



REAL ESTATE

OVERVIEW

Foulston Siefkin real estate attorneys understand both the multidisciplinary and local business nature of real estate transactions. We regularly represent clients in acquisitions and dispositions, financing, development, land use, leasing, restructuring, and environmental matters in Kansas, Missouri, and across the United States. Our real estate attorneys advise and assist capital investors, developers, owners, lenders and other participants in a broad range of industries, including: agribusiness, construction, energy, health and senior care, retail, housing, education, and hotels & hospitality. Our team draws upon our multidisciplinary expertise, experience and local resources to assist our clients in structuring transactions, project organization, navigating local and state regulatory issues, drafting sophisticated documentation, executing negotiation strategies tailored to each transaction and the party involved, and when appropriate, preparing comprehensive litigation or arbitration strategies.

We are one of a select group of Midwest law firms recognized for such a broad spectrum of real estate expertise. Our philosophy of superior client service and our recognized expertise earned our real estate practice and our attorneys high marks for “outstanding” work from publications including Best Lawyers of America, Missouri/Kansas SuperLawyers, Chambers USA, Global Law Experts, and US News & World News Best Law Firms. Our real estate attorneys include members of the American College of Real Estate Lawyers and the American College of Environmental Lawyers.

AREAS OF REPRESENTATION

Our Practice Focus Includes:

- Real Estate Transactions
- Real Estate Development, Planning and Land Use

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ATTORNEYS AT LAW

- Real Estate Finance and Tax
- Real Estate Construction, Engineering and Environmental
- Real Estate Natural Resources
- Real Estate Lawsuits and Dispute Resolution

Real Estate Transactions

- Leasing, purchases and sales, of: commercial, industrial, investment, rural land, multi-family, and other residential, real estate
- Easements, rights of way, and other property interests
- Title and title insurance issues
- Purchase options

Real Estate Development, Planning, Land Use, and Property Management

- Master planning Infrastructure approvals/development
- Zoning and plan approval
- Commercial and residential condominiums
- Entitlements and incentives
- Homeowners' and owners' associations
- Subdividing properties
- Property management services & leasing
- Eminent domain (condemnation)
- Business property electric and gas energy planning and acquisition
- Business property sustainability planning

Real Estate Finance and Tax

- Financing
- Mortgages
- Syndications
- Taxation of real estate and real estate transactions
- Tax-deferred exchanges ("1031 exchanges")

Real Estate Construction, Engineering and Environmental

- Construction and design agreements
- Construction litigation and dispute resolution
- Environmental law, including site assessments and liability concerns

Real Estate Natural Resources and Rural Lands

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- Agricultural
- Oil, gas and other mineral interests
- Water rights
- Wind and solar energy projects, and battery energy storage facilities
- Hydrogen storage and use
- Carbon capture options and incentives
- Electric transmission lines and facilities

Real Estate Lawsuits and Dispute Resolution

- Bankruptcy workouts and restructuring
- Foreclosures
- Mechanic's and other real property liens
- Title insurance claims
- Litigation
- Mediation and arbitration

EXPERIENCE

Real Estate Development

- Short term residential property developer's counsel, including leading real estate legal team handling all aspects of new site negotiation, diligence and entitlement, to acquire, construct and operate or franchise more than 150 sites throughout the United States.
- Local Kansas counsel for significant casino company, assisting with a range of site acquisition, development and permitting issues, including laws and use concerns unique to a casino operation, for a proposed \$260 million, 275-acre development.
- Represented developer of approximately 29-acre urban mixed-use multi-building public-private downtown revitalization development in all aspects: development agreements, land contracts, multiple ground leases to support national retailer, offices, national hotel chain and condominiums, subleases, owners associations, financing, platting, permitting, restrictive covenants, easements, parking agreements, and use limitations.
- Counsel to land seller of largest and still-expanding recent commercial development corridor in Garden City, Kansas, including Wal-Mart, Sam's Club, Home Depot, Applebee's, Menard's and hotel sites. Representation included involvement in development, tax, government incentives, platting, zoning, utilities, easement and restrictive covenant issues.
- Exclusive representation of developer of approximately 700-acre mixed-use development. Handled all development aspects, including land contracts, leasing, owners associations, financing, platting, permitting, restrictive covenants, easements, parking agreements, and use limitations.
- Hotel developer's counsel, including leading real estate legal team handling all aspects of new site negotiation, diligence and entitlement, to acquire, construct and operate or franchise more than 150 sites throughout the United States.

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Leasing / Landlord Tenants

- Representation of landlord of 131,000 sq. ft. multi-story office building with national and regional tenants, negotiating tenant leasing documents and related documents and issues, including for an 81,000 sq. ft. tenant.
- Assisted with over 65 transactions – a mix of leasing transactions mostly in large multi-tenant shopping center with complex leases, and site sale/purchases of fee title – across five states for franchisee of national restaurant chain.
- Negotiated client's three industrial leases covering over 1,000,000 square feet.

PRESENTATIONS

2022

- Bias Is Unavoidable: Avoid Bias-Caused Losses To Your Deals, Negotiations, and Team (ICSC+U.S. Law Conference)
- Confronting Climate Change Policies– the Challenges of Decarbonizing Real Estate Toward a Net Zero Future (ACREL 2022 Annual Meeting)
- State and Local Land Use: Get the Facts and Know the Law to Site Responsibly and Develop Winning Renewable Energy Projects (American Clean Power (ACP) National Siting and Environmental Compliance Conference)
- Trends, Forecast and Unique Topics in Large Scale Rural Solar and Wind Land Use Planning and Approvals, with Steve Romine (American College of Real Estate Lawyers (ACREL) Land Use and Environmental Committee)

2021

- But, I'm Not Biased! Solving Intentional and Unintentional Bias in the Workplace (2021 ICSC Law Conference)
- Where Do I Sign? Wait — What Am I Signing? Understand Your Residential Contract to Buy or Sell (Hispanics in RE, Inc.)

2018

- Unconscious Bias - How to Spot It and Become an Inclusive Leader (International Council of Shopping Centers (ICSC), U.S. Shopping Center Law Conference)
- Qualified Opportunity Zones (Wichita CCIM Chapter)

2017

- Advanced Title Issues and Solutions (International Council of Shopping Centers (ICSC), U.S. Shopping Center Law Conference)

PUBLICATIONS

FOULSTON

ATTORNEYS AT LAW

2022

- Decarbonizing Buildings to Combat Climate Change: Part of Your Commercial Real Estate Law Practice? - The ACREL Papers, The American College of Real Estate Lawyers, Fall 2022

ISSUE ALERTS

2020

Coronavirus: What Kansas Multi-Family and Other Residential Landlords Should Know About the Unprecedented Federal Residential Eviction Moratorium Order

Coronavirus: Dealing with a Positive COVID-19 Test – Guidance for Commercial Landlords and Property Managers

Coronavirus: UPDATE on Guidance Regarding Commercial and Residential Evictions and Foreclosures

Coronavirus: Guidance Regarding Commercial and Residential Evictions through May 1, 2020

2019

Kansas Legislature Passes New Law Giving Victims of Domestic Violence and Sexual Assault New Protections; Directly Impacts Landlords of Residential Properties

2018

Don't Wait for IRS Guidance to Invest in Opportunity Zone Fund

2014

Why did the Lesser Prairie-Chicken cross the road?

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