

**Underwriting Standards in  
Commercial Real Estate Lending, Purchase and Sale  
and The Issue of Climate Change**

Mortgage Lending and Servicing Institute  
University of Texas School of Law

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## Glossary

## **Introduction:**

### **Friday afternoon, 4:30pm. Client walks into attorney's office:**

Client: My banker just told me that in order to get the loan on my latest commercial building project, I have to show some measurement of the Scope One and Scope Two emissions from the building and a decarbonization plan for the building. What the heck is this all about??? This issue is make or break for my business!!

Lawyer: I have no idea what you are talking about!

Client: Well, what kind of lawyer are you to not know something about something so important?

### **Alternative Friday Afternoon, 4:30. Vice President of Bank client walks into Attorney's office:**

Bank Lending Officer: The senior lending officer at my bank just got back from a meeting with the banking regulators and told us that they will be writing down the loans we have on commercial real estate buildings unless we can show that the buildings have some measurements of emissions and a decarbonization plan for the building. What the heck is that all about and how do we deal with it? This issue is going to get in the way of all of my business!!

Lawyer: I have no idea what you are talking about!!!

Client: Well, what kind of lawyer are you to not know something about something so important?

**Note from Professor:** It is not good client relations to show ignorance in front of a client.

### **We have to get the politics out of the way!**

Separate your political orientation and your feelings about the issue of "Climate Change" from this discussion. This paper is about the real and future impacts which are happening in underwriting standards in commercial real estate lending, investing, and purchase/sale transactions as a result of laws, regulations and private decisions made by organizations which are sources of capital – in the name of "climate change". Whether you are a "climate activist" or a "climate change denier", if you are in a business which requires capital to be raised for the transactions in which your clients engage, the subjects of this paper will impact you and your clients.

The laws, regulations (some in effect, some proposed and likely to be in effect in the future) and underwriting rules of many lenders and investors now hold that the construction and operation of commercial real estate buildings contributes to changes in the atmosphere which plays a role then in creating climate change. In the name of combating climate change, therefore, how commercial real estate buildings are constructed and operated will have to change, and the degree to which required changes are being implemented will impact the availability of finance for transactions through the underwriting standards applied by those finance sources to the transactions. We can

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