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A COMMERCIAL LANDLORD'S SURVIVAL GUIDE

By: Alan Callioni

The Great Recession has taken its toll on many. Commercial landlords have been particularly beleaguered. Once seemingly invincible just a few short years ago, they've become marginalized by a brutal marketplace. Unfortunately, the problems are getting worse in the near term.

Here are the top seven problems currently facing commercial landlords:

- Dropping property values for the foreseeable future.
- Inability to refinance maturing loans.
- No economic drivers on the horizon to facilitate a turnaround.
- Little support from equity or mezzanine debt players.
- Lack of new tenants to replace the existing, weak ones.
- A rising CAP rate environment.
- Mounting competition from REO properties. Banks are slowly taking their losses and selling/leasing properties at 2002 prices.

They can do nothing about these problems. So, given this climate, should they keep the property or sell it? Here are some ideas to consider.

KEEPING THE PROPERTY:

Determine the exposure. Was a personal guarantee signed? Were assets cross-collateralized? Is it a non-recourse loan? Can one's interest in the deal be sold?

Mortgage structure. The lender is either a local/regional portfolio lender or a Wall Street conduit. Often, one is better off with a local lender since it is always good to have a face-to-face meeting with someone who better understands the local market. Ask us for negotiation strategies that will work best based on the situation.

Extension. If the loan is coming due shortly, negotiate a 12 month extension of its maturity date. This can buy time to reduce costs and aggressively lease the property. Recessions typically last 14-18 months,

and we are already 18 months into this one, so a recovery in another year is feasible. Often, the banks will ask for additional warrants such as a personal guarantee, a higher interest rate or an infusion of equity. There is no "standard deal", so negotiate hard and using one's best judgment. A new personal guarantee requirement is probably the least desirable option. If one's position is already tenuous, why tether personal credit and remaining wealth to a potentially sinking ship?

Reduction. Get an interest rate reduction and/or a switch to interest only payments. Granted, this will have a small effect on cash flow, but it all helps. Property Taxes. Petition to have them reduced. Values have dropped precipitously, and so should the taxes. We've negotiated reductions of 30 to 50% in 2010. This process has inflexible rules and deadlines. Ask us about the best way to approach the tax man.

THINGS TO AVOID:

Bankruptcy. This can be a complex issue in itself. This will often only delay the inevitable and can create other credit and tax issues down the road. Check with an attorney on this.

Paying a company to negotiate. Be wary of charlatans claiming they can reduce your mortgage balance or payments, for a fat fee, of course. There are no magic tricks. Besides, the landlord knows the situation better than anyone else.

Failing to communicate with your lender. Don't ignore default notices. In GA, once the landlord receives that, the time to act is very limited.

GIVING UP ON THE PROPERTY:

Short Sales. A short sale occurs when a lender agrees to have the owner sell the property for less than the principal balance owed. This sounds great at first glance, but can trigger tax consequences for the borrower.

Deficiency Balances. A short sale can create a deficiency balance on the loan. Even if the short sale is approved and the property sells, the lender can still sue the landlord for a court-ordered judgment for the deficiency balance. The lender may not pursue the deficiency if one negotiates correctly. However, if the loan is non-recourse, then none of this applies.

Taxing Times. Adding insult to injury, Uncle Sam views a principal balance reduction on a loan as a

taxable event, since the landlord had a financial benefit from it. Even if one cannot pay the deficiency balance to the lender, then one still owes the government the tax on it. Exercise caution, check with us to discuss the best options.

No matter what one decides to do, landlords face the toughest landscape in 50+ years. Seek advice from qualified brokers and attorneys before taking action.



Alan Callioni is the Vice President of DRP, an Atlanta-based commercial brokerage and auction house. DRP also manages 14 GA/FL shopping centers and office buildings. Clients include Wells Fargo Bank, Kroger, Capital Crossing Bank, small REITs and private investors. Comments or questions? Reach us at 770 904 2389 or alandrp@gmail.com