

COMMERCIAL PROPERTY  
LAW AND FINANCE



Commercial property law does not merely involve the acquisition of land through ownership or lease. It has become far more complex than that. We see around corners.



## COMMERCIAL PROPERTY LAW AND FINANCE

Commercial property law and property finance requires a thorough understanding of various aspects of our law including (in no order of priority) land registration and conveyancing, leases, servitudes, construction law, town planning, insolvency, finance and financing structures, mortgage and other securities, company law, the law of contract, the rules of the JSE and taxation.

We offer specialist advice in relation to all commercial property transactions including:

### LAND ACQUISITIONS AND DISPOSALS

These transactions constitute “the bread and butter” of any commercial property law department. Although some transactions may seem to be relatively straight forward, there are frequently issues to trap the unwary. We strongly urge clients to seek professional advice regarding all land acquisitions and disposals. Years of experience have taught our lawyers to “see around the corner” enabling clients to avoid problems before they occur. We are able to assist clients with all property acquisitions and disposals, ranging from individual properties to entire property portfolios.

### COMPANY MERGERS AND ACQUISITIONS

Frequently properties and/or property portfolios are held through companies or other legal entities rendering the merger or acquisition of such companies to be expedient. Such transactions can give rise to a variety of issues from taxation to employment law. Our lawyers have extensive experience in mergers and acquisitions of property owning companies.

### LEASES

These may range from leases for multi-tenanted buildings to triple nett leases for particular financing structures. We have advised tenants and financiers regarding the intricacies of the acquisition of land through “leasehold title” and the financing thereof. We frequently advise prospective tenants regarding potentially onerous terms that may be included in leases. We recognise the diverging interests of landlords and tenants.

## CONSTRUCTION AND ENGINEERING

We have a dedicated Construction Law Group spanning both transactional and dispute resolution disciplines. Drawing on the diverse expertise and experience of the Construction Law Group partners, who have an in-depth understanding of issues that present themselves in the construction and engineering environment, enhanced by the ability to draw on Bowman Gilfillan's various practice areas we are able to deliver relevant and practical insight and solutions, efficiently and cost effectively.

Our sector specific expertise and services include:

- advice on Standard Form Contracts (including FIDIC, NEC, JBCC and standard forms recommended for use by the Built Environment professions);
- drafting of standard form qualifications and project specific contracts;
- advice on applicable legislation, including the Construction Regulations 2003, the Built Environment professions legislation and regulations and the Construction Industry Development Board legislation and regulations; and
- construction and engineering claims and dispute resolution.

## PROPERTY DEVELOPMENTS

Our clients include major property developers. Our lawyers have acted in a wide range of property developments including "A" grade office developments, regional shopping centres and prestigious golf course developments. We provide expert advice regarding development contracts, development leases, project management agreements and matters ancillary thereto.

## DUE DILIGENCE

We cannot adequately emphasise the importance of conducting a thorough due diligence investigation before a property is acquired. We are able to investigate all relevant aspects ranging from onerous conditions of title to relevant town planning issues. The conduct of a due diligence investigation is of invaluable assistance in determining appropriate contractual terms for the transaction.

## TAXATION

Every commercial property transaction gives rise to various taxation issues. Our lawyers have a thorough understanding of transfer duty, value added tax, capital gains tax and income tax in respect of property transactions. Particularly they are able to draw on the knowledge and expertise of a team of specialist taxation lawyers within the firm. Every commercial property transaction is structured having due regard to the taxation consequences of the transaction.

## PROPERTY FINANCE

We act both for lenders and borrowers and have a thorough understanding of their commercial and legal requirements. We have acted in a number of property financing transactions including syndicated loans for purposes of the acquisition of major property portfolios to be listed on the JSE, typical "bare dominium" financing structures and the financing of property developments and major industrial projects.

## FRACTIONAL OWNERSHIP

Fractional ownership is a generic term for various alternative forms of shared property ownership or use. These range from share block schemes to joint ownership in undivided shares. Generally such transactions require careful structuring and scrutiny. We are able to provide advice on the consequences, including the taxation implications, of the various alternative forms of fractional ownership.

# PARTNERS

## FRANS VAN HOOGSTRATEN

Frans was admitted as an attorney in 1974 and has specialised in commercial property law and property finance throughout his professional career.

Frans has acted for various local and international companies on a broad range of property related matters including general commercial agreements, joint ventures, mergers, corporate restructuring, land acquisition, due diligence investigations, financing arrangements, leases and leasebacks, share block schemes, property development, township establishment and land use matters. Frans has acted, inter alia, in the development of regional shopping centres, prime office developments and prestigious golf course developments. He has also acted in the acquisition and disposal of large property portfolios on behalf of corporate clients and in the listing and merger of companies on the JSE.

Frans regularly presents lectures on property law and is the author of numerous published articles on issues involving commercial property law.

Tel: +27 11 669 9379  
E-mail: [f.vanhoogstraten@bowman.co.za](mailto:f.vanhoogstraten@bowman.co.za)

## LLOYD CHATER

Lloyd practices in all areas of corporate and commercial law. Lloyd's particular areas of expertise lie in construction, engineering and development, finance, project finance, and mergers and acquisitions in relation to listed and unlisted entities.

Tel: +27 11 669 9315  
E-mail: [l.chater@bowman.co.za](mailto:l.chater@bowman.co.za)

## ROB MORSON

Rob was admitted as an attorney in 1996 and has practiced in both the commercial and litigation fields.

Rob advises various multinational and local companies on a broad range of commercial matters including general commercial agreements, supply and service agreements, consortia and joint ventures, corporate restructurings, development leases and commercial property transactions. He specialises in mergers and acquisitions and construction and engineering law and is the Corporate Department Construction and Engineering Practice Area Manager.

In the Construction and Engineering field he has represented clients in numerous sector specific disposals and acquisitions and has advised employers, contractors and consultants on contracts (both standard form and special purpose), disputes and other matters in connection with, inter alia, power plants, mining and process plant projects (including waste, cement, paper and acid plants and aluminium smelters), equipment supply, erection & refurbishment projects and fabricated steel supply projects (including line-pipe for oil and gas applications) sport stadium and port projects and residential and commercial property projects.

Tel: +27 11 669 9370  
E-mail: [r.morson@bowman.co.za](mailto:r.morson@bowman.co.za)



MEMBER

LEX  MUNDI

THE WORLD'S LEADING ASSOCIATION OF INDEPENDENT LAW FIRMS

**Johannesburg** 165 West Street, Sandton, Johannesburg PO Box 785812, Sandton 2146 South Africa Telephone +27 11 669 9000 Fax +27 11 669 9001

**Cape Town** SA Reserve Bank Building, 60 St George's Mall, Cape Town PO Box 248, Cape Town 8000, South Africa Telephone + 27 21 480 7800 Fax +27 21 424 1688

**London** 25 John Street, London, WC1N2BL Telephone +44 (0) 207 430 0888 Fax +44 (0) 207 430 2030

**Web** [www.bowman.co.za](http://www.bowman.co.za)