



Brian S. McCool

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Services

Real Estate & Construction

Real Estate Litigation

Construction

Litigation

Bankruptcy, Restructuring & Workouts

Brian is an experienced real estate attorney with a multi-faceted practice, focusing particularly on representing parties in complex land use and development matters, real estate transactions, and disputes involving real property.

From City Hall to the closing table to the courtroom, Brian, Chair of Fredrikson's Real Estate & Construction Group, spends his days working to find solutions to his clients' varied real estate and business issues. Brian relies heavily on his business and finance background to understand his clients' businesses so that he can best help these clients capitalize on opportunities and obtain sensible and efficient outcomes to challenges that may arise. Brian has significant experience partnering with landowners, developers and builders to help them understand and navigate through the various steps that must be taken to make a development project a reality. Additionally, Brian is also an experienced transactional attorney that represents clients in the acquisition, disposition, joint-venture and debt financing, entitlement, construction and leasing of multi-family, commercial and industrial properties. And, when the circumstances require such action, Brian has substantial experience in representing his clients in a wide range of real estate-related disputes, including landlord-tenant disputes, construction claims, mechanic's lien issues, mortgage foreclosure actions, workouts, and zoning disputes.

Experience

Land Use & Zoning

- Represented landfill operator in significant nonconforming use rights case, *AIM Dev. (USA), LLC v. City of Sartell, 946 N.W.2d 330* (Minn. 2020). Successfully obtained decision from the Minnesota Supreme Court clarifying what activities constitute a continuation, rather than an expansion, of a nonconforming use in Minnesota.
- Represented publicly-traded automotive retailer in seeking and obtaining local zoning approvals for development of multiple locations.
- Served as land use counsel for local developer in connection with development of multiple commercial and industrial properties.

- Represented multiple developers and builders in obtaining government approvals for residential projects.

Real Estate Transactions

- Served as lead counsel in representing owner of multi-building apartment portfolio in modifying underlying ownership structure and refinancing existing mortgage and bond financing.
- Represented landowner in the negotiation and drafting of a complex ground lease with a national retail tenant.
- Represented numerous sellers and buyers in the acquisition, sale and leasing of various multi-family, commercial and industrial properties.

Foreclosures & Workouts

- Represented owner of shopping mall in the negotiation of successful workout of senior mortgage loan.
- Served as lead counsel in representing owner of multiple golf courses in negotiation of complex workout and restructuring agreements with multiple lenders.
- Represented multiple lenders and borrowers in state court foreclosure proceedings involving various types of property.

Credentials

Education

- University of Iowa College of Law, J.D., 2002, *with highest distinction*
- Buena Vista University, B.A., Finance/Banking and Economics, 1999, *summa cum laude*

Admissions

- Minnesota, 2002
- U.S. District Court for the District of Minnesota, 2003

Recognition

- *Minnesota Lawyer*, POWER 30—Real Estate and Construction Law, 2021-2023
- *Chambers USA: America's Leading Lawyers for Business*, Minnesota—Real Estate, 2021-present
- *Chambers USA: America's Leading Lawyers for Business*, Minnesota—Up & Coming: Real Estate, 2020

- *The Best Lawyers in America*—Real Estate Law, 2020-present
- Super Lawyer—Land Use/Zoning, *Minnesota Super Lawyers*, 2020-present
- Rising Star, *Minnesota Super Lawyers*, 2006, 2008, 2010-2016
- Order of the Coif, University of Iowa College of Law, 2002
- Best Overall Advocate, Van Oosterhout Memorial Moot Court Competition, 2001

Civic & Professional

Professional Activities

- National Association of Industrial and Office Properties, Co-Chair, Land Use Subcommittee
- National Association of Industrial and Office Properties, Member, Public Policy Committee,

Community

- City of Shoreview, Minnesota, Member, Planning Commission
- Shoreview Area Housing Initiative, Member, Board of Directors, 2009-present
- Buena Vista University National Alumni Association, Member, Board of Directors, 2004-2010

News

Firm News | 03.30.2023

Brian McCool, Alyssa Troje and Mark Vyvyan Among *Minnesota Lawyer's* POWER 30 in Construction and Real Estate for 2023

Firm News | 06.30.2022

Mark Vyvyan, Brian McCool, John Koneck and Alyssa Troje Among Minnesota Lawyer's POWER 30 Attorneys

Firm News | 07.01.2021

John Koneck, Brian McCool, Alyssa Troje and Mark Vyvyan Among Minnesota Lawyer's POWER 30 in Construction and Real Estate Law

Firm News | 08.11.2020

Fredrikson & Byron Wins Significant Nonconforming Use Rights Case at the Minnesota Supreme Court

Legal Updates

Legal Update | 08.01.2011

Cities Are Back in the Variance Business: Legislature Removes Roadblock to Variance Applications by Making Much-Needed Changes to Variance Statutes

Publications & Presentations

Moderator, *Real Estate Developers Speak—Key Opportunities and Challenges in 2022 and Beyond*, 2022 Real Estate Institute, MN CLE, October 27, 2022

Speaker, *Retail Update: State of the Market*, *Minnesota Real Estate Journal's* Mid-Year Commercial Real Estate Forecast, June 9, 2022

Speaker, *Mortgage Foreclosure: Foreclosure by Action*, Minnesota CLE, February 16, 2021

Co-Presenter, *Key Issues to Consider When Structuring Real Estate Joint Ventures*, Minnesota Real Estate Journal Land Development Conference, May 4, 2018

Speaker, *Mortgages and Foreclosures*, Real Property Law in Minnesota, January 23, 2018

Speaker, *Joint Venture Basics—How to Structure the Agreement*, 2017 Real Estate Institute, MN CLE, November 2, 2017

Co-Presenter, *How to Avoid Getting Sideswiped on Your Next Development*, Minnesota Real Estate Journal Land Development Conference, May 5, 2017

Speaker, Minnesota Land Development Conference, Minnesota Real Estate Journal, 2006-2017

Speaker, *Foreclosure Action, Foreclosure Sale and Redemption*, Handling Mechanic's Liens in Minnesota, Minnesota State Bar Association Continuing Legal Education (MN CLE), March 15, 2016

Speaker, *Exactions—How Far Can the City Go?*, Land Use Law and Practice in Minnesota, MN CLE, February 25, 2016

Speaker, *Mortgages and Foreclosures*, Real Property Law in Minnesota, January 21, 2016

Speaker, *Key Land Use and Zoning Concepts Every Real Estate Attorney Should Know*, 2015 Real Estate Institute, MN CLE, October 22, 2015

Speaker, *10 Things Every Real Estate Paralegal Should Know About Land Use in Minnesota*, Minnesota Paralegal Association Real Estate Sectional Meeting, September 15, 2015

Author and Speaker, *Mortgage Foreclosures*, The Complete Real Estate Lawyer's Quick Answer Book, MN CLE, March 10, 2015

Speaker, *Zoning & Land Use Basics—10 Things Every Real Estate Attorney Should Know About Land Use in Minnesota*, 2015 Minnesota Conference on Land Use and Eminent Domain, MN CLE, February 12, 2015

Speaker, *10 Things Every Real Estate Attorney Should Know About Land Use in Minnesota*, 2014 Real Estate Institute, MN CLE, November 13, 2014

Speaker, *'Who Owns It?': The Most Common Claims When Ownership or Use of the Property Is in Question*, MN CLE, August 7, 2014

Speaker, *Mortgages and Foreclosures*, Real Property Law in Minnesota, January 17, 2014

Speaker, *Real Estate 60: Mortgage Foreclosure, Reinstatement, Deficiency, Judgments, Redemption, and More*, August 14, 2013

Speaker, *Twelve Tips for Drafting Documents to Avoid Disputes*, 2012 Real Estate Institute, MN CLE, November 9, 2012

Speaker, *9 Foreclosure Cases Every Real Estate Attorney Should Know*, The 2012 Mortgage Foreclosure Conference, MN CLE, June 11, 2012

Speaker, *What a Mess—The 5 Most Common Commercial Lease Disputes and How to Avoid Them*, Resolving Real Estate Disputes & Problems, MN CLE, August 15, 2011

Speaker, *Drafting Documents to Avoid Disputes—Focus on Indemnity Agreements and Guarantees*, Webcast for MN CLE, June 22, 2011

Speaker, *Landlord—Tenant Law: Leases, Evictions, Litigation & Settlements*, Sterling Education Services, Inc., April 13, 2011

Speaker, *Drafting Documents to Avoid Disputes—Focus on Indemnity Agreements and Guarantees*, 2010 Real Estate Institute, MN CLE, November 12, 2010

Co-Author, *The 2008 Minnesota Legislative Session Brings Many Real Estate Law Changes*, *FredNEWS: Real Estate*, August 2008

Speaker, *Attorney's Guide to Commercial Evictions*, National Business Institute, February 4, 2008

Speaker, *Equity Stripping and Foreclosure Reconveyance Transactions—The Good, the Bad, and the Ugly*, Mortgage Foreclosures in Minnesota, MN CLE, May 15, 2007

Speaker, *It's Not Whether You Win or Lose, It's Whether You Can Avoid The Fight—Drafting Documents To Avoid Disputes*, 2005 Real Estate Institute, MN CLE, November 2005