Lowenstein Sandler's Real Estate Podcast: Terra Firma

Episode 14:
Getting Creative with Real Estate Investing: A Discussion with Entrepreneur-Attorney Naheem Harris

By [Stacey Tyler](), [Stephen Tanico]()

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Stacey Tyler: Welcome to the Lowenstein Sandler podcast series. Before we begin, please take a moment to subscribe to our podcast series at lowenstein.com/podcasts. Or find us on Amazon Music, Apple Podcasts, Audible, iHeartRadio, Spotify, Soundcloud or YouTube. Now let's take a listen.

Stacey Tyler: Welcome to Terra Firma: Conversations on Commercial Real Estate. I'm Stacey Tyler.

Stephen Tanico: And I'm Stephen Tanico. Stacey and I are real estate attorneys at Lowenstein Sandler. On today's episode, we're joined by a very special guest, Naheem Harris, a partner in Real Estate at Ackerman and a close friend of Stacey's from law school. Naheem, I will be honest with you. Stacey explicitly told me not to say this, so I'm going to say this, which is: She has pretty much described to you as the coolest person she's ever met. So there's no real pressure here. You have a lot to live up to.

Naheem Harris: Really?! Looking forward to it.

Stephen Tanico: Awesome. So thanks for joining us today. I think to get started, just generally we'd love to hear kind of what you're seeing in your practice and kind of the state of the real estate market.

Naheem Harris: No problem. Stephen. I think, you know, my background being somewhat, finance oriented, you know, a lot of my exposure to the, and a lot of my exposure to the, the industry is through the finance lens. So, you know what? I'm seeing a movement away from mortgage level financing, and we're seeing some of the funkier, places in the capital stack become much more popular.

Preferred equity mezzanine that, even space lending as a way to kind of squeeze proceeds needs out of an asset, enabled to, in a way, to better fund an asset, in much more creative ways. We're also seeing, you know, lenders do everything in their power to not take the keys to the property. Lenders desperately do not want to become owners.

So, you know, that's you know, what's driving what we're seeing there's still, you know, some opportunity opportunistic investing happening. I think multifamily is still really strong. I think there's still some winds and light industrial, anywhere, you know, any strong areas where, you know, the development costs are going to, you know, be highly impactful on those asset types. You still see strength there. So I think that's what I'm generally seeing. I hope that things are what you guys are seeing now.

Stephen Tanico: Definitely. It's been interesting over the last couple of years, right. Because the financing has kind of shifted so quickly as interest rates went up. you're seeing kind of this alternative financing pop up a lot more. And yet at the same time, there's still an interesting element, I think, of kind of the biggest player, still somewhat sitting on the sideline.

And you've got this a this really interesting moment in time where there's all this money, but it's not it's being deployed in these kind of creative ways. If there was no money in the market.

Naheem Harris: And I, I wholeheartedly agree. What I'm curious about is whether we see, you know, the insurance companies, the likes close, the pension funds, those type of institutions that have like mandates to deploy capital, whether, you know, we see, you know, some activity towards the end of the year. I think what's difficult about this year, it being an election year, we're just going to wait and see.

I think a lot of folks are waiting to see, you know, which president wins, you know which nominee wins. And, you know, the impact that, any nominee may have on the economic market.

Stephen Tanico: It's, it's kind of wild. We went from, you know, maybe Q4 2023 will be the rebound to now, you know, hopefully Q1 2025 is the rebound.

Stacey Tyler: Yeah, we keep saying that like, oh, you know, the wait and see approach is going to you're going to run out of time. It's got to be soon. But somehow it just keeps getting pushed out and pushed out.

Naheem Harris: Yeah, I call it extended pretend right. We just keep extending things and pretending it'll get better. Maybe it will. You know, we're manifesting, you know, the improving market. Yeah.

Stacey Tyler: So part of the reason we wanted to ask you to come on this podcast, in addition to your real estate expertise, is because I know you to be also a creative investor and entrepreneur on your after hours. So I, I was sure that a lot of our listeners, like us, would be interested in hearing your perspective as somebody with a day job who moonlights as an investor, how does your real estate practice inform your personal investment strategy?

Naheem Harris: You know, I think as lawyers, we've been trained to issue spot, right. And I think, that's been the biggest, you know, asset to, you know, and analyzing and during investment opportunities. It's just being able to look for issues. being able to turn over, each tire, you know, leaving, you know, looking under every rock, in a way that, you know, to be frank, some of my investors are not, you know, used to someone doing some are co-investors.

I think that's been the biggest thing. Has there been anything particular to being a real estate, you know, somewhat finance attorney? Not particularly. But I do think what's been interesting and something I've noticed recently, is the way that being an investor has influenced my real estate practice. Interesting in a way that I never would have actually contemplated.

I, I think, you know, I'm able to instruct and advise clients as an operator, right? And as an actual owner, as someone who has skin in the game, as someone who, you know, is deeply worried about tax treatment, who's deeply worried about potential capital calls, right. I think, you know, before I was an investor, clients would say, hey, I never want to make a capital call. And you're like, wow, you're a rich guy. You can make it. What are you talking about? Why do we need to cap liability? You're rich. And now being in the driver's boat, right? We're. You're in the driver's seat. Where, you know, you have multiple investments, right? And you're thinking about, how can I cap this liability on this investment, right? And keep it separate and apart from the other investments. How do I know definitively what I'm getting into? I share those pain points in a way that, it's much more intimate. It's much more, real than I had ever, you know, shared them in the past.

Stephen Tanico: Do you also see, Naheem, that kind of influence, the actual practical legal aspect of your job? For example, I feel like sometimes I see attorneys who are so much more kind of academic, thought oriented that they get in their own way for advising their clients, particularly investors who've underwritten this deal. And the financing makes sense. And then you're getting in the way with kind of a very, very niche nuance point that the, you know, the client saying, why do I care about this?

Or the 1% chance of this happening relative to kind of the financial side of the thing?

Naheem Harris: Yeah, I think it's hammered in the point to me. Right. And this is going to be, you know, sacrilegious to all of the attorneys listening, right, that our docs don't matter unless there's a default, right. you know, the operators and, you know, we have these at the restaurant, we have these robust, you know, operating agreements and, their, their processes for what to do when next happens and what to do when what happens.

But, you know, if it's a Friday night, you got 200 seats. No one's popping open operating agreement to see whether this requires, you know, is this a major decision or not? Right. It's just that's not the way people run business. and I think, you know, as lawyers, obviously, we need to be creating tight docs and we need to be, you know, students of the, the, you know, the academic component of our job.

But we just need to make sure that we're leaving room for the wiggle, for the fact that things will happen. And keeping that, you know, fresh in mind, that's been a huge you know, that's something that's been really drilled home to me.

Stephen Tanico: Now to go have your point right. It's super sacrilegious, but there's an element of like, this is what the four corners of the document say. And then this is, you know, the practicality, what's going to unfold. And, you know, there's a little bit of almost a leap of faith there that realistically, it's going to unfold one way.

I think your point about the 200 seats in a restaurant, you know, no one's going to look at the operating agreement on a Friday night at 9:00. is well taken because there is that kind of practical aspect that I think, you know, some attorneys have absolutely lost sight of, unfortunately. And it kind of just, you know, is a hindrance to kind of deal flow and getting deals done.

You mentioned a restaurant. Can you, can you elaborate on that a little bit for us.

Naheem Harris: Sure. I am a partner at a pan Latin American restaurant and flat iron on 21st Street, called Chica in the Don. our, you know, predecessor restaurant was a place called Mr. French, which we've now, repositioned to Chica in the Don. The Don is a pan Latin American restaurant. We take inspiration from the whole Latin American diaspora.

I mean, dishes from, you know, Argentina, Argentina all the way through, you know, Puerto Rico, right? We're definitely, borrowing and being inspired by the whole culture, widely speaking. we've been open in its current form for the last month or so.

currently we can see, you know, pretty, pretty sizable restaurant. About 100 to 150 people, with plans of expanding, in the next month or so.

Stephen Tanico: Amazing. you know, as lawyers, it's interesting because I feel like a lot of ways lawyers get stuck in kind of a classic W-2 job. And I think this applies for anyone with a W-2 job of balancing the kind of obligations and time commitment there with kind of a more entrepreneurial investment approach. Can you talk a little bit about, you know, kind of how you see deals and kind of the balance of working a very demanding W-2 job while also spending time, maybe overdue diligence ING deals compared to your investor investors.

Naheem Harris: Gotcha. So paying how I've typically seen deals and I've seen a ton of, you know, hospitality deals, whether it be restaurants or boutique hotels or bars or coffee shops. and I've seen a ton of VC opportunities in venture capital, early investor type opportunities. The great thing about being particularly in big law is that people know that your W-2 job typically pays you well, right?

So they're looking at you as a source of capital. so, folks are seeking you out. especially at the early stages. Right. No, we're often not we're not, like, super wealthy. Some of us or most of us, where we can write million-dollar checks, but we are in a position where we can write a 10 or 15 or $20,000 check at a time in a company's life cycle where $20,000 is the difference between success and failure.

Right? and that puts you in a very interesting place in the capital stack, because the valuations are really low. and then, you know, as a lawyer who's trying to develop a book of business and who is networking, so, you tend to the places you tend to network or they happen to be restaurants that they tend to be bars, they tend to be these places where you eat in your drink and they're in the hospitality space.

You become friends with managers, right? I, I, I like to control when I'm meeting with a potential client. I like to control as much as I can control. And the way to do that is to go to the same places over and right. And when a manager has seen you for that, this is the six weeks in a row, you know you're going to get that person's car.

Are you going to get his or her car? You know, become friends. And when that manager spins out to do their own thing, you're going to be one of the first people they call. so that's really how our sauce deals. and then once you're in on one deal, the kind of the deal they come to you, they find you the good ones, the bad ones and the ones that should have never been papered.

and then in terms of analyzing them, you kind of analyze them the way our clients would, right? You're looking at the underwriting, you're looking at the metrics. you you're looking at, you know, what's your gut feeling in, in kind of circling back to the point I made before about the dark stone matter? as much really matters as, you know, having a strong relationship with the partners, right?

if you have a partner that you, you're going to have to look at the docs often. That relationship is already kind of going astray. you know, my partners don't look at the docs because they can send the text. They can send an email and say, hey, I don't know if this is a major decision, but I want you guys to be aware of it, and I want to get you a gut feel.

They could have very well been well within their rights to do that. or they say, hey, you know, this is a big sticking point. Hey, our K ones are going to be late. I just want to give you guys a heads up about it. Right. No, I'm not going to call it the default because my K1 is a monthly. But you've given me a heads up that I can now tell my accountant. I can tell my wife we're not filing our taxes. I can make those allowances because, you know, we have that good relationship. So, you know, that's really, you know, analyzing and evaluating who your potential partners are, is the biggest part of evaluating a deal.

Stacey Tyler: Do you ever get anybody else involved in that analysis? So obviously you have your legal background. You can review the docs, but when you're assessing an investment opportunity, are you talking to your financial advisor or an accountant, any other kind of professionals?

Naheem Harris: Yeah, a first person I'm talking to is my financial advisor.

Stacey Tyler: I mean, after your wife, obviously.

Naheem Harris: You know, you got to talk to financial advisor to see if it's even doable. Then you talk to your wife to see. I don't want to bring her, like, a deal. That's not doable.

Stacey Tyler: That's right.

Naheem Harris: I talked about it, and then I was like, oh, no, Erica, we can't do the deal. And it's like, no, right? No. So. So you talk to that, say first just to see if you can do it. Then I talk to, you know, my wife to kind of see what our, you know, household appetite is for it. Because and we'll talk about it maybe we'll talk about now. Right. But when you're writing notes about we'll we'll talk about this moment later. But, you know, you kind of have to have, a risk appetite. for your household of sorts. and then, you know, I'm talking to my accountant to see how this the tax treatment will affect my taxes.

And then I kind of rely on my informal, resources. You know, I have tons of folks or lawyers as well who, you know, shoot me a note and say, hey, look at this lease for me, right? And in return, I'll say, hey, look at these venture documents, right. just give me, you know, the quick once over, and let me know you know, am I saying to do this?

Other than that, you know, I just haven't had the opportunity where I really needed to engage outside counsel. but I foresee that opportunity in the near future. or that that requirement in the near future.

Stacey Tyler: And what do you think is going to make you make that decision? What about the deal would make you hire somebody?

Naheem Harris: I think it's, a product of complexity. and check size, right. If it's a complex deal that I'm writing $1,000 check for, and then, you know, I'm. I'm not that concerned. if it's a simple deal, then I'm writing a $100,000 check for. I'm very concerned. Right. But, you know, as both increases, the likelihood that I hire a lawyer, will definitely increase. And, yeah, I could be my own lawyer, but there was a saying that said, a person who has, you know, who represents themselves has an idea for a client, or something along those lines. So, you know, I'm definitely, you know, I want to be able to you know, take a, take a step back and, you know, be objective.

So I'll hire someone at that time.

Stephen Tanico: I think it's interesting. You kind of just slipped it in there, but so important the value in, you know, you never know who kind of you help casually ends up helping you casually. I, I have a similar story of a buddy in venture capital, you know, kind of casually helped out. And I sent him a deal. And, you know, three days later, I was like, what do you think?

And he's like, sorry, I'm not done yet. And I was like, what? Even you're not done yet? He was putting together an entire due diligence memo, as if it was $1 billion deal for his venture funds. And I'm like, no, no, no, no, no, I just need you to read this email and tell me generally what you thought about that.

But it was kind of a really valuable point. And, you know, you never know when someone's going to come back around to be able to help you with something. For the kind of casual question about your, you know, expertise or?

Naheem Harris: Yeah, you know, I, I view kind of the, the legal market as a bank of sorts. Right. And you can't make, withdrawals until you make deposits. Right. So, you know, you got to be depositing into folks and then you can make withdrawals, but you want to build your bank account, you want to build your, your resources. And those relationships are the currency in that bank.

Stacey Tyler: That's a great way to look at it.

Stephen Tanico: Very much so. But we've been talking about kind of hospitality and restaurants in particular, which are, a notoriously risky asset class. you know, even here in New York City, although the members clubs, we can touch on seem to be the, de jure kind of flavor of New York City hospitality. But you know, how have you seen that asset class develop, particularly in New York, relative to kind of your real estate expertise?

Naheem Harris: Yes. it's been an interesting development, right? I think so, Mr. French, that our predecessor, restaurant, we opened that in, in, around Thanksgiving in 2019, maybe October 2019, which is, you know, clients had a great time, though. Yeah. and our plans were based on the dining habits and dining culture that existed in New York, at that time.

Right. And at that time, folks, you know, we're probably paying $45 to $50 an entree at a similar restaurant, but they were sitting for an hour and a half after dinner, two hours after that. Right. So you really could use alcohol to drive revenue in a way that, you know, frankly, post-Covid can't. Right. I think during quote unquote Covid, right.

Because it's Covid ever done. Right. But during the let's call it Prime Day, right? We had these 90-minute windows, which prevented you from pushing out. Right. So as we came in really constrained and then post Covid, I think we're still seeing the hangover of those, restrictions that existed during Covid. So we're still seeing people sitting at their tables for much shorter times than we did pre-COVID.

Which means we can't push our or where our margins are the greatest. So we've had to really rethink about how we maximize our mean, we limit ways how we, really get the most out of our produce and of our raw ingredients in a way that we would never have thought about pre-COVID. Right. And I think similarly, in the real estate industry.

Right. You're seeing landlords and other operators of space really be thoughtful about how they use space. Right. I think you're seeing tenants be thoughtful about how they're using space. Not only are folks downsizing, right. They're creating, different amenities within their spaces. Right. For instance, I had a client who they didn't downsize, right? But they noticed they had people not coming to the office, so they had to create.

They had to find new ways to incentivize people to come into their offices. Right. They had to rethink their menu and their offering in terms of space. Right. Now they have ping pong, they have beer. Now they have all these other cool things. Right? that now creates this incentive for people to come in. So, I think that's what you're seeing. And I think that's really the similarities. That's one of the similarities, between, you know, the restaurant industry and what we've had to do post-Covid, in the real estate space post-Covid. that's like super, like kind of 1 to 1 connection.

Stacey Tyler: And seeing how that's had, you know, you've really had to change your thinking about investing in a restaurant kind of concept, period. Has that changed your investment strategy going forward? Are you still investing in those kind of concepts, or are you thinking about getting into other kind of asset classes?

Naheem Harris: I'm still on the hospitality. but I think the biggest thing for me is how a restaurant utilizes this space which is inextricably tied to real estate. Right. You don't want to. I like to me, when I go into a space and I see a space that could seat 400 people, and you set up 450 tables. Like, to me, that's just like, oh, no.

Right. We are not maximizing. We're paying all of this large amount of rent, but we're not maximizing the revenue here. Right? or I see a place. Another big thing. I see a place that has a 200 seat, probably occupancy. We can easily sit 200 seats between you going to the kitchen, and you're like, this place can be 200 people.

So to me that again, another mismatch in the utilization of real estate. So, to me, that's really what I'm thinking about. I still think there are really creative opportunities, people, you know, to borrow from the beer, which is like watching the beer is really traumatizing. You know? but watching it right there was a scene. It was, I think, it's one of the best scenes in television. this episode is called Forks, right? and there's a scene where the, one of the employees, he talks about the connection between hospitals and restaurants. You know, with the word being hospitality, right? You take care of people. People are always going to want to be taken care of.

Right? So there's always going to be opportunities to take care of them. The thing is now how do I best utilize the space in which I do it? How do I best utilize the money which I'm spending to do it? that is what I think the that's where you find value in the restaurant space, because you're right.

This is a risky asset class. when you write that that capital check, you might as well burn the money, right? That's the way I look at it you know. that doesn't mean we can't be successful. you know, in doing it.

Stacey Tyler: I'm certainly excited to keep coming to your restaurants in the future.

Naheem Harris: Absolutely. And, you know, so I am a partner. Just to kind of put a pin on it. I'm a partner in Chief and The Don. But we are a family of restaurants, right? we also, a partner family is a rum bar or Orchard Street in the Lower East Side called the Last Lot. which, you know, great cocktails, phenomenal uses of space.

Like, I think when I walk in there. this is this is ideal. This is great. but, you know, great small bites menu. More of a Jamaican Caribbean, you know, concept. And then, if you're ever in LA, there's a place called Chop Cheese, right where we take in the New York staple. And the chopped cheese sandwich. And we brought it to Hollywood. And you can get an authentic chopped cheese and not one of the hipster kind of abominations that are being sold now, like authentic chopped cheese. So, yeah, you know, just wanted to point out that we are a family. While I'm only a part of one, we are things.

Stacey Tyler: Good to know. Well, thank you so much for being with us today and sharing your insights on investment generally, and especially with how that intersects with real estate. It's been very interesting having you as a guest today.

Naheem Harris: No problem. My pleasure.

Stephen Tanico: And thank you, listeners for tuning in today. Be sure to like, subscribe and follow Terra Firma wherever you're listening to this episode. Stacey and I would love to hear from you, so feel free to reach out to us at Terrafirma@lowenstein.com Until next time.

Stacey Tyler: Ciao!

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