THE BUSINESS OF MARIJUANA AND HOW IT WILL AFFECT THE REAL ESTATE MARKET

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Florida, along with 28 other states, have legalized marijuana for medicinal purposes. In addition, nine states and the District of Columbia have legalized marijuana for recreational use. The growth of the legal cannabis industry is proving to be big business, not only for growers and sellers, but also for owners of real estate serving the industry. The impact of the cannabis industry on real estate markets is starting to be realized. For example, industrial rents and sales price premiums for properties and facilities which are suited for the cannabis industry are reported to have risen dramatically in markets in which medical and recreational cannabis use is legal. Warehouses, industrial facilities, storage facilities, agricultural and other properties well suited for the cannabis industry are experiencing a resurgence in interest and demand which may be due, in part, to the need for facilities for cultivation and processing of cannabis and related products. As the industry continues to grow, the interest and demand for property which can be used for retail and growing cannabis are likely to increase.

Although there are various real estate opportunities surrounding the cannabis industry, legalization of marijuana for both medicinal and recreational uses raises several issues in real estate transactions with growers and sellers including the following:

(1) Boilerplate provisions in leases may not be suited to covering a use of property that may be legal under state law but remains illegal under Federal law. Because marijuana remains a Schedule I drug under the federal Controlled Substances Act, property owners and tenants must properly address lease provisions which are otherwise boilerplate including compliance with laws and governmental compliance, permitted uses and permits required for such uses, maintenance, common area responsibility and costs, default, insurance, termination, abandonment and indemnity. Landlords may also consider including lease provisions allowing the landlord to terminate the lease in the event that the tenant's use results in actual or potential liability to the landlord and/or is determined to be illegal by federal or local authorities; tenants may also want reciprocal rights.

(2) Property owners, tenants and managers must consider and address various issues including the right to grow and smoke marijuana, security concerns and the need for greater security.

(3) The extent and amount of retrofits that may be needed to handle growing and cultivation of cannabis products, and the ability to make such retrofits, must be considered including climate control systems, exhaust systems, and electrical infrastructure.

(4) Because marijuana is illegal at the federal level, banks may not be willing to providing financing for the acquisition and/or retrofitting of properties used in the industry, and property owners must review all financing documents prior to leasing or using the property for use in the industry for any prohibitions or limitations on such uses.

(5) Operations involving marijuana pose unique insurance issues as a result of, among other things, processing techniques which may be highly flammable and use an increased amount of water, as well as the

increased need for security. Owners and tenants should confirm the availability of liability and property insurance, as well as rent interruption insurance and workers' compensation. In the absence of the availability of insurance, landlords may require tenants to self-insure or require the tenant to obtain insurance through marijuana industry-specific insurance companies.

(6) Acquisition of property which will be used or associated with the marijuana industry may raise title insurance issues as title insurers may not insure a transaction involving property associated with the marijuana industry.

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