



Mark Fawer

Partner

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Mark Fawer is a partner in the Real Estate practice group at Greenspoon Marder. Mr. Fawer focuses his practice on the representation of institutional, fund and private capital sources in every aspect of senior and subordinate real estate financing and equity investment, including stretch senior, bridge and mezzanine lending, B-notes and preferred equity and joint venture investments, covering every major asset type, such as rental and for sale residential, hospitality, retail, office, student housing, mixed use and industrial properties. In his practice, Mr. Fawer has helped structure cutting edge financings and investments in some of the most challenging contexts.

In addition to his extensive financing practice, Mr. Fawer also counsels clients from “term sheet to closing” in most aspects of a wide range of other real estate transactions, including complex partnership, joint venture, and limited liability company operating agreements as well as the acquisition, development and disposition of properties locally and nationwide.

Bar Admissions

- New York

Education

- J.D., University of Pennsylvania Law School, 1986
- B.A., University of Pennsylvania, *magna cum laude*, 1983

Practice Areas

- Real Estate

Representative Experience

- Represents several national banks in making various construction and pre-development loans, including for a 276-unit multi-family and duplexes development in Maricopa County, AZ, an approximately 170,000 square foot office building and 352-unit apartment project in Las Vegas, NV, a 232-unit townhome development in Orange County, FL, a 502-bed student housing project in Gainesville, FL, a 326-unit multi-family project with 36,000 square feet of retail space in Doral, FL, an approximately 276,000 square foot multi-family project in Nassau County, NY and a 336-unit apartment project in Jersey, City, NY.
- Represent various private equity funds in making construction and redevelopment loans, including most recently for a 118,000 square foot property in Philadelphia, PA, a 144,000 square foot student housing complex in Buffalo, NY, a nearly 57,000 square foot industrial property in Cambridge, MA, a 229-unit luxury apartment building in Houston, TX and a 43-unit residential condominium project in South Beach, FL.
- Represent a private equity fund in joint venture to develop a combined 516-bed student housing complex in Tallahassee, FL, and a joint venture to develop a healthcare and life science office project in King of Prussia, PA.

- Represent an Opportunity Zone fund in a joint venture for the ground-up development of a 377-unit apartment complex in Hackensack, NJ.
- Represent a private equity fund in the acquisition of two discounted note purchases, one secured by a development site in Austin, TX and the other secured by a redevelopment assemblage in Long Beach, CA.
- Representation of a private equity firm making an over \$40 million mezzanine loan in connection with a substantial redevelopment of a major hotel and related amenities located in San Diego, California.
- Representation of a REIT in connection with a \$12,500,000 mezzanine loan financing part of the ground-up construction of an apartment complex in San Diego, California.
- Representation of a life insurance company in connection with its purchase of a \$35 million senior mezzanine loan on a luxury residential building in downtown Manhattan comprised of 573 units and its purchase of \$100 million of B-notes secured by a major regional Midwest retail mall.
- Representation of a life insurance company in connection with its purchase of a 378,547-square-foot office building in midtown Manhattan.
- Represent an active subordinate lender in the making of a variety of mezzanine loans and preferred equity investments relating to residential, hospitality, student housing and mixed used properties throughout the United States, including: a preferred equity investment in a Miami hotel consisting of 129 hotel rooms and 292 residential units; a preferred equity investment in a rental residential complex in Washington State; several construction mezzanine loans financing rental and for sale residential, student housing and mixed use properties in Manhattan, Brooklyn, south Florida and the San Francisco bay area and hotels in Tennessee and California.
- Representation of a private lender making mezzanine loans secured by development parcels in the Gowanus section of Brooklyn and in the South Bronx.
- On behalf of a special servicer, closed the restructuring of a \$330,000,000+ senior loan involving a new \$25 million mezzanine facility, secured by a portfolio of 11 branded and independent hotels located in six different states. Complex pooling and servicing, intercreditor, cash management and hotel franchise issues were addressed and resolved.
- Representation of the senior lender in the successful restructuring of a major multi-family portfolio in The Bronx, including cross-collateralization and establishment of new reserves, resulting in a subsequent full repayment of the loan.
- Counsel to a New York City developer and its joint venture with a prominent real estate opportunity fund for the development of a mixed-use condominium project located at 110 Central Park North in Manhattan.
- Representation of a publicly traded real estate investment trust, in connection with a lawsuit brought to protect the REIT's \$75 million mezzanine loan in a construction multi-use project located in Queens, New York. The lawsuit alleged that the project's senior lenders (acting in concert with the borrowers) contravened an intercreditor agreement by impairing the value of the REIT's investment (by amending the loan agreements without the REIT's consent), and resulted in a settlement on terms favorable to the client.
- Representation of the holder of a B-note in the workout of a \$180 million construction loan for a luxury resort property, including negotiation of a forbearance agreement with the borrower and guarantor, which provided for the release of the guarantor after making certain payments, acceleration of the loan, and a proposed restructuring of the existing mezzanine loan, with attention to the characterization of advances for project cost overruns by the lenders, and the subsequent defense of the B-note holder's rights after the occurrence of a "Control Appraisal Event" culminating in a successful buy-out of the client's position by the senior lending group.
- Representation of a European bank in its successful positioning of an "underwater" mezzanine loan covering a Miami resort and hotel condominium for subsequently sale by the bank to a borrower affiliate.
- Representation of an opportunistic private real estate company in the purchase of a distressed mortgage loan and a mezzanine loan covering a development parcel on the High Line of Manhattan, the subsequent mortgage foreclosure action and the negotiated deed-in-lieu of foreclosure thereafter.
- Representation of a retail mall developer in connection with modifying and extending nearly a billion dollars of securitized mortgage loans requiring extensive negotiations with special servicers and operating advisors.
- Represented a private company in connection with the purchase from Equity Residential (and subsequent refinancing) of the Lexford portfolio of over 100 multi-family projects located in 11 states and comprising over 40,000 units.

Speaking Engagements

- Speaker, "Bridge Lending For Commercial Real Estate: Financing For Transitional Properties" Strafford CLE Webinar, July 21, 2021
- Speaker, "Reimagining Commercial Space: A Forced Evolution," GM Webinar, October 1, 2020

- Speaker, "COVID-19: NY State and City Government Response & the Industry Impact," CREFC, May 12, 2020
- Speaker, "What Real Estate Lawyers Need to Know About Blockchain Technology to Stay Ahead of the Curve," St. John's University School of Law CLE Event, November 18, 2019
- Moderator, "Security Tokenization for Real Estate Offerings," CRE Finance Council After-Work Seminar, September 25, 2019
- Speaker, "Structuring Preferred Equity Investments in Real Estate Ventures: Impact of True Equity vs. "Debt-Like" Equity," Strafford Webinar, August 15, 2019
- Moderator, "State of the Market Discussion," Chambers Forum: New York 2019, June 20, 2019
- Speaker, "Cannabis Industry Real Estate Investment Opportunities," High NY Cannabis Investment: Real Estate, Opportunity Zones & NYC, May 1, 2019
- Moderator, "Financing Opportunity Zone Projects: Exploring the Nuances Among the Hoopla," CRE Finance Council, February 28, 2019
- Speaker, "Wall Street and the Capital Markets," 36th Annual Cornell Real Estate Conference, October 19, 2018
- Moderator, "Current Trends and Legislative and Regulatory Changes Affecting Construction and Development Real Estate Financing," CRE Finance Council After Work Series, October 3, 2018
- Moderator, "Looking to the Future with HVCRE and Basel III," CRE Finance Council's After-Work Seminar Series, November 15, 2017
- Moderator, "Multifamily Maze," Bisnow's New York City State of the Market, New York, November 2, 2017
- Speaker, "Real Estate Joint Ventures," Strafford Publications CLE seminar/webinar, New York, March 1, 2017
- Panelist, "Legal Challenges Posed by Unconventional Financing Structures," Georgetown Law's Hotel & Lodging Legal Summit Live Webcast, October 28, 2016
- Moderator, Bisnow's New York City State of the Market, New York, September 27, 2016
- Moderator, "Debt Shark Tank: Evaluating Challenging Deals," IMN's 17th Annual US Real Estate Opportunity & Private Fund Investing Forum, June 14, 2016
- Moderator, "Mid-Year Real Estate Lending Market Forecast 'Partly Cloudy & Partly Sunny Skies Ahead,'" CRE Finance Council's After-Work Seminar Series, May 18, 2016
- Moderator, "High Yield Lending Trends & the Latest Co-Lender Structures," CRE Finance Council's After-Work Seminar Series, November 18, 2015
- Moderator, Bisnow's New York City State of the Market, New York, October 22, 2015
- Panelist, "Senior Debt Deals & Structures," IMN's 16th Annual US Real Estate Opportunity & Private Fund Investing Forum, June 16, 2015
- Moderator, Bisnow's 6th Annual NYC Capital Markets Summit, New York, May 28, 2015
- Moderator, "View from the Top," Bisnow NY State of the Market, New York, October 29, 2014
- Moderator, "Full Spectrum of Financing Alternatives: Preferred Equity, Mezzanine Loans, Construction/Transitional and Permanent Senior Loans," EisnerAmper Real Estate Private Equity Summit, New York, October 1, 2014
- Moderator, "New Mezz Loan Origination/Borrowing," 15th Annual US Real Estate Opportunity & Private Fund Forum, New York, June 12, 2014
- Speaker, "Structuring and Enforcing Real Estate Mezzanine Intercreditor and B Note Agreements: Latest Developments," Strafford Publications Webinar, New York, April 24, 2014
- Moderator, "Understanding the Debt Side of the Equation — How are Investors Borrowing Today?" EisnerAmper Real Estate Private Equity Summit, New York, September 24, 2013
- Moderator, "Buying Within the Capital Structure: Sub Debt, Mezz & CMBS," IMN US Real Estate Opportunity & Private Fund Investing Forum, New York, May 29, 2013
- Speaker, "Real Estate Mezzanine Intercreditor Agreements and Participation Agreements: Latest Lessons from Workouts and Bankruptcies on Structure, Enforceability and Remedies," Strafford Publications Webinar, New York, April 25, 2013
- Speaker, "Mezzanine Intercreditor Agreements and Participation Agreements in Real Estate: Lessons from Workouts and Bankruptcies on Structure, Enforceability and Remedies," Strafford Publications Webinar, New York, June 14, 2012
- Moderator, "New Mezz Origination: How Much is it Costing to Fill the Debt Gap?," IMN US Real Estate Opportunity & Private Fund

Professional and Community Involvement

- CRE Finance Council, Voting Member
- New York State Bar Association,
 - Real Property Law Section, Member
 - Committee on Real Estate Financing , Member

Recognitions

- *The Legal 500 US*, Real Estate, 2015 & 2016
- *Super Lawyers*, Top Rated Real Estate Attorney in New York, NY, 2007-2011, 2013-2021

Publications

- Co-Author, "Security Tokenization and Real Estate: How Blockchain Is Changing Property Investing," *New York Real Estate Journal*, July 16, 2019
- Published, "Opportunity Zones: Pitfalls for CRE Lenders and Borrowers," *GlobeSt.com*, June 27, 2019
- Co-Author, "Sect. 1031 Exchanges: Private Letter Ruling Offers Underwater Real Estate a Buoy," *Bloomberg Real Estate Law and Industry Report*, May 28, 2013
- Co-Author, "Conflicting Decisions Cause Uncertainty (and Opportunity) in Confirming Plans in Multi-Debtor Cases", *Bloomberg Real Estate Law and Industry Report*, February 19, 2013
- Co-Author, "Intercreditor Agreements 2.0: Lessons Learned in the 'Tranches'," *New York Law Journal*, November 21, 2011

In The News

- Quoted, "The Best Of Times, The Worst Of Times: RE Attys Amid Crises," *Law360*, July 11, 2022
- Quoted, "The Delta Variant is on the Move So How Confident Is CRE Now in the Recovery?" *GlobeSt*, July 16, 2021
- Quoted, "NY Real Estate Regulations To Watch In The 2nd Half Of 2021" *Law360*, July 1, 2021
- Quoted, "Banks' Biggest CRE Headache: A Dearth of Originations," *American Banker*, June 14, 2021
- Quoted, "3 Areas Of Real Estate To Watch In 2021" *Law360*, January 3, 2021
- Quoted, "Construction Lenders Under Pressure But Still Closing Deals," *S&P Global Market Intelligence*, April 2, 2020
- Quoted, "4 COVID-19 Questions Clients Are Asking Real Estate Lawyers," *Law360*, March 30, 2020
- Quoted, "Real Estate Trends To Watch In 2020," *Law360*, January 1, 2020
- Featured, "The Office Buildings That Will Excel In 2020," *Globest.com*, December 13, 2019
- Quoted, "2020 On Track To Be A Tale Of Two Markets," *Globest.com*, December 9, 2019
- Quoted, "3 Things Mall Owners Must Consider Before Repurposing," *Law360*, November 27, 2019
- Quoted, "Tokenization Opens New Vistas for CRE Investors," *Globest.com*, September 3, 2019
- Quoted, "Tower of Terra: Dan Cooperman's Platform is Expanding Its Footprint," *Commercial Observer*, July 23, 2019
- Quoted, "Industry Disruptor: Blockchain Tokenization Explained," *Globest.com*, July 16, 2019
- Quoted, "Latest Retail Rent Control Bill Concerns Market Advocates," *Real Estate Weekly*, September 26, 2018
- Quoted, "Fall Elections Could Impede Deregulatory Push," *Commercial Mortgage Alert*, August 17, 2018
- Mentioned, "Who's New," *Real Estate Weekly*, July 26, 2018
- Featured, "3 Attorneys Jump to Greenspoon Marder's Real Estate Practice," *Daily Business Review*, July 10, 2018
- Mentioned, "Wake Up Call," *Bloomberg Law*, July 10, 2018
- Quoted, "Financing Is Getting Tight, but It Depends Heavily on Which Asset Class," *Bisnow*, May 11, 2016
- Quoted, "Nonbank Lenders Assuaging Real Estate Finance Woes," *Law360*, January 23, 2014

- Quoted, "Hotel CMBS Flowing, But Lenders Stay Tough In Negotiations," *Law360*, October 15, 2013
- Quoted, "New Cherryland Twist May Plague Real Estate Deals Nationwide," *Law360*, April 23, 2013
- Quoted, "Las Vegas Marriott CMBS 'Tranche Warfare' Case Settled," *The Wall Street Journal*, March 14, 2013
- Quoted, "Recovery For Manhattan Office Market Uncertain," *Law360*, February 11, 2013
- Interviewed, "Rising Commercial Real Estate Delinquencies: Opportunity or Crisis?," *Bloomberg Law*, October 12, 2012
- Quoted, "Developers Turn To Mezzanine Financing Carries Some Risk," *Law360*, July 24, 2012
- Day Three Recap: Greenspoon Marder Innovation Summit
- Greenspoon Marder Client Alert: Opportunity Zones

News

- Super Lawyers Recognizes 11 Greenspoon Marder Attorneys In New York Metro 2021 Edition
- Greenspoon Marder Partners Mark Fawer and Carolyn Austin Featured Speakers At Strafford CLE Webinar "Bridge Lending for Commercial Real Estate: Financing for Transitional Properties"
- Greenspoon Marder Represents ACRES Capital In Construction Financing Of \$32.5M Student Housing Project
- Super Lawyers Recognizes Four Greenspoon Marder Attorneys In New York Metro For 2020
- Greenspoon Marder Innovation Summit Webinar Recordings
- Day Three Recap: Greenspoon Marder Innovation Summit
- Greenspoon Marder Partner Mark Fawer To Be Moderator For The CREFC Webinar On COVID-19 Response And Impact To Real Estate Industry In NY
- Greenspoon Marder Partner Mark Fawer Featured Speaker At "What Real Estate Lawyers Need to Know About Blockchain Technology"
- Greenspoon Marder Hosts CREFC Seminar: Security Tokenization For Real Estate Offerings
- Super Lawyers Recognizes Four Greenspoon Marder Attorneys In New York Metro For 2019
- Greenspoon Marder Partners Mark Fawer, Carolyn Austin, and James Mann Featured Speakers At Strafford Webinar: Preferred Equity Investments In Real Estate Ventures
- Greenspoon Marder Hosts Chambers & Partners Forum In New York
- Greenspoon Marder Supports Chambers & Partners Forum in New York
- Greenspoon Marder Supports The Finance Council's Annual New York City Conference
- Greenspoon Marder Hosts The Cannabis Investment: Real Estate, Opportunity Zones & NYC
- Greenspoon Marder Hosts CRE Finance Council After-Work Seminar On "Financing Opportunity Zone Fund Projects"
- Super Lawyers Recognizes Five Greenspoon Marder Attorneys in New York Metro for 2018
- Greenspoon Marder Partner Mark Fawer Featured Speaker at the 36th Annual Cornell Real Estate Conference
- Greenspoon Marder Hosts the CRE Finance Council After Work Series Featuring Partner Mark Fawer
- Greenspoon Marder Expands Real Estate Practice Group With The Addition of Three Attorneys in New York

Videos

- Webinar: Reimagining Commercial Space: A Forced Evolution