

Three Real Estate Issues Facing All Bank Branches

Banking Brief: Financial Services Insights

By Keith Mundrick on June 5, 2024

Banks own and operate a surprising amount of real estate for their branches and offices. There were over 77,500 bank branches in America as of the end of 2023. By comparison, McDonalds has about 13,000 stores in the US. That's a lot of property, and it comes with a lot of legal considerations.

1. Zoning, development, and leasing

Banks often acquire vacant land and develop new branches or office buildings. These are complex projects that trigger all of the considerations of any real estate transaction—negotiation and navigation of a well-drafted purchase agreement, proper title and survey due diligence, and environmental review are critical. If building a new branch, zoning and municipal law comes into play.

Successfully navigating these steps can make the difference between a great investment and a frustrating or costly experience. Similarly, banks looking to sell off an existing branch must navigate this process to a successful disposition. Banks often lease branch or office space, or may lease excess space to a tenant of their own, and these lease agreements must also be carefully negotiated.

2. Eminent domain

Just as it is critical for bankers to understand the principles of eminent domain in their mortgage-secured lending, it is important to consider how these issues impact the bank's own branch properties.

Banks are commonly located along key highways and major intersections, which are especially prone to being taken for road projects. Just like any landowner, banks should know that they have a right to challenge the valuation of their property when the government tries to take it for highway or other public projects. This even includes a right to jury trial.

3. Premises liability

What if a bank customer or other entrant falls or is injured on the bank's property? What if a tree on the bank's property falls onto neighboring property causing damage? All of these liability concerns apply to bank branches just like any other property.

Banks should have action plans and procedures for dealing with injury claims. This includes having appropriate insurance and knowing your rights between any claimant and with your insurer. Even if the bank's insurance company provides defense counsel, the bank always has a right to retain its own additional attorney to represent its interests directly.

Banks are often very familiar with analyzing real estate issues and concerns in the context of real estate lending. That same level of awareness—and more—should also be focused on the bank's own property.

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