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DUE DILIGENCE IN COMMERCIAL REAL ESTATE

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Associate

Derek Miller joined the company in 2011 as an Associate on the brokerage team of Dan Greenstein, Drew Sigfridson, Tony McDonald, Charles Day and Nate Stevens. Derek works with tenants and owners of commercial property as an advisor for their commercial real estate interests. Geographically, he focuses on Central and Southern Maine; therein servicing office, industrial, retail and investment properties.

Originally from Auburn, Maine, Derek is a graduate of Hebron Academy then studied at Tufts University where he earned a Bachelor's Degree in Architectural Studies. He was a four-year member of the Tufts football team and a member of the Tufts Architectural Society. He continued his education after graduating in the Boston University Commercial Real Estate Finance program.

Before joining the company, Derek was an associate in Newmark Knight Frank's Boston office where he worked with the investment sales group as well as handling select leasing projects. He is an avid skier who also enjoys many other outdoor activities.

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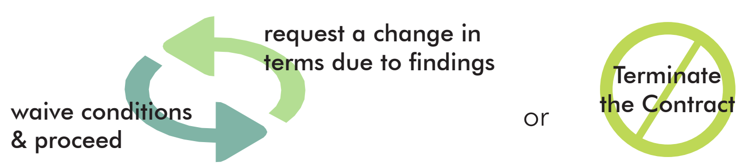
We are currently in the midst of a period of historically low interest rates which has contributed to an increase in activity in the commercial real estate market. More businesses are looking to purchase real estate for the first time instead of leasing space. While many of these business owners may have experience purchasing a home, the sale of commercial real estate is a very different process to navigate. With a home purchase, the seller and listing broker provide the buyer a detailed list of disclosures for a prospective buyer. Conversely, for a commercial sale, such disclosures are not typically required.

Coming to terms on the sale of real estate is an exciting experience for both the seller and buyer. The work done by all parties after going under contract is just as important, if not more so, than the work done prior. The only required disclosure from the seller for commercial real estate is the presence or not of underground storage tanks. Once a contract has been signed, the purchaser typically has a period of time to prepare a physical and economic, if necessary, analysis of the asset. This period can involve an array of inspections. According to the Mortgage and Real Estate Executives Report, due diligence means to conduct *"an appropriate investigation into the legal rights and encumbrances, physical structure, and financial operations of the real property to be acquired by the purchaser."* The due diligence process gives the prospective purchaser access not typically granted prior to going under contract so they may develop a reasonable level of confidence that they are aware of all items that are of material importance to the property.

The broker(s) involved in the transaction are typically helpful with navigating the due diligence process, but it is always best to involve third party consultants as well. The number of consultants needed typically varies based on the purchase price, the prior use and age of the property, and the financial means of the purchaser. Examples of consultants are listed to the right.

- building inspectors
- contractors
- accountants
- engineers
- financial analysts (for investment properties)

The value to both a buyer and seller is that these consultants will look at the property with objectivity that the buyer, seller nor broker can provide as all three have a vested interest in the deal. When the due diligence period is coming to a close the buyer must then review all information collected and make a decision as to how they would like to proceed. Their choices are typically to:



The objective information provided in the inspection process can go a long way toward removing the emotion from the equation. The consultants utilized in this process are specialists in their field with plenty of experience to draw from. They can also usually weigh in on the costs involved with any repairs or remediation that could be needed, allowing all parties to make informed decisions that will hopefully lead to a successful transaction. A higher degree of familiarity with the commercial real estate due diligence process for business owners ultimately will provide a much greater chance of navigating the pitfalls of the real estate acquisition process. By doing so they will be in a much better position to take advantage of the current market conditions and start on the path of building equity in their company's real estate holdings.