



## Thomas C. Homburger

### AREAS OF PRACTICE

Thomas Homburger concentrates his practice in the area of real estate financing, development and investment, and he is particularly noted for his experience in sale/leaseback transactions and the use of advanced financing techniques.

### PROFESSIONAL BACKGROUND

Mr. Homburger served as an Adjunct Professor of Law at The John Marshall Law School, where he taught a course in advanced real estate transactions. He currently is a member of the Board of Advisors of the school's Real Estate Institute.

### CHICAGO OFFICE

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### PRESENTATIONS

- Real Estate Law Conference/Due Diligence Panel Representation and Warranties, October 2008, also October 2007 (paper presented)
- "Ethical Considerations in Leasing," Law Seminars International, September 2008 (paper presented)
- "Sales and Leaseback Financing," Law Seminars International, September 2007 (paper presented)
- "Property Development Due Diligence," IncreMental Advantage, May 2007
- "Representative and Warranties," Law Seminars International, March 2007 (paper presented)
- "Advanced Commercial Real Estate Leases," Law Seminars International, September 2006 (paper presented)
- "Recharacterization of Sale-Leaseback Transaction in Bankruptcy," American College of Mortgage Attorneys Association, October 2004 (paper presented)
- "Lenders Concerns With Respect to Easements," Lohrman Institute of Continuing Education, December 2003
- "The Changing World for Commercial Landlords in Post-September 11th America - Commercial Landlords' Obligations to Prevent Terrorist Attacks," National Real Estate Seminar, January 2003 (paper presented)
- "The Changing World for Commercial Landlords in Post-September 11th America - Commercial Landlords' Obligations to Prevent Terrorist Attacks," American College of Real Estate Lawyers, March 2002 (paper presented)
- "Letters of Intent - a Trap for the Unwary," National Real Estate Seminar, January 2002 (paper presented)
- "Recharacterization of Sale Leaseback Transactions and the Title Insurer's Response," International Conference of Shopping Center Developers, October 2001
- "Who's on First - Protecting The Commercial Mortgage Lender," National Real Estate Seminar, January 2001 (paper presented)
- "*Robinson v. Malk* - A Landlord Who Went Too Far," ALTA Lenders Counsel Group, February 2000 (paper presented)
- "Recharacterization Revisited," National Real Estate Seminar, January 2000 (paper presented)
- "Title Insurance: Mastering Critical Issues Facing Buyers, Sellers and Lenders," Practising Law Institute, November 1999; also November 1997 and November

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1998

- “Landlord/Tenant Environmental Issues in Commercial Lease Settings,” American Law Institute/American Bar Association Environmental Midyear Meeting, January 1998 (paper presented)
- “Environmental Issues in Leasing,” American Bar Association/American Law Institute, January 1998
- “Recharacterization of Sale Leaseback Transactions,” International Association of Corporate and Real Estate Executives, April 1997
- “Tenant Environmental Issues in Commercial Lease Settings,” 1995 National CLE Conference Environmental Law, January 1996; also January 1995
- “Uncertainty Prevails: A Discussion of Bankruptcy Code §365(h) and the Contradictory Cases Interpreting That Statute,” American Land Title Association, October 1994 (paper presented)
- “Additional Rent Provisions in Leases,” American Conference Institute (Commercial Real Estate Leases and Tenant Defaults), October 1994
- “Uncertainty Prevails: A Discussion of Bankruptcy Code §365(h) and the Contradictory Cases Interpreting That Statute,” American Bar Association, August 1994 (paper presented)
- “Uncertainty Prevails: A Discussion of Bankruptcy Code §365(h) and the Contradictory Cases Interpreting That Statute,” Chicago Bar Association, July 1994 (paper presented)
- “Uncertainty Prevails: A Discussion of Bankruptcy Code §365(h) and the Contradictory Cases Interpreting That Statute,” Chicago Mortgage Attorneys Association, June 1994 (paper presented)
- “Federal Securities Laws and Ownership of Nontraditional Real Property; *Allison v. Tigor Title Insurance Co.*,” American Bar Association, October 1993 (paper presented)
- “To Defend or Not to Defend; The Limits of a Title Insurer's Obligations to Defend its Insured,” American Bar Association Real Property Committee Chairmen’s Meeting, October 1993 (paper presented)
- “To Defend or Not to Defend; The Limits of a Title Insurer’s Obligations to Defend its Insured,” ALTA Lenders Counsel Group, October 1993 (paper presented)
- “Federal Securities Laws and Ownership of Nontraditional Real Property; *Allison v. Tigor Title Insurance Co.*,” Chicago Mortgage Attorneys Association, February 1993 (paper presented)
- “Landlord-Tenant Practice I, Office Leases,” Illinois Institute for Continuing Legal Education, 1993; also 1976, 1979, and 1984
- “Federal Securities Laws and Ownership of Nontraditional Real Property; *Allison v. Tigor Title Insurance Co.*,” American College of Real Estate Lawyers, April 1992
- “Federal Securities Laws and Ownership of Nontraditional Real Property; *Allison v. Tigor Title Insurance Co.*,” ALTA Lenders Counsel Group, October 1991 (paper presented)
- “Designing, Documenting and Litigating Construction Contracts,” Illinois Institute for Continuing Legal Education, December 1989
- “Structuring Foreign Investment in United States Real Estate,” Foreign Investment in North American Real Estate Seminar, October 1989

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- “Negotiating and Understanding Facilities Lease and Contracts,” Financial Impact of Facilities Decisions Conference, October 1989
- “Subordination, Non-Disturbance and Attornment Agreements, Real Estate Finance Seminar,” Chicago Bar Association, September 1989
- “Consolidation of Title to Land and Improvements at the End of a Sale Leaseback Transaction, Annual Meeting,” American Bar Association, August 1989
- “Structuring Foreign Investments in U. S. Real Estate,” The Appraiser’s Council - Chicago Board of Realtors, May 1989
- “Recharacterization of Sale Leaseback Transactions in Bankruptcy Proceedings,” Chicago Mortgage Attorneys Association, February 1989
- “Construction Controversies,” Illinois Institute for Continuing Legal Education, September 1988 (Panelist)
- “Real Estate Sale and Leaseback Transactions and the Risk of Recharacterization in Bankruptcy Proceedings, Annual Meeting,” American Bar Association, August 1988 (paper presented)
- “Real Estate Lenders & the Environmental Laws,” Chicago Bar Association Commercial Law Committee, May 1988
- “Purchase and Sale of Commercial Real Estate, Satellite Seminar,” American Bar Association, May 1988
- 1988 National Real Estate Conference, Laventhol & Horwath, 1988 (Panelist)
- “Recharacterizations of Sale and Leaseback Transactions and Participatory Financings,” 1987 Midwest Real Estate Conference, 11 1987 (paper presented)
- “Commercial Leasing from a Lender’s Perspective,” Commercial Real Estate Organization, September 1987
- “Real Estate Lenders’ and Owners’ Perspective on Asbestos,” Illinois Mortgage Bankers Association, 9 1987 (paper presented)
- “Real Estate Lenders’ and Owners’ Perspective on Asbestos,” Executive Enterprises, Inc., July 1987
- “Commercial Leasing Seminar,” Institute of Real Estate Management (Chicago Chapter), November 1986
- “Landlord-Tenant Practice II, Sale and Leaseback Transactions,” Illinois Institute for Continuing Legal Education, 1985; also 1978 and 1981
- “Unresolved Questions in Sale-Leaseback Transactions: A Look at Real Estate, Tax and Bankruptcy Law Issues, Annual Potpourri,” American Bar Association, August 1984
- “Advanced Real Estate Permanent Financing Techniques - Participatory and Convertible Mortgages,” Chicago Bar Association, January 1983, also December 1982
- “Advanced Real Estate Permanent Financing Techniques - Participatory and Convertible Mortgages,” Chicago Mortgage Attorneys Association, October 1982
- “Representing Single Family Housing Developers,” Illinois Institute for Continuing Legal Education, 1979

### PUBLICATIONS

- “Recharacterization Revisited: A View of Recharacterization of Sale and Leaseback Transactions In Bankruptcy After Fifteen Years,” *ABA Real Property, Probate and Trust Journal*, Spring 2006

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- “A Short Guide to Basic Commercial Real Estate Transactions in the United States,” *Legal Handbook for Doing Business in the United States*—compiled by the Swiss Business Hub USA, Chicago Branch, 2004 (with Marcus M. Lee)
- “Letters of Intent - A trap for the Unwary,” *ABA Real Property, Probate and Trust Journal*, Fall 2002
- “Who’s on First - Protecting The Commercial Mortgage Lender,” *ABA Real Property, Probate and Trust Journal*, Fall 2001
- “Insurance Law Overlay on Title Insurance,” *Title Insurance*, 1997
- “Conflict Resolved: Bankruptcy Code §365(h) and The Contradictory Cases Requiring its Amendment,” *ABA Real Property, Probate and Trust Journal*, Winter 1994
- “Federal Securities Laws and Ownership of Nontraditional Real Property; *Allison v. Tigor Title Insurance Co.*,” *ABA Real Property, Probate and Trust Journal*, Spring 1993
- *Structuring Real Estate Sale-Leasebacks; Legal and Tax Planning with Forms*, July 1992
- “Multi-Family Purchasing and Lending,” *BNA’s Environmental Due Diligence Guide*, February 1992
- “Pervasive Pollutants: Learning to Evaluate the Risks,” *Journal of Property Management*, March/April 1990
- “What You See is Not Always What You Get; The Enforceability of Loan Prepayment Penalties,” *The John Marshall Law Review*, Fall 1989
- “Real Estate Sale and Leaseback Transactions and the Risk of Recharacterization in Bankruptcy Proceedings,” *ABA Real Property, Probate and Trust Journal*, Spring 1989
- “Commercial Leasing from a Lender’s Perspective,” *The Corporate Analyst*, May 1989
- “Heavily Negotiated Issues in Commercial Leases,” *Bankruptcy & Commercial Law Adviser*, November 1988
- “Asbestos: Legal Issues and Answers,” *Journal of Property Management*, January/February 1988
- “Commercial Leasing from a Lender’s Perspective,” *Commercial Real Estate Leasing*, 1986
- “Unresolved Questions in Sale-Leaseback Transactions: A Look at Real Estate, Tax, and Bankruptcy Law Issues,” *ABA Real Property, Probate and Trust Journal*, Winter 1984
- “Waiver and Disclaimer of the Warranty of Habitability,” *Chicago Bar Record*, May-June 1984
- “Representing Single Family Housing Developers,” *Illinois Institute for CLE*, 1979
- “Sale and Leaseback Transactions, Landlord-Tenant Practice II,” *Illinois Institute for CLE*, 1981, revised 1990 and 2002
- “Office Leases, Landlord-Tenant Practice I,” *Illinois Institute for CLE*, 1979, revised 1990, 1993 and 2002
- “Harassment of Borrower by Licensed Lenders,” *Columbia Journal of Law and Social Problems*, 1965, republished in *Commercial Law Journal*

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### PROFESSIONAL/CIVIC ACTIVITIES

- American Bar Association (Real Property Division of Real Property, Probate and Trust Law Section; Real Property Financing Subcommittee; Past Chairman, Sale/Leaseback, Leasehold Financing Subcommittee)
- American College of Real Estate Lawyers (Chair, Amicus Brief Committee, 1991-1999; Liaison to American Land Title Association, 1995-1998; Board of Governors, 1999-2003)
- American College of Mortgage Attorneys
- American Land Title Association
- Anti-Defamation League (Vice-Chairman, 2006-Present; Chairman, National Executive Committee, 2000-2003; National Commission; Chairman, Chicago Regional Board, 1986-1988; Chairman, National Civil Rights Committee, 1990-1992)
- Anti-Defamation League Foundation (President, 2003-2006)
- Chicago Bar Association (Chairman, Real Property Law Committee, 1984-1985; Chairman, Land Development and Construction Subcommittee of Real Property Law Committee, 1981-1983)
- Chicago Mortgage Attorneys Association (President, 1975-1977)
- Glencoe Board of Education (1983 - 1989)
- Glencoe Plan Commission (1987 - 1988)
- Illinois State Bar Association (Real Property Section)
- Lambda Alpha International (Ely Chapter)
- The Law Club of the City of Chicago
- The Standard Club

### BAR MEMBERSHIPS

Illinois

### EDUCATION

J.D., Columbia University School of Law, 1966 (*cum laude*)

B.A., Columbia College, Columbia University, 1963

### ACHIEVEMENTS

- Best Lawyers in America (Real Estate Law)
- *Chambers USA 2008* (Real Estate)
- Leading Lawyers Network (Real Estate Financing; Non-Profit Corporations; Business Consulting)
- Illinois Super Lawyers 2009, 2008, 2007, 2006 and 2005 (Cross-border Corporate Real Estate)
- Decoration of Honor in Gold for Services for the Republic of Austria (May 1999)
- *Who's Who in United States Law*
- *Who's Who in the World*

### EXPERT WITNESS ASSIGNMENTS

- Chicago Motor Club Ins., Inc. v. Epton, Mullin and Druth, et al., Case No. 89-L-2595 which was pending in Circuit Court of Cook County, Illinois, Law Division.

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- Baird & Warner Real Estate Finance, Inc. v. Sun Venture Limited Partnership, Case No. 97-CH-11521 which was pending in the Circuit Court of Cook County Illinois, Law Division.
- Carlyle Real Estate Limited Partnership v. Al Baskin Co., Case No. 93-MR-12195 which was pending in the Circuit Court of Will County Illinois.
- LaSalle National Bank as Trustee under Trust Agreement Dated June 1, 1987 and known as Trust No. 111366 v. Public Storage, Inc. v. Chicago Title Insurance Company, Case No. 94-CH-11331 which was pending in the Circuit Court of Cook County Illinois, Chancery Division.
- Mathew K. Szygowski, et. al. v. LaSalle National Trust, N.A., Case No. 94-Ch-1313 which was pending in the Circuit Court of Cook County Illinois, Chancery Division.
- Wacker Drive Associates v. Katten, Muchin & Zavis, Case No. 93-CH-7488, which was pending in the Circuit Court of Cook County Illinois, Chancery Division.
- Dryco Metal Fabricators, Inc. v. Johnson & Bell, Ltd., Case No. 95-L-07097, which was pending in Circuit Court of Cook County, Illinois, Law Division.
- Custable, et al. v. Conarty & Morrisroe, Ltd., et al., Case No. 98-L-1128, which was pending in Circuit Court of Cook County, Illinois, Law Division.
- Sportmart, Inc. v. Orland, LLC and Orland II, LLC, Case No. 02-C-4292, which was pending in United State District Court for the Northern District of Illinois.
- The Prudential Insurance Company of America, et al. v. Anodyne, Inc. et al., Case No. 03-21873, which was pending in the U.S. District Court for the Southern District of Florida.

### LANGUAGES SPOKEN

German

### PERSONAL INFORMATION

Married: wife, Louise Paula (married June 6, 1965);  
three children - Jennifer Anne Wharton (born 11/20/66),  
Richard Ephraim Homburger (born 10/7/69),  
Kathryn Lee Michelson (born 11/19/73)