

## Top 10 Due Diligence Questions to Ask Prior to Purchasing Property

By Tyra Read

Before closing on a commercial property, buyers should always perform due diligence to make sure they know all material facts about their potential investment. The extent and scope of the due diligence varies with each property and depends on the goal of the buyer. For example, will the buyer be the end user or is an income stream expected from rentals? Is this a long-term or short-term investment?

The buyer should also perform additional due diligence as needed to answer the following key questions prior to the expiration of the inspection period.

1. **Are there any title concerns?** Common issues include mortgages, liens, judgments or assessments against the property, as well as probate issues, pending lawsuits or foreclosure suits. The sale contract should be drafted so the title review period coincides with the due diligence or inspection period to give the buyer more flexibility.
2. **Are there any survey concerns?** The survey should be ordered immediately after the contract is signed and reviewed in conjunction with the title commitment. That way, the buyer will know if there are easements, encroachments or other matters that need to be addressed.
3. **Is there *insurable* access?** Many people believe that if there is a road to the property, access is not a concern. However, actual access to the property is not the same as insurable access, the lack of which may cause problems with future attempts to develop, finance or sell the property.
4. **Do current zoning and land use classifications allow you to use the property as intended? What uses are permitted on adjacent properties?** Buyers should always request a zoning verification letter from the applicable municipality for information related to pertinent zoning and code matters.
5. **Are there any environmental concerns?** To find out, obtain a Phase I Environmental Assessment. Depending on the results, a Phase II assessment may be necessary. Keep in mind that just because the property has never been used as a gas station, dry cleaning business or gun range doesn't eliminate the possibility of contamination or other environmental issues.
6. **Is there anything that could create potential legal liability for you as successor owner?** Examples include code enforcement liens, expired permits, unsatisfied development or easement obligations, and unpaid municipal liens for things such as utilities? Also, beware of cross attaching, which allows code enforcement liens to attach to all property owned by that property owner, not just the property in violation of the code.
7. **Are there any major issues with the building, roof, electrical, plumbing or other mechanical systems?** A thorough inspection should reveal if substantial repairs are needed.
8. **Are there tenants?** If so, carefully review each lease agreement to determine the landlord's and tenants' obligations and legal rights. Buyers should also obtain a tenant estoppel letter and rent roll.
9. **Does the purchase include a business along with the real property?** If so, the business will have its own due diligence matters to investigate. Some real property-

related concerns depend on the type of business and may include licensing requirements and permissible uses of the property.

10. **How will you take title to the property?** Determine this prior to closing to avoid having to pay additional doc stamp taxes and other post-closing costs.

*As a shareholder with the law firm of Becker & Poliakoff, P.A., Tyra N. Read handles a variety of transactions involving commercial and residential real property statewide, including sales, acquisitions, leasing and financing, closings, foreclosures and more. Read is a graduate of the University of South Florida and earned her J.D. degree from Stetson University College of Law. Please contact her at [TRead@beckerlawyers.com](mailto:TRead@beckerlawyers.com).*