

Super Lawyers

VIRGINIA

superlawyers.com

2009

THE TOP ATTORNEYS IN VIRGINIA

PLUS: *RISING STARS*
The state's outstanding young lawyers

THE ASTOUNDING SUCCESS OF PLAN B

James Theobald builds consensus so others can build

plus

The Top Attorneys in West Virginia PAGE 38

SPEAK SOFTLY, SHATTER A GLASS CEILING
The quiet competence of Anne Marie Whittemore

THE CURIOUS CASE OF A BUTTON COLLECTOR
James Korman owns presidents

DOUBLE DUTY
Lawyering between stints in Afghanistan and Kosovo

LAW & POLITICS

Only our name is boring®

and the publishers of

Richmond
magazine

The Astounding Success of PLAN B

James Theobald builds consensus so others can build

by BILL GLOSE photography by THOMAS KOJCSICH

Richmond is James Theobald's kind of town—and not just in the Sinatra sense. “It seems I can't even drive around town without seeing a deal that I haven't had a hand in acquiring, leasing, financing, condominiumizing or zoning,” Theobald says.

He's referring to, among others, the \$38 million rehabilitation of The Jefferson Hotel, and planned communities such as Wyndham and Branner Station. “It's such a constructive application of the law,” he says of land use. “You're not bailing out drunks at midnight. You can see and go kick what comes out of the ground afterwards, and, far more often than not, you're proud of what you've had a hand in doing.”

Theobald occupies a corner office on the top floor of the Edgeworth Building in Shockoe Bottom in the heart of Richmond. The décor is casual. On the wall, along with a Woodstock poster and a framed ticket from a James Taylor concert, a few framed architectural renderings are hung. But no diploma, no license. There are stacks of folders on the desk and floor. Theobald himself is casual, wearing loafers and toting his files in a beat-up brown satchel.

Theobald has spent 28 years as a land use attorney, 12 of them as the president of Hirschler Fleischer, and he's recognized as one of the best in his field. But the path he took to the top of his profession wasn't exactly straight.

At first, nobody wanted him.

THEOBALD'S FATHER, WALTER, was born into wealth, but during his second year of college “both his parents were simultaneously hospitalized and he needed to come home and take care of them,” Theobald says. “This was in the late 1930s during the Great Depression and the only job he could get was in his uncle's slaughterhouse on the assembly line killing hogs.” Eventually he started his own butcher shop in Ravenna, Ohio. It grew into a custom meat processing and retail meat facility with a staff of six.

Kent State was only five miles away from Theobald's childhood home, and, during the '60s, the Students for Democratic Society trekked to nearby Ravenna to make speeches. “They would be at our high school every day,” says Theobald, “rabble rousing and whatnot. When the demonstrations began in the spring ... the [Kent State] students were throwing concrete blocks and trying to stab the National Guard with sharpened coat hangers. The students looted half of campus on Friday night, and I remember my father having many friends who owned small businesses over there. It just escalated and got totally out of hand.”

For Theobald, college, rather than ratcheting up the protests, tamped them down. “Going to Williamsburg was like stepping through the looking glass,” he says. “Long hair hadn't been discovered quite yet—though mine grew longer and longer as I was there—and there were a few polite protests at William & Mary. It was just a different environment.” He adds, “There's a genteel nature to Virginia that perhaps you notice more when you're not from Virginia.”

Between his freshman and sophomore years, at a summer job with his father's real estate lawyer, Theobald learned to trace transactions back through the chain of real estate titles and found it like solving a mystery. Ever since he was a teenager he wanted to be a lawyer—he liked thinking on his feet and debating—but he enjoyed his work with the title company so much that he had a new career interest. “I was thinking if I didn't get a degree in law,” he says, “I would get a degree in urban planning.”

By his graduation in 1974 he had it all figured out. He married his girlfriend from college, Mary, and assured her he would be accepted to a law school in Virginia, where Mary spent some of her early years. “Turned out I was overly optimistic,” he says with a wry smile. All the local schools rejected him. Late in the season, he applied to Ohio law schools but got the same results. Finally, just days before classes started, he was accepted by the Cleveland-Marshall College of Law. After three snowy years there, he remembers, “Mary announced that

she'd be moving back to Virginia ... and I was welcome to come."

He did. But Virginia didn't seem to want him. First, he had to wait 90 days before he could meet the residency requirement for the Virginia Bar. Meanwhile, he made the law-firm rounds with hat in hand but was summarily rejected. These days he's nothing if not sympathetic. "Here I am having not gone to law school in Virginia, not really having any local connections, not being admitted to practice. I show up in the fall and everybody has already hired their new lawyers and I start looking for a job. It was very humbling. Lots of rejections, including Hirschler Fleischer, which is somewhat ironic in retrospect."

While the couple lived with friends in Richmond, he took a job as part of the in-house legal staff for Lawyers Title Insurance Corporation, a real estate title company. He was essentially an intermediary between his company and commercial real estate lawyers. "My job was to find a way to make [deals] work," he says. "It wasn't to say no and it wasn't to say yes necessarily and expose the company to risk; it was just to find a way to make it work. And I think that was one of the greatest lessons that I've learned along the way."

Over three years, Theobald's real-estate connections grew and law firms no longer cared which school he attended. When Hirschler Fleischer invited him aboard, he didn't need to be pulled, and immediately started handling real estate acquisitions for Circuit City—purchasing buildings and lots all over the East Coast. As a second-year associate, he played a major role in the renovation of The Jefferson Hotel. "That was a deal with many, many moving parts," he says. "In the Rotunda there's a famous marble statue of Thomas Jefferson by Edward Valentine. We needed to rotate him a quarter-turn [to face the lobby entrance] and you'd have thought that it was an act of Congress."

That deal remains dear to him—"I always feel like I have a special place down there at The Jefferson," he says—not only because of the beautiful renovation but because of the complexity of the deal. He met with different interests groups, and for a year he flew up to New York every other week to meet with clients. He found a way to make it work.

His ability to do this impresses those who know him. "Jim is certainly, if not the premier, one of the premier real estate attorneys in the city and region," says Jim Ukrop, chairman of the First Market Bank in Richmond, who has spoken out against a project being developed by one of Theobald's clients. "He listens and he absorbs information."

"[Land use] is absolutely totally consensus building," says Theobald. "If you want to build a building, an office park or a



"The interesting thing about my whole adventure was that it was sort of a Plan B," says Theobald.

shopping center, then the adjacent neighbors certainly have a vested interest. The county staff has their opinion, politicians have their opinion, and then other public interest groups weigh in. Your job is to take those and shape them into what is hopefully a win-win for everybody. Long before we ever file a zoning case, we talk to neighbors and local officials trying to forge that consensus, making sure that we understand the needs of the people who are potentially impacted. It doesn't always happen that we all march in together supporting a case, but more often than not it does."

Representing a planned community called Wilton on the James, Theobald commissioned an archaeological study before the land was rezoned to ensure that Civil War relics and Indian artifacts would not be disturbed. With a proposed ballpark redevelopment in the midst of downtown, he is planning to preserve and set aside areas for Lumpkin's Jail, and the slave trail leading up from the James River to this notorious holding facility. The stadium itself will not be built upon the preserved site, which will be accessible to the public and remain in the possession of the city.

“Being sensitive to history is just part of development in Richmond,” he says. “When you’re not confronted with actual historic sites or buildings, you’re influenced by the history and the architecture of the area. You don’t see a lot of contemporary buildings developed in the metropolitan area. History is always right there.”

IN 1992, AFTER 12 years with the firm, Theobald was named its president. On top of handling zoning cases, he found himself eventually managing 90 lawyers and 90 other employees on staff. With a firm that size, there are bound to be disputes. “By the time problems get to your desk,” Theobald recalls, “they’re not black-and-white; they’re hard. And they involve people you know and work with every day.” Twelve years later, he decided that a change would be good for the firm and for him. In the process of stepping down he gained a new title. “Chairman of the firm, I think, is an acknowledgment of your prior contributions,” he says. “If I had known how good it was to be chairman, I would have gone straight there.”

With his administrative burdens gone, Theobald once again focused his office hours entirely on land-use deals. He describes his job as part-time engineer, surveyor, general contractor, psychologist and babysitter.

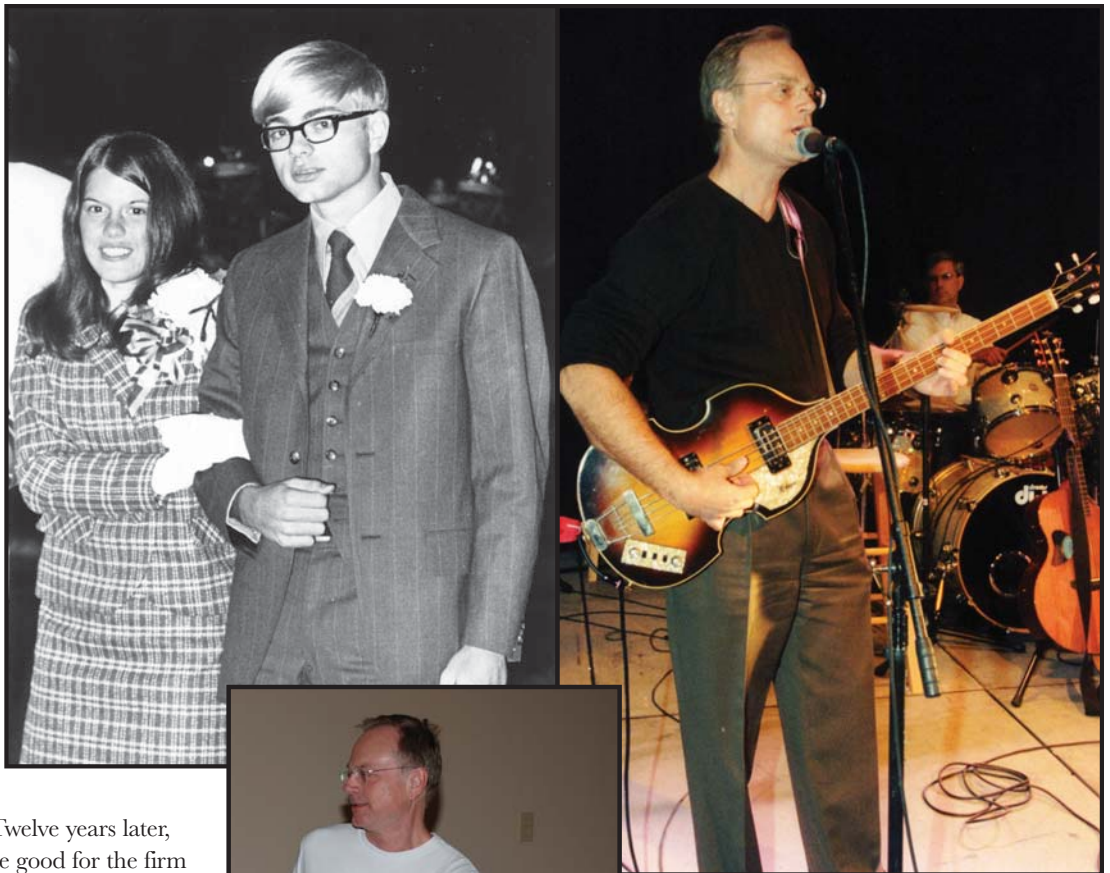
What free time he has he uses well. He points to his windowsill and a photo of a band, The Usual Suspects, playing a concert, and taps the bass guitarist to indicate which one is him. “I chuckle every time I see these pictures,” he says. “[It’s] like my alter ego.”

In the late 1980s, when John Walk, a partner at the firm, discovered that Theobald played bass as a kid, he left a bass guitar and an amplifier on Theobald’s doorstep as an invitation to form a band with him. “In the early days we had our equipment in an old warehouse,” says Walk. “Every Friday night was band practice. After we had the kids put to bed and the family all situated, we would head down to the warehouse and play music until early in the morning. We did that every Friday night for years. That’s really where we built up our repertoire.”

“We had a lot of fun buying tons of music equipment we could never afford when we were kids,” adds Theobald. “We would learn to play one song at a time after negotiating what song would be next. It was three lawyers and a drummer, so there were lots of negotiations.”

Back then, the group played as often as possible. These days they only play a few gigs a year, usually at charitable events.

Theobald, who is on the board of the Richmond division of Goodwill Industries, even serving as its president, has also helped the organization locate and purchase warehouses and other business locations. “Jim is [an attorney] that has great balance,” says Charles



Clockwise from upper left: Theobald at his homecoming in Ohio—five miles from Kent State; playing bass with The Usual Suspects at a 2006 Christmas party; teaching at Glenmore Yoga.

Layman, executive director of Richmond’s Goodwill Industries. “He has a very solid balance between being able to deal with the human side of things, understanding the emotions, but also dealing with the legal side of things.”

His balance is not confined to the legal realm. “I started to read in the national press about the impact yoga was having on people suffering post-traumatic stress disorder,” he says. “Those articles also mentioned how the VA wouldn’t pay yoga instructors to provide these benefits, so they were having trouble providing that service.” Theobald, a licensed yoga instructor since 2005, thought, “Well, gosh, I don’t need to be paid. And if I could help one person avoid one panic attack, it would be worth it.”

He expected the class to fill with young soldiers with recent combat experience but most students were his own age. “Almost all of them were Vietnam era,” he says. “None were Iraq or Afghanistan era. ... But 40-plus years later, they are still dealing with trauma.” It may not have been the group he planned for, but, as always, Theobald adapted to the situation.

“The interesting thing about my whole adventure was that it was sort of a Plan B,” says Theobald. “You always needed to have the confidence that Plan B could also get you there. I didn’t get into law school where I had planned and I didn’t go to work for a medium- or a large-sized firm right out of law school. So I love to tell students who are having trouble finding summer jobs or permanent jobs that you can get to where you’d like. Sometimes you just have to take an alternate path.” ◀