

BWM&S

BURKE, WARREN, MACKEY & SERRITELLA, P.C.

SEPTEMBER/OCTOBER 2006

BWM&S BULLETIN

VOLUME 5 • ISSUE 3

REAL ESTATE

GROCERY STORES SEEK RIGHT RECIPE FOR DOWNTOWN CHICAGO MARKET

As the recent explosion in residential development has made the greater downtown Chicago area a more attractive place for people to call home, Chicago's new downtown-dwellers want and expect the same services and convenience offered in the suburbs. Full-service grocery stores top the list. But, whereas suburbanites are used to large, one-level design grocery stores with plenty of convenient parking, retail space in the downtown market is limited, expensive, and uninviting to car drivers. These challenges have required developers and operators to rethink development criteria and design for grocery stores seeking to adapt to Chicago's urban market.

BWM&S's Mike Martin has extensive experience in urban retail expansion from representing a major national grocery chain that has recently expanded

Continued on page 3



Can you spot the grocery store? While thousands of new downtown Chicago residents want short commutes and easy access to the city's cultural assets, they expect all the amenities of suburban living. Grocery store operators have fine-tuned their store models to better fit the needs of downtown clients as well as the space limitations of a high-density environment.

WEALTH & SUCCESSION PLANNING

NEW CHARITABLE PLANNING OPPORTUNITY Pension Protection Act of 2006



Stephanie Denby

The recently enacted Pension Protection Act of 2006 allows individuals to direct charitable donations from their traditional Individual Retirement Accounts (IRAs) without incurring a federal income tax liability.

Under the prior law, individuals could not make tax-free distributions directly from their IRAs to charity during their lifetimes. Instead, funds needed to be withdrawn from the IRA and then donated to charity. The withdrawal would trigger federal

Continued on page 4

INSIDE THIS ISSUE:

- Law and Religion Authors Meet2
- Associate Joins Real Estate Practice2
- Tort Damages for Undocumented Workers4

NEXT ISSUE: Your year-end wealth management to-do list, Meet the firm's newest associates, And more

RELIGIOUS ORGANIZATIONS BOOK AUTHORS TO MEET ON CHURCH/STATE ISSUES: November 15 event to take place in Chicago

Religion and the law are very closely intertwined throughout the world today. Critical public policy issues often focus on some aspect of religion and the law. And, religion is center stage in so many tense quarters of the globe—the Middle East, Africa,



James Serritella

Northern Ireland and elsewhere.

Here in the U.S., religious leaders of many faiths are drawn daily into public debate and discussion on such issues as abortion, stem cell research, welfare reform, health care accessibility, race relations, defense spending, same sex marriage and many more.

A critical church-state issue for our time is to build a greater understanding of how religious organizations function

in the U.S. civil law system. That has been the focus of an important study underway for the past two decades by scholars and members of the religious legal community at the DePaul University College of Law, Center for Church/State Studies.

Earlier this year, the results of the DePaul study were published in the volume, *Religious Organizations in the United States: A Study of Identity, Liberty and the Law*, (Carolina Academic Press, 2006). More than 25 law professors, practicing attorneys, researchers, and religious experts contributed to the book.

On **Wednesday, November 15, 2006**, several of the book's

contributors, including BWM&S's James Serritella, will gather at the Chicago Club with Dr. Martin Marty, internationally respected scholar, editor and author of scores of works including *Modern American Religion*, to discuss the new publication and the key findings of the study. The mid-day event will begin with lunch and extend through mid-afternoon.

People interested in attending the event are asked to contact Cy Griffith at 312/840-7035 or cgriffith@burkelaw.com by October 31, 2006. **B**



Visit the Firm's new web site: www.burkelaw.com

BWM&S

ASSOCIATE JOINS BWM&S REAL ESTATE PRACTICE

The attorneys of Burke, Warren, MacKay & Serritella, P.C. are pleased to announce that Rachel D. Wanroy has joined the firm's real estate practice group as an associate.

A 2004 graduate of the Chicago-Kent College of Law, Ms. Wanroy gained a wide range of experience in real estate and commercial transactions at the Chicago office of a large, international law firm. Prior to that, she was an associate at a mid-sized Chicago firm. Ms. Wanroy concentrates her practice in commercial real estate leasing,



Rachel D. Wanroy

“The firm is unique in that it challenges its associates by giving them hands-on experience in a wide range of matters

acquisitions, sales, and dispositions.

“I am extremely enthusiastic about the opportunity to work at Burke Warren,” says Ms. Wanroy.

while promoting direct contact with sophisticated clients. I am looking forward to working alongside some of the most knowledgeable real estate attorneys in Chicago.”

Ms. Wanroy received her B.A. in history from Tulane University in 2000, where her undergraduate studies included a semester in Paris. Ms. Wanroy is a member of the Illinois and Chicago Bar Associations. Rachel Wanroy can be contacted at 312.840.7079 or at rwanroy@burkelaw.com. **B**

GROCERY STORES

Continued from page 1

into several new downtown locations. According to Martin: “The urban business market and urban consumer are somewhat different from what grocers experience in the suburbs. Developers and operators have to reexamine details from parking, delivery, procedures, product mix and store layout. The business model that stores have used in the suburbs may not always work in urban stores; thus, concepts need to be modified to accommodate the needs of the new urban food store customer.”

The typical downtown grocery shopper is not driving a mini-van, and does not have two hours to prepare dinner. “Typical busy customers may be young professionals and from dual-income homes,” says Martin. Other customers may be the rising number of

Downtown customers make more frequent trips to the grocery store looking to purchase something fresh and quick, something they wouldn't have to spend a lot of time preparing, thus making product placement-especially important.

middle-aged professionals who often move into the city after their children leave home. “Both place a value on convenience and fresh food. These customers make more frequent trips to the grocery store looking to purchase something fresh and quick, something they wouldn't have to spend a lot of time preparing, thus making product placement-especially important. They are also health conscious, leading more grocery stores in the downtown area to provide numerous quality-prepared foods and ‘ready-to-eat meals,’ that are healthy, by placing them where

customers will see them easily. This product placement differs from the suburban norm.”

Stores within the city also differ greatly from their suburban cousins in basic size as well. According to Martin, “Urban grocers face operational challenges not found in the suburban free-standing store, such as fitting the product mix found in a suburban free standing ‘big box’ into a space half the size which is often situated on multiple floors. Also, many of these stores will occupy a portion of a multi-use high rise (retail on the first few floors, and residential above that.) In these developments, all of the occupants must share facilities that they are used to having to themselves.” For instance, large buildings that contain numerous retailers generally share a small number of loading docks. Martin explains: “When a food retailer shares a loading dock with other

retailers, the retailers schedule their deliveries to avoid delays and traffic jams at the loading dock facilities. Additionally, the loading dock is often segregated from the back room, which creates a need to make sure the connecting corridors are wide enough and tall enough to permit quick transport of deliveries to the store's receiving area.”

Parking is another obstacle. Most people who live in the city try to avoid the high costs of parking and downtown congestion, and use the convenience that public transportation



Michael Martin

offers. However, many people prefer to load their groceries into their car as opposed to trying to lug them onto a bus or along several blocks

to home. According to Martin, “Downtown grocery stores will work hard to find parking to meet the needs of its customers. If the store is part of a larger development, it may seek nonexclusive rights to spaces for its customers in a parking facility, which is built as part of the development. The negotiations between store operators and developers will include discussions regarding availability and cost for these spaces. If the store is an independent development, it might consider building its own parking facility. Parking facilities for such stores downtown have been constructed above stores and below ground. I have also seen parking decks constructed in the air rights above adjacent railroad tracks.”

It is becoming increasingly common to see large (traditionally corner) grocery stores downtown, as they move into markets where customers are found. The limited land area and cost of land create many challenges to the creative developer, architect, and lawyer. But, as long as downtown Chicago continues to become a more attractive place to live as well as work, grocery stores will need to discover innovative ways to bring their goods and services to this growing market.

Mike Martin can be contacted at 312.840.7011 or at mmartin@burkelaw.com. **B**

BWM&S BULLETIN

Burke, Warren, MacKay & Serritella, P.C.

IBM Plaza - 22nd Floor

330 N. Wabash Avenue

Chicago IL 60611-3607

The Bulletin is written by the firm of Burke, Warren, MacKay & Serritella, P.C. to keep clients and friends current on developments in the law and the firm that might affect their business or personal lives. This publication is intended as a general discussion and should not be construed as legal advice or legal opinion on any specific facts or circumstances. It is meant as general information only. Consult an attorney with any specific questions. This is a promotional publication. ©2006 Editor: Cy H. Griffith, Director of Marketing; Legal Editor: Jay S. Dobrutzky, Esq.

312/840-7000 • www.burkelaw.com

CHARITABLE PLANNING

Continued from page 1

income taxes. Tax law limitations (including limits on itemized deductions) frequently prevented the charitable deduction from completely offsetting the federal income tax recognized on the withdrawal. Accordingly, individuals would recognize federal income tax liability in excess of the charitable deduction.

The Act allows taxpayers over age 70 1/2 to distribute up to \$100,000 per year directly to charity from their IRA accounts. No income is recognized on

the transfer, and correspondingly no income tax charitable deduction is available. The Act eliminates the income tax cost of making a gift from an IRA. Distributions must be made directly to public charities (and may not be made to donor advised fund accounts, private foundations or charitable split interest trusts).

The distribution from the IRA to charity counts towards satisfying the current year's minimum distribution requirement. The Act makes this opportunity available only in 2006 and 2007 for distributions made from traditional, not Roth, IRAs.

Planning Opportunity:

If you are over age 70 1/2, consider making your charitable gifts from your traditional IRA. An IRA is a good asset to use for charitable giving because it will avoid recognition of the built-in ordinary income tax liability normally triggered by withdrawals.

Stephanie Denby is a partner in the firm's Wealth & Succession Planning practice. Stephanie can be reached at 312/840-7068 or sdenby@burkelaw.com. **B**

LITIGATION

TORT DAMAGES FOR UNDOCUMENTED WORKERS

Analyzing the Interplay Between the Federal Immigration Reform and Control Act and State Personal Injury Laws

As the mid-term elections approach, several pressing issues are at the forefront of national debate. Included among these topics is immigration reform, and the hiring of undocumented workers, issues that affect all employers. While most businesses are aware of the basic laws addressing the hiring of illegal aliens, many employers will be surprised to learn that an undocumented, unauthorized worker may be granted the right to recover damages for personal injuries incurred on the job despite their illegal status. This article examines a brief history of worker immigration laws and then analyze a recent New York Court of Appeals decision that allowed an undocumented alien the right to sue under state law to recover lost wages. **To read the complete text of the article, please visit burkelaw.com.**

Alexander Marks, an associate in the firm's litigation practice, wrote this article. He can be reached at 312/840-7022 or amarks@burkwlaw.com. **B**



Alexander Marks