

Real Estate Brokerage

The landscape of real estate brokerage in New Jersey is governed by a complex network of statutes, regulations, and industry practices. Navigating this environment requires sophisticated legal counsel to ensure compliance, mitigate risk, and protect professional livelihoods. Members of Greenbaum's real estate brokerage practice have had, throughout the years, a long history of serving as Special Counsel to New Jersey REALTORS®, representing that association and other brokerage industry clients in numerous high-profile and precedent-setting cases before the New Jersey Supreme Court and other courts.

The firm serves commercial and residential brokerage firms and individual licensed brokerage professionals throughout the state, providing comprehensive and highly specialized legal representation on issues that are unique to the brokerage profession and those working within that field. Our work in this area supports and safeguards the commercial, professional and personal goals of clients engaged in the brokerage field.

Our experienced litigators and transactional lawyers work in tandem to provide a full array of legal services to the state's brokerage profession at large, as well as their clients who are often referred to the firm. Our team possesses an in-depth understanding of New Jersey Real Estate Commission (NJREC) regulations and New Jersey's Real Estate Licensing Act, providing guidance on regulatory compliance requirements including those associated with licensing, advertising, business operations, record-keeping and disclosure obligations, and escrow/trust account regulations. We also provide legal counsel on initial licensing, renewals, and license transfers.

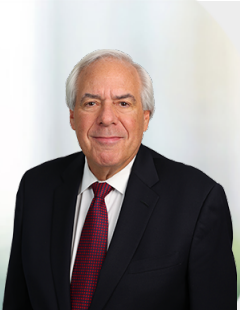
Our team provides general business counseling support to brokerage sector clients. This work encompasses employment-related matters and day-to-day issues related to office operations, policies, and property management issues. We also advise on agency issues and related legal relationships such as single agency, dual agency (disclosed), designated agency, and transaction brokerage to ensure proper disclosures and compliance with fiduciary duties.

Our litigators represent brokers, salespersons, and principals in disputes arising from earned commissions, procuring cause claims, co-broker splits, and other compensation disagreements, pursuing resolution through negotiation, mediation, arbitration, or litigation when necessary. We provide representation in complaints,

disciplinary actions and investigations brought by the NJREC, from initial inquiry to formal hearings, and defend brokers against claims of copyright infringement and professional negligence, including errors and omissions (E&O) claims.


From a broader transactional perspective, the firm has years of experience negotiating brokerage commission agreements on behalf of all interested parties, including property owners and brokers. Due to our longstanding involvement in the industry, our team is intimately familiar with the multitude of issues that bear upon the negotiation of a brokerage commission agreement, whether representing the property owner or broker. Often tied in with, or as a separate agreement, are property management agreements, that have also been a part of the group's practice.

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Experience

Representative Matters

- Secured a substantial victory for a New Jersey commercial real estate brokerage firm following an eight-day bench trial involving unpaid commissions under an exclusive leasing agreement for an industrial warehouse. The court awarded commissions on multiple lease tranches totaling approximately 168,000 square feet, plus interest and attorneys' fees, resulting in a recovery of approximately \$2 million.

Published Cases

- In *Kennedy v. Weichert Co.* (2024), argued and briefed on behalf of *amicus curiae* New Jersey REALTORS® before the New Jersey Supreme Court in a landmark worker-classification case in which the court held that the independent contractor agreements between Weichert and its salespersons were dispositive under the New Jersey Real Estate Brokers and Salespersons Act when determining if they are employees or independent contractors. This precedential ruling preserved long-standing industry practices statewide, eliminated significant misclassification exposure for brokers, and provided definitive guidance after five years of litigation.
- In *Mortgage Bankers Association of NJ v. NJ Real Estate Commission* (1995), served as lead counsel in a 12-year challenge in the courts, ultimately securing an Appellate Division ruling confirming that real estate licensees can receive a fee for providing mortgage-related services.
- In *New Jersey REALTORS® v. Township of Berkeley* (2024), obtained a precedential New Jersey Appellate Division decision that a requirement in a 55 and older community that an owner be 55 or older violates the federal Fair Housing Act and New Jersey Law Against Discrimination, both of which include an exception to familial status discrimination to allow 55 or older communities to require that eighty percent of the units be occupied by a person 55 or older, but do not include any such exception concerning ownership.

- In *Sullivan Grantor Retained Income Tr. v. Max Spann Real Estate & Auction Co.* (2022), secured a published New Jersey Supreme Court ruling clarifying that the attorney-review requirement does not apply to “without reserve” real estate auctions, providing auctioneers, sellers, and buyers with transactional certainty and eliminating a procedural hurdle that could otherwise disrupt time-sensitive auction sales.

Insights & More

Announcements

Greenbaum Secures Significant Win as New Jersey Appellate Court Upholds Trial Court’s Decision in Favor of Real Estate Brokerage Firm

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