

FINC 676 - Project #3

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April 20, 2020

Our group was tasked with examining a commercial contract from a Buyer's perspective, to point out specific terms and conditions that are important in the negotiation process of the property located at 3600 East 29th Street, Bryan, Texas. With the provided scenario, we also were attentive to the items that may be of concern from the Seller's perspective, to adequately support our preferred conditions. Ultimately, our team has prepared the following summary to help avoid any confusions in the conveyance of any real or personal property and mitigate risk for UT Ltd. as they hope to close this deal with Tower Inc.

The sales price was one of the disagreements we came upon. Upon consideration of the facts provided, from a Buyer's perspective, we would suggest a counter offer of the Seller's original asking price, listed in paragraph 3 Section C, of \$6,000,000 and would be comfortable moving forward in this deal contingent upon the final purchase price being \$5,500,000.

Anticipating third party 80% LTV financing to leverage the deal would total to \$4,400,000. The contract would be contingent upon Buyer obtaining third party financing in accordance with the Commercial Contract Financing Addendum. The earnest money addendum would consist of the Buyer depositing \$55,000. We agreed on this earnest money amount because it is 1% of the purchase price which seemed reasonable for both parties. Within 30 days after the effective date, Seller will furnish Buyer a commitment for title insurance.

Additionally, at Seller's expense, the Seller will furnish Buyer with a survey of the property dated after the effective date. The personal property consists of: five (5) swimming pool tables, twenty (20) pool chairs, five (5) laundry room Sears washers and five (5) dryers, any lawn mowing equipment; two (2) Zorro riding lawn mowers, two (2) edgers, weedwackers, and

lowers. Because all of these items are personal property as opposed to real property, conveyance of the items in addition to the purchase of the property will require a Bill of Sale.

The Bill of Sale will state that all personal property will be sold with the apartment complex at closing. This was agreed on between the Buyer and Seller because the Seller did not want to take a large amount of personal property with them when they will not have any future use for it. As Buyers, we did not include a contingency or any negotiation with regards to the Seller having to provide any additional property information. The Seller did not want to give this information because it was previously agreed on that we, as Buyers, would be able to have a “free look” at the property.

This contract is contingent upon Buyer obtaining and securing financing in the amount of \$4,400,000 for not less than a 20 year term with the initial interest rate not to exceed 5.00% per annum. Payments must also be calculated on an amortization period of no less than 20 years. A contingency that the Buyer might include is that the closing of the contract is contingent upon the Buyer’s partners approval. The contingency previously mentioned is vague and if the Buyer or Buyer’s partners do not want to follow through, they have the ability to terminate the contract and receive their earnest money back.

Assignment rights consist of the Buyer finding another third party Buyer to assume the contract terms and conditions. This does not apply to the Seller financing provision.

Furthermore, there are no Commercial Tenant Estoppel Certificates.

Critical Date List

- 2/1/2019 - Contract Effective Date
- 2/1/2019 - Buyer to deposit earnest money with University Title company
- 3/3/2019 - Seller agrees to provide the following: title insurance, filing of the UCC forms, seller is required to provide a survey
- 4/15/2019 - Deadline for Buyer to obtain Third Party Financing

- 5/31/2019 - Closing must occur by 5:00 PM

The primary terms that would be most important to the Seller would consist of the type of deed being guaranteed. The Seller would want to convey a special warranty deed to limit his/her liability. As Buyers, we requested a general warranty deed from the Seller. This will allow for all of our assets to be covered if the title should have any defaults in the future. Included under the title policy section is the required survey. As Buyers, we agreed that we would pay for the cost of an updated survey, provided that the Seller's survey was not accepted by the title company. Additionally, the Seller would want to see the Buyer put up an additional amount of earnest money which would give the Buyer more time to investigate the property. The Seller would also prefer a short time frame for feasibility with the least amount of contingencies, this would allow for less due diligence translating into a quicker closing date.

Our group was tasked to identify what our preferred offer and terms would be, given the facts and circumstances of the deal provided. We took into consideration including, but not limited to the sale price, personal property, financing issues, earnest money, title policy, survey, feasibility period, type of deed, assignment rights and estoppels. Additionally, we stated which terms and provisions would be most important to the Seller. The aforementioned items and articles of provision to this deal were carefully considered and we believe that this is the best way to prepare the Buyer for the negotiations of the deal while simultaneously completing the deal with the Seller in favorable terms.