

Brad Lavender in N.Y. Real Property Law Journal on Basics of Co-GP Transactions

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PRACTICES Real Estate, Hospitality, Real Estate Finance, Retail

A customary real estate joint venture consists of two parties: an operator or developer who typically originates the deal and does all the day-to-day work (“Operator”), and an investor who typically provides the majority of the equity but does not have an active role in day-to-day matters (referred to in this article as the LP). This structure has become extremely common, as (1) there are many institutional investors that want to invest in real estate but do not have the infrastructure or expertise to originate and operate or develop the real estate themselves, and (2) Operators can do more deals—and potentially earn a greater return on each deal (through fees and promotes, which are discussed in more detail below)—by bringing third party investors into each deal.

But what happens if the Operator does not have sufficient capital for its share of a particular deal, wants to create even further leverage by bringing in outside capital to its side of a deal, or has other reasons for bringing an investor into its side of the deal? In those cases, (1) the Operator may create an additional joint venture (“the GP”) between the Operator and an additional investor (the “Co-GP”), and (2) there will be two layers of joint venture agreements: the main joint venture agreement between the GP and the LP (the “Main JVA”) and a joint venture agreement (for the GP itself) between the Operator and the Co-GP (the “Co-GP JVA”). A basic chart for this type of structure is as follows...

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