

The 5th Annual Hospitality Law Conference

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Mixed-use Developments: The Present and the Future

Presented By:

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Chuck Bedsole

Chuck Bedsole, based in Dallas, is a Managing Director with Alvarez & Marsal Real Estate Advisory Services, LLC. He advises companies from the United States, Latin America, and Europe on hospitality, tourism and real estate projects in the Americas.

Mr. Bedsole has more than 23 years of industry experience, including eight years with Big Four professional service firms and five years of corporate-level experience with hospitality companies in the areas of acquisitions/development, finance and marketing. He has substantial domestic and international experience with hospitality properties including hotels, mixed-use resort developments, hotel condominiums, interval ownership, all-inclusive resorts, and marinas. He also has significant experience with residential, commercial and industrial projects in Latin America.

Mr. Bedsole's advisory experience include strategic planning, due diligence, feasibility, valuation, marketing and financing engagements for multinational companies, capital sources, developers, financial institutions and governments in major markets in the US, Caribbean and Latin America. He has worked with major clients including Goldman Sachs, CS First Boston, Odebrecht, Remington Hotels, Viva Resorts, Consorcio ARA, Centex, Olympus Real Estate Funds, Crescent Real Estate Equities, Circa Capital and Electrolux.

Prior to joining A&M, Mr. Bedsole served as a practice leader in the Hospitality & Leisure group of PricewaterhouseCoopers LLP and for seven years as the practice leader for Latin America in Ernst & Young LLP's Real Estate Advisory Services Group. Prior to his tenure at Ernst & Young, he served as director of development for Jack Tar Village Resorts, Inc. and was responsible for new resort development and acquisitions in Latin America and the Caribbean.

Mr. Bedsole received a degree in business administration from the University of Texas at Austin in 1982, and is fluent in Spanish and conversant in Portuguese. He is a member of the US-Mexico Chamber of Commerce, the International Advisory Committee of the Greater Dallas Chamber and the Urban Land Institute. He is a frequent speaker at key industry conferences on lodging and real estate development in the US and Latin America. He has authored numerous articles for industry publications, including Globe St.com, The Wall Street Journal, National Hotel Executive, and Hotels magazine.

Richard Charnley

Trial attorney Richard Charnley has practiced law for thirty years. He is admitted in all California courts, the United States Supreme Court, the Ninth Circuit, the United States Tax Court, and, the United States Court of Claims. He is peer rated AV by Martindale-Hubbell and is a Southern California Intellectual Property Super Lawyer.

During the early 1980's Mr. Charnley provided legal advice and litigation services to real estate developers, real estate brokers, real estate lenders, mortgage insurers, bonding companies, financial institutions and money managers. A significant portion of this work involved supervision of brokerage and investment operations, handling brokerage litigation disputes, litigating mortgage guaranty insurance claims, and monitoring governmental compliance for brokerage and mortgage companies.

Mr. Charnley is often retained/appointed by carriers for defense of cases involving Buss issues, reservations, declinations and monitoring cases for excess exposure.

Mr. Charnley's carrier clients have included CNA Entertainment, Fireman's Fund Entertainment, St. Paul Travelers, Chubb, Gulf and Media/Pro.

Representative clients have included: Academy Award winner Paul Haggis; Shaq O'Neal; Peter O'Toole; Fabio; entertainment power lawyers Peter Dekom and Martin Singer; legendary producer Samuel Z. Arkoff; Marlo Thomas; television producer Vin DiBona (America's Funniest Home Videos); personal manager/producer Jonathan

Krane; marketing group Arenas Entertainment; American Gladiators; market branding company Conductor (formerly Aspect Group); ABC; FOX; Disney; Warner Bros.; MGM; Jack-In-The-Box; and, Panorama Distributors (Hong Kong).

Mr. Charnley has provided legal commentary for The Today Show, MS NBC, Entertainment Tonight, Access Hollywood, KNBC (Los Angeles), and KABC (Los Angeles), The New York Times, Variety, and Vanity Fair. He served for five years on the Board of Directors of the National Graphic Artists Guild. He lectures on legal issues in entertainment and media.

Currently a partner in the Los Angeles Office, Mr. Charnley received his BA from U.C. Irvine in 1970 and his JD from Pepperdine University School of Law in 1976.

Andrew Robins

Andy Robins is a partner in the Real Estate Department and a member of the Lodging & Gaming Practice Group. He has been designated a Leading Individual in the area of Hospitality Law by *Chambers USA America's Leading Lawyers for Business*. He has also been selected by his peers for inclusion in *The Best Lawyers in America 2007*, the nation's definitive guide to legal excellence, and designated as a *2006 Florida Super Lawyer*.

Andy represents publicly and privately held owners, operators and developers of hotels, resorts and community developments throughout the United States, Latin America, and the Caribbean. He also assists governmental institutions in the development of tourism destinations, the privatization of tourism facilities, the development of fiscal and monetary incentives for tourism development and the creation of financing mechanisms to supplement tourism development initiatives.

Andy is recognized within the hospitality industry as a leading authority on structuring condominium hotels and on the complex securities issues associated with rental programs. He has counseled leading hotel operators on the structuring of condominium hotels and on the legal and business risks associated with these projects. He has also represented numerous developers of condominium hotels and mixed use resort and residential projects. Andy is also involved extensively in the growing phenomenon of branded residential real estate and with the coordination of mixed-use projects including branded and unbranded elements or multiple branded elements.

Clients in this area include InterContinental Hotels Group, Hilton International, Sonesta Hotels, Rosewood Hotels, The Trump Organization, Blackstone, WCI Communities, The Patrinely Group, and Fortune International.

Andy received his undergraduate degree in economics from the State University of New York at Binghamton in 1976 and his Juris Doctor degree from Syracuse University School of Law in 1979. He practiced law for over 20 years with Gunster, Yoakley & Stewart, a regional South Florida law firm, where he chaired the Real Estate Department. He previously practiced law with the New York City firm of Sage, Gray, Todd & Sims. Prior to that time, Mr. Robins was engaged in historic preservation activity with the New York City Department of Housing, Preservation and Development.

Mr. Robins is a full member of the Urban Land Institute and a member of its Recreation Development Council. He is a founding member of The Center for Caribbean and Latin American Development. He is also a member of the American Bar Association (Real Property, Probate and Trust Law Section), and The Florida Bar Association.

Brian Belt

Brian Belt is a partner in the real estate department of the Miami office of Shutts & Bowen LLP, an approximately 175 lawyer firm and one of Florida's oldest law firms. He is engaged in developer and owner representation (including acquisition and sales, land-use, leasing, construction and financing) throughout the entire State of Florida and has represented many of Florida's most prominent real estate developers and property owners in notable projects. He is an expert on mixed-use projects of varying sizes and complexity and has provided counsel to local, regional and national companies on a variety of issues. His experience includes mixed-use projects with a variety of components, including luxury condominiums, hotel condominiums, luxury hotels, marinas, retail, office and industrial uses. Mr. Belt lectures frequently on mixed-use projects and other subjects.

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“Mixed-Use Development: The Present & The Future”




LEADERSHIP. PROBLEM SOLVING. VALUE CREATION.



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Introduction




Chuck Bedsole

- Managing Director with Alvarez & Marsal Real Estate Advisory Services, LLC
- More than 23 years of industry experience, including serving as a practice leader in the Hospitality & Leisure group of PricewaterhouseCoopers LLP and as the practice leader for Latin America in Ernst & Young LLP’s Real Estate Advisory Services Group
- Received a degree in business administration from the University of Texas at Austin




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Richard Charnley

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- Trial attorney Richard Charnley has practiced law for thirty years and is admitted in all California courts, the United States Supreme Court, the Ninth Circuit, the United States Tax Court, and, the United States Court of Claims
- Practice areas include Intellectual Property, Entertainment, Insurance Services, & Real Estate
- Received BA from U.C. Irvine; JD from Pepperdine University School of Law; Master of Fine Arts from USC School of Cinema Television



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Introduction



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- Partner in the Real Estate Department and a member of the Lodging & Gaming Practice Group with Proskauer Rose LLP
- He has been designated a Leading Individual in the area of Hospitality Law by *Chambers USA America’s Leading Lawyers for Business*
- Recognized as a leading authority on structuring condominium hotels and security issues associated with rental programs
- Extensive involvement with branded residential real estate and coordination of mixed used projects including branded and unbranded
- Received BA from the State University of New York at Binghamton; JD from Syracuse University College of Law



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Introduction



Brian Belt

- Partner in the Real Estate Department with Shutts & Bowen’s Miami office
- He has engaged in developer representation (including acquisition and sales, land-use, leasing, construction and financing) throughout the entire State of Florida and has represented many of Florida’s most prominent real estate developers in notable projects throughout the State
- Expert on mixed-used projects that include luxury & hotel condominiums, marinas, retail, office, as well as industrial uses.
- Practice areas include Real Estate and Corporate Law




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Definitions

- ❑ "A **mixed-use development** is a real estate project with planned integration of some combination of retail, office, residential, hotel, recreation or other functions. It is often time pedestrian-oriented and contains elements of a live-work-play environment. It maximizes space usage, has amenities and architectural expression, and tends to mitigate traffic and sprawl."
- ❑ "**Mixed-use resort developments** are secure destination resort communities built around a hotel hub that include, in addition to the hotel, other interests in the resort that may be purchased and that are administered by the same operator. The resort also will include commercial and retail facilities designed and operated to service the growing population of owners and guests created by the new types of purchased interests."


"The essential advantage of the multiuse resort development is ultimately in having a whole that is greater than the sum of the parts".



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History


- ❑ Mixed-use development is not a new phenomenon
- ❑ Mixed-use resorts are said to have started with the expansion of theme parks, such as Disney World in Orlando, Florida
- ❑ Mixed-use developments emerged during the 1980's and 1990's, although generally speaking they were not favored by developers and capital sources due to their complexity involved in zoning, financing, design, and construction
- ❑ Changes in travel and vacation patterns, baby boomer demographics/psychographics and the resurgence of cities and urban in-fill projects have spurred the reemergence of mixed-use developments
- ❑ Urban mixed-use design has evolved from the traditional main street approach – with residential above retail space – to a diverse grouping of property types, users, and strategies to create a more desirable place to live, work, and play
- ❑ Self-contained, mixed-use destination resorts with upscale, upper-upscale and luxury orientation have become a major development trend in the past seven years



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Current Segment Trends


- ❑ A broad range of travelers now prefer to visit resort locations that offer many leisure experiences within a community or "lifestyle" environment but that do so without having to sacrifice the hotel services and resorts standards to which they are accustomed
- ❑ Mixed-use resorts are becoming increasingly popular among developers due to a strong consumer demand for ownership products (e.g. hotel residences, timeshare, fractional, full-ownership, etc.)
- ❑ Although focus has traditionally been in resort markets, new products have been developed in gateway urban markets and even secondary markets
- ❑ A broad range of buyers and customers now prefer to live in locations that offers a lifestyle anchored by a high-quality, unique hotel experience
- ❑ Developers who have made substantial commitments to the sector include, but are not limited to, the following companies:
 - Trump
 - Turnberry Associates
 - The Kor Group
 - WCI Communities
 - Forest City
 - Intrawest
 - Hillwood Development
 - Centex



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Current Segment Trends


- ❑ Lodging companies who have made substantial commitments to the sector include, but are not limited to, the following:
 - Starwood Hotels & Resorts
 - Regent International
 - Fairmont Hotels
 - Marriott International /Ritz-Carlton
 - Mandarin Oriental
 - Four Seasons Hotels
- ❑ Hotels have gained notoriety as the key amenity for mixed-use projects as they help to drive traffic and serve as a hub for the community. They add vitality and a 24-hour life to the neighborhood
- ❑ Traditional homebuilding companies, such as Centex, have now entered the arena
- ❑ Mixed-use projects are starting to outperform their single-use counterparts in terms of hotel occupancy and rates, lease rates, residential prices and sales pace and retail sales
- ❑ Developers will continue to expand and combine a diverse blend of uses
- ❑ Asset management of mixed-use projects



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Advantages


- ❑ Unit pre-sales can lower the core equity the developer needs to secure debt financing
- ❑ The "hotel amenity" can create a price premium ranging from 15% to 40% per square foot over the sales price of comparable units
- ❑ On-going income potential for developers through property management fees and ownership of commercial areas
- ❑ Multiuse properties can offer customer diversity, deeper market penetration and marketing economies of scale
- ❑ Shared operating costs
- ❑ Insulation against market fluctuations of single-use components
- ❑ Additional source of fee income for lodging companies include:
 - Hotel management fees
 - Licensing fees related to sales of units
 - Rental unit management fees
 - COA management fees
 - Commercial area management fees
 - Amenities management fees



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Challenges

- ❑ Mixed-use developments traditionally require more upfront capital for planning, land acquisition, infrastructure and property construction expenses compared to single-use developments
- ❑ Greater complexity in the design, construction, management and marketing
- ❑ Financing can be difficult as many mixed-use developments do not conform to the conventional investment underwriting
- ❑ Land assemblage
- ❑ Maneuvering through zoning requirements and building code regulations
- ❑ Working with multiple development teams
- ❑ Maintain the appropriate balance between residential and hotel use
- ❑ More specifically, a mixed-use development can create scale and mass without losing the essence of the brand
- ❑ Managing the financial challenges of a sequenced roll-out of project phases



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Critical Success Factors

- Experienced legal guidance
 - State and federal condo statutes and regulations and state and federal securities laws
 - Local jurisdiction tax issues (e.g. occupancy tax) and planning and building code issues
- Management of the different expectations and needs of the different categories of users and owners (i.e. hotel guests, retail customers, timeshare, fractional and condominium owners)
- Location that is attractive to potential buyers. In the case of a resort, availability of high-quality recreational activities such as beach or golf. In an urban location, a community that offers a work-live-play lifestyle environment
- Synergies must exist between the various uses
- Supply and demand fundamentals must be understood –The majority of the components of the development must stand on its own
- Participation of a recognized lodging company with an understanding of mixed-use projects
- Careful selection of marketing company and oversight of the real estate sales and marketing process
- Matching funding sources with capital requirements and investment horizons
- Integrated planning and design

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Where is the Segment Headed?

- Quality projects will always do well
- Many local governments are encouraging mixed-use redevelopment
- Mixed-use projects will continue to gain momentum
- Capital Sources will increase their interest in participating in these type of projects
- Inexperienced and/or uninformed "new entrant" developers
- Inadvertent developer actions triggering securities or related litigation and the domino effect
- The role of speculators, that in some cases represent from 30 to 80% of recent purchases of residential and hotel condo product in certain markets
- Impact on sales and re-sales of residential and hotel-condo products related to oversupply and rising interest rates

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