



Issues That Influence A Sale

Many issues can arise once a commercial or investment (income) property is for sale. They almost always emerge through due diligence by various parties. These parties include a buyer prospect, a buyer's real estate agent, an engineer, a property inspector, a mortgage lender, an appraiser, an attorney, among others.

Deferred maintenance

This refers to any apparent repair needed at a property. These repairs should be done to enhance a property's appeal and condition. If the repairs are significant, a buyer: a) may not be interested in pursuing the acquisition; b) might see an opportunity to negotiate for a lower price; or c) may make several unnecessary demands on the seller. In most cases, repairs are going to be flagged by one or more party such as a property inspector and appraiser. Therefore, it is always recommended to make them, many which can be done for minimal cost.

Mechanical inspections

If a building has an elevator, a fire protection system with sprinklers or other mechanical systems that require inspection, they should be done at the start of marketing a property. Some of these items are required by state and/or local code to be tested and inspected annually to ensure proper working condition. If the inspections are not updated, the buyer or other parties will require the seller to perform the inspections and a closing may be postponed until the inspections are completed.

Environmental studies

Buyers or other parties will require that a preliminary environmental study be performed at a property, which is common practice for commercial and investment real estate purchases. The preliminary study is performed by a qualified engineer who inspects the property, interviews the seller and reviews all environmentally-related documents for the selling and adjacent properties. If any potential problems are discovered, then a more in-depth study is usually required.

Though not mandatory, it is recommended that the seller have a qualified engineer perform a preliminary study prior to listing a property for sale if the property's use has a higher environmental risk than normal, such as an automotive use. If the study concludes the property is free of any potential problems, then it can be marketed with the benefit of these results and reduce the selling time.

Preliminary site & land plans

When selling a commercial development site, or in certain situations when selling a property with an existing building, it is always recommended that the seller engage an engineer to prepare a preliminary site or land plan. The site plan is a detailed survey and provides support for establishing an accurate listing price for a com-

mercial development site. If not available, the listing price may be inaccurately high or low, and could cost the seller thousands of dollars and valuable time. The land plan shows the locations of the lot lines, the existing building and other site conditions. Having a site or land plan available while marketing a property is a benefit to the seller because it alleviates any concerns that a buyer or other party may have with the pricing and physical features of the property.

Zoning review

The first step is to determine the municipal zoning designation for a property. If the zoning designation needs verification, a municipality's zoning officer can usually provide an accurate determination in writing. Once this is accomplished, the next step is to review the detailed regulations for allowed uses and dimensional requirements for the zone. If a property's use is allowed and the property conforms to the dimensional requirements, then it's considered a legal use. If a property's use is not allowed and the property does not conform to the dimensional requirements, then further investigation is needed to determine whether it's a pre-existing use. Zoning is usually a factor in a sale when the property is an illegal use or if there is a change in use. This can trigger the need for approvals from various municipal boards and can delay a sale for weeks.

Written leases

In most cases, there should be written and executed leases for each tenant at a property, even short-term tenants, in order to define the responsibilities of each party (landlord and tenant). This provides the buyer and other parties, including the mortgage lender, with confidence in the property's current income and tenant obligations. Unless the rents are below market rates or there are other circumstances involved, the buyer could make executed leases a condition of a sale.

Operating statements

For income properties, buyers and other parties, including the mortgage lender and appraiser, will require at least three years of operating statements. It is crucial that the seller's broker reviews the operating statements for accuracy, consistency and completeness. If needed, the seller's broker should reconstruct an updated operating statement in order to establish an accurate price for a property and to effectively market a property.



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