



Commercial Realty Specialists

Representing & Advising Tenants, Buyers, & Investors

Checklist for Purchasing Commercial Real Estate

Item

Description

Fully Executed Purchase and Sale Agreement

The PSA in a commercial real estate transaction is rarely going to be a standardized form with consistent “key dates”. Be sure to review the document thoroughly to make sure the conditions of the agreement are satisfied in a timely manner or waived.

Disclosures

In a commercial real estate transaction, the buyer does not have many of the consumer protections afforded a purchaser in a residential transaction. You should not assume that seller disclosures are mandatory. Review the PSA to ensure the agreed upon disclosures have been provided. That said, most PSAs will include a list of seller-required disclosures.

Preliminary Title Report

The preliminary title report is typically ordered once escrow has been opened. It provides information about the property, such as how title is currently held and what kind of exceptions to title are currently of record (for example, easements, liens, and encumbrances). The preliminary title report then becomes the final title report, on which title insurance is based.

Zoning

Confirm the current use or the intended use is a permitted use under local zoning regulations. A non-conforming use can have severe consequences. Consider consulting a local land use attorney.

Natural Hazard Disclosure

The Natural Hazard Disclosure will indicate whether the property is located in a special flood hazard area, dam failure inundation area, earthquake fault zone, seismic hazard zone, high fire severity area or wild fire area. If the property is located in a designated Natural Hazard zone, very expensive insurance may be required.

Environmental Investigation

By taking title to the property, you expose yourself to potential environmental liability regardless of fault. That said, there is some defense for an “innocent purchaser” so long as they have conducted an appropriate

investigation of the property. A Buyer should conduct a “Phase I” investigation and follow up with a “Phase II” where appropriate. These investigations are done by private companies.

Hazardous Material Survey

Hire a local environmental engineering/inspection company to inspect the building for building materials that may contain hazardous materials such as asbestos, lead and PCB. Hazardous material remediation can be costly. Cost may include inspection and supervision fees during renovations and demolition, and disposal fees.

Building Physical Inspection

A building physical inspection is a visual examination of the structure and building systems. You should have the building thoroughly inspected before the final purchase by an experienced and impartial professional inspector.

Survey

The ALTA survey is the standard survey for most real estate transactions. Typically, the title policy will provide coverage against problems not discovered in the ALTA survey. A survey should uncover issues regarding lot lines, easements, and setbacks.

Wells/Septic

Well and septic problems can be costly. If the property contains a well or septic system, consider having it inspected by a local company.

Termite

Order a termite inspection from a local pest inspection company. The report will typically contain two sections. Section 1 contains information regarding existing conditions, and Section 2 will contain issues that can lead to future problems.

Utilities

Understand which utilities service the property. Water, sewer, gas, electric, cable and telephone.

Appraisal

A private appraiser is hired to determine the fair market value of the property. Be sure to select a private appraiser whom the lender will accept.

FIRPTA Affidavit

The buyer needs to confirm that the seller is not a foreign person or entity. If the seller is foreign, the buyer is required to withhold proceeds from the purchase to pay for taxes; and, is liable for the withholding amount if they fail to withhold. The buyer is generally allowed to rely on the seller’s FIRPTA affidavit.

Bill of Sale

The bill of sale is the document evidencing the transfer of personal property between the buyer and seller.

UCC Search

If any personal property is involved in the transaction, the UCC search through the Secretary of State should uncover any encumbrances on the personal property.

Insurance

Contact your insurance broker and obtain property and liability insurance. Typically the lender will require that both are maintained throughout the loan term.

Closing Statement

The closing statement is a detailed breakdown of all of the costs involved and money transferred between the buyer and seller.

Agreements Assigned to Buyer or Terminated at the Close of Escrow

Most commercial buildings will be subject to existing service agreements for items such as janitorial, security, and maintenance. Such service agreements may be assigned to the buyer or terminated. Regardless, you should be aware of any and all agreements involving the property.

Tenant Estoppel Certificates

The certificates are obtained from current tenants to confirm the terms of the lease and that there are no active defaults under the lease.

Construction and Renovations Checklist

Item

Description

Construction Budget

Establishing a construction budget is essential in determining the amount of the loan required to complete the project. The budget should include both the cost of design and construction.

Architect

Lock in a fixed price to design the building/renovations.

General Contractor

Lock in a fixed price for construction of renovations, and confirm the building can be completed within the loan limits established.

Construction Plans & Specs

Review the construction drawings to confirm that the design and materials match with project expectations. Also consider value engineering to shave cost.

Building Permits

Ensure that governmental regulations are being complied with.

Certificate of Substantial Completion

Confirm the building has been constructed consistent with the plans and specs.

Certificate of Occupancy

Issued by the building inspector confirming the building has been built to code and may be occupied.