

PARALEGALS TODAY

Utilizing Paralegals in Commercial Real Estate

by Reneé Rothweiler Cipriani

Paralegals working in the area of commercial real estate have many and varied responsibilities. Acquisition responsibilities include preparing the initial draft of a purchase agreement from attorney notes or a client interview. The paralegal coordinates with parties to the transaction, which include the buyer, seller, title insurance company, opposing counsel and the lender. After comments are received from the parties, the paralegal revises the purchase agreement and arranges for execution of the purchase agreement. Critical dates and contingencies contained in the purchase agreement must be calendared. A closing checklist is prepared outlining critical dates and issues and the responsible parties for each to ensure that all aspects of the transaction are completed in a timely manner. The paralegal will also draft the deed and any necessary affidavits to provide marketable title or to effect conveyance of the real estate.

Due diligence responsibilities are complex. The majority of my duties lie in this area. Paralegals either conduct or arrange for a title search and request an abstract of title from which a title commitment is prepared, or, if not representing the title company, order a title commitment from a title insurance company. Paralegals negotiate the extent of title insurance coverage and the fees related to it. Our firm represents a client that acquires shopping centers across the nation. My primary responsibility for this client is to review and analyze the exceptions and encumbrances of record. I also review and analyze the survey for issues. Working closely with the client, I then draft an objection letter to the seller and seller's counsel setting forth survey and title issues.

A commercial real estate paralegal will also review contracts and leases for assignment, due on sale and due on encumbrance provisions, and prepare abstracts of the contracts and leases. The paralegal will draft necessary assignment, amendment or extension documentation related to contracts and leases.

Another commercial real estate paralegal in our office handles purchaser and seller representations with regard to transactions. She obtains and prepares corporate organizational documents, including authorization of the applicable parties to purchase and/or sell, for all parties. She reviews

corporate documents for prohibitions against borrowings, power of decision-making bodies, and so forth.

Certificates of good standing or certificates of existence are obtained from the appropriate secretary of state. She also conducts public record searches of the parties, including judgment, tax liens and UCC filings, and prepares abstracts of them.

Commercial real estate transactions usually involve environmental assessments. The paralegal will order the environmental assessment and review it, and then address any issues.

With regard to closing matters, paralegals obtain closing figures from the bank and prorate amounts for real and personal property taxes, utilities and rents, and draft the closing statement.

A paralegal working for a lender will draft loan agreements, promissory notes, mortgages, security agreements, assignments of rents and leases, guaranties and truth-in-lending disclosure statements.

A paralegal may conduct a closing, ensuring that all closing documents are properly executed and notarized. Most real estate paralegals are also notaries. After the closing, the paralegal will coordinate the recording of real estate documents and the filing of UCC financing statements. When the recorded documents have been returned, the paralegal will prepare a closing binder that contains copies of all documents prepared with regard to the transaction. A closing binder is typically provided to each party.

The amount of a real property assessment is sometimes challenged by the property owner. In these instances, the paralegal will draft a complaint on real property assessment, as well as discovery requests and responses to discovery requests in conjunction with the complaint. The paralegal will coordinate a formal property appraisal and report and, if necessary, prepare a notice of appeal on valuation of property.

A paralegal employed by a firm representing either a commercial land-



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lord or tenant will draft and negotiate lease terms, conduct due diligence, modify contracts, draft subleases, prepare memorandums of leases, and draft estoppel certificates and subordination, non-disturbance and attornment agreements.

If a paralegal works for a firm employed by a lender or other lien claimant involving real estate, the paralegal may handle foreclosure actions, including drafting pleadings and communicating with the property owner.

A paralegal employed by a firm representing a developer may prepare subdivision, condominium and time-share registrations for in-state and out-of-state registrations. The development of a subdivision requires approval from various government agencies and compliance with laws and regulations. Ensuring real estate documents and surveys are approved is the responsibility of the paralegal.

The complexity of commercial real estate transactions is challenging and exciting. Paralegals are well educated and well trained, with a variety of backgrounds, experience, education and job

responsibilities across a broad range of practice areas. Paralegals have been and will continue to be widely employed in private businesses such as law firms, corporate legal departments, banks, trust companies, insurance companies, real estate and title insurance companies, and real estate development companies where substantive legal knowledge and paralegal skills are required. The paralegal profession has flourished out of a need for cost-efficient legal services. The profession will continue to thrive if more law firms, corporations and the government realize that paralegals handle tasks that allow more people to be served. ■

René Rothweiler Cipriani, a registered paralegal, has been working as a paralegal for 17 years and has been with Santen & Hughes for 5½ years. An associate member of the Cincinnati Bar Association, she is a member of the National Federation of Paralegal Associations, Inc., and a member of the Cincinnati Paralegal Association, where she serves as the PACE ambassador and the estates, tax and trust specialty section co-captain.



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