



2016 Real Estate MVP

Scott Berger



Thanks to his work guiding various deals north of \$1 billion for Starwood Capital Group as well as his work on myriad private equity portfolio deals and hotel matters, Kirkland & Ellis LLP's Scott A. Berger has been named as one of *Law360*'s Real Estate MVPs.

Berger's résumé of work for Starwood Capital over the past year is lengthy, but when asked in a recent interview about his most significant recent deals for the company, he initially highlighted the firm's \$5.365 billion purchase of 23,262 apartments from Equity Residential.

That portfolio was across 72 communities in the U.S. And while it's difficult to get due diligence done on such a large transaction under any time frame, what made that deal particularly challenging was the accelerated timeline at play, Berger said.

"That was the largest non-hotel transaction for Starwood Capital in its history," Berger said in an interview. "What was unique about that transaction, aside from its size and relevance to the Starwood organization, was the compressed

timing, from negotiation to signing and closing."

Equity Residential being a public company also created additional challenges, he said.

"Since we were dealing with a public company, we needed to balance deal certainty for the seller with adequate diligence and representations and conditions to closing for the buyer," Berger said. "Also, there was quite complex structuring that was involved, given the nature of the portfolio and investor base making the acquisition."

Berger is no stranger to deals for Starwood, having been representing the private equity shop for more than 19 years.

"It started with a single transaction for a platform JV and has grown to a

fairly broad practice of portfolio acquisitions, M&A fundraising and other significant matters for the organization. We have very deep relationships with their in-house legal team, tax and accounting teams, their investor relations group and deal teams," Berger said.

While Berger has built a niche working on private equity real estate deals, he didn't start his career on the trajectory. After law school, he was a "dirt lawyer," as he put it, and then did some financing and capital markets work.

But after making partner at Kirkland, he started looking for other directions.

"In the mid-'90s, private equity was really at its beginning stages. There was a potential opportunity. Not many firms were focusing on that space, because of its early stages of

its own development. I started to focus on that area, and have never turned back," Berger said.

"I've been doing that private equity work for probably the past 20 years or so. I really enjoy working in the space because it cuts across so many different industries and practice areas, including the real estate industry, public M&A, fundraising and investment funds, capital markets, restructuring and litigation," he added.

And just this past year, that expertise in real estate private equity has helped Berger shepherd numerous deals for Starwood, including helping the firm with a global opportunity fund that targeted a \$5 billion raise, guiding a sale of a non-voting minority stake in the company to Dyal Capital Partners, representing Starwood and Milestone Apartments REIT on a \$1.9 billion take-private of Landmark Apartment Trust and working on Starwood's \$800 million co-investment fund for the purchase of real estate from Equity Residential.

He also worked on a deal that saw Starwood contribute 280 hotels to an investment vehicle worth more than \$3 billion.

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"With a value in excess of \$3 billion, that was a complex transaction. It involved six separate sellers and a purchasing group that was largely made up of non-U.S. investors, which again required a complex structure, as well as a simultaneous offering for a newly formed investment vehicle which had commitments in excess of \$1 billion," Berger said.

"We describe it as cradle-to-grave work," he added, of Kirkland's work for Starwood. "We're regular outside counsel to Starwood for their fundraising activities. ... They continue to raise very significant amounts of capital," he added.

And while Berger has taken the lead on many of the Starwood deals, he's quick to point out that such deals require a wide range of expertise across numerous practice areas, and he prides himself on collaborating with his law firm colleagues in other areas to best solve complex problems for clients.

"One of our key strengths is the depth of our bench and focus on teamwork. For most of our large transactions, our M&A group could be involved. Clearly our tax practice is heavily involved," Berger said.

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