

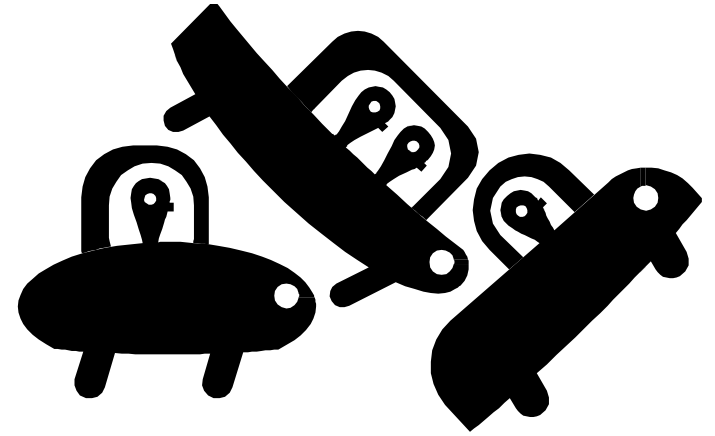
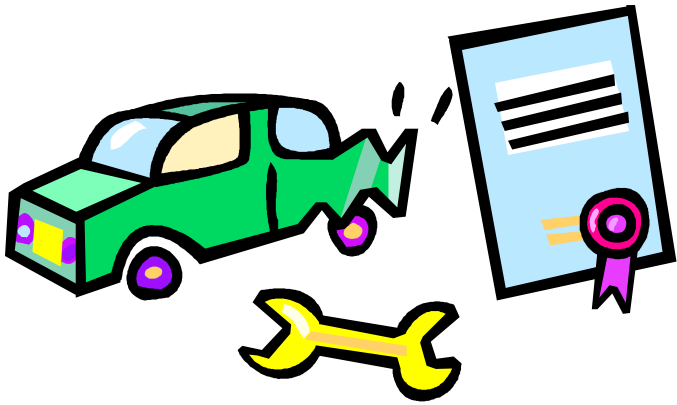
DUE DILIGENCE

WHAT YOU NEED TO KNOW TO FACILITATE AND
ADD VALUE TO YOUR DEALS.



May 8, 2012

Edward S. Hill, Esq., CRE



You must learn from the mistakes of others. You will not live long enough to make all your own mistakes.



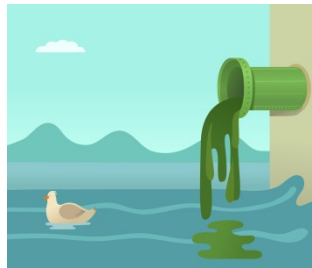
Due Diligence Process

- Pre-Contract stage
 - Property appears generally to meet client's needs and objectives.
 - No obvious serious problems or obstacles.
- Contract stage
 - Detailed review, inspections and evaluation of suitability of the property for the client's intended use.
 - Evaluate limitations and other problems.
 - Arrange financing
 - Assess risks.
 - Make go/no go decision.



Due Diligence Resources

- Architect
- Civil Engineer
- Surveyor
- Environmental Professional (LEP)
- Soil Scientist
- Structural Engineer
- Land Planner
- Landscape Architect
- Attorney
- Accountant
- Insurance Consultant
- Bank Loan Officers
- Appraiser
- Other Real Estate Advisors



- Land:
 - Size, shape, topography, proximity to ponds and streams
 - Subsurface conditions (ledge, water table, soil bearing capacity, septic system suitability)
 - Access – legal and practical access to street
 - Encroachments (by or from)
 - Easements “together with” – “subject to”
 - Storm water drainage
 - Existing and contemplated uses of neighboring properties.

- Availability of Utilities (including capacity):
 - Electricity
 - Telephone
 - Cable Television, Internet and other data
 - Water
 - Gas
 - Wastewater (septic/sewer)

- **Buildings and Other Improvements:**
 - Components: structure, foundations and footings, floors (load bearing capacity), exterior and interior doors, windows and finish.
 - Systems: plumbing, water (quality/quantity), sewer and wastewater, HVAC, fire and life safety, electrical (capacity/expandability), elevators, loading dock lifts, overhead doors.
 - Code compliance: Building, Fire, ADA (upgrades if significant renovation?),
 - Parking lot and driveways: capacity, loading spaces.
 - Functional obsolescence.
 - Deferred maintenance.
 - Plans and specifications for existing condition.
 - Inspection reports – governmental and non-governmental
 - Recent (last 3 years) major, repair, replacement or maintenance projects.

- Land Use Regulatory Issues:

- Copies of existing certificates of occupancy
- Zoning status – copies of existing approvals (limitations on use)
- Approvals needed for change in use – modification/new special permit, special exception, site plan approvals.
- Variances needed.
- Signage allowed (approvals required).
- Historic or other Special District requirements
- Inland Wetlands/Coastal Area Management
- State Traffic Commission approvals.
- Local/State curb cut/driveway permits.
- Flood plain/floodway constraints.
- Limits on use of process chemicals.

- Land Record Information:

- Copy of existing title policy – present owner bring down.
- Confirm record title holder.
- Title exceptions (impact on existing or planned use?)
- Existing mortgages and other liens.
 - Mortgage prepayment issues?
- Recorded notices of lease.
- Options to purchase/right of first refusal.
- Recorded land use permits.

- **Environmental Issues:**

- Environmental Site Assessment (existing – new/update)
- Transfer Act applicability
- Storage Tanks - above and/or underground.
- Known “recognized environmental conditons”
- Indoor air quality.
- Potentially hazardous building materials (ACM).

- Operational Matters:

- Operating cost items:

- Real estate taxes (amount, assessment, next revaluation, available tax incentives).
 - Utility charges.
 - Insurance costs.
 - Copies of all service contracts.
 - Other

- Financial analysis:

- Income and expense statements (not merely tax returns)
 - Past three (3) years
 - Trailing 12 months.
 - Tax returns/appropriate schedules for prior three (3) years.
 - Current and projected revenue and expenses.

- Operational Matters (continued):
 - Commercial condominiums (equivalent of resale certificate)
 - Copies of declaration and bylaws.
 - Current condo operating budget.
 - Status of periodic common expense payments and special assessment payments.
 - Capital expenditures approved by board of directors.
 - Any unsatisfied judgments against association or other non-collection matters in litigation.
 - Insurance coverage provided by association.
 - Pending sale or encumbrance of common elements.
 - Unusual governance provisions.

- Commercial Rental Property
 - Rent roll (current and historic).
 - Identity and creditworthiness of tenants (payment history).
 - Schedule of lease expiration and renewal and expansion rights (rent adjustments).
 - Evaluation of economic lease terms (base rent, pass-through items, CAM charges (floors, ceilings on CAM)).
 - Tenant exclusivity rights.
 - Tenant operations (compatibility with possible new tenants).
 - Copies of leases and amendments (reconcile to rent roll and other summary data).
 - Identify key tenants from whom estoppel certificates must be obtained.
 - Interview with property manager.

- **Residential Tenants:**

- Rent roll (current and historic).
- Identity and creditworthiness of tenants (payment history).
- Schedule of lease expiration and renewal and expansion rights (rent adjustments).
- Copies of standard lease and all existing leases and amendments (reconcile to rent roll and other summary data).
- Current accounting of security deposit/advance rental escrow account.
- Interview with property manager.

Doing real estate deals is like walking through a jungle.



There is a constant risk that something will bite you on the ...