



## Thomas C. Homburger

### Chicago

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### OVERVIEW

Thomas Homburger has practiced 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 serves as a Professor In The Practice (also known as an Adjunct Professor of Law) at the James E. Rogers College of Law, University of Arizona, teaching a course on advanced real estate transactions and previously served as an Adjunct Professor of Law at The John Marshall Law School, where he also taught a course in advanced real estate transactions. Mr. Homburger also serves as an expert witness in litigation involving real estate and real estate financing issues. Mr. Homburger practiced law with the international law firm of K&L Gates LLP, until he retired on December 31, 2016 after 50 1/2 years of practice.

### PRESENTATIONS

- “Key Legal Issues Involved in Ground and Industrial Leases: An Overview of Common Legal Issues Within the Context of Drafting and Managing Industrial and Ground Leases,” Practising Law Institute, November 2014 (paper presented)
- “Structuring Real Estate Loans: Leveraging Nonrecourse Carve-outs, Springing Guaranties, SPE Provisions and More,” Strafford Publications National Webinar, July 2014 (detailed outline presented)
- “Annotated Business Documents: Office Leases,” Illinois Institute For Continuing Legal Education State-Wide Webinar, March 2014 (paper presented)
- “Real Estate Loan Documents: Current Negotiation Trends,” Strafford Publications National Webinar, May 2013 (detailed outline presented)
- “Commercial Mortgages, Security Deeds and Deeds in Trust – Securing Favorable Terms in a Conservative Underwriting Climate,” Strafford Publications National Webinar, April 2012 (detailed outline presented)
- 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)

## Thomas C. Homburger (continued)

- “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 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

## Thomas C. Homburger (continued)

- “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
- “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

## Thomas C. Homburger (continued)

- “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, September 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

## Thomas C. Homburger (continued)

### 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
- “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

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- “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, 2002, 2004, 2006, 2008, 2010, 2012, and 2014
- “Harassment of Borrower by Licensed Lenders,” *Columbia Journal of Law and Social Problems*, 1965, republished in *Commercial Law Journal*

### **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 (Secretary, 2012-Present; Vice-Chairman, 2006-2012; 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 (Board of Directors and Co-Chair of House Committee)
- Columbia University Club of New York
- Ventana Canyon Racquet and Golf Club
- Institute for Psychoanalysis (Board of Directors and Chair of Audit and Investment Committee)

### **ADMISSIONS**

Illinois

## Thomas C. Homburger (continued)

### EDUCATION

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

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

### ACHIEVEMENTS

- *Best Lawyers in America* 2016, 2015, 2014, 2013, 2012, 2011, 2010 (Real Estate Law)
- *Chambers USA* 2017, 2016, 2015, 2014, 2013, 2012, 2011, 2010, 2009, 2008 (Real Estate)
- Leading Lawyers Network (Real Estate Financing; Non-Profit Corporations; Business Consulting)
- Illinois Super Lawyers 2017, 2016, 2015, 2014, 2013, 2012, 2011, 2010, 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*, 2014, 2015
- *Who's Who in the World*, 2014, 2015
- *Who's Who Legal: Real Estate* 2016, 2015
- Barbara Balsler Lifetime of Achievement Award, Anti-Defamation League (November 2012)

### EXPERT WITNESS ASSIGNMENTS

- Invision Capital Management, LLC, An Arizona Limited Liability Company vs. American Residential Properties, Inc. A Maryland Corporation, American Residential Leasing Company, LLC, A Delaware Limited Liability Company, pending in the Superior Court of the State of Arizona In and for The County of Maricopa as Case No. CV2013-017109
- 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.
- 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.

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- 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.
- 1st Funding Source, LLC vs. Chicago Abstract Title Agency, LLC; First American Title Insurance Company, Case No. 2008 CH 41629 which was pending in the Circuit Court of Cook County, Illinois, Chancery Division.
- In re Montgomery Ward, LLC et al., Case No. 00-4667 (KG) which was pending in the United States Bankruptcy Court for the District of Delaware.
- Federal Deposit Insurance Corporation, as Receiver for Founders Bank v. Chicago Title Insurance Company, Chicago Title and Trust Company and Property Valuation Services, LLC, pending in the United States District court for the Northern District of Illinois as Case No. 1:12-cv-05198

### **LANGUAGES SPOKEN**

German

### **PERSONAL INFORMATION**

Married: wife, Louise Paula (married June 6, 1965);

three children - Jennifer Anne Wharton (born November 20, 1966),

Richard Ephraim Homburger (born October 7, 1969),

Kathryn Lee Mickelson (born November 19, 1973)