

## The Life Cycle of a Property

### A look at which professional services you might need – and when

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Unlike other business assets that may require one-time, third-party professional help, owning commercial real estate requires ongoing assistance of service professionals. As a result, it is critical to fully understand the type of services you may require and how to best choose the right professional to assist with your venture.

The most effective way to understand your needs is to consider the overall life cycle of a property. In broad terms, a property's life cycle consists of three distinct phases: acquisition, operation and disposition.

#### Acquisition

In the acquisition phase the focus is on the purchase and applicable development of the property, as well as entity organization. Since legal questions and issues can arise from the start, it is imperative to identify and retain competent counsel with commercial real estate experience. The same is true of financial issues that will mandate the assistance of an experienced accountant.

What can the right professionals do for you? To begin with, you will rely heavily on your attorney to prepare and negotiate a purchase agreement, which outlines the parties' rights and obligations and which mitigates long-term property risks. In addition, if you have partners, your attorney and accountant can shape financial terms and contracts to ensure that the risks and rewards are divided as the individual parties desire. They can also help the parties direct appropriate due diligence efforts to help avoid unnecessary future liability.

Your attorney can also identify broad areas of potential risks and



direct you to specialists who can more precisely determine the extent of any specific risks and their impact on the property. For instance, depending on

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the age, condition and purposes of the building, you may wish to enlist an environmental consultant or structural engineer to assess the property and determine necessary improvements or action steps required.

The chosen attorney and accountant will also work with you to create a financial pro forma to make sure the identified property is in line with your cash flow needs. They may also be able to guide your identification and selection of an acquisition and/or construction lender, as well as handle the negotiation of the financing documents.

#### Operation

The need for employing the right legal and accounting professionals continues through the operation phase when it is critical to maintain the property as a viable business. In this phase, it's important to maintain current financial pro formas and continually evaluate property performance, particularly in a manner relative to projected performance in both the short- and long-term and in relation to financial covenants required by the lender. With the help of your attorney and accountant, you should be able to address issues such as: How long should I hold the property? What areas require attention

to improve overall performance? Does it make sense to invest more money in upgrades, improvements, etc.?

If you own a multi-tenant building, you can also look to your attorney to negotiate the various leases, as well as

to help evict troublesome tenants. If the decision is made to hold the property over the long-term, your attorney might also need to make recommendations for your transition over to the permanent lending market and assist with the new financing documents.

While the work of legal and accounting professionals continues throughout each step in the property's life cycle, there are time periods when the services of other professionals are needed, as well. For example, it may be beneficial to hire a property manager to interface with the individual tenants and a broker to market commercial space. Various contractors and sub-contractors may also need to be hired along the way to identify potential risks, upgrade or customize space based on tenant needs and demands and/or repair physical damage to the property.

### Disposition

Of all the cycles, however, the one that likely requires the most

professional help is the disposition cycle. It is during this final cycle that the property is sold, exchanged or foreclosed, and/or the purchasing company may be dissolved. Because of the potential tax implications and long-term financial risk and liability often associated with the sale of a property (especially an industrial site), it is critical to partner with the right legal and financial professionals.

Common questions to address with these partners include:

- When is the best time to sell the building? (It is particularly critical to understand when a property is underperforming and may need to be sold sooner, while also staying aware of possible loan prepayment penalties which could result from an earlier-than-expected sale.)
- When is the right time for capital improvements and which ones should be made?

- How should the proceeds of the sale be used to minimize tax consequences and allow for succession planning?
- How do I completely sever ties with the property so as to not be subject to future environmental, financial or criminal liability?

As this article has demonstrated, the various life cycles of a property can present many different opportunities and challenges for the owner and greater need for the right third-party professional. With so many possible issues spanning a potentially long time period, it's critical to choose the right professionals from the start. **P**

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