



Hunt Corporate Services Commercial Real Estate Q&A: Due diligence for the seller - by David Hunt

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David Hunt

Q: I have hired a commercial real estate broker to sell our industrial building. The building has two tenants. He is asking for all sorts of information that I feel is part of the due diligence that the eventual buyer, not me, should be doing. Why go hunting for problems?

A: It is my experience that problems or issues that need to be resolved late in the due diligence process almost always delay a closing, and sometimes completely sabotage a deal. And they usually result in a financial concession on the part of the seller. On the other hand, by completely revealing issues (that will almost certainly be uncovered anyway), the buyer is made aware of these issues early in the game while he is excited about the property. As a result, his offers will be made with a full knowledge of the issues. So, in short, I agree with your broker.

I highly recommend that every seller conduct his own due diligence of the property that he is about to sell. What should be included?

1. The current Certificate of Occupancy or other permits for use of the property from the local municipality.
2. An updated survey that is accurate to current conditions.
3. Current real estate tax bills.
4. Copy of the title insurance policy.
5. Copy of any environmental reports conducted on the property (either Phase I or II) and any documents relating to clean-up, tank removal etc.
6. Copies of relevant property and building information: Building plans, site plans, roof and other warranties, testing reports, service contracts and contact information for all vendors servicing the property, and anything else relevant to the property improvements or operation.
7. Since you mentioned that the property is income-producing, copies of all leases and related documents, a rent roll, and three-years of operating statements.
8. If personal property will be part of the sale, an inventory of the property.

One of the huge advantages of doing your own due diligence is that you have the time to cure any problems or issues that may arise with a potential buyer. It is an axiom among brokers that time is the death knell for many real estate transactions. After spending the time and energy negotiating a contract, do you really want to lose a deal during the due diligence period because of a missing tank removal certificate? Another advantage is that buyers are going to feel a lot more comfortable with a seller who is both organized and up-front about issues.

The best way to approach this is to ask yourself, "What would I want to see if I were buying my own property." (If you are uncomfortable about releasing information, it can always be done under a confidentiality or non-disclosure agreement.) Your buyer is going to have the same mind-set, so it makes all the sense in the world to have this information available. It will almost always expedite the closing of a successful transaction.

Do you have a question regarding commercial real estate or construction? Email your question to Commercial Real Estate Q & A, at email@huntcorp.com for possible inclusion in a future column.

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