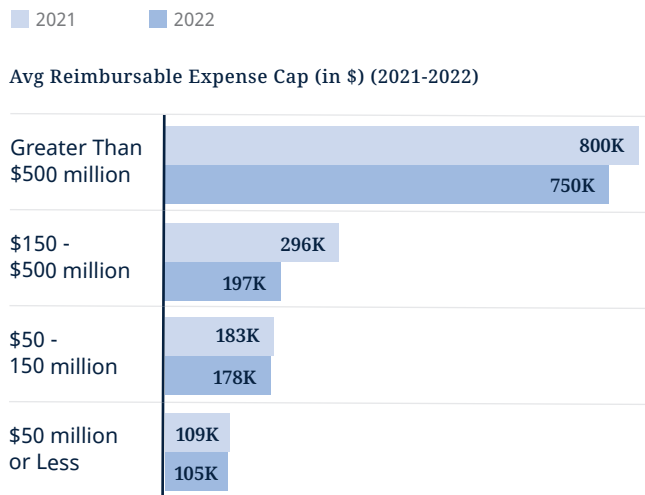
Liability claim caps and baskets for a seller’s breach of its representations and warranties moved somewhat in 2022. For transactions of \$50 million or less, the cap dropped by more than a percentage point, though the 2.22 percent average liability cap in 2022 is more in line with the other purchase price groupings. Conversely, there was an almost three-quarter point increase in the cap amount for sales in the \$150 million to \$500 million range.

Adjustments in the average liability claim basket were generally more consistent across purchase price groupings. While there was a significant decrease in the average basket amount for sales greater than \$500 million, that decrease to \$175,000 brings it closer to the amounts for the other purchase price groups, the rest of which increased slightly in 2022.



Reimbursable expenses after seller default

The amount of third-party expenses for which a defaulting seller must reimburse a buyer was our most consistent metric for 2022. In all purchase price groupings, the amount decreased. Most decreases were minor, except in the \$150 million to \$500 million purchase price group, where there was a \$100,000 decrease.



Overall, with respect to a seller’s representations and warranties, the most consistent trend was a shift in the metrics for deals in the \$150 million to \$500 million purchase price group. These shifts, however, were equally split between buyer and seller favorable. The longer survival period and increased liability cap benefit a buyer, but the increased liability basket and decreased reimbursement cap amounts are pro-seller. A sign of more heavily negotiated and more balanced deals in 2022? We will continue to monitor in 2023!

Recognitions

Thank you to our friends and clients who help support our rankings efforts each year. We're pleased to report that we received the following industry recognitions for 2022.



**Ranked Tier 1 Nationally for
“Best Law Firms” in Real Estate Law
and Land Use & Zoning Law**

U.S. News & World Report and Best Lawyers 2022



**Ranked Tier 1 for
Real Estate
(6 consecutive years)**

Legal 500 USA 2022



**Ranked Tier 1 for
Land Use & Zoning
(12 consecutive years)**

Legal 500 USA 2022



**Ranked Band 2 Nationwide for
Real Estate, Band 2 Nationwide for
Leisure & Hospitality, and 38 Ranked
Attorneys in 15 Categories/States**

Chambers



New partners and team members

Our US real estate group promoted two of our attorneys to partner in 2022: **Stacy Osmond** in our Chicago office and **Lauren Rico** in our Washington DC office. In addition, the following people joined our US real estate team in 2022.

Partner

Kimberlie Pearlman – Partner, Chicago

Of Counsels

Louis Oliverio – Of Counsel, Atlanta

Heather Srimal – Of Counsel, Palo Alto

Associates

Christopher Broughton – Associate, Atlanta

Kara Bufalino – Associate, Chicago

Antonia Darosa – Associate, Boston

John DiPasquale – Associate, Philadelphia

Nicole Firenze – Associate, San Francisco

Laura Hoey – Associate, Northern Virginia

Matthew Kinell – Associate, Boston

Jennifer Lee – Associate, New York

Emma Poorman – Associate, Chicago

Tyler Washington – Associate, Chicago

Attorneys

James Carey – Attorney, Houston

Matthew Fitzgerald – Senior Attorney, Boston

Nicholas Helmer II – Attorney, Chicago

Catalina Rodriguez – Attorney, Miami

Nicola Hosie-Kingham – Attorney, New York

Heather Sutton – Attorney, Dallas

Paralegals, Land Use Planners, Case Assistants

Svetlana Bartsch – Senior Paralegal, Boston

Keith Butler – Case Assistant, Boston

Paulina Farley-Kuzmina – Case Assistant, Washington DC

Elzbieta Flynn – Paralegal Specialist, Washington DC

Fernanda Loustaunau – Case Assistant, San Diego

Veronica Merril – Land Use Planner, Northern Virginia

Kristin Nystedt – Senior Paralegal, Chicago

Deal highlights

Below is a summary of some of the transactions we handled last year:

- **First Washington Realty, Inc.**, a national real estate investment and management firm, in its acquisition of Donahue Schriber Realty Group, Inc., a private REIT. The transaction involved over 50 shopping centers located throughout California, Oregon, and Washington. This was a game-changing transaction for First Washington that doubled its assets under management. Post-acquisition, the company owns over 150 open-air neighborhood and community shopping centers, totaling over 20 million square feet. We also advised First Washington in connection with securing a \$584 million mortgage loan from PGIM Real Estate Finance and New York Life, secured by a portfolio of 16 grocery-anchored outdoor shopping centers in California and Oregon.
- **Oxford Properties Group** (the real estate investment affiliate of the Ontario Municipal Employees Retirement System) in one of the most significant real estate transactions in the US in recent years: the acquisition of the former St John's Terminal in New York City, the transformation of that property into a 1.7 million square foot state-of-the-art office campus, and the ultimate sale of the property to Google for \$2.1 billion. This was the largest office building transaction in the US since the start of the global pandemic, and it garnered significant press, including front page articles in the *New York Times* and the *Wall Street Journal*. This deal was the culmination of years of work by DLA Piper's team, starting with the \$700 million acquisition of the property in late 2017 and a \$429 million loan from Deutsche in early 2018. We handled all of the real estate, corporate, and tax aspects of a joint venture between Oxford Properties and another non-US investor. Beginning in 2018, we represented Oxford Properties with respect to a transaction with Google under which Google would have the option to buy or lease the building upon completion. After almost 15 months of negotiations, the agreement with Google was signed in July 2019. In May 2020, we closed a \$972 million construction loan for the project – reported to have been the largest construction loan to close in New York City during the height of the pandemic. In January 2022, we handled the sale of the project to Google for \$2.1 billion. Described as a “biophilic office community,” the former freight terminal was redeveloped into a highly sustainable, adaptable, and connected building, with its biophilic design adding numerous outdoor open spaces and reconnecting the Hudson Square neighborhood to the waterfront. The building will offset 100 percent of its carbon in support of Google's ambitious carbon goals, in addition to pursuing LEED Platinum and ILFI (International Living Future Institute) Zero Carbon certifications.
- **Harrison Street Real Estate** in connection with an acquisition/ joint venture (\$1.225 billion enterprise valuation) with American Campus Communities of a portfolio of public-private-partnership (P3) student housing facilities located on Arizona State University's campus. The transaction involved eight residence halls (2,730 units on over 2.7MM square feet).
- **Griffin Realty Trust, Inc.** in the \$1.132 billion sale of a 53-building national office portfolio to a joint venture of Workspace Property Trust and GIC (Minister for Finance (Singapore)). Our team guided Griffin through extensive negotiation of the portfolio sale contract and advised on numerous matters required to complete the transaction, including issues related to space leases, ground leases, property management agreements, leasing brokerage agreements, association declarations, and title clearance. Griffin retained a passive interest in the Workspace-GIC joint venture, and we worked closely with Griffin to implement the venture structure and navigate the associated impacts on the property sale. We also used our national platform to advise on local law matters in a number of the states involved, including California, Illinois, Texas, and Florida. The successful implementation of the transaction was critical to a strategic monetization process being undertaken by Griffin and was achieved in a challenging environment for the national office and financing markets.
- **LEGO** in a program to invest over \$1 billion to build its first US toy manufacturing facility near Richmond, Virginia. This significant and high-profile program is projected to create over 1,700 skilled jobs. Our work included representing LEGO in the site selection process for the 1.7 million-square-foot, carbon-neutral factory, negotiating incentives agreements with state and local governments valued at more than \$200 million, and negotiating purchase and sale and lease agreements, development agreements, agreements with local energy providers, and construction and design documents. Construction began in fall 2022 and features many sustainability and environmentally friendly components. An onsite solar park will generate renewable energy to match the factory's daily energy needs and realize LEGO's goal of carbon neutrality.



- **A nationally recognized insurance provider** in the sale, joint venture, and rezoning aspects of the transformation of a former global headquarters on 230 acres of land primarily in north suburban Chicago. This large site will be rezoned to accommodate the development of almost two million square feet of warehouses in up to 11 buildings to support logistics and e-commerce on 3.2 million square feet of land. Our work involves disconnecting a portion of the property from one neighboring municipality and annexing the entire tract to another neighboring municipality, while simultaneously negotiating and obtaining entitlements and incentives from the annexing municipality. We also advised on the preparation and filing of the 8K in connection with the disposition.
- **Fortis Property Group** in connection with a \$1.1 billion refinancing used for the redevelopment and re-leasing of the State Street Tower at One Lincoln in Boston. Our team handled all aspects of the loan facility on behalf of the client, including mortgage financing and three separate mezzanine financings, restructuring, tax, marque tenant leasing, corporate and legal opinions. As part of the closing, we also represented Fortis in the negotiation of multiple amendments to the current WeWork lease in the building and a new lease with HarbourVest Partners, LLC for over 250,000 square feet of space. Fortis acquired the 36-story office tower in Boston's financial district in 2006. Headquartered in New York City, the Fortis portfolio includes the ownership and operation of over eight million square feet of commercial and residential properties in New York, Massachusetts, Connecticut, and Texas.
- **Oxford Properties Group** in a joint venture transaction with Ensemble Real Estate Investments to develop up to three million square feet of existing and future life science/GMP assets in the Philadelphia Navy Yard for more than \$1.5 billion. The transaction involved Oxford's 70 percent equity investment into five existing assets owned by Ensemble, each of which is held in a separate joint venture; a \$150 million first mortgage loan from Prudential secured by each of the five existing assets; the acquisition by an additional Oxford/Ensemble joint venture of land in the Philadelphia Navy Yard from the Philadelphia Authority for Industrial Development to develop a 137,000 SF life science asset; a \$58 million construction loan from Pacific Western Bank related to the new development; and an agreement pursuant to which Oxford and Ensemble will have the right to continue to develop new projects in the Navy Yard.
- **Wheelock Street Capital** in a tiered joint venture structure with Boston Global Investors and PGIM for the purpose of entering into a ground lease with the Massachusetts Port Authority to develop 10 World Trade Center in the Seaport neighborhood of downtown Boston. We also advised Wheelock and its partners on a \$382 million construction loan from AIG Asset Management. 10 World Trade Center will be a state-of-the-art, 17-story life science, laboratory, and office building and will also contain a significant amount of indoor and outdoor public space. Construction is anticipated to be completed in late 2024. DLA Piper advised Wheelock in connection with the ground lease with Massport, the various tiers of joint ventures (with Boston Global Investors and with PGIM), the construction financing (with AIG), and diligence matters, including zoning and permitting.
- **Clarion Partners** in its \$885 million acquisition of a portfolio of 12 value-add multi-family communities, totaling over 3,500 residential units, in the Sun Belt markets of Florida, North Carolina, and Tennessee. The representation also included the negotiation of a development agreement with a third-party developer and contractor to undertake major upgrades to the residential properties. Clarion Partners is a leading US real estate investment manager with offices across the US and Europe and over \$75.9 billion in total assets under management.

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- **Harrison Street Real Estate** in connection with the sale of 27 hospitals and medical office buildings across 10 states. Work included six purchase and sale agreements, five joint venture partners, and a 1031 exchange. The DLA Piper team guided Harrison Street through a number of starts and stops on this deal going back to June 2021, but once the PSAs were finally signed, it was a sprint to the finish line. Many hours were spent unravelling a complex issue involving condominium units on subleased property and negotiating a related recognition agreement, and collaboration with local counsel was critical in resolving local tax issues and addressing delays in government approvals in the time of COVID-19. The deal involved a non-US buyer who was getting into the healthcare space for the first time, and thus more diligence questions than usual, which DLA Piper's deep bench of associates were well equipped to handle and coordinate with the asset managers and property managers who were involved in the deal.
 - **Northland Investment Corporation** in the \$504 million acquisition of the recently completed THEA at Metropolis project in downtown Los Angeles and a related \$282 million financing transaction. The transaction is reported to be the largest residential single-asset sale transaction in California history, and possibly the largest residential transaction outside of New York City. The seller was an affiliate of Greenland USA and the lender was JLL Real Estate Capital, LLC and Fannie Mae. The 59-story THEA at Metropolis skyscraper is the tallest residential building in downtown Los Angeles and

among the tallest residential towers in California, with 685 residential units above a parking garage and a retail podium. It was originally designed as a for-sale residential condominium project that was the last of the four towers within Greenland's 6.5-acre Metropolis project. THEA was converted to rental apartments during construction. The deal is Northland's first acquisition in California. Several land use issues were addressed as part of the transaction, including through an REA amendment between the project and a condo association for an adjacent tower, grant of an option to purchase certain unsold condo units in several neighboring towers, and post-closing escrow holdback arrangements regarding condo issues and unfinished penthouse construction work. The transaction also involved complicated tax-related structuring that included use of several tenant-in-common ownership entities and 1031 exchange "parking" arrangements.

Going forward

We are extremely grateful for the privilege of representing so many of the world's leading real estate investors, investment managers, asset managers, fund sponsors, developers and lenders. We will continue to monitor the market and provide the most up-to-date information to aid you in negotiating transactions this year. If you have any suggestions for other trends for us to follow, please reach out to one of your DLA Piper real estate contacts.