



## Benjamin F.S. Herd

**Partner**

Dallas | New York

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### PRACTICES Real Estate

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Ben Herd is a partner in the Real Estate Practice Group in Haynes Boone's Dallas office.

His practice focuses on real estate finance and commercial real estate. He has represented lenders in commercial mortgaged-backed securities (CMBS), collateralized loan obligations (CLO) and similar structured programs in hundreds of loan origination transactions, as well as whole loan sales, syndications and "b-note" purchases/sales. Ben represents special servicers in relation to defaulted or troubled loan workouts, maturity default resolution, collateral foreclosure, lease negotiation and the sale of real estate-owned (REO) property.

Ben assists national and regional banks in complex commercial loan transactions, including ground leases, tenants-in-common, and acquisition and multi-tranche construction financing. He also provides advice and counsel to developers of large commercial projects, including Class A multifamily complexes, large retail shopping centers and office towers. Ben advises borrowers in the defeasance of permanent debt facilities.

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## QUALIFICATIONS

### EDUCATION

- J.D., Southern Methodist University Dedman School of Law
- B.A., St. Mary's University

### ADMISSIONS

- Texas
  - New York
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## PUBLICATIONS AND SPEAKING ENGAGEMENTS

- "CMBS Loan Defeasance Transactions: Borrower and Lender Strategies, Process, Timing, Benefits and Risks," presenter, Strafford Webinar, June 11, 2024.

- "Cash Management in the Real Estate Lending Context: Hand Over the Money and No One Gets Hurt," presenter, Strafford Webinar, June 11, 2024.
  - "Equity Participations," presenter, Trigild Spring Conference, April 2017.
  - "Intercreditor Agreements," panel moderator, Commercial Real Estate Finance Council (CREFC) High Yield & Distressed Realty Assets, March 13, 2014.
  - "Lending Deals Gone Bad," panel moderator, Commercial Lending Institute, February 12, 2014.
  - "Lessons Learned through the Crash and Rebound," panel moderator, Commercial Lending Institute, February 12, 2014.
  - "Lender and Borrower Pointers; A Practitioner's Approach to Negotiating CMBS Loan Transactions for Both Lenders and Borrowers; What is Negotiable, Non-Negotiable, and Why," panel moderator, Commercial Lending Institute, February 12, 2014.
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## PROFESSIONAL AFFILIATIONS AND ENGAGEMENTS

- American College of Mortgage Attorneys (ACMA), Fellow
  - State Bar of Texas
  - Texas State Bar College
  - Dallas Bar Association, Real Property Section, Chair, 2016; Vice Chair, 2015; Secretary, 2014; Treasurer, 2013
  - Mortgage Bankers Association
  - West Dallas Community School, Board Member
  - Park Cities Quail Coalition
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## SELECTED CLIENT REPRESENTATIONS

### *Real Estate Finance*

- Represented NYC landlord in a \$74 million CMBS refinancing of office building in New York
- Represented a publicly traded real estate investment trust (REIT) in the \$165 million CMBS financing of 90-property retail portfolio
- Represented a publicly traded REIT in the simultaneous defeasance of \$169 million in CMBS loans secured by 58 properties located in 19 U.S. states
- Represented a special servicer in the negotiation and closing of a \$261 million CMBS securitization
- Represented a commercial real estate investment firm in its refinancing of an historic Texas shopping center involving preferred equity and \$17.3 million in senior and mezzanine CMBS debt
- Represented a commercial real estate investment firm in its acquisition of a shopping center, including preferred equity and a \$41.75 million CMBS loan
- Represented a mortgage loan originator in its securitization of collateralized loan obligations with face value of \$260 million
- Represented a securitized business trust (REMIC) (through its special servicer) in a commercial real estate loan workout involving a \$82.5 million loan secured by a skyscraper in downtown Phoenix
- Represented a mortgage loan originator in its securitization of collateralized loan obligations with face value of \$125 million
- Represented a securitized business trust, a real estate mortgage investment conduit (REMIC) through its special servicer in a commercial real estate loan workout involving a \$44.5 million loan secured by a skyscraper in downtown Cincinnati

## *Commercial Real Estate Development and Transactions*

- Represented national developer in the purchase of a trophy mixed-use development in Newport, Kentucky
- Represented a national developer in the development, multi-tranche financing and ultimate sale of a trophy mixed-use development in Alpharetta, Georgia
- Represented an international hospitality chain in defeasance of 80 properties to reverse sale-leaseback transactions in conjunction with the disposition of a 700-property hotel portfolio
- Represented a national developer in the development of a \$114 million mixed-use/student housing development in Florida and the negotiation of a \$46.7 million construction loan
- Represented a national Class A multifamily developer in the acquisition and development of a 395-unit apartment complex in Texas and the negotiation of a \$30 million senior construction loan and a \$10 million mezzanine loan
- Represented a commercial real estate investment firm in its acquisition of an iconic Northern California shopping venue, including preferred equity and a \$67.2 million CMBS loan
- Represented a national Class A multifamily developer in the acquisition and development of a 348-unit apartment complex in Texas and the negotiation of a \$26.5 million construction loan

## *Corporate Transactions*

- Represented ownership of a minor league baseball club in the sale of the team, including attendance-based incentive payments and coordination and approval of Major League Baseball

*Some of these representations were handled by Ben prior to joining Haynes Boone.*

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## AWARDS AND RECOGNITIONS

- *The Best Lawyers in America*, Woodward/White, Inc., Dallas/Fort Worth Securitization and Structured Finance Law Lawyer of the Year, 2023
- *The Best Lawyers in America*, Woodward/White, Inc., Securitization and Structured Finance Law, 2019-2025
- *Chambers USA*, Chambers and Partners, Real Estate, 2019
- Irish Legal 100, *Irish Voice*, 2016-2024
- *Texas Super Lawyers*, Thomson Reuters, Real Estate, 2013-2022
- Best Lawyers in Dallas, *D Magazine*, D Magazine Partners, Real Estate, 2015
- *The Legal 500 U.S.*, Legalese Ltd., Recognized Attorney, Real Estate and Construction: Construction; Real Estate and Construction: Real Estate, 2015, 2020