*In this month's column, attorney and guest columnist* ***Matthew Johnston*** *answers a reader's question about the potential perils of corporate campus sales. If you have a corporate real estate (CRE)-related legal question you'd like answered in a future column, email us at* ***leader@corenetglobal.org.***

**Q** *Despite significant growth, our company has successfully reduced its real estate needs, and we are considering the sale of a portion of our corporate campus. What types of legal issues and risks should we keep in mind?*

**A:** Companies and institutions have long sought efficiency in real estate ownership and utilization, and selling excess real estate is certainly nothing new. However, recent workplace trends, such as teleworking and hoteling, are creating new opportunities for reducing a company's physical footprint. Indeed, many of our corporate and institutional clients around the country have disposed of real property that was once central to their business or mission, often obtaining sizable sale prices and achieving significant operational savings. While these transactions present an array of challenges common to complex real estate deals generally, some unique issues are presented by partial sales of corporate campuses, where the retained property remains the seller's corporate home. In this article, we'll examine four of those issues.

**Zoning and Entitlements:** The partial sale of corporate property is often paired with redevelopment plans for the remaining land and improvements. It is critical for the seller to understand the impact that the sale will have on existing entitlements for improvements on the retained parcel, as well as the sale's effect on the retained parcel's developable density (i.e., floor area ratio or FAR). The seller must have a plan in place for obtaining any necessary zoning approvals or variances; in fact, it may be advantageous for the seller and purchaser to cooperate in obtaining the necessary approvals for both projects, with closing on the sale conditioned upon receipt of such approvals. Such cooperation can allow for additional efficiencies, such as coordination of utility easements, access roads, parking facilities and other infrastructure (as well as the necessary municipal approvals). All of this cooperation can be spelled out in detail in the purchase agreement and in reciprocal covenants. In any case, careful advance planning is crucial, as the last thing an owner wants is to unwittingly hamstring its future modernization and redevelopment capabilities through a hasty sale.

**Construction and Demolition Risks:** Shortly after selling a portion of its land, a corporate owner is likely to be the next-door neighbor to a significant demolition and construction site. This can reduce the quality of life for employees through dust and noise, impede access to the remaining property, and depending on the proximity to the work, present structural risks to the seller's remaining improvements. In some cases, blasting and other vibration-causing activities can have serious impacts on sensitive ongoing uses, such as research facilities, data centers or health care facilities. Sellers can address these risks in the sale documents by requiring certain mitigation efforts by the purchaser and its contractors. To protect sensitive uses, the seller can demand appropriate indemnities for violations of agreed upon construction practices or standards of care. Finally, if any of the construction activities require access to the retained property by the purchaser or its contractors, then temporary easements or licenses must be negotiated, with the purchaser providing necessary indemnities and insurance coverage.

**Neighbor Issues:** After the transferred property is redeveloped, the seller will have to live with the new improvements and their occupants. While purchasers are unlikely to accept onerous constraints on development or use, some restrictions can make sense. In some cases, it may be unacceptable for a direct competitor of the seller to occupy the buildings next door, and purchasers often agree not to assign the purchase contract to, or even lease space to, certain named competitors. Similarly, some institutional owners may object to certain specified uses of the adjacent property for ideological reasons, and purchasers sometimes agree to limited use restrictions. If the seller wishes to maintain an attractive view for its employees or preserve adequate light, the company can negotiate for approval rights over facades, landscaping, setbacks and other design aspects of the transferred property.

**Leaseback:** It is often impractical, or overly risky, for a company to invest the time and money (and inflict the emotional strain on employees) required to physically move from transferred buildings prior to actually closing on the sale. Thus, it is often necessary to negotiate a short-term leaseback agreement along with the purchase contract. In the simplest case, these temporary arrangements effectively preserve the status quo, with the seller (now the tenant) accepting the leased space "as is" and maintaining all responsibility for operating expenses and upkeep as if it were still the owner. However, these arrangements can be as complicated as the situation demands, ranging from longer term swing space arrangements during the seller's own redevelopment work on its retained property (or elsewhere) to fully negotiated long-term leases.

The issues listed above are just a sampling of the challenges that arise during sales of corporate assets. And similar issues can arise through other contracting arrangements aimed at capturing the value of excess real estate, including long-term ground leases and even subleases of rented office space. While modern workplace strategies are creating considerable opportunities for corporate and other institutional property owners to maximize value and gain efficiency, seizing these opportunities can give rise to significant risk and complexity from a legal perspective. Thus, sellers are wise to consult experienced real estate and land use counsel early in the planning and negotiation process.

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