Continuation of construction projects in insolvency
Contracts, guarantees and neighbor disputes

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Working Session: Don’t hit the wall: how to deal with (and prevent) default in real estate projects
A project

- Employer
- Bank1
- Bank2
- GC
- Bank3
- Bank4
- SubC1
- SubC2

Bank Guarantee
Construction Contract
Loan Line
Employer’s distress (SPV)

**Completion v. sale**
- Financing and valuation
- Construction contract claims

**Recovery**
- Title and transaction risks
- Security interests
- Damage claims (future tenants, etc.)

**Development issues**
- Title
- Access
- Permits
- Neighbors
Contractor’s distress I

Cash flow
- Advance payment bonds
- Set-offs (assignments)
- Plan (per contract)

Assets
- Unfinished works
  - Title (3rd parties, title retention)
  - Balance sheet
- Equipment on/off site
- Retention amounts
Contractor’s distress II

Contracts
- MAC and similar clauses (restructuring talks)
- Novation (step-in) and servicing (damages at termination)
- Warranties (performance bonds)

Liabilities
- Conditional bank guarantee subrogation claims (voting)
- Damages as priority claims (reorganization)
Contact

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