Chapter I

Why a Real Estate Practice?

You may have already developed a real estate practice and be reading this book for pointers that you can incorporate into your practice and your business plan. If so, congratulations! You’ve already discovered the rewards and satisfaction that a successful real estate practice will bring. Or perhaps you’ve already decided to focus your efforts on developing a real estate practice and are reading this book to learn one approach. If so, you already know the advantages that a real estate practice offers to lawyers, and I offer you my best wishes on achieving your goal.

But if you’re in your first few years in practice and haven’t become known for a particular practice area yet, or if you’ve just been admitted to the bar, you may be considering several fields in which to focus your efforts. Why choose real estate?

One practical reason to build a real estate practice is that the underlying law changes only slowly. Our colleagues in tax law have to relearn the law every ten or twelve years when Congress overhauls the tax code. Supreme Court decisions and Securities and Exchange Commission (SEC) enforcement actions constantly change the face of securities law. And intellectual property lawyers are constantly encountering new forms of intellectual property for which the law doesn’t yet exist.

Unlike tax law and intellectual property, the basic principles of real estate law go back for centuries. The word “mortgage” is more than 700 years old. Bargain and sale deeds go back to the Statute of Uses, which England adopted in 1535. Although the last century has seen new areas develop within real estate (e.g., real estate syndications and land use) or be spun off
from real estate law as separate fields (e.g., environmental law), the basic principles of deeds, mortgages, and land titles have stayed about the same. The basic law you learned in school, and that you acquire in your first years of practice, will serve you throughout your career.

Another reason to build a real estate practice is that it’s easy to build a base of steady clients. You might write a lease for the owner of a small strip mall. If the owner likes your work, he or she will return when it’s time to renew the lease or write a lease for another tenant or sell or finance the building. Also, the owner of the strip mall likely owns other rental real estate that can produce the need for your services and might seek your advice for two or three projects at the same time. A steady real estate client may consult you every year, or more often, possibly even every week. Some of my real estate clients call me three times a week.

By contrast, even the best client of a domestic relations attorney won’t require more than one divorce at a time. A “steady client” of a domestic relations practice might be a steady client because of an ongoing child custody dispute but will not have an actual new matter more often than once every five or ten years.

A third reason to focus on real estate is that many projects will teach you something that you can apply later on. Each matter does not stand by itself, and you can learn details about the industry from one project that you can then apply to a project later on. For instance, after you handle several industrial leases, you will have a grasp of what industrial tenants look for that will serve you well if a client who’s considering buying a warehouse as an investment asks your opinion. A practice that includes negotiating retail leases will give you a similar understanding of the local retail market. If you work in a part of the country in which lawyers handle residential real estate closings (I don’t), you will get to know the local housing market and economy in some depth, and you may become a valued advisor to residential developers and land investors.

The most important reason to choose real estate as your practice area, however, is that you will have fun working with people who are doing imaginative and varied things with real estate. My practice has brought me in contact with auto dealers, office tower developers, the steel industry, and hotels and has given me the opportunity to learn
about beaches, ditches, printing, office leasing, elevators, gasoline stations, railroads, baseball, steel mills, and foundries. My relationship with one client gave me the opportunity to become a director of a small community bank and, later on, its holding company. Another client’s project led me to visit a metals factory in Japan and learn about sintering oil filters. Three clients have shown me different facets of the steel industry. I have walked through farms, looked at ditches, climbed on roofs, slid through crawlspaces, ridden in ancient freight elevators, built restaurants, refinanced hotels, leased a baseball stadium, and discovered buried survey markers. Not every day brings something new across my desk, but every month does.

Some real estate lawyers have found satisfaction in developing an industry specialty. One lawyer I know was practicing farm law in a small town when grape growers discovered the surrounding area and started to buy up his clients’ farms. He saw the trend, learned about the special agricultural and licensing needs of wineries, and soon became the leading expert on wine law in the county. He is always happy to leave his office and meet with his winery clients at their places of business. Another lawyer I know became the local expert on the peculiar and confusing mix of laws that regulate gravel pits. A third lawyer mastered the detail involved in leasing, building, and financing fast-food restaurants. The real estate world is full of opportunities for lawyers to have a rewarding and exciting career.

Within the broad field of real estate law are many specialties, some that lead to the courtroom and others more suited to a desk in an office. Some real estate litigators fight for fair compensation for owners of land that the government wants. Others represent landlords and tenants in eviction suits ranging from humble trailers to fancy stores. Some office lawyers negotiate leases between national chains and regional shopping centers. Some help investors buy, finance, and sell apartment buildings. Some draft the documents that turn apartment buildings into condominiums. A few write covenants to bind the land for future generations or work to release covenants of yesteryear that have outlived their purpose.

Your work for real estate clients may lead you to learn important elements of tax law and estate planning. Over time you may become a trusted
advisor to several generations of the same family, called on not just to handle specific tasks for the present but to draw on your experience to provide counsel for the future.

Real estate is a wonderful field of law in which to practice. You’re going to enjoy it.