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## **Company of the Month: Brennan, Dain, Le Ray, Wiest, Torpy & Garner, P.C. delivers value, seizes opportunity**

November 24, 2009 - Front Section

A snapshot taken today inside our Company of the Month reveals activity in almost every sector of the New England real estate market that might surprise some. The Boston law firm Brennan, Dain, Le Ray, Wiest, Torpy & Garner, P.C. (BDLWTG) is abuzz with transactions, permitting, financing and leasing for properties and clients throughout the region. Surprised? Don't be. The market's new "value" mantra is the same principle on which this real estate law firm was founded - offering clients one stop shopping for sophisticated and responsive legal representation. The firm boasts a stable of attorneys recognized as "Super Lawyers" in their respective practice areas, and over the past 18 months BDLWTG's already-impressive list of clients has grown significantly as more and more developers, property owners and tenants have steered to the firm for servicing their legal needs. BDLWTG's clients include Boston Properties, The Bulfinch Cos., KGI, Congress Group, The Drew Co., Griffith Properties, New Seabury Properties, The Flatley Co., Madison Properties, The Princeton Review, and OneBeacon Insurance Co. With the recent addition of two senior attorneys from cross town stalwarts (Susan Murphy from Wilmer Hale, and Jeff Ganguly from Holland & Knight) the firm - like its clients - is seizing opportunity and value in this market.

The firm's admittedly crowded letterhead is a composite of two original firms with strikingly similar histories and pedigrees that merged in 2008 to constitute BDLWTG. Rob Brennan, Dan Dain and Charles Le Ray left Goodwin Procter in early 2006 to set up shop with former Boston Redevelopment Authority Land Use Counsel, Don Wiest. Joe Torpy and Liz Garner had left Testa Hurwitz in 2003 to establish their own firm downtown. Dain said, "Joe and Liz were handling complex leasing and transactional matters for some of the same clients that we were representing on the permitting and litigation side. Our clients were telling us 'You should talk with Joe and Liz. You'd work well together.' We had served on industry panels together, so it wasn't exactly like a blind date, but it was our clients who first suggested the merger."

From the third floor of their Leather District offices, BDLWTG's 10 attorneys cover nearly every corner of a real estate practice traditionally found only in Boston's largest law firms. "Each of our partners spent the first decade plus of his or her career working at prestigious firms in Boston alongside some of the profession's most respected real estate attorneys. There we had the opportunity to tackle those knotty transactions, developments and law suits traditionally handled by marquis firms." Brennan is quick to add, "Our firm's model offers the experience and track record of larger firms, but with the agility and flexibility of a boutique practice. We're comprised entirely of senior-level attorneys. We collaborate throughout the office, but matters are typically handled efficiently and economically by a single, experienced, attorney."

The matters with which BDLWTG's attorneys are consumed today reflect both the breadth and depth of the firm's practice. As outside general counsel to New Seabury Properties, Brennan and Le Ray are busy completing the permitting strategy, condominium documents and covenant provisions for the next phase of Carl Icahn's luxury residential Cape Cod resort in Mashpee. Plans include a total of approximately 475 new homes and related commercial and recreational amenities. BDLWTG has worked on New Seabury's behalf with a number of state agencies and local officials, and has handled nearly 100 closings for their client since 2006. As a "registered land" undertaking, part of the firm's responsibilities have also included shepherding all aspects of the project through Land Court review. New Seabury was among BDLWTG's first clients. "While at Goodwin Procter, Dain, Le Ray and I had worked on the litigation team that successfully appealed the Cape Cod Commission's initial denial of New Seabury's proposed development," said Brennan. "Soon after we opened our office, New Seabury was moving from the question of 'Can we do this at all?' to 'How can we most effectively move forward?' We represented an option for New Seabury to continue working with experienced and knowledgeable counsel at a rate structure that fit their pro forma," Brennan said.

BDLWTG's zoning and permitting practice offers clients eyeing Boston properties a unique skill set in the person of Wiest. During his five years as the BRA's Land Use Counsel, Wiest oversaw the permitting of nearly all large-scale real estate development projects in Boston, collaborated with city planners to rezone numerous sectors of the city, and was the BRA's expert on interpreting and applying the Boston Zoning Code. In private practice, he has assisted with the permitting of a major downtown hotel project and several residential developments, performed due diligence on commercial acquisitions, and resolved a broad array of permitting and land use issues before the BRA, Boston Zoning Commission and Board of Appeal. "Obtaining entitlements in Boston can be a complex process, but this complexity contributes to their value. For those willing to take the time to understand and work through the process, the opportunities in Boston are tremendous," said Wiest. The addition of Jeff Ganguly extends the pedigree of BDLWTG's development practice.

BDLWTG also maintains a busy commercial leasing practice, with deep expertise in office and retail transactions from both the landlord and tenant side of the table. Garner said, "Our ability to understand and respond to concerns of both landlords and tenants benefits our clients. We are able to efficiently analyze the concerns of the parties, propose resolutions and promptly craft a 'win' for both sides." The firm's attorneys recognize that signed leases are the life-blood of any office or retail project, and are mindful of avoiding the anxiety that can arise when matters are not tended to immediately. Torpy, whose retail development clients include KGI and Madison Properties, said, "In welcoming my class of associates to Testa, Hurwitz & Thibeault, Dick Testa told us that he returned every client call before he left each night. That seemed like a reasonable expectation, and I immediately committed to always maintaining a responsive and efficient practice."

As an example of the firm's leasing strength and work ethic, Torpy points to a transaction at the end of 2008 where a prospective client approached the firm in early December, asked him to take over a 100,000 s/f headquarters lease, and close the deal by the end of the year. "We brought together a team of architects, engineers and contractors, and dedicated the time and resources needed to finalize the lease on December 29th." Torpy and Garner have worked side-by-side for nearly 15 years handling hundreds of leasing transactions across the country including office, build-to-suits, bio-tech and industrial leases, as well as retail in-line, pad and big box leases. Recent transactions

include Joe's work on the financing, re-financing, construction and leasing of a 450,000 s/f retail shopping center in Worcester, and Liz's representation of two tenants in 90,000+ headquarters leases in Boston - two of the 2009 market's larger lease transactions. The addition of Susan Murphy further strengthens BDLWTG's practice, bringing extensive big-box development and ground leasing experience.

When transactions or projects devolve into disputes, BDLWTG shifts from permitting and deal making to aggressive advocacy. This includes defending against permit appeals. "Opponents know that if they can tie the permits up in court for several years, the cost, delay, and uncertainty of litigation will sometimes serve as a tipping point to make the project unfeasible," said Dain. "Typically, in these cases, we'll aggressively challenge abutter standing to bring the zoning appeal in the first place," he said. The firm's litigators - which include seasoned trial counsel and former Goodwin Procter attorney Dan Pasquarello - have an impressive track record of winning these cases at the outset, before they can threaten the viability of a project. "By winning on standing, we get a favorable result, quickly, for relatively minimal cost," Dain said.

The map of BDLWTG's permitting work, transactions, and litigation victories spans Massachusetts and beyond. The firm's attorneys frequently team with local counsel - particularly where permitting is headed for certain appeal or projects require state or federal permitting in addition to zoning relief. Brennan said, "In teaming with counsel and consultants throughout the state, we have been able to pair our experience in cutting through complex legal and regulatory issues with their insight for navigating local waters. For our clients, this represents the best of both worlds."

In addition to the sophisticated suite of real estate practice areas typically housed in marquis law firms, BDLWTG offers clients unique skill sets that few, if any, other firms in Mass. boast. In particular, the firm is home to two of the handful of Mass. lawyers who are certified as LEED AP - Le Ray and Nancer Ballard. Le Ray said, "Five or six years ago, a few of my developer clients were dealing with LEED - but only because certain zoning codes required it. Most people thought it was too expensive and the payback too long. Today, I have clients who won't build anything less than LEED Silver and who routinely go for LEED Gold or better. Although it was a lot of work, it was worth the effort to become a LEED AP to better understand my clients' issues and to have another avenue for adding value to their projects." In addition to her green building credentials, Ballard, a former senior partner at Goodwin Procter, is a nationally recognized expert in environmental risk management who draws upon more than 20 years of experience in representing clients regarding corporate enterprise, insurance placement and coverage litigation, and resolving complex business disputes.

The firm is optimistic about the market and BDLWTG's future on the real estate landscape. "We are working with smart, aggressive and innovative clients who are identifying and cultivating opportunities in today's market," said Dain. "We are inspired by their vision, honored by their trust, and driven to further their efforts by delivering first quality, cost effective, legal services at a time when such value matters most."