



## **Is the ground lease a COVID-19 savior? - by Daniel Shirazi**

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The declining retail market coupled with the COVID-19 pandemic has left many real estate investors in limbo. Buyers are uncertain what the future may bring and are thus not inclined to buy in this market. This leaves cash strapped owners no other option but to continue to let their property “bleed” or alternatively for owners who want to sell to keep their properties since they cannot find a replacement property via a 1031 transaction. Ground leases may prove to be a valuable alternative to a sale of the property. Simply put, a ground lease is a long-term net lease (usually 49 years or 99 years) of land including any improvements on the said land.

In recent years, ground leases have provided life support to cash strapped owners as once the ground lease is executed, the ground tenant would be responsible for all of the expenses and maintenance of the property. The owner would then receive an influx in cash via the lease. The ground lease would also eliminate the need to find a 1031 since the owner retains ownership of the property and therefore not subject to capital gains tax (although there are instances where capital gains tax might be incurred). The ground lease provides a generational hassle-free income stream that can be sold or mortgaged at any time by the owner. The ground lessee will maximize the potential and improve the property by making capital improvements to the existing structure; or in the case of a development site, they will be constructing a new building that would revert back to the owner at the end of the lease.

Ground leases enable reluctant buyers to participate in the market since they would not need to provide the upfront capital that is needed to purchase the property therefore widening the potential pool of buyers for an owner. Many developers and commercial tenants have long been faced with property owners who ask for a price that isn’t supported by comparable sales. The owners are emotionally attached to the asset, and they’d rather sit on it than do a deal that makes sense for both parties. If an owner is unwilling to sell, a ground lease can still get a deal done that will give them long-term access to prime locations.

Although ground leases can be complex, they provide a tax efficient and a cost-effective alternative

to a sale needed to navigate through the uncertainties in the current real estate market.

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