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How to Maximize Your Success in Buying and Selling Distressed Real Property

Today, more than ever before, we are bombarded with "get-rich-quick" schemes in the media. In this modern electronic age of 24/7 where the separation between work and pleasure is blurred by constant demands for higher and more immediate productivity, the allure of these so-called business opportunities with the promise of more money with less work is the modern "cry of the sirens": even the most sophisticated among us are drawn toward the dream of chucking the "rat race" in favor of working as your own boss, making huge dollars. Today, one of the most heavily advertised opportunities on the internet, (seemingly second only to the spam avalanche for increased sexual performance) is buying and selling distressed real property. Here, supposedly free lists of foreclosures are marketed with the "promise" that even the uninitiated in real estate investment can profit greatly. If you are looking for quick solutions, click on the "Viagra" advertising, because speculating in distressed real property, while potentially very profitable, requires much more knowledge and attention to detail than advertised.
So, before you yell, "Take This Job and Shove It," and delve into the list of properties in foreclosure for "buy low, sell high" opportunities, this article will provide you with some practical suggestions for avoiding a bad investment experience with distresse real property, potentially leading to your own financial distress.

The first step toward successfully investing in distressed real property is understanding the nature of the problems associated with the ownership, use or occupancy that make the real property distressed. The most common problem leading to distress is a foreclosure. Foreclosures involve liens. Liens are an interest in real property held by a creditor, consensually or non-consensually, often to secure an obligation of the owner or a prior owner of the property. In a foreclosure, a holder of a consensual lien (mortgage) or a non-consensual lien (involving creditors: mechanics lien, broker's lien, tax lien, municipal lien or judgment lien) is seeking to extinguish the interests of subordinate lien creditors (those with lesser rights) and rights of the owner of the real property; and to sell the real property at a judicial sale to satisfy the indebtedness securing the foreclosing lien claimant's lien. Most states, like Illinois, require real property foreclosures through a lawsuit, with the owner and all other interest holders given an opportunity to be heard in court. Mortgage foreclosure laws are harsh, but generally provide the property owners an opportunity to reinstate a mortgage on residential property or to pay-off the indebtedness securing the mortgage, prior to the loss of the property through judicial sale. Foreclosures often involve complicated issues of law and fact, and this is especially so when the owner of the property seeks to stop a foreclosure through the filing of a bankruptcy petition.

Numerous "problems," other than foreclosures, can cause real property to be "distressed." Any of the following situations, some which do not involve the financial distress or creditor issues of the property owner, can cause property to be "distressed," and thus present a great investment opportunity for the knowledgeable investor: (a) serious disagreements between owners of the real property, including stemming from a divorce or dissolution of a business organization related to the real property; (b) environmental contamination of the property; (c) unpaid real estate taxes ; (d) the inability to obtain municipal authority for the use or proposed use of the property; (e) real property involved in a bankruptcy case; (f) landlord-tenant disputes; (g) probate and inheritance problems; (h) building, fire and other municipal code violations; (i) disputes arising over the rights of non-owners to enter or use the property through easements or licenses.

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While the truism of "location, location, location" might apply to real property in general, the axiom for distressed property is "homework, homework, homework." This represents the second and most important step in successfully investing in distressed real property. Investigating distressed property includes the typical "due diligence" required for non-distressed property, plus an exhaustive, on-going review of all legal, business and financial matters that are causing, complicating or mitigating the distress of the property. This investigation requires much more than just the typical fact-gathering. Distressed property can involve a veritable minefield of complicated legal and financial problems, which, at first glance, might make the purchase price attractive, but could lead to great expense after the purchase.

Because so many aspects of distressed property involve technical legal issues, sharing the responsibility of pre-sale investigation and formulating an acquisition strategy with a competent lawyer is critical to avoiding pitfalls and increasing the likelihood of success. Having ready access to qualified real estate professionals as advisors is another important step in successfully investing in distressed property, where the investor must rely on a qualified lawyer to assist in maneuvering through the potential mine fields. But, in this age of legal specialization, it is difficult to find a lawyer that has sufficient breadth of experience in all of the important areas of real estate litigation and development, bankruptcy and insolvency, mortgages, credit facilities, leasing, brokerage and construction law relating to residential, commercial and industrial properties. The search for a qualified lawyer is as important as the search for qualified properties. Seeking advice from real estate professionals, coupled with the investor's own investigation is advisable. But, the savvy investor should not substitute his own "hands-on" investigation, without the assistance of a qualified lawyer, in the hope of saving on professional fees. In the end, this could lead to a very costly mistake.

So, go ahead and download that list of foreclosures from the internet! There are great opportunities in buying and selling distressed real properties in this economy, especially when interest rates are low and there are qualified buyers available to "flip" the properties to realize a quick profit. And remember, with good professional assistance and careful investigation, the risks of investing in distressed properties can be greatly minimized with substantial returns on your investment.

About Ariel Weissberg: *Ariel began practicing law in 1979 at a small Chicago law firm where, as the only associate, he gained solid foundations in both business litigation and a wide-range of transactional work. Later, he built upon this foundation at a top medium-sized firm, further broadening his apprenticeship by representing Chapter 11 debtors and middle-market banks.*

Since 1984, when Weissberg and Associates was founded, Ariel has built a varied and loyal clientele, comprised of small to medium-sized to publicly traded businesses, and individuals, who appreciate his aggressive, yet deliberate hands-on style and his dedication to achieving positive results for his clients. He is a "quick study" especially in financial matters, and he is sought out for complex business planning, especially relating to credit facilities and crisis-management.

Ariel has deep roots in the Chicago community. The son of Rabbi Victor H. Weissberg, Ariel graduated from Washington University (B.A. 1976) and received his J.D. from St. Louis University Law School (1979). He returned to Chicago, where, besides practicing law, he involved himself in charitable and community-based activities. Married for over 20 years, Ariel is the father of three exemplary children including Ilan S. Weissberg, who is on active duty as a United States Marine. Ariel is an avid student of military history and an outdoors man. He speaks frequently in the Chicago area concerning real estate, financial distress, and litigation.