



IN THE ZONE WITH ROB GUNDLACH

January 2021

Chairman's Message

Greetings. This past year has proven to be a bit unpredictable for most of us. I recall the first rumblings of COVID internationally and then eventually here in America. As time progressed, the word that seemed to literally be so foreign just a year ago, is now at the forefront of our daily lives. It is safe to say, as we enter 2021, we have all, in some way, been impacted by COVID-19. I am hopeful that brighter days are ahead in the new year for all of us.

All of the changes and turbulence created in the last year had me craving a little nostalgia and old school comfort. It does not seem like I am the only one. The pandemic ushered in an increase in sales of good old-fashioned paperback books, disposable cameras, puzzles and lots of home cooking. With that in mind I want to give the people what they want, and so keeping with that great nostalgic feeling, I have decided it's time to bring back the [In the Zone](#) newsletter.

Despite 2020 being a difficult year, filled with unpredictable obstacles for many of us in the real estate business, we are fortunate to have been able to pivot and adapt new technology and systems to continue to effectively operate. We have seen a record number of lease amendments to defer/abate rent, loan amendments to defer/recast loan payments and agreement of sale amendments to extend contingency deadlines and closings. However, through it all, we have still managed to obtain development approvals, execute new leases and close under agreements of sale and complete loan transactions, most of which we completed with less paper and much more e-mail and text communication.

While it's been challenging at times to find the silver lining of this past year, our firm has been able to adjust and adapt new streamlined methods to advance and better our practice as we move forward in this new normal.

Without being able to see many of you face to face, I am looking forward to communicating with you through this outlet, and continuing to share insight on upcoming trends and topics in our industry. As Gordon Gekko said in the movie Wall Street, "Information is the most valuable commodity I know." So let me try and provide you all with some information that you can use for a productive and profitable 2021. Best wishes and stay well.



Rob Gundlach

Case Law & Legislative Corner



Township's Duty of Good Faith

Three recent zoning cases, decided by the Pennsylvania Commonwealth Court, continue to hold that a municipality has a duty to exercise good faith and afford a developer a reasonable opportunity to respond to help resolve misunderstandings or differences of opinion.

[Read More](#)

Who Is an Aggrieved Party

In a recent zoning case, captioned as [Pascal and Gates v. City of Pittsburgh Zoning Board of Adjustment](#) ("ZBA"), the Pennsylvania Commonwealth Court affirmed the decision of the ZBA to grant variances from setback and height requirements to the Applicant relating to an existing fence and gate around an area in which the Applicant has an easement interest. In so doing, the court found that the neighboring protestants were not aggrieved parties.

[Read More](#)

Respect the Philadelphia Planning Commission

In a recent zoning case, captioned as [In re: Appeal of City of Philadelphia](#), the Pennsylvania Commonwealth Court reversed a decision of the Court of Common Pleas to quash a land use appeal filed by the City from the decision of zoning board of adjustment ("ZBA") to grant use and dimensional variances for a proposed seven-story building with residential and retail uses. There is a good lesson in this case as to why it is important to honor and follow the

process.

[Read More](#)

Bankruptcy Basics for Real Estate Professionals

Real estate and other business bankruptcies are filed to preserve assets, distribute assets equitably, and/or facilitate orderly liquidation. When a business files for bankruptcy, it may choose to liquidate under chapter 7 or it may file for reorganization under chapter 11 of Title 11 of the United States Bankruptcy Code.

[Read More](#)

Philadelphia Tax Abatement and Construction Tax Law Status

On December 1, 2020, Philadelphia City Council voted out the committee of the whole, tax abatement and construction tax Bills, and then on December 10, 2020, passed such Bills.

[Read More](#)

Project Approval Spotlight

Rob Gundlach and **Jessica Rice** represented Stalwart Equities to obtain a text amendment in Falls Township, Bucks County, to allow the “warehouse use” in the mixed-use zoning district under the Falls Township Zoning Ordinance, and allow Stalwart to design a 1,000,000 +/- square foot facility.

Rob Gundlach represented Upper Saucon Township, Lehigh County, as special counsel, to defend a curative amendment challenge to certain zoning regulations in the Upper Saucon Township Zoning Ordinance.

Carrie Nase-Poust was successful in obtaining land development approval to develop a senior living community in Lower Moreland Township. The project required a text amendment to the Lower Moreland Township Zoning Ordinance that created a new senior living community use. Pursuant to the Ordinance Amendment, the senior living community also required multiple conditional use approvals.

Rob Gundlach and **Jessica Rice** represented Metropolitan Development Group to obtain certain zoning and land use approvals in Lower Salford Township, Montgomery County, PA, for two new residential communities.



Rob Gundlach and **Kim Freimuth** represented Pete's Express Car Wash to obtain certain zoning and land use approvals for a new car wash facility on Welsh Road in Montgomery Township, Montgomery County, PA.

Carrie Nase-Poust recently obtained a variance from the City of Philadelphia Zoning Board of Adjustment to allow certain space in a shopping center located in the CA-1 zoning district to be used for a medical marijuana dispensary.



Rob Gundlach represented a client to obtain a zoning permit for a medical marijuana dispensary in Abington Township, Montgomery County.

Rob Gundlach and **Kim Freimuth** represented BET Investments to obtain signage relief for the new CHOP/YMCA facilities on Route 611 in Abington Township, Montgomery County, PA.

Rob Gundlach represented Shopcore Properties to obtain conditional use approval for Chipotle's new pick-up window in Warrington Township, Bucks County, PA.

Rob Gundlach represented Worth & Worth to obtain amended land development plan approval for an industrial facility in Plumstead Township, Bucks County, PA.

Carrie Nase-Poust recently obtained a variance from the City of Philadelphia Zoning Board of Adjustment to provide less than the required number of accessory parking spaces required for a self-storage facility. The approval also permitted non-accessory parking spaces on the property to be leased to the individuals in the community on a long-term basis.

Events

NBA Playoff Bracket Winners



Congratulations to the winners of the virtual bracket competition for the NBA playoffs hosted by Fox's Real Estate attorneys.

- 1st Place - Michael DiGiacomo (Lennar)
 - 2nd Place - Bhavesh Patel (KPG Hotel Group)
 - 3rd Place - James Rowe (Brixmor Property Group)
 - 4th Place - Kristin Holmes (Holmes Cunningham Engineering)
-

Appointments

Rob Gundlach has been appointed to the Pennsylvania Builders Association's Government Affairs Municipal House Special Committee.

Marketplace

Here we will highlight brokers in the field of commercial/industrial real estate and some of the commercial properties that they are offering for sale. This quarter we are featuring **Jeff Licht**, SVP of SIOR. Click his photo below to learn more about Jeff and some of the properties he is marketing for sale.

NAIGlobal



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If you are a commercial broker and are interested in being featured in a future issue of this newsletter, please reach out to **Rob Gundlach** at rgundlach@foxrothschild.com.

***Legal Disclaimer:** We do not warrant the accuracy of this information and recommend all viewers to complete an independent investigation as to its accuracy. Further, this does not constitute a recommendation or endorsement by Fox or any of its attorneys.*

Resource Center

New Retail Development in the PA Suburbs

Lot Purchase Agreements to Sell Approved and Improved Building Lots.

Tenant Insolvency Issues Affecting Landlords

- **Review the slides** or **view a recording** of the webinar.

Dealing With Defaults: Options and Solutions for Commercial Landlords During the Pandemic

What Protection Does Title Insurance Offer Pennsylvania Lenders When Modifying Collateralized Loans?

PA Landlord Rights and Remedies for Tenant Defaults During COVID-19

Electronic Recording Options for Real Estate Documents



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