



Whether a purchase is a small multifamily or large many family building, due diligence is essential - by Howard Stern

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One can not understate the importance of due diligence when purchasing property. Today's focus is residential apartment buildings. Whether a small multifamily or large many family building, due diligence is essential.

Make a check list. Remember, except for some mathematical adjustments, once the deed is handed over, the closing has taken place, any problems that may arise are buyers alone to deal with. Due diligence should flush out issues.

Make sure your attorney is experienced for the properties you are buying. Every type of property requires a different skill set. If you hire solely because of price you will usually get what you pay for! If the broker referred you to an attorney, make sure the attorney understands their ethical obligation, that is to see that you are protected, not to close the deal.

Does your "to do" and "have done" lists include some of the following?

1. That you hired a building inspector to do a detailed inspection of the premises and is giving you a detailed written analysis?

You should accompany the inspector. You can observe each apartment and see what each unit has. Stove? Refrigerator? Smoke and CO2 detector? Washing machines (legal?)? Dish washers (allowed?)?

You will also observe how the current owner maintains the building. Don't tell anyone you speak to that the building is being sold. That avoids a tenant stopping rent because they know the old owner is leaving and they might catch a break.

2. Have you read every lease? And compared them to a detailed rent roll?

A. Made a chart showing rent on leases and rents as charged. Any preferential rents? Missed increases?

B. Does security match? Where is the security deposited?

C. Is the tenant responsible for any passalongs? Real estate taxes? Required to have insurance?

Is proof in the file? Note any other requirements from the lease.

D. Pay particular attention to commercial leases and chart tenants additional responsibilities and note if tenant has to pay a share of any passalongs, like real estate taxes or porter/wages and if they are up to date.

3. If you are in unfamiliar territory, or this is your first acquisition, speak to your attorney and tax advisor immediately.

Ask the attorney or tax advisors the effect of real estate or potentially your own taxes on sale. You might be selling another building and might qualify for a 1031/Like-Kind Exchange. In New York City, real estate taxes are re-assessed based on the sales price—and increase annually.

4. Figure out the best form of ownership for you. Usually (but not always) an LLC.

5. Are there other requirements your municipality places on owners.

In New York City, owners generally file and register rents annually with The NYS Division of Housing & Community Renewal (DHCR) and with New York City, forms are filed with Department of Buildings. Are the registrations up to date? And what other required forms, if any, have been filed?

6. Have your attorney order a title search while you are looking at the building and before discussions are concluded and contracts signed.

It will give you valuable information like violations (Health, Sanitation, Building Department, ECB, or other agencies) or foreclosures items showing how the building has been maintained. You will learn title and recording expenses, if any.

7. Check online, or visit the local Housing Court to look for recent or active Housing Court cases.

Any rent strikes? Perhaps, outstanding settlement agreements, compliance with which may fall on you after closing. It may also give you an idea as to how the building has been maintained.

8. Get a detailed list showing building maintenance.

When were apartments painted? Smoke/CO2 detectors installed? Does the building have the newer 10-year battery ones?

9. Bring your mortgage broker onboard immediately.

What are your requirements to obtain a loan? What are your closing expenses? Are you required to do an environmental assessment? Even if not, you still may want one! Can you save mortgage recording taxes (if you pay them in your area) by having your lender take over already recorded mortgages on the premises?

10. Discuss with your insurance broker your insurance needs.

What will your policy cost? The old owner probably has different coverage. Make sure that you have, replacement value and up to code coverage.

You can see why you need an experienced team led by your attorney by your side.

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