



Restructuring of real estate and construction projects

The real estate industry is facing particular challenges. The increasing number of insolvencies in the construction industry, which also affect large companies, means that investors, owners and banks have a particular need for advice. Existing properties need to be valued and restructured in order to prepare them for the future.

The need for reinvestment is enormous. Energy requirements, increasing vacancy rates in office properties and a lack of new uses for formerly large retail spaces are confronting the German real estate industry with serious value destruction, which also includes large properties in prime locations. However, property values in the peripheral locations of cities are most affected. The need for devaluation in question here is forcing financiers to take action. Subordinated lenders, particularly those based on bonds or mezzanine lenders, are often no option. For the remaining banks, there is often a considerable need for restructuring if serious losses in value are not to be accepted through a sale.

With a team of experienced specialists, Kapellmann advises on all legal issues arising from these challenges in order to make the asset "property" fit for the future. The range of advice includes the following areas of law in particular:

Insolvency law

Properties that originate from insolvencies or are "subject to insolvency" are a particular challenge. There are often corporate law structures that prevent banks from having direct access to properties. For this reason, insolvency law advice, including the relevant commercial and corporate law implications, is often the first priority in order to enable completion of the construction project even in the event of insolvency in the project development area.

Corporate law

Assets of construction and real estate projects are usually held by corporations. The corporate law adjustments necessary in the event of restructuring require experienced corporate lawyers.

Financing contracts

We undertake the adjustment and preparation for the conclusion of new financing agreements and the

restructuring of real estate financing. We also analyse existing financing arrangements for real estate companies and projects, structure financing arrangements for refinancing and evaluate loans and alternative financing instruments.

Lease agreements / subsequent use

Renegotiations of lease agreements in order to create an economic basis for restructuring are essential and are one of the main focuses of our advice.

Public building law

We provide support in the creation of building rights and in negotiations with the authorities for the future-orientation of the property.

Tax law

In the case of tax law issues, our specialists, who are also qualified tax advisors, clarify the relevant points to round off the advice.

Sustainability

We have our own Green Contracts competence team and have long been involved in the sustainable planning, construction and operation of properties in general - i.e. topics relating to ESG in the construction and real estate industry - and the legally compliant implementation of sustainability goals in various contracts. Today, you can no longer do without "sustainability" when restructuring property.

IT/digitalisation/data protection

The lawyers in our IP, IT and data protection practice group draw on many years of experience in both national and international legal issues. The spectrum ranges from drafting contracts, in particular in the event of overlaps and mutual influences in the IT, construction law and real estate areas (keywords: smart building, smart home products, IT-heavy building services), to support during ongoing operations, e.g. in the area of facility management, to support during exits and important regulations to be complied with there, e.g. compliance with the data protection requirements of a due diligence.

Construction law

With over 50 years of experience at seven locations throughout Germany and the EU, we are experts in contract management in traditional construction law. This includes advice on the use of planners and contractors, the drafting and negotiation of the necessary contracts (in particular project management, planning and construction phase including IPA, partnering etc.) and, of course, support throughout the entire planning and construction phase including claim management and anti-claim management. We provide the necessary just-in-time advice to prepare and respond to the measures required to safeguard rights. Where necessary, we also represent our clients in disputes, whether in court or by means of alternative dispute resolution methods.

For these tasks, Kapellmann puts together interdisciplinary teams with lawyers from the fields of real estate law, corporate law, banking and financing law, corporate finance and tax advice. With our offices in Mönchengladbach, Düsseldorf, Berlin, Hamburg, Frankfurt, Munich and Brussels, we are present throughout Germany.

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