

Commercial Real Estate 101

By Eric Ramshaw • Commercial Real Estate Consultant

This article will help you better understand the world of commercial real estate, and provide some guidance for selecting an appropriate practitioner.

Commercial Real Estate Brokers:

The knowledge of individual agents/brokers varies considerably. It's best to obtain recommendations from trusted advisors with first-hand knowledge of the level of expertise and service provided by an individual or company. Those with S.I.O.R. (Society of Industrial & Office Realtors) or C.C.I.M. (Certified Commercial Investment Member) designations have proven themselves to have extensive knowledge and experience, albeit the designations shouldn't be the only criteria you look for.

The established agent should be able to provide testimonials of their work expertise, ethics and performance. Often, residential agents/brokers have very limited experience with commercial transactions as they're predominantly involved with residential property. So be sure to choose the broker with the most relevant experience.

Site Selection:

Site selection ultimately depends on your needs and requirements. Advice from a *local* experienced commercial real estate agent/broker, who understands the nuances and trends within the local community along with its growth patterns, is likely to be the most practical means to finding the best site.

The proximity of workers, shoppers, and residents (often known as 'roof tops') and the location of highways, rail, and airports should be considered. State Department of Transportation offices may provide free website access to local traffic counts,

which may be critical for specific retail uses. There are also websites that provide demographics, such as the population, average income, and even estimated demand versus supply of many categories of business. These websites often charge a fee, so check with your local Small Business Development Center, which can help you compile this information more affordably.

Key Factors When Assessing Property:

Location is crucial. The question, "Does it meet critical needs?" must be answered immediately. For example, is a proposed restaurant likely to be a "destination" location or will customers be gained because of visibility and pedestrian/vehicular traffic? Depending on anticipated numbers of people working and visiting, how much parking is available and will other tenants/users absorb parking available to the business?

Regarding the actual structure, concerns such as environmental/pollution, wetlands, radon gas, termites, and mold contamination should be considered.

Landlord Negotiations:

Landlords working with brokers (not all do) tend to negotiate with the particular agent. An experienced broker will negotiate tenant build-out, free rent (if any), and lease terms. Therefore, use of a local expert agent will likely result in the best terms for the tenant. When a landlord is hesitant, then additional incentives may be offered.

Landlords generally require a minimum of a five-year lease term when significant tenant improvements and other concessions are provided to recoup their capital investment in these items. The cost of capital improvements is often computed to include a fair rate of interest and added back to monthly

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Why Families with Children Need Wills & Estate Planning

By Katherine Schnauss Naugle • Attorney



If you're a parent with minor children, estate planning is, or should be, a very important issue for you. Most parents don't like to think about what would happen to their children if they weren't able to take care of them and many think that it'll never be an issue.

A common concern among parents of minor children is how to provide income for the care of their children if something were to happen to them. In addition, they worry about who will manage those funds to make the money last until the children reach adulthood. Parents put off the issue of discussing their estate planning with spouses because it's difficult to decide whom they would want their children to live with. One may want their family to take care of the child, while the other may have a different caregiver in mind.

In Florida, the person who cares for a minor child is called a guardian and Florida law considers parents the natural guardians. If something happens to a child's parents, there will have to be someone who can legally make decisions for that child, both financially and personally. Proper estate planning can address these concerns and help the parents choose who they want to take over these responsibilities. Estate planning attorneys are trained to know what questions to ask, what types of tools to use, and the techniques to discuss with their clients.

Each family has different issues to consider. Some families are blended, single-parent families, or have special needs, and each family has different financial arrangements and requirements. But all of these families can be

planned for if the parents take the time to do it. Let's discuss the basics:

Q. Who will take care of my children if something happens to me and can I legally name that person in advance?

Too often, when both parents die unexpectedly at the same time, there are two sides of a family fighting over who will take custody of the child. Proper planning in advance can lessen or prevent the likelihood of this happening and can give parents the opportunity to make the decision for themselves.

Parents will often name one individual to care for their child and another to manage their child's money. They usually choose someone who will raise their child with the same morals, values and beliefs as themselves. When choosing a person to manage their child's money, they should name an individual whom they believe will responsibly administer the funds in the way they would have. The person chosen to manage the child's finances will be responsible for making financial distributions for the child's health, education, maintenance and support.

The parents should sit down with the people they have chosen to discuss and make sure that they are willing and able to take on the responsibilities. At least one person should be named as a back-up in case the first falls through for any reason. If the person named has a change in their life circumstances and can no longer take on the responsibility, the documents should be changed to name someone else, which is why these choices should be reviewed annually.

Q. Do I really want to leave an 18-year-old child a large sum of money with no restrictions to protect that money for his or her future?

Florida law says a minor child cannot be left more than \$15,000 without setting up a guardianship through the court system and a

major pitfall is that a child will receive any remaining funds not used for the child's care at age 18. Most parents don't want to give an 18-year-old a large sum of money at the risk of them wasting it on frivolous purchases within a short period of time. With the help of an estate attorney, a will can be drawn up to establish a trust fund for the child. Distributions can be made from the trust for the health, education, maintenance and support of the child. The trust should name someone who will responsibly distribute money from the trust to the child until its termination.

Q. I have a special needs child. How can I protect my child if I'm not here to care for him or her myself?

Parents of special needs children are well aware of the challenges that these children will face over their lifetimes. In most cases, these children are cared for solely by the parents and are often part of special government assistance programs. It's very easy for a parent to unintentionally disqualify a child from these important government programs when no planning or improper planning has been done. If special needs children are given even a small amount of money, they could be disqualified, but there are other ways to provide support and care for these children without disqualifying them from government assistance. The services a special needs child gets through these programs can usually not be paid for with any amount of money so proper planning is vital.

Parents with minor children face many tough decisions when considering what would happen to their children if they were to die. By taking the time to discuss and consider these concerns with an estate planning professional, many fears can be put to rest. I encourage all parents to begin asking themselves these questions and to seek professional advice.

Katherine B. Schnauss Naugle is a partner at Naugle & Smith, P.L., in Jacksonville. She can be reached at (904) 366-2703 or knaugle@jaxlawteam.com.

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rent. Each lease opportunity is negotiated on its own merits. Potentially important items include the ability of the landlord to relocate a tenant within the same center, clauses that restrict usage of the premises, renewal requirements, additional charges for 'after hours' usage of HVAC and possibly disproportionate allocation of expenses.

Items Overlooked or Underestimated on the Lease:

Responsibility of a tenant for maintenance and repair assumed under the lease is often overlooked. It may include HVAC and elevators or other items that are potentially costly. Further, where applicable, state sales tax is often ignored. Another less obvious concern is the tenant's own credit rating, as landlords are reluctant to lease to those with a poor credit history.

Other frequently overlooked items include: guarantees (both personal and corporate), escalation (in base rent) clauses, the cost of taxes and insurance, CAM (common area maintenance) or 'pass-through' charges, and other negotiable items discussed above.

Commission Arrangements:

Commissions for sale and lease transactions are customarily in the 5-6% range. In the case of a lease, the percentage is based on the total of the base rent (plus increases) over the full lease term. On occasion, the lease commission paid by owner/developers is restricted to a dollar amount per square foot leased (e.g. \$2-3 per square foot range). When the sale or lease equals a high amount, more than say \$2,000,000, concessions are usually made. At the more extreme pricing levels, a flat fee commission is often negotiated.

It's important to appreciate that commissions actually are paid out of the purchase price or rent. In consequence, it's the property owner who pays; but out of funds received from the purchaser or tenant.



How to Keep Up with Your Local Commercial Real Estate Market:

Read the local press and check sites such as www.LoopNet.com and www.CoStar.com. In addition, www.sior.com and www.ccim.com may also provide useful local information. It can never hurt to simply drive around specific areas of interest and observe the surroundings.

Hopefully this article provided you with some quality initial information regarding the commercial real estate industry. There's money to be made out there, but make sure that you connect with the right people and ask the necessary questions.

Eric Ramshaw is a broker associate with Goldstein Commercial Properties, Inc. in Jacksonville. He can be reached at (904) 367-0009 or ericramshaw@bellsouth.net.

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Should You Take Advantage of the New IRA Conversion?

By Mark Patrick • CPA

A new opportunity has opened this year for many Americans who have traditional IRAs. As the Roth IRA moves to its teen years, the households with these accounts number approximately half of those with the much more mature traditional IRAs.

Other than the 23-year head start that the original IRA has over the Roth version, the younger sibling lags behind because there have been many limitations on who qualified to contribute to them. So why would anyone want to pay taxes sooner than necessary, regardless of the future benefits? It may actually make sense. Read carefully as this is quite complicated.

While there is still an income limitation on who can contribute to an individual Roth IRA (\$167,000 to 177,000 for joint filers and \$105,000 to \$120,000 for others in 2010), since 2007 (assuming that your employer approves) you have been able to contribute your 401(k) or 403(b) income deferral to a Roth type of account.

What's new is that, beginning in 2010, everyone who has a traditional IRA can make a rollover contribution to a Roth account regardless of income. What's more, there is a special "this year only" break to declare the income from the conversion as taxable either in 2010, or pay half in 2011 and half in 2012.

So now that you know this opportunity exists, is it the right thing for you to do? Here are some basic issues to consider in making your decision.

Reasons to consider making a conversion:

- ◆ You expect to have higher tax rates in retirement years.
- ◆ You expect your IRA portfolio to appreciate significantly in the next few years.
- ◆ You have a decade or more before you plan to need, or are required to take retirement funds.
- ◆ A Roth IRA distribution has no income tax ever or early withdrawal penalty if you have reached 59 ½, or have held the account for at least five years from the first contribution.
- ◆ You have a large percentage of your contributions of traditional IRA assets qualifying as after tax contributions.
- ◆ There's no requirement to make any distributions in your lifetime.

Reasons to consider not making a conversion:

- ◆ You expect to have lower tax rates in your retirement years.
- ◆ You don't expect your IRA portfolio to appreciate much in the next few years.
- ◆ You'll have to pay the income tax on the conversion from the IRA funds.
- ◆ Your retirement date is only a few years away.

Safety nets to give you flexibility:

- ◆ If you change your mind about having made a Roth conversion, you have until as late as October 15, 2011 to unroll the transfer by a re-characterization.
- ◆ You can pay the tax on the conversion in full in 2010, or report half of the income in 2011 and the balance in 2012. By filing your return on an extension later in 2011, you should have a better picture of your future income tax rates before making a commitment.

Other items you need to know:

- ◆ Any qualified retirement plan can be rolled to a Roth IRA in certain circumstances.
- ◆ There's no guarantee that Congress will treat the Roth account so kindly in all future years. (Have you heard the discussion about means testing recently?)
- ◆ By segregating your asset classes in different Roth accounts, you would have the opportunity to move declining assets back to the traditional IRA while leaving the high performing assets in a Roth.

So what should you do? Obviously there are many variables in making such a decision, but you should give a conversion serious consideration, regardless of your current income tax situation or investment prognosis. With the opportunity to reverse your decision with limited negative impact, it seems to be a win-win decision in early 2010 in most situations. Also, remember that this isn't an all-or-nothing rollover. A partial move toward a Roth may be your best option.

Procrastination isn't likely to do you any favors in this decision. There are many software tools to help with your computation based on your facts and assumptions. Contact your CPA or financial advisor to discuss the wisdom of such a switch in direction for your retirement funds.

Mark Patrick is a CPA and Partner at Patrick & Robinson, CPAs in Jacksonville. He can be reached at (904) 396-5400 or mark@CPAsite.com.



Small Business Development Center at UNF
12000 Alumni Drive
Jacksonville, FL 32224-2678
(904) 620-2489 • www.sbrn.org

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