

45TH ANNUAL WILLIAM W. GIBSON, JR.
MORTGAGE LENDING INSTITUTE



AUSTIN
September 15–16, 2011
Four Seasons Hotel

DALLAS
October 13–14, 2011
Belo Mansion

▶ Video Replay HOUSTON
November 3–4, 2011
Norris Conference Center -
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Earn up to 12.75 Hours of Credit including 2.00 Hours of Ethics Credit
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Come a day early for the Wednesday

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WEDNESDAY MORNING

Presiding Officer:

Aaron Johnston Jr., The Johnston Law Firm PLLC, Dallas, TX

8:00 a.m. Registration Opens

Includes continental breakfast.

8:50 a.m. Welcoming Remarks

9:00 a.m. .50 hr

Overview of Major Lease Types including Related Bar Section Forms

This presentation describes the major issues common to all commercial leases and some specific issues relevant to particular types of leases.

J. Cary Barton, Barton, East & Caldwell, L.L.P.,
San Antonio, TX

9:30 a.m. .33 hr

Letters of Intent

Learn all about the "road map" to the lease process: What to include, considerations in drafting, suggested forms and resources, enforceability and current cases.

Reid C. Wilson, Wilson, Cribbs & Goren, P.C.,
Houston, TX

9:50 a.m. .33 hr

Construction Agreements in Retail Leases

It is very important that the attorney understand and clearly write the agreement of the landlord and tenant concerning the allocation of responsibility for construction matters, yet often attorneys do not understand or find it difficult to obtain information about those matters. This presentation helps attorneys work their way through this potentially difficult agreement, with forms.

Harriet Anne Tabb, McGuire, Craddock & Strother P.C.,
Dallas, TX

10:10 a.m. Break

10:25 a.m. .50 hr

Working with the TAR and NTCAR Lease Forms: The Swiss Army Knife of Lease Forms

The Texas Association of Realtors (TAR) and North Texas Commercial Association of Realtors (NTCAR) lease forms are similar to the Texas Real Estate Commission (TREC) lease forms in that they are designed for use by non-lawyers and to protect them from practicing law without a license. Often, the attorney is presented with one of these forms with instructions that the parties have already agreed that the lease must be on this form. When restricted to one of these forms, what changes and additional provisions should the attorney consider?

Robert D. McTaggart, Robert D. McTaggart, P.C.,
Dallas, TX

10:55 a.m. .75 hr

Negotiating the Lease from the Landlord and Tenant Perspectives

Through a mock negotiation, the panelists discuss the landlord's position, the tenant's position and the most common negotiated compromises. Sample lease provisions are included.

T. Andrew Dow, Winstead PC, Dallas, TX
J. Kenneth Kopf, Winstead PC, Dallas, TX

11:40 a.m. .50 hr

BOMA's 2010 Standard Methods of Measurement for Office Buildings: Why Should Tenants Care and How Should They React?

In 2010, the Building Owners and Management Association (BOMA) International published "Office Buildings: Standard Methods of Measurement." The panelists explore the key differences between BOMA's 2010 publication and its predecessor, the 1996 "Standard Method of Measuring Floor Area in Office Buildings," and explain the practical implications of measurement standards on tenants as well as landlords and the potential traps.

Candace S. Baggett, The Calibre Group, Inc.,
Houston, TX
Eric C. Berson, Chairman and CEO, Washington
Realty Group, Inc., Los Altos, CA

12:10 p.m. Break to Pick Up Lunch

Included in conference registration fee.

WEDNESDAY AFTERNOON

Presiding Officer:

Robert Harms Bliss, Attorney at Law,
Dallas, TX

LUNCHEON PRESENTATION

12:25 p.m. .75 hr ethics

The Ethics of Negotiation: Are There Any?

What are the boundaries, borders and grey areas for lawyers involved in negotiations? A fast-paced presentation with points to ponder, hypotheticals to consider, and something to smile about.

Jason Boulette, Boulette & Golden L.L.P., Austin, TX

1:10 p.m. Break

1:25 p.m. .50 hr

Rooftop Telecommunications Licenses

License or lease? This presentation reviews factors that impact rooftop space rent or sales price, and an owner's top ten considerations when negotiating rooftop license agreements.

Aaron Johnston Jr., The Johnston Law Firm PLLC,
Dallas, TX

1:55 p.m. .50 hr

Landlord's Guide to Tenant Bankruptcy

This discussion covers the impact of the tenant's bankruptcy under a commercial lease and the primary rights and remedies of the landlord.

Joe E. Marshall, Munsch Hardt Kopf & Harr, P.C.,
Dallas, TX

2:25 p.m. .75 hr

FASB Lease Accounting Changes: Implications to Consider as Operating Leases Move onto the Balance Sheet

The Financial Accounting Standards Board (FASB) and International Accounting Standards Board (IASB) issued a joint exposure draft that, if implemented, will completely revamp the manner in which leases are accounted for by both lessees and lessors. Learn about the key implications of the proposed changes and their potential impact on the commercial real estate industry.

Moderator:

Candace S. Baggett, The Calibre Group, Inc.,
Houston, TX

Panelists:

Mark Henshaw, Managing Director, Real Estate
Services Group, Duff & Phelps, LLC, Houston, TX
John A. Frere, Manager, Real Estate & Facilities,
Anadarko Petroleum Corporation, The Woodlands, TX

3:10 p.m. Break

3:25 p.m. .50 hr

It's Not Easy Being Green: Are Green Leases Really Green?

What have several years of actual experience taught us about green leasing and sustainability in practice?

In Austin:

Philip D. Weller, DLA Piper US LLP, Dallas, TX

In Dallas:

Craig B. Anderson, DLA Piper US LLP, Dallas, TX

3:55 p.m. .50 hr

Wind Power Leases for the Transactional Real Estate Lawyer

Key issues, negotiation points and drafting tips for transactional lawyers representing land owners in wind and solar leasing or land acquisition deals.

Gregory S. Friend, McElroy, Sullivan & Miller, L.L.P.,
Austin, TX

4:25 p.m. .50 hr

Jurisdiction Wars: District and Justice Courts on "Possession" vs. "Title"

Texas law states that in a forcible detainer action, "the only issue shall be as to the right to actual possession; and the merits of the title shall not be adjudicated." District courts have exclusive jurisdiction over title questions involving real property. Yet, a lease is a conveyance of land for a designated period with a reversionary interest in the lessor. How do the courts sort out this incongruity?

Robert Harms Bliss, Attorney at Law, Dallas, TX

4:55 p.m. .75 hr including .25 hr ethics

Leasing Case Law Update

A review of recent Texas cases related to landlord and tenant issues.

David A. Weatherbie, Cramer Weatherbie Richardson
Walker LLP, Dallas, TX

5:40 p.m. Adjourn

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Dallas, TX

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Winstead PC
Dallas, TX

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Manager, Real Estate & Facilities
Anadarko Petroleum Corporation
The Woodlands, TX

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Managing Director, Real Estate Services Group
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Houston, TX

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The Johnston Law Firm PLLC
Dallas, TX

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Munsch Hardt Kopf & Harr, P.C.
Dallas, TX

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Robert D. McTaggart, P.C.
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Available Credit: TREC (up to 9.00 Hours of General Elective MCE) and TDI (up to 10.00 Hours of CE)
Credit Expected for Appraiser CE

THURSDAY MORNING

Presiding Officer:

David W. Tomek, David Tomek PLLC,
Dallas, TX

8:00 a.m. Registration Opens

Includes continental breakfast.

8:50 a.m. Welcoming Remarks

9:00 a.m. .75 hr including .25 hr ethics

Case Law Update, Part I

A selection of cases covering a number of topics related to mortgage lending and real estate including foreclosures, loan agreements, guaranties, leases, conveyances and more.

David A. Weatherbie, Cramer Weatherbie
Richardson Walker LLP, Dallas, TX

9:45 a.m. .50 hr

Legislative Update

A report on new laws passed by the Texas Legislature affecting mortgage lending and the practice of real estate law.

In Austin:
Justin V. Switzer, Haynes and Boone, LLP, Houston, TX

In Dallas:
Jill A. Kotvis, Jill A. Kotvis, P.C., Dallas, TX

10:15 a.m. Break

10:30 a.m. .50 hr

Texas Assignment of Rents Act

A discussion of how the new Texas Assignment of Rents will change Texas law and how it will affect lenders, borrowers and tenants.

Julie Patterson Forrester, Southern Methodist
University, Dedman School of Law, Dallas, TX

11:00 a.m. .75 hr

The Annotated Guaranty: Redux

Discussion and analysis of a comprehensive form of Guaranty with updated, detailed annotations drawing upon statutory law, case law, practical observations and drafting concepts for use by practitioners and their clients in a commercial real estate practice.

In Austin:

Lorin Williams Combs, Winstead PC, Dallas, TX
Edward A. Peterson, Winstead PC, Dallas, TX

In Dallas:

Jeffrey W. Matthews, Winstead PC, Dallas, TX
John M. Nolan, Winstead PC, Dallas, TX

11:45 a.m. Break to Pick Up Lunch

Included in conference registration fee.

THURSDAY AFTERNOON

Presiding Officer:

In Austin: Richard L. Spencer, Johnson
Deluca Kurisky & Gould, P.C.,
Houston, TX

In Dallas: Thomas M. Whelan, McGuire,
Craddock & Strother P.C., Dallas, TX

LUNCHEON PRESENTATION

12:00 p.m. .75 hr ethics

Ten-Plus Rules of Ethical Decision Making

Michael P. Maslanka, Constangy, Brooks & Smith, LLP,
Dallas, TX

12:45 p.m. Break

1:00 p.m. .75 hr including .25 hr ethics

Commercial Real Estate Loans for Securitization under CMBS 2.0

An update on the Dodd-Frank Act and related regulatory actions, including the Notice of Proposed Rulemaking for Credit Risk Retention, the impact of new regulations on lending and capital market execution for lenders, CREFC Model Representations and Warranties for loan sellers/originators, and how lending in CMBS 2.0 differs from 1.0. The session also includes a discussion of SPE borrower structures, subordinate and mezzanine debt, non-recourse carveout guaranties, and current underwriting issues for loans intended for securitization.

Patrick C. Sargent, Andrews & Kurth LLP, Dallas, TX

1:45 p.m. .75 hr including .25 hr ethics

Scar Tissue Often Beats Brains: Lessons Learned from Busted (or Almost Busted) Sale Contracts

A discussion of real estate, financing and ethical issues that can be encountered in negotiating and administering purchase and sale agreements.

J. Cary Barton, Barton, East & Caldwell, L.L.P.,
San Antonio, TX
Sara E. Dysart, Attorney at Law, San Antonio, TX

2:30 p.m. Break

2:45 p.m. .50 hr

Interest Rate Swaps: Expensive Lessons Learned at Harvard University

A discussion of the basic mechanics of interest rate swaps as seen through the (unbelieving) eyes of Harvard University in a real-life case study that cost them almost \$1 billion to unwind hedges supporting their construction program.

Michael D. Cuda, 1600 Legal, Attorneys and
Counselors, Fort Worth, TX

3:15 p.m. .50 hr

Top Ten Insurance Tips for Mortgage Lending

Do you know the top ten insurance issues that arise in mortgage lending? This presentation explains—in plain English—the pitfalls, and guides you through the problem areas associated with insurance.

In Austin:

William H. Locke Jr., Graves Dougherty Heaton & Moody, PC, Austin, TX

In Dallas:

Marilyn C. Maloney, Liskow & Lewis, Houston, TX

3:45 p.m. .50 hr

Recent Developments in Receiverships

Over the past few years, drastic twists in economic conditions have created new interest in receiverships as a lender tool of loan recovery. Lenders and borrowers have both developed new strategies for action and advocacy in state and federal courts. This presentation examines cases and statutes of interest to both lenders and borrowers.

Charles E. Fiscus, Shackelford Melton & McKinley, LLP, Dallas, TX

4:15 p.m. .50 hr

Title Insurance, Part I: Current Developments in Coverage and Exclusions

An overview of recent changes in forms and rules, including endorsements, rates and settlement practices, applicable new legislation, and the current state of available coverage.

James L. Gosdin, Stewart Title Guaranty Company, Houston, TX

4:45 p.m. .50 hr

Title Insurance, Part II: Current Developments in Major Claims and Related Litigation

A discussion of the current developments in title insurance claims and litigation related to title insurance and escrow services.

Paul D. Pruitt, Fidelity National Title Group, Austin, TX

5:15 p.m. Adjourn

FRIDAY MORNING

Presiding Officer:

Brian C. Rider, The University of Texas School of Law, Austin, TX

8:00 a.m. Conference Room Opens
Includes continental breakfast.

9:00 a.m. .75 hr including .25 hr ethics

Case Law Update, Part II

A continuation of the Case Law Update.

David A. Weatherbie, Cramer Weatherbie Richardson Walker LLP, Dallas, TX

9:45 a.m. .50 hr including .25 hr ethics

Developments in Mortgage Loan Opinions including the Annotated Real Estate Finance Opinion Report

A review of the working report of the Annotated Real Estate Finance Opinion prepared by the opinion committees of the ABA Section of Real Property, Trust and Estate Law, ACREL and the ACMA, and current developments with respect to mortgage finance opinions.

Mark B. Knowles, Shackelford Melton & McKinley, LLP, Dallas, TX

10:15 a.m. .50 hr

Hot Topics

A discussion of recent developments and hot topics in mortgage lending, including FASB changes, Assignment of Rents and much more.

Brian C. Rider, The University of Texas School of Law, Austin, TX
Richard L. Spencer, Johnson Deluca Kurisky & Gould, P.C., Houston, TX

10:45 a.m. Break

11:00 a.m. .50 hr

Vapor Intrusion and How It Is Impacting Loan Documents, Liability Risks and Remediation Obligations

Vapor intrusion into indoor air as a potential pathway for soil and groundwater contamination is beginning to raise concerns in the real estate and financial industries about public health risks, remediation costs and potential liability during property transactions. This discussion provides an update on vapor intrusion and how it is impacting financing decisions, loan documents, real estate contracts, Phase I Environmental Assessments, and liability, risks and remediation obligations in transactions.

Jill A. Kotvis, Jill A. Kotvis, P.C., Dallas, TX

11:30 a.m. .50 hr

Evolving Loan Structures, aka "Excuse Me, Haven't We Met?"

A review of current developments in loan structures of commercial real estate lending, including a compare/contrast with what they looked like before the latest workout cycle.

Niles W. Holmes, Niles Holmes, P.C., Dallas, TX

12:00 p.m. Break to Pick Up Lunch
Included in conference registration fee.

FRIDAY AFTERNOON

Presiding Officer:

In Austin: Janna R. Melton, Attorney at Law, Austin, TX

In Dallas: Chris Alexander Peirson, Peirson Patterson LLP, Dallas, TX

LUNCHEON PRESENTATION

12:15 p.m. .75 hr

State of the Real Estate Market

An overview of the current state of the real estate capital markets.

In Austin:

Greg F. Hallman, The University of Texas McCombs School of Business Real Estate Finance and Investment Center, Austin, TX

In Dallas:

Joseph D. Cahoon, The University of Texas McCombs School of Business Real Estate Finance and Investment Center, Austin, TX

1:00 p.m. Break

1:15 p.m. .50 hr

New ALTA Survey Standards

A review of the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys and its practical effects on consumers of land surveys.

James Noble Johnson, Johnson, Rial & Parker, PC, Austin, TX

1:45 p.m. .50 hr

The Role of the UCC in the Transfer, Ownership and Enforcement of Mortgage Notes

This presentation furthers the understanding of the Uniform Commercial Code's statutory background by identifying and exploring several key rules in the UCC that govern the transfer and enforcement of notes secured by a mortgage on real property.

David P. Derber, Attorney at Law, Benbrook, TX

2:15 p.m. .50 hr

Loan Originator Compensation: What's Ahead and What Does It Mean for Residential Lending

An analysis of "Prohibited Acts and Practices in Connection with Credit Secured by a Dwelling" under Regulation Z, Section 36.

Thomas G. Overbeck, Gregg & Valby, L.L.P., Houston, TX

2:45 p.m. .50 hr

Texas Mortgage Lending: Licensing and Registration

An overview of the primary statutes governing licensing and registration, including a discussion of exemptions and recent developments.

Michael K. O'Neal, Winstead PC, Dallas, TX

3:15 p.m. Adjourn

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ABOUT THE COVER



Shattered 2, 40"x 40", metal, is by Michelle Y Williams and is on display at the michelle y williams gallery in Houston. For more information about this piece, visit www.michellewilliams.com or call 713-521-7701. Image acquisition by Sandra Gregor, art consultant, 512-477-2827.

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**The University of Texas School
of Law, Attn. CLE—LI11/ML11**
P.O. Box 7759
Austin, TX 78713-7759

or fax a copy to:
512-475-6876

or register online:
www.utcle.org

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LEASING INSTITUTE

Includes Course Binder and Luncheon Presentation

Austin, September 14, 2011

- ☐ Early Registration due by Wednesday, September 7, 2011 \$260
☐ Registration after Wednesday, September 7, 2011 \$310

Dallas, October 12, 2011

- ☐ Early Registration due by Wednesday, October 5, 2011 \$260
☐ Registration after Wednesday, October 5, 2011 \$310

Leasing Institute Registration Total \$ _____

MORTGAGE LENDING INSTITUTE

Includes Course Binder and Thursday and Friday Luncheon Presentations

Austin, September 15–16, 2011

- ☐ Early Registration due by Wednesday, September 7, 2011 \$535
☐ Registration after Wednesday, September 7, 2011 \$585

Dallas, October 13–14, 2011

- ☐ Early Registration due by Wednesday, October 5, 2011 \$535
☐ Registration after Wednesday, October 5, 2011 \$585

Video Replay, Houston, November 3–4, 2011

- ☐ Early Registration due by Wednesday, October 26, 2011 \$435
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SAVE \$100 WHEN YOU REGISTER FOR BOTH LEASING INSTITUTE AND MORTGAGE LENDING INSTITUTE

(-\$100) \$ _____

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\$ _____

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LEASING INSTITUTE *Available 3-5 weeks after the Dallas conference.*

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Note: Conference Registration includes Course Binder
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Leasing Institute Publications and Media Total \$ _____

MORTGAGE LENDING INSTITUTE *Available 3-5 weeks after the Houston conference.*

- ☐ Course Binder WITHOUT Conference Registration \$250
Note: Conference Registration includes Course Binder
☐ Audio MP3 Speeches on CD \$140
☐ Audio CD Set \$210
☐ eBinder on CD (PDF format) \$250/\$50
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PUBLICATIONS AND MEDIA TOTAL

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LEASING INSTITUTE *Available 3-5 weeks after the Dallas conference.*

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AUSTIN

SEPTEMBER 14, 15–16, 2011

CONFERENCE LOCATION



Four Seasons Hotel

98 San Jacinto Blvd.
Austin, TX 78701
512-685-8100

Special Room Rate: \$239
good through August 22, 2011
(subject to availability)

Parking:

Valet \$12 per day, \$31.50 overnight;
Self-parking \$10 per day

KEY DATES

September 7, 2011, 5 p.m.
last day for early registration
add \$50 for registrations
received after this time

September 9, 2011, 5 p.m.
last day for full refund

September 12, 2011, 5 p.m.
last day for partial refund
\$50 processing fee applied

September 14, 2011, 9 a.m.
Leasing Institute begins

September 15, 2011, 9 a.m.
Mortgage Lending Institute begins

DALLAS

OCTOBER 12, 13–14, 2011

CONFERENCE LOCATION



Belo Mansion

2101 Ross Avenue
Dallas, TX 75201
214-220-0239

Self-Parking:

\$4 per day for Dallas Bar members;
\$10 per day for non-Dallas Bar members

Nearby Accommodations: The Fairmont Hotel

1717 N. Akard St.
Dallas, TX 75201
214-720-2020

KEY DATES

October 5, 2011, 5 p.m.
last day for early registration
add \$50 for registrations
received after this time

October 7, 2011, 5 p.m.
last day for full refund

October 10, 2011, 5 p.m.
last day for partial refund
\$50 processing fee applied

October 12, 2011, 9 a.m.
Leasing Institute begins

October 13, 2011, 9 a.m.
Mortgage Lending Institute begins

HOUSTON

NOVEMBER 3–4, 2011

VIDEO REPLAY LOCATION

Norris Conference Center - CityCentre

803 Town & Country Blvd.
Houston, TX 77024
713-590-0950

Self-Parking: Complimentary

KEY DATES

October 26, 2011, 5 p.m.
last day for early registration
add \$50 for registrations
received after this time

October 28, 2011, 5 p.m.
last day for full refund

October 31, 2011, 5 p.m.
last day for partial refund
\$50 processing fee applied

November 3, 2011, 9 a.m.
Mortgage Lending Video Replay begins

MCLE

The Leasing Institute has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 7.75 hours, of which 1.00 credit hour will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

MCLE

The Mortgage Lending Institute has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 12.75 hours, of which 2.00 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).