

What to Expect Next in the Post COVID-19 Real Estate Market

Orlando
12.1.20

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The pandemic has significantly impacted the real estate sector. With a surge in the number of employees who work from home, the demand for office space has softened. At the same time, growth in e-commerce has exploded, resulting in further disruption of traditional retail business. As the post-COVID effects of the pandemic continue to plague the real estate market, we can prepare for the following trends to appear in the interim adjustment period. As these trends unfold, Shutts is prepared to advise clients in the real estate sector in numerous ways as described below.

Office Space

The near-term outlook for office space is mixed. Class A office tenants are generally performing under their leases, despite the surge in employees working from home. Yet, there are reports of an uptick in the subleasing of office space at significantly reduced rates, which may be a harbinger that the shift to work from home will be protracted. Moreover, the focus on open-office designs of recent past, whereby employers sought to minimize average office space allocations per employee in order to reduce rent expenses, will shift as employers focus on appropriate distancing measures and other precautionary measures in order to minimize future risks of workforce disruptions caused by contagions. Shutts advises landlords and tenants on office space leases, including advising parties of their rights under existing leases, renegotiating or terminating existing leases, negotiating new leases and subleases, and enforcing contractual rights in the event of litigation.

Construction of New Distribution Centers

As e-commerce continues to boom and demand for contact-free procurement of goods increases, construction of new distribution centers will hasten. Indeed, the market for new distribution centers has exploded to facilitate e-commerce demand. Shutts advises owners and purchasers on the sale and purchase of potential distribution center sites, supports clients and coordinates with their consultants on due diligence, survey, and title matters, works with applicable governmental authorities to secure approvals, and serves as title agent in connection with closings on such sites.

Repurposing of Shopping Malls into Distribution Centers

As e-commerce giants exhaust available greenfield sites in desirable locations for new distribution centers and continue to seek shorter product delivery times by locating closer to their customers, the space of struggling anchor tenants in some shopping malls could be repurposed into e-commerce distribution centers. However, existing shopping mall tenants may object to the conversion of such anchor tenant space due to the likely decline in foot-traffic. Local governments may oppose the rezoning of existing shopping malls for use as distribution centers, anticipating decreased property values (and corresponding property taxes) attributable to lower rents received from distribution center tenants in comparison to retail tenants. Shutts advises clients in all phases of development on land use, permitting, environmental and regulatory issues associated with redevelopment of real property. Shutts' capabilities include comprehensive planning, rezoning, annexations, platting, site planning, code compliance, concurrency, conditional uses, vested rights, and environmental permitting.

Falling Rents and Closure of Shopping Malls

As retail shopping mall tenants close their stores or exit business altogether, landlords of Class A shopping malls may seek to attract new shopping mall tenants with lower rents in the short run to fill vacant space in hopes that lease rates will eventually normalize. As Class C shopping mall landlords reel from the challenges of retail shopping in the current environment, the loss of rents combined with aging structures will adversely affect property values. Such older shopping malls may be demolished and redeveloped as mixed-use projects, assuming that local governments support redevelopment over blight. Shutts advises clients on disputes and legal proceedings in federal and state court involving distressed assets, insolvencies, bankruptcies, and assignments for the benefit of creditors.

Conclusion

The transformation of the commercial real estate sector currently underway will continue over the next year. Office space faces a mixed outlook. Distribution centers will be developed at a rapid pace. Shopping mall landlords will face pressure to adjust to the realities of e-commerce, as existing tenants fold and new tenants seek different types of leases. Local governments should embrace redevelopment caused by this transformation. Shutts is here to support clients with their legal needs as this transformation unfolds.

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About Michael A. Sjuggerud

Michael A. Sjuggerud is a partner in the Orlando office of Shutts & Bowen LLP, where he is a member of the Real Estate Practice Group. He is Board Certified in Real Estate Law by The Florida Bar. Michael advises financial institutions, businesses, local governments, and others on transactions involving the sale, purchase, financing, leasing, development, and use of real property. In connection with his real property experience, he regularly works on title matters - including title issuance, title review and title issue resolution with respect to a wide variety of property classes. Michael also advises clients on commercial transactions involving the sale, purchase, financing, and use of personal property. Additionally, Michael's varied background has given him experience in negotiating cross-border transactions, including the preparation of complex contracts for domestic and foreign companies.

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