

Real Estate Finance

We advise a full range of private and publicly owned providers of commercial real estate debt – including mortgage banks; investment advisors; life insurance companies; and community, regional, and money center banks.

Moss & Barnett advises financial institutions throughout the United States on commercial real estate lending investments. We negotiate and structure deals, prepare loan documents, examine title and survey and other real estate due diligence, and close loan transactions.

Portfolio Loans and Secondary Markets

Many of our clients retain loans in their investment portfolios. Others sell loans on the secondary mortgage market to agency investors, some of which are assigned to real estate mortgage investment conduit (REMIC) or other securitization trusts. We have the relationships, knowledge, and experience with secondary market investors and programs that are necessary to sell, securitize, and service such loans.

Multifamily Housing

We represent lenders nationwide on every type of multifamily housing project, including market rate housing, targeted affordable housing, senior housing, student housing, and manufactured housing. These projects are financed with portfolio loans, securitized loans, credit facilities, tax-exempt bonds, and other affordable housing assistance programs.

We advise on a full range of nonstandard transaction structures, including tenancies-in-common, forward and reverse 1031 exchanges, ground leases, land trusts, preferred equity, cross-collateralization, partial and fractured condominiums, phased projects, investment funds, and joint ventures.

- Affordable housing. We close transactions with Section 8 Housing Assistance Payment (HAP) contracts, tax abatements, tax exempt bond credit enhancements, tax exempt bond securitizations (TEBS), low-income housing tax credits (LIHTC), and regulatory and land use restriction agreements.
- Senior housing. We advise on deals including independent living properties, assisted living properties, and properties with skilled nursing and memory care facilities.

Commercial Real Estate

We represent lenders on a national basis on all types of commercial real estate. Project types include office, industrial, hospitality, retail, medical office buildings, medical facilities, golf courses, marinas, and commercial condominiums. These transactions involve multiple property portfolio loans, multiple jurisdiction loans, and leasehold financing.

Loan Servicing

Our lawyers represent portfolio loan servicers as well as sub-servicers of securitized loans. We advise on a full range of servicing events, including loan assumptions, transfers of ownership, easements, leases, condemnations, partial releases, and loan modifications. We have sophisticated knowledge of loan servicing regimes as well as deep experience identifying REMIC compliance issues, which enables us to advise on the servicing of securitized loans.

Successor Borrower

Defeasance is a process by which a borrower can be released from current loan obligations to sell or refinance a property. The mortgaged property is released as collateral for the loan in exchange for a portfolio of government or agency securities. The loan remains outstanding, but with a “successor borrower.” Our lawyers serve as counsel on successor borrower transactions, providing the legal opinions required for securitization.

Workouts and Foreclosures

When loans do not perform, we represent the lender or servicer on forbearance and other workout arrangements. In certain jurisdictions, we represent lenders on mortgage foreclosure matters.

Experience

- **\$878 million multifamily project in California.** Represented a Freddie Mac seller/servicer on the closing of an \$878 million loan secured by a single multifamily project in California, the largest single-property loan ever purchased by Freddie Mac.
- **7,500+ loan and servicing transactions for Freddie Mac and Fannie Mae.** Represented Freddie Mac and Fannie Mae lenders in over 7,500 loan and servicing transactions in nearly every state in the country and in every product line. We handle high-volume as well as complex individual transactions and multistate loan pool transactions.
- **Counsel to primary and master servicers of K-Deal securitizations.** Selected by the master servicers of Freddie Mac K-Deal securitizations to represent sub-servicers in Freddie Mac K-Deal borrower consent transactions.
- **SBL loans – single counsel to Freddie Mac and SBL lenders.** Selected by Freddie Mac to serve as single counsel to Freddie Mac and certain SBL lenders on SBL loan transactions.

- **National counsel to life insurance company lenders.** Serving as national counsel to life insurance company lenders on complex, multiproperty, multistate, and portfolio loan transactions as well as single property loans.
- **Counsel to financial institutions.** Represented a financial institution in a loan syndication of four credit facilities in excess of \$53 million and consisting of a revolving line of credit to fund operating needs, two term-loans to fund the acquisition of equipment, and a real estate loan on the manufacturing facility.

Professionals

Kathy Y. Allen

Todd J. Anlauf

Sheryl L. Arend

Joseph F. Avechucu

Nathan M. Brandenburg

Kevin M. Busch

Lindsay L. Case

Pamela J. Coleman

Leah E. DeGrazia

Christopher Ferreira

Margaret (Maggie) H. Garborg

Beth A. Gliedman

Timothy L. Gustin

Elizabeth H. Kiernat

Monica R. Lash

Carolyn McCune

Aaron D. Quinby

Jennifer A. Reussé

John M. Schmid

Glen E. Schumann

Caroline A. Simonson

Patrick T. Zomer

News

Midwest Real Estate News Lists Moss & Barnett Among Top Law Firms for 2023
Midwest Real Estate News, 12.27.2023

Todd J. Anlauf Elected to Board of Directors of the Minnesota Chapter of Lambda Alpha International (LAI) Land Economics Society
10.01.2023

Timothy L. Gustin and Christopher D. Stall Elected to Moss & Barnett Board of Directors
02.23.2023

Midwest Real Estate News Lists Moss & Barnett Among Top Law Firms for 2022
Midwest Real Estate News, 01.05.2023

Attorneys Gabrielle J. Martone and Aaron D. Quinby Join Moss & Barnett
08.25.2022

Kevin M. Busch, Christopher D. Stall, and James J. Vedder Included as *The Best Lawyers in America* "Lawyers of the Year" for 2023
The Best Lawyers in America, 08.18.2022

Moss & Barnett Congratulates Our Lawyers Selected for Inclusion in *The Best Lawyers in America*, *Best Lawyers: Ones to Watch*, and *Best Lawyers* "Lawyers of the Year" for 2023
The Best Lawyers in America, 08.18.2022

Susan A. King and Caroline A. Simonson Appointed Adjunct Directors to Moss & Barnett Board of Directors
06.14.2022

Attorney Madeleine F. Peake Joins Moss & Barnett
05.11.2022

Attorney Leah E. DeGrazia Joins Moss & Barnett
04.27.2022

Elizabeth ("Betsy") Kiernat Selected to *Twin Cities Business* Notable Women in Banking & Finance (2022)
Twin Cities Business (April edition), 04.13.2022

Moss & Barnett Announces New Shareholders: Bradley R. Armstrong, Lindsay L. Case, Maggie H. Garborg, Peter J. Kaiser, John P. Kennedy, and Erik L. Romsaas
03.02.2022

Midwest Real Estate News Lists Moss & Barnett Among Top Law Firms for 2021
Midwest Real Estate News, 12.01.2021

Moss & Barnett Congratulates Our 2021 Minnesota *Super Lawyers* and *Rising Stars*
07.20.2021

Moss & Barnett Announces New Shareholders: Kathy Y. Allen, Kelly C. Engebretson, Brittney M. Miller, John M. Schmid, and Alex R. Schoephoerster
01.20.2021

Midwest Real Estate News Lists Moss & Barnett Among Top Law Firms for 2020
Midwest Real Estate News, 10.01.2020

Moss & Barnett Congratulates Our Lawyers Listed to Minnesota "Super Lawyers" and "Rising Stars" Lists for 2020
07.20.2020

Kevin M. Busch and Timothy L. Gustin Re-elected to Moss & Barnett Board of Directors
02.17.2020

Changes to Minnesota Deed Tax
Moss & Barnett Advocate (Fall 2019 edition), 12.06.2019

Midwest Real Estate News Lists Moss & Barnett Among Top Law Firms for 2019
Midwest Real Estate News, 09.19.2019

John P. Boyle and Jana Aune Deach Elected to Board of Directors and Beth A. Gliedman Elected a Shareholders of Moss & Barnett
05.02.2019

Midwest Real Estate News Lists Moss & Barnett Among Top Law Firms for 2018
09.18.2018

Todd J. Anlauf Inducted into Lambda Alpha International Land Economics Society
04.26.2018

Nicholas J. Kaster and Patrick T. Zomer Elected Shareholders of Moss & Barnett
03.23.2018

Real Estate Finance Team Expands with Arrivals of Lindsay L. Case, Chelsy M. Jantsch, and John P. Kennedy
02.28.2018

Real Estate Finance Team Expands with Arrival of Todd J. Anlauf
03.22.2017

New Service Team Focuses on Multifamily Housing and Commercial Real Estate Finance
03.20.2017

Kevin M. Busch and Timothy L. Gustin Re-elected to Moss & Barnett Board of Directors
03.09.2017

Moss & Barnett Congratulates Its Lawyers Selected for Inclusion in "The Best Lawyers in America®"
for 2017
08.15.2016

Moss & Barnett's New Certified Paralegals, Carolyn McCune and Carol J. Yerks
07.18.2016

Moss & Barnett Congratulates Its Lawyers Named to Minnesota "Super Lawyers" and "Rising Stars"
Lists for 2016
07.05.2016

Margaret H. Garborg Joins Moss & Barnett
04.27.2016

Caroline Simonson and Sarah Doerr Elected Shareholders
03.01.2016

John M. Schmid Joins Moss & Barnett
04.29.2015

Moss & Barnett Congratulates Its Lawyers Selected for Inclusion in "The Best Lawyers in America®"
for 2015
08.18.2014

Michael J. Bradley and Kevin M. Busch Named "Best Lawyers" 2015 Minneapolis "Lawyers of the
Year"
08.18.2014

Moss & Barnett Congratulates Its Lawyers Named to Minnesota "Super Lawyers" and "Rising Stars"
Lists for 2014
07.07.2014

Timothy L. Gustin Selected to Serve on Freddie Mac Multifamily Legal Advisory Council
11.04.2013

Events

Building Wealth in Your Business: "Strategies for Sustainable Growth & Transition"
St. Michael Theater, 4300 O'Day Avenue, 3rd Floor, St. Michael, MN 55376, 05.22.2024

Banking & Lending Forecast

Minnesota Mid-Year Forecast Summit, Golden Valley Country Club, 7001 Golden Valley Road, Golden Valley, MN 55427, 06.06.2024

Real Estate Finance for the Rest of Us – Understanding Financial Terms and What’s Negotiable, Bridge Loans and More

2023 Real Estate Institute, St. Paul RiverCentre, 175 West Kellogg Boulevard, St. Paul, MN 55102, 11.02.2023

Negotiating Financial, Business, and Legal Issues: Borrower vs. Lender Perspectives

National Business Institute's Real Estate Financing 2023-2024 CLE I Regulatory Recaps, Loan Document Negotiation Strategies, and More, 09.27.2023

Types of Loans and Creative Financing Options: Making the Right Choice

National Business Institute's Real Estate Financing 2023-2024 CLE I Regulatory Recaps, Loan Document Negotiation Strategies, and More, 09.27.2023

HUD, Fannie & Freddie Update and Perm Debt Options

Minnesota Multifamily Finance & Technology Summit, Golden Valley Country Club, 7001 Golden Valley Road, Golden Valley, MN 55427, 09.22.2023

Construction Lending Update

Minnesota Multifamily Finance & Technology Summit, Golden Valley Country Club, 7001 Golden Valley Road, Golden Valley, MN 55427, 09.22.2023

Legal Issues Every Producer/Analyst Should Know When Originating a Fannie Mae Loan

Client Training, 06.13.2023

Multifamily Financing with Freddie Mac: Legal Basics

Online Client Presentation, 04.20.2023

Structuring Preferred Equity in Agency Loan Transactions

Online Client Presentation, 03.09.2023

Title and Survey Review

Online Client Presentation, 10.26.2022

Which Is It? Easement, Restrictive Covenant or License and Why Does It Matter?

Understanding Easements, Licenses, and Restrictive Covenants in Minnesota, Minnesota CLE Seminar Live In-Person Seminar and Online Replay, Minnesota CLE Conference Center, 600 Nicollet Mall, Suite 370, Minneapolis, MN 55402, 09.13.2022

Practitioner “Tricks of the Trade”: Expedite Your Title and Survey Review on Commercial Real Estate Transactions

2021 Real Estate Institute, 11.11.2021

Title and Survey Review

Online Client Presentation, 03.03.2021

Freddie Mac Conventional Loan Training

Client Webinar, 10.21.2020

Get to Know the “Three F’s” of Multifamily Finance: Exploring the Legal Requirements of Fannie, Freddie and FHA

The 2019 Real Estate Institute, Saint Paul RiverCentre, St. Paul, MN, 11.01.2019

Multi-family Finance - Current Pricing to Calabria and the FHFA, Along with Legal Issues to Consider Prior to Financing

ACC Online Education, 08.15.2019

Getting Your Freddie Mac Deal Under Application: Key Legal Points

Client Webinar, 11.08.2018

Freddie Mac Small Balance Loans: The Legal Side

Client Training, Newport Beach, CA, 2017

Closing Freddie Mac Small Balance Loans: The Legal Process

Client Webinar Training, 2016

Multifamily Financing with Tax-exempt Bonds

Client Training, Minneapolis, MN, 2009

Closing Your Freddie Mac Deal with Ease

Client Conference, New Orleans, LA, 2002

Publications

There's No Place Like Home: Interest Rate Hikes and the Housing Market

Moss & Barnett Advocate (Summer 2022 edition), 08.15.2022

Demand For Commercial Office Space Is Changing But Offices Are Not Obsolete

Moss & Barnett Advocate (Winter 2021 edition), 02.25.2021

How the Private Sector Can Help Solve the Affordable Housing Problem

Moss & Barnett Advocate (Fall 2019 edition), 12.16.2019

Uncertainty for Financial Institutions in the State-Legalized Marijuana Industry

Summer 2017 Firm Newsletter, 08.21.2017

Freddie Mac Revives CMBS Market: Capital Markets Execution (CME) Revisited

June 2011, 06.01.2011

The Return of Securitized Lending: Freddie Mac Launches CMBS Loan Product
September 2009, 09.01.2009

Related Practices

Financial Services

Real Estate

Clients

We advise a full range of private and publicly owned providers of commercial real estate debt, including mortgage banks, investment advisors, and life insurance companies, as well as community, regional, and money center banks. Many of our clients have established relationships with institutional providers of capital, such as Freddie Mac and Fannie Mae, where knowledge and experience with the lending programs of those providers is essential for legal representation. Our lawyers also serve as single counsel to a number of mortgage banks and to Freddie Mac as part of Freddie Mac's Small Balance Loan (SBL) program.

Freddie Mac Seller/Serviceers

Moss & Barnett is one of the leading law firms nationally representing Freddie Mac seller/serviceers. These lenders originate multifamily housing loans that are sold to Freddie Mac and then typically assigned to a REMIC or other securitization trust. These lenders retain servicing rights as sub-servicer in the case of a securitized loan.

Our lawyers have close relationships with Freddie Mac legal, production, underwriting, servicing, and management professionals. Moss & Barnett lawyer Tim Gustin serves on the Freddie Mac Multifamily Legal Advisory Council, working with Freddie Mac's legal division to update and improve legal documentation and loan requirements to address legal and industry developments.

We also have the deep knowledge required to advise seller/serviceer clients, including an understanding of:

- Freddie Mac loan products, guidelines, and documentation, which regularly evolve with changes in the marketplace and the law
- Commercial mortgage-backed securities (CMBS) rating agency criteria to effectively structure transactions for securitization
- Structuring bankruptcy-remote single purpose entities (SPEs) and substantive non-consolidation opinions

This combined Freddie Mac and CMBS experience is key in representing seller/serviceer clients on loan origination as well as on servicing matters, enabling us to meet the "servicing standard" set forth in pooling and servicing agreements.

Fannie Mae DUS Lenders

On transactions throughout the country, we serve as counsel on loans originated under Fannie Mae's Delegated Underwriting and Servicing (DUS®) loan product. Representation begins with origination of the loan in accordance with Fannie Mae's guidelines, program requirements, and documentation, and continues through sale and servicing of the loan. A number of our lawyers are part of Fannie Mae's Legal Issues Forum, contributing to thought and dialogue around programmatic and legal changes affecting the industry.

Life Insurance Companies

Our lawyers serve as national counsel to investment advisors and life insurance companies in their commercial real estate lending investments. Many of our mortgage banking clients are correspondents to the life insurance company lenders that originate these loans. Loans may be secured by a single property, or may be a multiple-property portfolio loan in multiple jurisdictions.

Banks (Community, Regional, and Money Center)

We provide counsel to banks on a variety of multifamily housing and commercial real estate matters. Loan types include construction financing, mini-perm and permanent financing, and tax-exempt bond financing. Our representation also includes workouts, foreclosures, and other creditor rights.

