

## ***Offer to Purchase on Investment Properties.***

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So you have decided to invest in real estate and have found the property just right for you. You are now ready to take the next step by submitting an *offer* to purchase.

However, before you proceed with making the *offer*, ensure that an experienced realtor or lawyer who is familiar with investment properties represents you.

Consider that when you are buying a home you are basically buying bricks, mortar and land. However, when buying an investment property, in addition to the bricks you are also buying rental income and are assuming tenants. Along with tenants comes all the rules, regulations and laws that accompany them. There are many extensive regulations and by-laws such as Fire, Zoning, Health and Safety issues and so on.

Your *offer* must have the appropriate clauses and conditions to address all of the above-mentioned rules and regulations.

### **TENANTS**

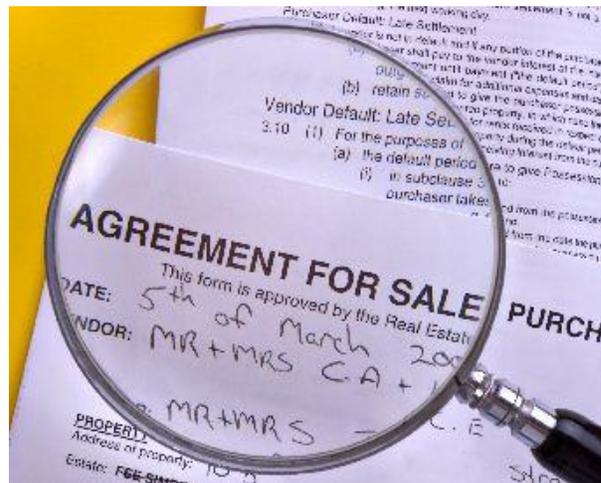
Your *offer* should request signed Tenant Acknowledgments on or before closing date, whereby a tenant confirms in writing the following:

- Monthly rent,
- Rental deposit paid and when,
- Move-in date,
- Whether any appliance is owned by the tenant,
- Whether any utilities are paid by the tenants,
- If there are any ongoing Landlord and Tenant disputes
- Date of last rent increase
- Any interest paid on the rent deposit

Should a few tenants refuse to sign the acknowledgement, then a Declaration signed by the Seller would be a good substitute.

### **EQUIPMENT AND SUPPLIES**

Other information that the *offer* must contain is confirmation of all equipment and chattels that belong to the property are included in the purchase price (i.e. lawn equipment, vacuum cleaners, appliances, snow blowers, cleaning and hardware supplies, etc.).



### **RENTAL EQUIPMENT**

Ask for a list of rental equipment that comes with the property and a copy of the contract, if to be assumed. Sometimes laundry machines, hot water tanks and even boilers may be on a rental contract.

### **FIRE CODE REGULATIONS**

The *offer* should require that the Seller provide a “Letter of Compliance” from the Fire Department confirming the Fire retrofit was completed and is in compliance. It is highly recommend that the offer requests a copy of the annual fire inspection certificates, completed by a qualified technician.

### **ZONING REGULATIONS**

The *offer* should request that the Seller provide a copy of a Zoning Certificate which verifies that all units in the property are self contained, legal and meet the zoning bylaws. Also ask for confirmation that no outstanding work orders exist.

### **REQUISITIONS**

The *offer* should also be conditional upon receiving a copy of the following:

- All existing contracts, warranties and invoices for recent capital expenditures,
- Utility bills for at least 2 years,
- Financial statements for at least 2 years,
- Existing survey,
- Insurance policy,
- Current detailed rent roll,
- All inspection reports in Owner’s possession (i.e. Structural, Environmental, Appraisal etc.),
- Any Rent Review Order available

### **INSPECTION CLAUSE**

Consider including a clause allowing for a full property inspection including all units; this is an escape clause terminating the *offer* if you are not completely satisfied with the said inspection. This condition should be for the benefit of the buyer, and must contain the wording “at your sole and absolute discretion”. This means that, if for any reason you don’t like what you see, you can walk from the offer without providing any grounds.

### **INSURANCE CLAUSE**

With today’s strict rules and regulations some properties may not be insurable due to environmental or electrical issues, etc. If there are issues, the insurance company may reject to insure or charge a premium. For these reasons, the *offer* must contain a clause conditional allowing the buyer to obtain satisfactory insurance at the Buyer’s discretion.

### **FINANCING CLAUSE**

Unlike residential purchases, the conditional period for arranging financing should be extended (15 to 30 business days). Reason being, commercial lenders will likely request an appraisal, environmental and or structural studies before final approval. If you plan to go with a CMHC insured mortgage, be prepared to extend this clause for a much longer period. This condition should be for the benefit of the buyer, and must contain the wording “at your sole and absolute discretion”. This means that, if for any reason you don’t like the mortgage proposal(s), you can terminate the *offer* from the offer without providing any grounds.

Failure to address any of the above matters may result in unnecessary grief, potential lawsuits and the possibility of paying too much for the property.

### **SELLER WARRANTIES**

The *offer* should contain a clause where the Seller warrants and represents items such as but not limited to the following;

1. That all devices equipment and/or other fixtures will be in working order on date of closing.
2. That the Seller is not aware of any structural defects, hidden damage caused by water seepage or flooding.
3. That all rents as they now stand are in accordance with the RESIDENTIAL TENANCIES ACT 2006,

All of which the warranty shall not merge but survive closing;

### **ENVIRONMENTAL**

Today more than ever, this is a major issue for lenders and buyers. A clause must be inserted that allows the Seller to disclose and warrant that “there is not in, on, under or about the Property any toxic or hazardous substances. Confirm and ask for warranty that there are no hidden underground oil tanks.

Not all issues are covered in this article. For more information on Commercial Offers and related Schedules, contact the writer. Consulting fee apply.