



For nonprofit companies, owning property requires constant "do" diligence

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Owning property is a responsibility that requires constant diligence. This is especially true for nonprofits. Whether it is land, housing or commercial space, real property is affected by a multitude of regulations—its "legal environment." Understanding these regulations can help an owner avoid reduction in its property's value, allow for multiple uses, and permit an easy sale. Being aware of potential changes in a property's regulation is critical in supporting its long-term value.

Title

Land is regulated through title, zoning, environmental and health regulations. The most basic rule that affects property are deed restrictions. Oftentimes, and especially with nonprofits, land is bequeathed with stipulated restrictions. These restrictions can prevent certain uses, preclude a sale until certain conditions are met, or limit future profit. We recommend a title search to determine whether a deed restriction affects a property and the limitations caused thereby.

Zoning

Zoning is the next legal hurdle that affects a property. Zoning defines the type of uses that are allowed, the size and bulk of buildings that can be built, and the location on the property where you can construct. It also creates mechanisms for seeking relief within its own rules and regulations. Zoning has an immediate and significant impact on value. This is especially true in New York City. For example, a change in the bulk regulation, i.e. the size of a building, can change the land value by millions. The "Floor-Area-Ratio" (FAR) is the ratio of the allowable floor area in a building to the land area of the building lot. A few years ago, in an area of East Harlem, the zoning was changed from an FAR of 3.44 to an FAR of up to 12. For an owner of a 10,000 s/f lot, the additional building size is 85,600 s/f (12 minus 3.44 or 8.56 x 10,000). At \$100 per s/f per development right, the additional value is \$8.56 million. This is a pretty good return of value from a change in zoning. However, this is an unusual case. More often land is being "down zoned"—the reverse of this example—a loss of millions!

There are many other ways, other than bulk regulation, which affect a property's value. The zoning law in an area is frequently being reviewed and changed. Developers and dealers in real property know how a small change in zoning can have a substantial bearing, positive or negative, on a property's value. They actively lobby local governments and planning boards. As an owner, attending community board meetings and keeping current about local news will keep you apprised of what is happening and offer you the opportunity to protect or augment your property's value.

Building Code

There is a plethora of regulations that affect the construction of a building. The building code is extremely detailed and is in the purview of an architect or professional engineer. From the real estate professional standpoint, the most common problems occur because there is an incorrect certificate of occupancy—the building is being used for something other than its original purpose, but the legal use has never been changed. This often occurs in residential properties when an addition is built, never legally filed, and a certificate of occupancy was never issued. Certificate of occupancy problems are a common reason a bank denies a mortgage—it is important to make sure that the use of a property complies with its certificate of occupancy.

Landmark Designation

Similar to zoning, a significant impact on a property's value occurs with a landmark or historical district designation. Although there are some benefits to having a designated landmark, you cannot make any substantial changes to your property. Any changes that you do make are tightly reviewed, controlled and approved.

We live in a society with a government that has the power to affect your property value. As a property owner you have to be vigilant, participate in the community dialogue and protect your rights. As an executive director of a nonprofit, you owe a duty to act diligently to your organization, the community and the future.

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