

REAL ESTATE LAW



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Litigation Support for Real Estate Disputes

by Deborah Dickson, CPA, CFF, MAFF

Real estate disputes are more common than you think! Smith Dickson, CPAs has provided litigation support on real estate matters since 1995. These engagements are as diverse as they are complex. Here are a few recent examples:

Misappropriation of Funds / Fraud – Co-ownership of properties can often result in disputes. One of our clients had an ownership interest in multiple apartment LLCs which were managed by the other member – who also separately owned additional complexes. The managing party was accused of commingling all of his property and family expenses with the apartments owned jointly with our client. Smith Dickson was hired to provide forensic analysis of expenditures, disbursements, and supporting invoices, resulting in the identification of millions of dollars that were siphoned out over several decades. Another client who managed properties for overseas relatives was accused of over \$3 million in misuse of funds; after our testimony, the jury reduced the damage award to \$1 million.

Creditors' Rights – Loan defaults aren't always straightforward, especially when millions of dollars are at stake in commercial properties. When our bank client foreclosed on \$15 million in loans for buildings, the borrower claimed that the loans were not technically in default due to the manner in which penalties and interest were applied. Our work involved damage calculations and expert testimony.

Probate/Trust Beneficiary Disputes – Those who inherit properties often contest use of trust money for personal gain and ownership percentages, such as our

client who was involved in litigation over beachfront properties with siblings. Smith Dickson reconciled the beneficiary proceeds in this matter.

Development and Contractor Disputes – These matters involve all facets of development and construction. A recent case involved a multi-phase project in which multiple owners funded different phases. Ownership percentages and land boundaries were disputed, and contractors sued over payment. Our work in this complex case involved tracing of capital and debt transactions as well as construction disbursements.

Escrow and Title – Mistakes in these matters can involve millions of dollars in damages. A recent case involved title disputes on over 100 properties owned by an LLC with numerous members located in multiple states. The underwritten title company issued clear title reports when there were actually liens. Our damage calculations proved instrumental in educating the jury to provide a resolution in this Federal criminal case.

High-Stakes Marital Dissolution Matters – One of our largest matters involved multiple real estate brokerages and properties owned throughout southern California. Litigation between the ex-spouses ensued for many years. Our work involved asset tracing, valuations, and asset equalization.

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