

## **Loan Workout/Bankruptcy**

### **\$22 Million Dollar Investment Restructured**

In re: Southfield Office Building #14, LP. et.al. Austin, Texas

Highlights:

- Reinstated Defaulted Loan
- Reduced Interest Rate by 200 Basis Points
- Reduced Reserve Requirements by 87%
- Eliminated Loan Defeasance Fee/Prepayment Penalty
- Extended Loan Maturity Date
- Rolled Up 25 TIC Owners into a Single LLC
- Preserved 100% of Equity of Owners

Rubin & Rubin represented 25 consolidated Tenant In Common [TIC] owners of a 140,000SF office building in Austin, Texas.



**Southfield Office Building, Austin, Texas**

After the interest rate increased and the expenses of the property became too high for the owners, the lender sought foreclosure and filed a lawsuit for the appointment of a receiver in Texas.

Rubin & Rubin managed and developed a strategy for 19 of the 25 owners to file for protection in the US Bankruptcy Court in Delaware. Appointed by the Court as

Special Counsel to the Debtors, the law firm selected and retained bankruptcy counsel for the case.

The lender was US Bank National Association, as Trustee for a commercial mortgage backed security (CMBS) loan. The Special Servicer was CW Capital Asset Management.

A Plan of Reorganization, for what is believed to be a first in US legal jurisprudence, was approved by the US Bankruptcy Court, with the unanimous approval of all TIC owners, the lender and all creditors.

Through the Plan of Reorganization, the owners were able to achieve the following:

- Foreclosure was averted whereby the property and the investment would be LOST.
- The owners, as Tenants In Common, did not have to recapture or pay capital gains taxes resulting from their previous 1031 like kind exchange for acquisition of the property.
- The loan has been returned to its original interest rate and reserves were returned to rational levels enabling the property to function better with a positive cash flow.
- A Roll Up was implemented whereby the ownership structure was changed from a TIC to an LLC enabling:
  - Owner decision making to be easier and more streamlined though the implementation of a Board of Managers rather than the typical requirement of ballots to all owners on almost all issues.
  - Being an LLC allows for the owners to make decisions regarding the property, without restriction by a property or asset manager. This includes, refinance, sale or even changing the property manager.
  - As an LLC, the owners are more likely to be able to get the attention of lenders for a refinance of the existing loan and possibly more favorable terms.
  - Operating costs from an LLC status rather than a TIC will generate significant savings to the owners.
- Owners will be again be able to get distributions once the cash flow is returned to expected levels after payment of existing debt and replenishment of reserves.
- Funds that were advanced for fees and other expenses to retain counsel to save the property will be reimbursed to the owners out of property revenue.

**For more information:**  
**Please contact Rubin & Rubin, P.A.**  
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