

# FOULSTON

ATTORNEYS AT LAW



REAL ESTATE

## OVERVIEW

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In-house counsel and other clients with Kansas real estate interests choosing Foulston Siefkin experience the advantage of our real estate lawyers' unique Kansas-specific capabilities, active involvement in Kansas business communities, local real estate industries, and contributions to and interpretations of Kansas law and policy. Our 26 lawyers supporting real estate deliver a broad network of contacts, deep insight into local customs, and knowledge of local deals and news relevant to client decisions about Kansas property. Foulston's size, capabilities, and Midwest business commonalities make our real estate team a strategic choice for clients seeking counsel on real estate holdings within and beyond Kansas' borders. Our earned trust and reputation have opened doors to new opportunities to serve clients nationwide.

Foulston real estate attorneys understand both the multidisciplinary and local business nature of real estate transactions. We regularly represent clients in acquisitions and dispositions, financing, development, land use, leasing, restructuring, and environmental matters in Kansas, Missouri, and across the United States. Our real estate attorneys advise and assist capital investors, developers, owners, lenders and other participants in a broad range of industries, including: agribusiness, construction, energy, health and long-term care, retail, housing, education, and hotels & hospitality.

Our philosophy of superior client service and our recognized expertise earned our real estate practice and our attorneys high marks for "outstanding" work from publications including Best Lawyers of America, Missouri/Kansas SuperLawyers, and Chambers USA. Our real estate attorneys include members of the American College of Real Estate Lawyers and the American College of Environmental Lawyers.

## AREAS OF REPRESENTATION

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### Real Estate Transactions

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- Leasing, purchases and sales, of: commercial, industrial, investment, rural, multi-family, and other residential real estate
- Easements, rights of way, and other property interests
- Title and title insurance issues
- Purchase options

## **Real Estate Development, Planning, Land Use, and Property Management**

- Master planning Infrastructure approvals/development
- Zoning and plan approval
- Commercial and residential condominiums
- Entitlements and incentives
- Homeowners' and owners' associations
- Subdividing properties
- Property management services & leasing
- Eminent domain (condemnation)
- Business property electric and gas energy planning and acquisition
- Business property sustainability planning

## **Real Estate Finance and Tax**

- Financing
- Mortgages
- Syndications
- Taxation of real estate and real estate transactions
- Tax-deferred exchanges ("1031 exchanges")

## **Real Estate Construction, Engineering and Environmental**

- Construction and design agreements
- Construction litigation and dispute resolution
- Environmental law, including site assessments and liability concerns

## **Real Estate Natural Resources and Rural Lands**

- Agricultural
- Oil, gas and other mineral interests
- Water rights
- Wind and solar energy projects, and battery energy storage facilities
- Hydrogen storage and use

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- Carbon capture options and incentives
- Electric transmission lines and facilities

## Real Estate Lawsuits and Dispute Resolution

- Bankruptcy workouts and restructuring
- Foreclosures
- Mechanic's and other real property liens
- Title insurance claims
- Litigation
- Mediation and arbitration

## EXPERIENCE

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### Real Estate Development

- Short-term residential property developer's counsel, including leading real estate legal team handling all aspects of new site negotiation, diligence and entitlement, to acquire, construct and operate or franchise more than 150 sites throughout the United States.
- Local Kansas counsel for significant casino company, assisting with a range of site acquisition, development and permitting issues, including laws and use concerns unique to a casino operation, for a proposed \$260 million, 275-acre development.
- Represented developer of approximately 29-acre urban mixed-use multi-building public-private downtown revitalization development in all aspects: development agreements, land contracts, multiple ground leases to support national retailer, offices, national hotel chain and condominiums, subleases, owners associations, financing, platting, permitting, restrictive covenants, easements, parking agreements, and use limitations.
- Counsel to land seller of largest and still-expanding recent commercial development corridor in Garden City, Kansas, including Wal-Mart, Sam's Club, Home Depot, Applebee's, Menard's and hotel sites. Representation included involvement in development, tax, government incentives, platting, zoning, utilities, easement and restrictive covenant issues.
- Exclusive representation of developer of approximately 700-acre mixed-use development. Handled all development aspects, including land contracts, leasing, owners associations, financing, platting, permitting, restrictive covenants, easements, parking agreements, and use limitations.
- Hotel developer's counsel, including leading real estate legal team handling all aspects of new site negotiation, diligence and entitlement, to acquire, construct and operate or franchise more than 150 sites throughout the United States.

### Leasing / Landlord Tenants

- Representation of landlord of 131,000 sq. ft. multi-story office building with national and regional tenants, negotiating tenant leasing documents and related documents and issues, including for an 81,000 sq. ft. tenant.
- Assisted with over 65 transactions – a mix of leasing transactions mostly in large multi-tenant shopping center with complex leases, and site sale/purchases of fee title – across five states for franchisee of

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national restaurant chain.

- Negotiated client's three industrial leases covering over 1,000,000 square feet.

## PRESENTATIONS

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### 2022

- Bias Is Unavoidable: Avoid Bias-Caused Losses To Your Deals, Negotiations, and Team (ICSC+U.S. Law Conference)
- Confronting Climate Change Policies— the Challenges of Decarbonizing Real Estate Toward a Net Zero Future (ACREL 2022 Annual Meeting)
- State and Local Land Use: Get the Facts and Know the Law to Site Responsibly and Develop Winning Renewable Energy Projects (American Clean Power (ACP) National Siting and Environmental Compliance Conference)
- Trends, Forecast and Unique Topics in Large Scale Rural Solar and Wind Land Use Planning and Approvals, with Steve Romine (American College of Real Estate Lawyers (ACREL) Land Use and Environmental Committee)

### 2021

- But, I'm Not Biased! Solving Intentional and Unintentional Bias in the Workplace (2021 ICSC Law Conference)
- Where Do I Sign? Wait — What Am I Signing? Understand Your Residential Contract to Buy or Sell (Hispanics in RE, Inc.)

### 2018

- Unconscious Bias - How to Spot It and Become an Inclusive Leader (International Council of Shopping Centers (ICSC), U.S. Shopping Center Law Conference)
- Qualified Opportunity Zones (Wichita CCIM Chapter)

### 2017

- Advanced Title Issues and Solutions (International Council of Shopping Centers (ICSC), U.S. Shopping Center Law Conference)

## PUBLICATIONS

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### 2024

- State-by-State Guide to Commercial Real Estate Leases (2024 ed.), Kansas Chapter  
-Wolters Kluwer

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## 2022

- Decarbonizing Buildings to Combat Climate Change: Part of Your Commercial Real Estate Law Practice?  
-The ACREL Papers, The American College of Real Estate Lawyers, Fall 2022

## ISSUE ALERTS

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### 2020

Coronavirus: What Kansas Multi-Family and Other Residential Landlords Should Know About the Unprecedented Federal Residential Eviction Moratorium Order

Coronavirus: Dealing with a Positive COVID-19 Test – Guidance for Commercial Landlords and Property Managers

Coronavirus: UPDATE on Guidance Regarding Commercial and Residential Evictions and Foreclosures

Coronavirus: Guidance Regarding Commercial and Residential Evictions through May 1, 2020

### 2019

Kansas Legislature Passes New Law Giving Victims of Domestic Violence and Sexual Assault New Protections; Directly Impacts Landlords of Residential Properties

### 2018

Don't Wait for IRS Guidance to Invest in Opportunity Zone Fund

### 2014

Why did the Lesser Prairie-Chicken cross the road?

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## ATTORNEYS/OTHER PROFESSIONALS

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