

## Q&A With Lane Powell's Bryan Powell

*Law360, New York (January 13, 2012, 2:12 PM ET)* -- Bryan E. Powell, a shareholder at Lane Powell PC and chairman of the firm's real estate and land use practice group in the Portland, Ore., office, focuses his practice on mixed-use development, private/public redevelopment and seniors housing projects, frequently assisting developer, investor and lender clients in finding creative financing solutions for difficult-to-fund projects.

### **Q: What is the most challenging deal you have worked on and what made it challenging?**

A: It's rare when a deal, large or small, does not present some challenges. However, I do remember working on a real estate financing and development that involved a capital stack as high as a 10-layer cake.

Equity and mezzanine financing served as a base for a cake consisting of a conventional loan, tax exempt and taxable bond financing, low-income housing tax credits, tax increment financing, redevelopment bridge loans, community development block grants, transit-oriented development loans, environmental and historic tax credits, and credit enhancement instruments, with an icing of property tax abatement.

There were so many parties involved that we had to schedule separate conference calls, because we simply could not decipher who was speaking when everybody was on one conference call.

The environmental remediation challenges seemed simple compared to closing the project financing. Remarkably, the deal eventually closed, politicians came out of the woodwork to accept kudos for a development project that they initially opposed, and the project went on to become a raving success and a boon for the neighborhood.

### **Q: What aspects of your practice area are in need of reform and why?**

A: Finance reform are the buzzwords of our current economic crises, which includes such issues as relentless residential mortgage foreclosures, the ills of subprime lending, changing underwriting guidelines for real estate financing and workouts, and the impact of the disappearance of commercial mortgage-backed securities, to name a few.

Without consistent, fair and predictable financing options in place now and for the long term, the real estate industry will continue to languish.

**Q: What is an important issue relevant to your practice area and why?**

A: As the trend toward urban redevelopment and increasing density continues in cities across America, we need to continue to promote the successes of public-private partnering in ways that allow worthwhile projects to get done.

I have seen too many good projects fail because of a lack of fundamental understanding of how a successful public-private partnership works. In an era where the number of stakeholders are many, equity is scarce and financing is difficult, everyone needs to work together in a cooperative manner to make good projects happen.

There are too many instances of shortsighted partisanship, stakeholder inflexibility and a failure to appreciate a bigger picture, which frequently kill projects that should otherwise happen. The tragedy is that we all suffer because of the misguided or misplaced energy of an outspoken few.

**Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.**

A: There are several individuals who come to mind, but Ira Waldman is one person who impressed me as a young attorney as someone with a talent worth emulating. Ira's depth of knowledge of the law and his ability to distill complex issues into understandable, real-life applications was refreshing.

In today's marketplace where laws are complex, advice is plentiful and common sense is hard to find, our clients long for simple, easy-to-understand answers to challenging questions. Our job as lawyers is to find practical solutions to difficult questions, and to explain to our clients in layman's terms why certain strategies make sense.

**Q: What is a mistake you made early in your career and what did you learn from it?**

A: Clients' recollection of our advice is often short-lived and changes over time — especially after a deal closes! If you are giving advice to a client, which is likely to have long-term ramifications or can vary depending on unknown or uncertain facts, make sure to memorialize your advice in writing.

On one high-risk deal of long ago, which my client desperately wanted to close, my verbal description of the deal's pros and cons proved to be accurate; however, the client later only recalled the pros and not the cons, which led to a difficult situation when the outcome later became unfavorable.

Even at the risk of being redundant, a short email to your client summarizing your discussions may save you a major headache down the road.