

Acquiring Less Than Fee Simple Interests in Land

Ownership, Tenant and Business
Interests, Claims and Compensation

Presentation to the 2103 BCEA Fall Seminar by
D.A.Aberdeen & Associates Ltd.

Your Life in Property Acquisition!



what my friends think I do



what my mom thinks I do



what society thinks I do



what customers think I do



what I think I do



what I really do

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How Would You Like Your Appraisal?

(You May Pick Two)



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The Basics

- Time is Your Friend, Get Property Reps Engaged with Owners Early in the Project
- Be Accurate with Information and Don't Delay Giving Any News
- Don't Be Afraid to Say I Don't Know But I'll Find Out For You or We Need Your Help to Solve This

Ownership Possibilities

- Fee Simple Owner
- Business Owned by Fee Simple Owner
- Tenant Owned Business
 - Communication Options & Issues
 - Property Rep deals with Tenant
 - Landlord deals with Tenant

Leases

- Registered & Unregistered
 - Obtain copy at LTO or ask Owner/Tenant
 - Review entire lease for applicable terms
 - Appraiser will need to review per CUSPAP

Abatement of Rent

- Normally assumed by Property Rep
- Compensation payable to Landlord should be captured in the appraisal through Before & After calculation

Tenant Types

- Residential
 - Single Family
 - Multi Family (Strata)
 - Mobile Homes
 - Know the Residential Tenancy Act and the Manufactured Home Park Tenancy Act

Tenant Types

- Businesses
- Mom & Pop
 - Poor or no records
 - No employees
 - Value?

Tenant Types

- Buying a Job
 - Varying levels of records
 - No or minimal employees
 - Value?

Tenant Types

- “Real” Businesses
 - Good and proper records
 - Employees
 - Visible Customers!!!
 - Value?
 - Get a proper business valuation

Tenant Types

- Multiple Tenants
 - Compounding difficulties
 - Communication must be clear and direct
 - Competing interests
 - May include business of Fee Simple Owner
 - Removing part of the tenant group

Relocations

- Always complicated
- Multiple tenants compound issues (again)
- Managing cash flow is critical to success
- Section 3 can be your best friend

Retrofits

- “I Can’t Stay Here Like This!”
- Process experts can be very helpful
- Possibly best solution for all
- If things go wrong, they can go very, very wrong

Strata Acquisitions

- In a word, “DON’T”
- Issues can be insurmountable
- SRW takings for sidewalks, etc. are OK
- Changing unit entitlements and collapsing the strata

Issues – LTC's

- Can have severe impacts to tenant operations
- Temporary abatement?
- Temporary slowdown/shutdown?
- Establish process, baseline and timing

Issues – Indirect Impacts

- Tenants with no leased area taken
 - Loss of parking or storage?
 - Change of access?
 - Loss of exposure?
 - Site circulation issues?
 - Security?

Issues - Contamination

- Who is responsible?
- Indemnities
 - Fee Simple, Tenant and Authority
- Where does expropriation leave you?
 - Likely better for all to make an agreement

Issues – Records, Documents

- Watch for
 - Missing or non market wages
 - Missing or non market rent
 - Items not related to business operations

Issues - Employees

- Cost to close business can be significant for large employers, especially with union labour
- Severance pay liabilities can be large

Practical Compensation

- In theory (now out the window), compensation should not exceed goodwill value
- Other factors increase willingness to pay
 - Community need for business
 - History of business
 - Employment Losses

Questions?

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