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Legal Briefing



Welcome Michael Burnett

In December 2013, we were joined by widely-recognized real estate and transactional attorney, Michael Burnett, as *Of Counsel*. Mike has over 30 years of experience, representing real estate and business clients throughout California, and specializes in commercial real estate transactions related to financing, loan servicing, construction, leasing, acquisitions, sales, options, ground leases and development. He also handles asset sales, business acquisitions, mergers, conversions, redemptions and the formation and capitalization of business entities.

Mike has represented clients in connection with virtually every kind of real estate project, including raw land, multi-family housing, office buildings, shopping centers, warehouse facilities, manufacturing facilities, hotels, restaurants, hospitals, casinos, residential subdivisions, condominium projects, golf courses, marinas, gas stations, farms and orchards.

Mike's wide-ranging transactional experience complements our existing practice of skilled real estate and business attorneys, and we are privileged to have him join our firm. *Welcome!*

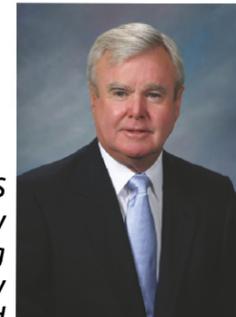
A Message from the Managing Partner

Community is important to us. For over 20 years, the attorneys and staff at Hart King have volunteered their time and money to the nationally recognized **Share Our Selves Adopt A Family** program (SOS), which matches families to donors who provide holiday gifts and food.

Driven by long-time accounting manager, Vivian Herrera, and office administrator, Anne Moriya, our firm once again adopted two large families for the 2013 holiday season. Not to sound cliché, but it truly does feel so much better to give than to receive. Highlights from this program:

- 1,337 Families Served
- 4,260 Children
- 65 Participating Schools & Organizations
- 533 Total Number of Donors
- 2,579 Total Volunteer Hours
- 22 Groups that adopted 5+ families

We are pleased to share some of the heart-warming messages received from recipients of the SOS program:



Bill Hart

"Thank you to SOS Adopt A Family program for helping me during this very difficult time and for providing my children with joy on Christmas morning."

"Thank you for the new toys and household items we needed. I didn't know how I would be able to get new clothes for my sons. They won't be embarrassed to go to school now."

"Thank you for my new bike. I can get to work quicker and my kids can use it for fun on weekends. God bless you and the people that helped make this possible."

At Hart King, we not only enjoy helping these families, but we also have fun while doing so. Over the years, we've had to load the cars in the pouring rain, have had giant bags of rice and beans break, and even had someone running after the delivery truck with a last-minute gift they wanted to donate!

Kudos to a great team effort!



by David Christopher Baker

Laptops, cellphones, iPads, iPods; we've all got one. Most of us have more than one. And, we bring them to work. Bringing them to the office is not the problem. It's what we do with them that can cause problems.

More and more, companies find themselves faced with having to develop policies for using those personal devices for purposes of work (often referred to as "Bring Your Own Device" or "BYOD" policies) in order to protect valuable

BYOD Policy – Does Your Company Need One?

business information and data. To the extent that a policy can alleviate some of those challenges, a company should really take the time and make sure there's a policy in place.

Understand the Implications of Using a Device. Data on a personal device related to company business belongs to the company. In the event of litigation, any business information can be accessed by the company and by an opposing party. And, destroying the stored data can have significant negative repercussions for the company.

Balance the Interests of the Company and the Employee. It is important to ensure that the interests of the company, with respect to the security of its information and data, as well as the interests of the employee, with respect

to the security and confidentiality of their personal usage, can coexist.

Draft a Workable Policy. An effective BYOD policy lays out general rules about personal mobile device usage and clearly articulates the company's rights to monitor, access and review all the data stored on, processed or used by the device. Also, it sets forth each employee's obligations with respect to using and keeping the device and its data secure.

Outline the Do's and Don'ts of Using the Device. Most policy statements include descriptive terms as to what you cannot do on your device. For example, if you use a device for work, even if you own it, then you must comply with company policies and standards for keeping information confidential.

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The Always Useful and Highly Effective Qualified Personal Residence Trust

The estate and tax planning law firm of Brown & Streza is our featured guest columnist for this issue of the Hart King Legal Briefing.

Many California residents find their personal residence or vacation home to be their most valuable and highly appreciable asset. When added to other investments and retirement savings, some residents find their estate may eventually exceed the \$5 million federal estate tax exemption. In that case, some asset protection and estate tax planning is needed.

A qualified personal residence trust (QPRT) is a simple and effective way to protect property and reduce estate taxes for moderate to large estates. The QPRT is an irrevocable trust created by property owners to hold the property for their free use for a term of years, after which the property ownership passes (outright or in trust) to the named beneficiaries. The original owners may continue to use the property so long as they pay fair market rent to the trust or the beneficiaries (which is essentially an additional tax-free gift).

The QPRT is a safe, U.S. tax code and IRS-blessed trust strategy that provides

significant tax benefits.

First, the QPRT allows the owners to transfer the appreciating property out of their taxable estate at a reduced gift-tax value. Since the owners retain the right to free use of the property for a term of years, the value transferred from the estate to the beneficiaries (for gift tax purposes, to which the owners' exemption may be applied) is significantly lower than the current value of the property, and probably much less than the future value of the property by the time the owners pass away!

Second, the QPRT operates as an estate "freezing" device. When the property is transferred to the trust, the property value is removed from the taxable estate of the owners, and all future appreciation takes place in the trust outside the taxable estate. The only value included in the owners' taxable estate is the present fair market value of the free use of the property for the initial trust term, which eventually disappears as the trust term ends.

Third, the QPRT is very flexible. The QPRT can hold cash for property upkeep and maintenance expenses. The residence can also be sold (to an unrelated party) and a new one purchased anytime. Or,



if no replacement property is desired, the sale proceeds may be converted to an annuity for the original owners for the remaining trust term.

Finally, the QPRT provides great side benefits, such as personal creditor protection for the property, and an opportunity to leverage the owners' current gift and estate tax exemption to multiply exempt transfers to future generations.

QPRTs are a great strategy generally, but may not be the right fit in every case. For example, the strategy is not a good fit for those who are terminally ill, since the entire property value is included in the decedent's taxable estate if they die during the initial trust term. Please consult an experienced practitioner who can review your particular facts.

Brown & Streza LLP is a Southern California law firm that provides integrated legal services in the areas of tax, estate, business, and charitable planning for families, businesses, entrepreneurs, philanthropists, and charitable organizations.

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(BYOD Policy Continued)

Enforce the Policy. Company employees have to be aware of the BYOD policy. The company should distribute the policy in writing and both the employee and the company should sign it. Then, the employees should be trained on it and the company should monitor use of personal devices to ensure compliance.

BYOD boils down to a well-drafted and comprehensive policy that spells out the rights for both companies and employees. From a corporate perspective, if you're going to implement a BYOD program, it's simply imperative that the company have a well-drafted and precise policy to govern both the company's rights and the employee's rights.

David is an intellectual property attorney and partner with Hart King. He has over 25 years of wide-ranging experience in intellectual property protection and enhancement, commercial transactions and litigation and real property litigation.

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Questions? Concerns?

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