University Center of Barra Mansa

From the SelectedWorks of Claudia Ribeiro Pereira Nunes

Fall October 18, 2013

Presentation Slides - “BUILT TO SUIT” AS AN INSTRUMENT FOR THE BUSINESS CONSTRUCTION OR RENOVATION IN THE CONTEMPORARY ERA: definition, characteristics and the Real Estate Receivables Certificates (RERC)”

Claudia Ribeiro Pereira Nunes

Available at: https://works.bepress.com/claudia_nunes/17/
“Built to Suit” as an instrument for the business property construction or renovation in the Contemporary Era: definition, characteristics and the Real Estate Receivables Certificates (RERC)”

by Prof. Dr. Cláudia Ribeiro Pereira Nunes
INTRODUCTION

• The construction or renovation is an investment with high economic value to the entrepreneur. In many cases, this disbursement of values without having the necessary financial returns ready to undertake the construction or restructuring of the establishment, hindering their own growth.

JUSTIFICATION

• Justified this work, because it is mister understand Built to Suit the efficiency of its relation to the Certificates of Real Estate Receivables.
GENERAL AIM

• The general aim of this essay is to understand the Built to Suit operation, was Contemporary Era.

SPECIAL AIMS

• The specific aims are: (i) outline the definition of the legal institution; (ii) submit their special characteristics and clauses; and (iii) understand the Certificates of Real Estate Receivables (CRI), which finance this operation, as the entry securities traded in the capital market within the Informational Society and Network.
METHODOLOGY

• The research is following approaches: theoretical; and exploratory secondary data - quantitative comparative to verify whether, with the enactment of the Built to Suit Law, the legislature confirms to an environment favorable to the exercise of this type of contract business.

• Technical limits of research:
  a) Time frame: the first half of 2013.
  b) Spatial area: field of the sample is delimited to the axis of Municipalities of Rio de Janeiro - Rio de Janeiro and São Paulo - SP.
BUILT TO SUIT SPECIFIC CLAUSES

• The size and categorization - (i) the value of the investment; (ii) the time between the opening and the construction of the business; (iii) the number of investors and the venture.

• The predictability of return on investment - the amount invested or advance to the Built to Suit diluted will be refunded if the provisions of the legal instrument are met by both parties without the interference of the judiciary in the legal relationship. - LEGAL RISK REDUCTION.

• Warranty partial reuse of property - there is a "theoretical" possibility of reuse of the property. This is a fundamental analysis of each development aspect and that, in many cases, make the difference in trading.
The waiver clause to review the amount of the monthly payment or rent - Law No. 12.744, of December 19, 2012, which added Article 54-A of the Tenancy Act.

Revisional share rental - commercial property - waiver clause - validity. Not infringe the objectives of the Law 8245/91, nor evil hurts constitutionally guaranteed principles, contractual clause in which the parties waive the revisional action during the contractual period. " (Appeal No. 1030632-0 / 5, the 35th. Chamber of Private Law of the Court of Justice of São). 

Judgment: 21/05/2007).
THE REMUNERATION CLAUSE

• The remuneration clause - the monthly rent or consideration

• The monthly remuneration to charge user property / tenant refers to the total value of the transaction encompassing both the cost of acquiring the land / property or as to the cost of construction or renovation carried out with all the attributes required in the project and called value of the consideration or monthly rent (SCAVONE JUNIOR: 2012, p. 170).
CRI - Receivables Securitization

- Securities are nominative, book-entry and transferable, which are a promise to pay in cash (TOMAZETTE, 2011, p. 436).
- The CRI was created to raise funds from institutional investors, which are compatible with the characteristics of the mortgage term. The CRI is originated by formalizing Term Receivables Securitization (TOMAZETTE, 2011, p. 439).
- It is issued exclusively by securitization companies, regularly authorized, as provided in Art. 6 of Law No. 9514, November 20, 1997, which regulates the system mortgages.
CRI - Receivables Securitization

• Transactions made with CRI are logged in Centralized System of Clearance and Custody Private Securities - CETIP, security and transparency for investors (TOMAZETTE, 2011, p. 436).
• The CETIP is competent to manage the whole system, making the record and the electronic processing of securities traded on it.
• Circular of the Central Bank and the Resolution 1648, October 25, 1989 state that the "deposit of securities registered in the system is done in the respective issuers / acceptors, or multiple bank with commercial bank or commercial bank previously enabled with CETIP, which, in either case, take the quality of faithful depositaries of the papers in their custody "

Search Results - Database by sampling the comparative quantitative methodology

- The research of secondary data was performed with the Entrepreneurs of Property Management Companies registered with the Trade Union of Sale, Lease and Property Management and Residential Condominiums and Commercial.

- **SECOVI-RJ** - Av Almirante Barroso, 52/9 ° andar - Centro Rio de Janeiro - RJ.
- **SECOVI-SP** - located at Rua Dr. Bacelar, 1043 - house - Vila Mariana - São Paulo - SP.

- Counted up the volume of Built to Suit the real estate financial market segment grew by around 8.32% until August, 30th 2013, compared to August, 30th 2012.
Acknowledgements

• This paper is based on a development study by the Getulio Vargas Foundation School of Law – FGV - in 2013/2014, and benefited substantially from the Rio FGV Law researchers. I am grateful to Joaquim Falcão, Dean and Professor of Law of this Institution, who furnished very useful information and provided excellent research assistance on the draft. I am thankfull to Rodrigo Vianna, Vice Dean, and Thiago Bottino, Academic Coordinator of the FGV Law School, who encouraged the systematic study. I am obliged to give particular thanks to my team of FGV Law research students and Historical Economic junior research student, who were very helpful in its form and content. And I give very special thanks to Marcia Nunes and Gary Cohen, the review researcher who provided detailed comments on the first and last draft of this article and who provided encouragement at various stages of the investigation.
• This article is part of the Author Research Project: SECURITIES FINANCING IN ESTATE CONTRACTS.