

Real Estate Ventures II: Negotiating Leases, Financings & Restructurings

11.352

Spring 2014

3-0-9

DRAFT

Instructor: W. Tod McGrath, Lecturer, wtod@mit.edu

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Time and Location: Thursday evenings 6:00 to 9:00 pm, MIT Center for Real Estate, Building 9-354 (unless otherwise noted).

Course Description:

Designed as a continuation of Real Estate Ventures I (11.351), this course prepares students to negotiate the most important business issues within seven of the principal agreements a real estate developer or investor executes in connection with the value creation, financing, and restructuring phases of a real estate venture. More specifically, (i) the value creation phase involves negotiating an Office Lease with a major law firm and a Retail Lease with a national retailer, (ii) the financing phase involves negotiating Permanent Loan, Mezzanine Loan, and Inter-creditor Agreements, and (iii) the restructuring phase addresses the important financial, legal, income tax, and governance issues associated with the venture falling into financial distress and the need to negotiate Standstill / Forbearance and Loan Modification Agreements, or file a petition for relief under Chapter 11 of the U.S. Bankruptcy Code.

Students generally spend 3 to 4 hours of class time discussing the most important business issues in each agreement and the case law relating thereto, working closely with prominent real estate attorneys who specialize in the construction of such agreements. The journey through each agreement ends with a 1 to 2 hour moderated negotiation which is judged by prominent industry practitioners. Students generally alternate between negotiating the role of the developer and the role of the counter-party to the agreement. Due to this format of instruction, enrollment in the course is limited.

This course involves a *significant* amount of reading, which is required to be completed prior to working with the attorneys in class. Accordingly, prior to the first class session devoted to each agreement, students are required to hand in *individual* written responses (not more than 3 single-spaced pages in length) to questions relating to the specific form agreements, judicial opinions, and other background readings that are the subject of class discussion and negotiation. There is no mid-term or final exam, or prerequisite for this course (students need not have taken 11.351 Real Estate Ventures I).

Grading: (for more detailed information, please refer to the attached grading matrix)

Five (5) written responses (15% each)	75%
Class Participation	13%
Class Attendance	<u>12%</u>
	100%

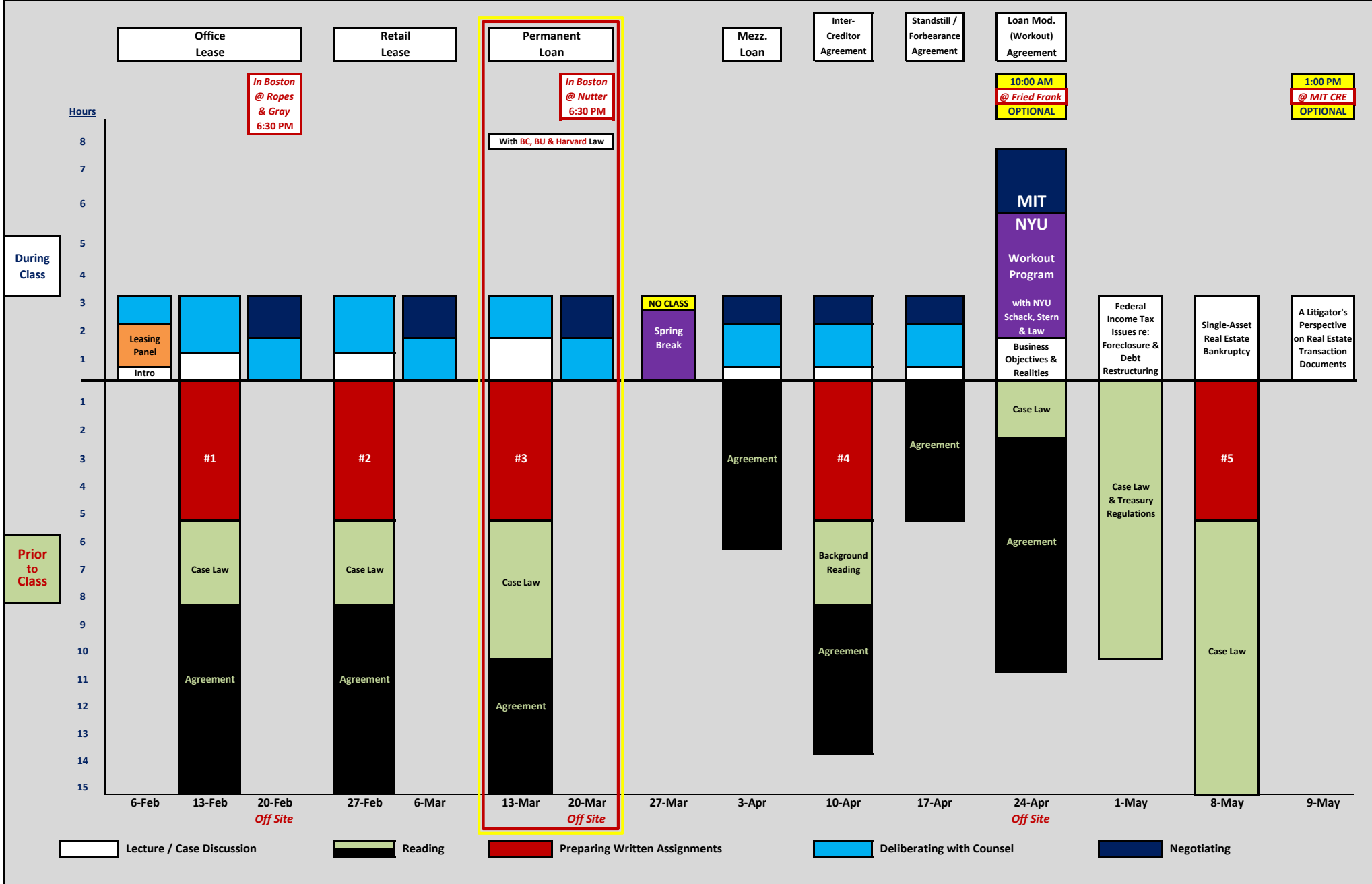
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Estimated Time Allocations: Prior to and During Class Sessions



Course Schedule:

Thurs. Feb. 6th: Course introduction; panel discussion of major issues in office lease negotiations; deliberation with counsel re: Office Lease.

Attorneys: Jason Dunn, Ropes & Gray
Stuart Offner, Mintz Levin Cohn Ferris Glovsky & Popeo
Madeleine Timin, Boston Properties

Guests (to be confirmed): John Barry, Transwestern | RBJ
Kristin Blount, CRE '98, Colliers International
David Provost, CRE '95, Boston Properties

Thurs. Feb. 13th: **First written assignment due** (beginning of class); discussion of office leasing and case law related thereto; continued deliberation with counsel re: Office Lease.

Attorneys: Jason Dunn, Ropes & Gray
Stuart Offner, Mintz Levin Cohn Ferris Glovsky & Popeo
Madeleine Timin, Boston Properties

Thurs. Feb. 20th: Continued deliberation with counsel; negotiation of Office Lease. ***Note: class session will be held at 6:30 PM at the law office of Ropes & Gray, Prudential Tower, Boston.***

Attorneys: Jason Dunn, Ropes & Gray
Stuart Offner, Mintz Levin Cohn Ferris Glovsky & Popeo
Madeleine Timin, Boston Properties

Celebrity Judges:
(to be confirmed) John Barry, Transwestern | RBJ
Kristin Blount, CRE '98, Colliers International
Brad McGill, Jones Lang LaSalle
David Provost, CRE '95, Boston Properties
Mark Weld, Clarion Partners
Bill Gause, CRE '93, Leggat McCall Properties

Celebrity Judges: Steve Campbell, MIT Investment Management Co.
(to be confirmed) Sam Davis, Allstate
Peter Goedecke, Goedecke & Co.
Dave Heller, US Bank
Mike Hussey, US Bank
Bill McPadden, John Hancock
Jane Seiden, CRE '88, The Community Builders
Brett Tonks, Colony Realty Partners

Thurs. Mar. 27th: No class (spring break).

Thurs. Apr. 3rd: Discussion of mezzanine loan agreements; deliberation with counsel and negotiation of Mezzanine Loan Agreement.

Attorneys: Marianne Ajemian, Nutter McClennen & Fish
Peter Spellios, Related Beal

Celebrity Judges: Brian Chaisson, Tishman Speyer Properties
(to be confirmed) Kris Galetta, Alcion Ventures
Bob Garrow, CrossHarbor Capital Partners
Dan Mee, Tremont Realty Associates

Thurs. Apr. 10th: **Fourth written assignment due** (beginning of class); discussion of Inter-Creditor agreements; deliberation with counsel and negotiation of Inter-Creditor Agreement.

Attorneys: Marianne Ajemian, Nutter McClennen & Fish
Bill Jordan, Cornerstone Real Estate Advisors

Thurs. Apr. 17th: Deliberation with counsel and negotiation of Standstill / Forbearance Agreement.

Attorneys: Doug Burton, Wilmer Hale
Tom Vangel, Murtha Cullina

Celebrity Judges: Joanne Adkins, CRE '88, John Hancock
(to be confirmed) Dan McGrath, CRE '08, New Boston Fund
Peter Merrigan, CRE '93, Taurus Investment Holdings

Thurs. Apr. 25th: **Optional class session:** discussion of business objectives and realities for both parties to a loan work-out; deliberation with counsel and negotiation of Loan Modification Agreement. *Note: the Workout Program with New York University will be held from 10:00 AM to 7:30 PM at the law office of Fried Frank Harris Shriver & Jacobson at One New York Plaza in lower Manhattan.*

Attorneys: Michael Barker, Fried Frank
Doug Burton, Wilmer Hale
Nathaniel Margolis, John Hancock
Harry Silvera, Fried Frank

Celebrity Judges: Larry Ellman, CRE '92, Berkshire Realty Ventures
(to be confirmed) Bob Garrow, CrossHarbor Capital Partners
Rob Gifford, AIG Global Real Estate
Chris Hughes, CRE '94, Praedium Group
FX Jacoby, Kensington Investments
Bob Lieber, Island Capital
Peter McNally, CRE '96, BlackRock
Arvind Pai, CRE '06, BlackRock
Ron Pastore, Sloan '88, AEW Capital Management
Rob Verrone, Iron Hound Management
Mark Walsh, Silverpeak Real Estate Partners

Thurs. May 1st: Discussion of federal income tax issues associated with asset sales, loan modifications, loan purchases, foreclosure and case law related thereto.

Attorneys: Steve Eichel, Choate, Hall & Stewart

Thurs. May. 8th: **Fifth (final) written assignment due** (beginning of class); discussion of single asset real estate (SARE) bankruptcy and case law related thereto.

Attorneys: Rick Mikels, Mintz Levin Cohn Ferris Glovsky & Popeo
Tom Vangel, Murtha Cullina

Judge Celebrity: **The Honorable Joan N. Feeney, Justice, U.S. Bankruptcy Court**

Fri. May 9th: **Optional class session for students with scheduled class conflicts:** motions session of the U.S. District Court; discussion: a litigator's perspective on real estate transaction documents. *Note: the motions session will begin promptly at 2:00 PM in the CRE Lecture Hall. Lunch with Judge Young and his courtroom staff will be provided beforehand at 12:30 PM.*

Judge Celebrity: **The Honorable William G. Young, Justice, U.S. District Court**

Attorneys: Dan Dain, Dain Torpy
Tom Vangel, Murtha Cullina

