



Ground leases 101: Creativity is required - by Daniel Shirazi

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In today's real estate market, creativity is required for a deal to make sense for all parties involved. One example of this creativity is to ground lease a property instead of the conventional sale. Although ground leases are not a new concept, many people are not familiar with it and therefore do not take advantage of the opportunities it presents. In the simplest form, a ground lease is a long-term net lease (usually 49 years or 99 years) of land including any improvements on the said land. Assets that can be subject to a ground lease include but are not limited to, vacant land, office buildings, and large residential buildings.

Advantages for owners/ground lessor:

- The owner retains ownership to the property and therefore:
 1. Is not responsible for any capital gains or transfer tax payments they would incur if they were to sell (although there are instances where transfer taxes might be incurred);
 2. Keep the property in the family and thus will generate a hassle-free income stream for generations;
 3. They can mortgage the leased property; and
 4. Can sell the property.
- The ground lessee (the tenant) under the ground lease would be responsible for all the management, costs, and expenses of the leased property.
- The ground lessee will maximize the potential and improve the property by:
 1. Making capital improvements to the existing structure; or
 2. In the case of a development site, they will be constructing a new building.
- Many ground leases contain a clause (reversionary clause) which transfers any improvements made by the tenant to the landlord at the end of the lease.

Advantages for tenants/ground lessee:

- The tenant's basis would be significantly reduced because the tenant would not need to provide the upfront capital that is needed to purchase the property.
- If an owner is unwilling to sell his property, this gives the tenant/investor a way to utilize this asset in a way that can benefit both parties.
- The tenant can mortgage the lease, however, any financing obtained will not be against the leased asset.

A few notable ground lease transactions in New York City to date include:

- 885 Third Ave.: "The Lipstick Building" which was sold by SL Green to Ceruzzi Holdings.
- Gary Barnett of Extell Development signed a 99-year lease from Goldman owned properties (Solil Management) across the street from Stuyvesant Town: 516 East 14th St., 530 East 14th St. and 222 Ave. A.

- Kaufman Organization ground leased a package of 4 office buildings from Extell Development: 119-125 West 24th St., 13-15 West 27th St., 19-21 West 24th St. and 45-47 West 27th St. Ground leases can be complex and intimidating at first. However, they provide the creativity needed to maximize an investment without the expenses associated with transferring ownership of the property.

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