The Ultimate Creative Deal Structuring Workshop

How to Find, Negotiate, and Document Creative Deals without Banks or Qualifying

The Ultimate Creative Deal Structuring Workshop

by

Vena Jones-Cox & Bill Cook

- **Best Ways to Finding Sellers Willing to do Creative Deals**
- **How to Talk to Sellers: Scripts, Teeter-totters & T-bars**
- **Crucially Important: Promises & Paperwork**
- **How to Pick the Right Creative Deal Structuring Tools to Use**
- **Steps for Building Price and/or Terms Offers**
- **Structure: Seller-Carryback Notes**
- **Structure: Subject-to Deals**
- **Structure: Leases, Master Leases & Options**
- **Structure: Pure Options**
- **Private Lenders and Partners**

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(Easter Time Zone)

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Break.....2:40 to 3:00

In Session.....3:00 to 4:10

Break.....4:10 to 4:30

In Session.....4:30 to 5:00

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In Session.....4:30 to 5:00

Warning

Neither Bill Cook or Vena Jones-Cox are legal or financial experts. And even if they were, they're not psychics or spies, so they couldn't possibly know the details of your personal financial or tax situation.

Which is why you should treat everything in this manual and the associated class —the explanations, examples, forms and documents, and everything else—as a jumping-off point for your own deal structures, and not as the final word.

Documentation appropriate in one state may not be appropriate in another state. A creative deal structuring and/or funding technique suitable for one transaction probably is not suitable for all transactions.

So before you do ANYTHING explained here, consult your trusted, competent, legal, financial, or other professional.

All material in this manual is for classroom instruction only. It's here to cause you to think, to use your imagination, to ask questions and debate topics.

Remember: **You** are 100% responsible for **your** decisions and **your** actions!

There, you've been warned!

Bill & Vena

About Vena Jones-Cox

She's . . .

An **active** real estate entrepreneur for **over a quarter century**, been a principal in **well over one thousand deals** and her business still does **dozens of transactions each year**

A frequently requested guest speaker at real estate investment associations throughout North America.

A sought-after **industry thought leader and passionate advocate** for private property rights, free market solutions, and the **vital role** individual investors play in providing our nation's affordable housing.

Multiple-time past president of the Real Estate Investors Association of Greater Cincinnati, the Ohio Real Estate Investors Association and the National Real Estate Investors Association, and she founded Central Ohio Real Estate Entrepreneurs.

The host of public radio's Real Life Real Estate Investing for over twenty years, a popular live weekly call-in program and a **top-rated rated iTunes podcast on the topic (www.RealLifeRealEstate.com).**

A featured contributing expert to the new book Self-Directed IRAs: Building Retirement Wealth Through Alternative Investing, authored by the founder of the nation's most experienced self-directed investment custodian

An Amazon **Number One Best Selling Author** for How To Get Rich In Central Ohio Real Estate[1]

Founder and portfolio manager of **Midwest Property Redevelopment II**, private investors specializing in alternative income investments

The subject of feature articles in many publications including Smart Money, Money, Reader's Digest, and Community Investor magazines, Reuters newswire, USA Today, The Cincinnati Business Journal, and The Cincinnati Enquirer

A guest lecturer at The Cato Institute think tank in Washington, D.C. on the negative effects of government over-regulation on private investors

A licensed real estate broker in Ohio for nearly two decades

A coach and mentor to hundreds of aspiring real estate entrepreneurs throughout the U.S. (www.REGoddess.com).

[1] For one hour, on the day it came out.

About Bill & Kim Cook

Bill and Kim are a husband and wife real estate investing team. Bill creatively constructed his first deal in 1990 in Shreveport, Louisiana. He and Kim have been teaching other investors do the same since 1997.

Their investment portfolio consists of single-family rental homes, mobile homes, a small mobile home park, plus notes, options and stocks.

They built their business square on the back of knocking on homeowners' doors. Why? Because it's the fastest, cheapest and most effective way to get *face-to-face* with homeowners and make *written* offers.

Their core belief is that real estate investing is ***not*** about buying, selling or renting houses. It's about helping people solve their ***real estate*** problems.

On January 1, 2002, Bill and Kim founded North Georgia REIA in Cartersville, Georgia. Over the next 14 years, their group grew to 2,400 members. It was one of the largest, most successful REIAs in the country.

On January 1, 2003, Bill and Kim began writing a syndicated real estate investing newspaper column that was published weekly. Their column ran for 13 years.

On August 30, 2018, they sold their 34-acre horse ranch in Adairsville, Georgia and moved into their motorhome. They now are full-time RVers. They travel the country enjoying life. As they travel, Bill teaches for Real Estate Investors Association, as well as teaches high-end, multi-day, creative deal structuring seminars.

- What Box? (Bill and Pete Fortunato)
- Ultimate Deal Structuring Workshop (Bill and Vena Jones-Cox)
- The Incredible World of Real Estate Options
- Dealmakers – How to Out-Structure Your Competition
- Financial Calculator for Real Estate Investors

To learn more about Bill and Kim, you are welcome to call him at 770-815-8727; email him at Bill@CashFlowREI.com; or go to:

Website: BillandKimCook.com

Facebook Page: Bill and Kim Cook

YouTube Channel: Bill and Kim Cook

A Note on Understanding the Layout and Content of This Manual and Class:

The Ultimate Creative Deal Making Workshop might seem like a bit of a camel—i.e. a horse created by a committee—because it IS.

Bill wrote part of this manual, and then I read it and inserted comments where he was incomplete in his explanations, fuzzy in his thinking, or just flat-out wrong in his opinions.[2]

I wrote part—the part that's clear, logical, and has its thoughts in to correct order—and then Bill stuck in stuff in the middle that muddied the whole thing.

Thus, I hereby disclaim any spelling, grammatical, or factual errors, because they're probably "Bill's part". But it's not those that will confuse you: it's that you'll occasionally find two completely opposing opinions on the same strategy, back to back on the same page. Bill says, "Do it this way", and then Vena says, "No, you idiot, do it THIS way."

So what do you do when we have opposing views on a topic (who's the better looking seems to be a common theme), and you're not sure which view is 'right'?

First, assume it's me, because I'm smarter than Bill, and better looking, too.

Second, take into account the very relevant fact that part of our difference in opinion and behavior is based on OUR individual backgrounds, goals, and temperaments.

I entered the real estate business at a VERY young age, like 8, and I didn't have, or want, a job when I graduated from college, and I grew up in a 'real estate family', and was completely unwilling to use 1-ply toilet paper and eat Cup-A-Soup for 2 decades while waiting for my rentals to pay off and make me comfortable, as my parents did and as Bill is out-and-out proud of having done.

For that reason, I latched on to flipping properties for cash fairly early on, and tend to look at EVERY deal in two ways: what does it look like if I turn it fast, for cash, and what does it look like if I keep it forever?

Bill, as near as I can tell, was never young, and he started in real estate while he still had a job to put food on the table.

But he knows flipping, and has done flipping, and yet still has a strong natural tendency to look at every deal as a long-term deal FIRST, and pretty much exclusively.

[2] "OOOOH, she's sooooo mean!!". You only think that because you're reading my comments about Bill first. If you wanna see mean, wait 'til you see his about me.

He was in a different place in his life, and had a different set of goals to start with, and a tolerance for Walmart toilet paper that I never developed, and his PLAN involved paying off a lot of properties in a relatively short period of time by living well below his means. Because of that plan, he sought out different mentors and training than I did, and pursued deals that wouldn't have fit my strategy, and, when looked at in the detail view, his path looks very different than mine.

Similarly, I understand rehabs, and I 'get' the value of sweat equity, but I hate the whole rehab process, and my significant other doesn't know which end of a hammer to use, so my view of a property that needs a lot of work tends very much toward the "sell it to someone who likes this heinous procedure, and make it their problem".

Bill, on the other hand, has Kim, who's willing to literally cut her own foot off to get a rehab completed, so doesn't have the "avoid rehab at all costs" impulse. He buys properties to own that I wouldn't think twice about wholesaling and walking away from. You'll have to ask Kim whether she wishes it were different.

What's this all got to do with you?

Well, your own background, resources, tolerance, and goals will mean that you might relate to one approach more than the other, or that you end up taking some from column A and some from column B, and forging a completely new path toward real estate success.

The important thing isn't that you 'follow' me, or 'follow' Bill (in fact, we're both very uncomfortable with the whole 'guru' thing, and with the idea of being 'followed').

The important thing is that you follow the path that leads you to your definition of success—which, by the way, ought to include not just money but also satisfaction and feeling blessed to get up in the morning and do what you do and, ultimately, a complete refusal to get involved in properties and strategies and with people who make you miserable.

We're here to show you some of the signposts and tiger traps on that path, and to pave it for you a little, NOT to tell you that you should try to duplicate our respective journeys.

And there's a deep, dark secret embedded in all this disagreement: we're BOTH right.

BOTH approaches work, and we know this because Bill and I are BOTH 'successful' investors in the sense that we're, more or less, exactly where we want to be. We're happy with where we're living, who we spend time with, who we are as businesspeople, and yes, the net numbers on our balance sheets and our monthly income. We got there in very different ways, and you'll get there in your own way. Which brings us to the very important third point:

Digesting and thinking about different ways to do the same exact thing is a hard way to learn, but it's the BEST way to learn.

The biggest problem with real estate 'gurus' isn't that a lot of them are semi-experienced phonies, or charge the price of a decent rental property in Cincinnati for information that's often not very useful or detailed.

It's that they promote within our industry the idea that there's one system for doing things, and that it's their system, and that it's one size fits all, and that you don't need, or shouldn't pursue, information from anyone (read: spend money with) who disagrees with them. Once you move beyond understanding the legalities (important so you don't get sued or imprisoned) and the ethics (important so you don't go to hell) of various strategies, everything else is "This is what has worked for me", not "This is what works."

So if at any point, you're confused by a seeming conflict in facts or strategies, or you don't understand why we approach things differently, ASK. I promise you there's a reason, and it probably has more to do with our markets, our experiences, our preferences, and the drastic delta[3] between our IQs than it does what's 'right'.

Don't take anything either of us says—or anyone says—as a God-like pronouncement that's just to be taken on faith. The right answer to practically ALL real estate questions is, "It depends." Never trust anyone who doesn't understand that.

--Vena

[3] Google it, Bill. It means big difference.

Part 1: Creative Deal Structuring Basics: Understanding the Mindset, Finding the Deals, and Talking to the Sellers

What is Creative Deal Structuring, Really?

Most single-family real estate purchases – probably close to 98% – are more or less the same. Most folks are familiar with these standard real estate closings.

A buyer, seller, Realtor®, institutional lender (or a cash purchase) and either an attorney or title agent are involved.

The seller sells his property to the buyer, and the buyer brings cash or institutional financing to the table to pay for it.

We're talking plain vanilla deals. If these deals were a fictional person, they'd be Caspar Milquetoast. (If you are a millennial or a Gen X-er, you'll probably need to look up who that is.[4])

"Creative deal structuring" definitely isn't that. In fact, it's everything BUT that. It's, broadly, deals negotiated directly between individuals—sometimes, someone who has a property they don't want and someone who values it more than they do, and sometimes between someone who has a deal they want and a 3rd party who has money they don't want.[5]

Yes, there are sometimes agents involved, but when it's the seller who's 'doing the financing' or the buyer who wants to ask for it, that's rare, and the agent usually has to do something he's trained NOT to do: let the buyer and the seller sit down together and hammer the details out between themselves.

Most creative deal structuring newbies think of it in terms of the "financing" structure, and get very intent on studying subject tos, and lease/options, and master leases, and building relationships with potential private lenders and partners.

But creative deal structuring is MUCH more than that.

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[4] Actually, Bill, since the first comic strip featuring Caspar Milquetoast was published in 1924 and the last in 1952, you kinda have to be as old as you to remember it. It was the Cat's Pajamas, though—V

[5] Basically, we're talking here about the difference between the 2 major schools of creative finance: the seller-finance school and the private-finance school. They're very different in terms of the needs and goals of the people you deal with, and you should probably do BOTH, but they're different branches of the same tree.

Being an expert in buyback options or seller carrybacks or raising money doesn't do you a bit of good unless you know how to find sellers with problems or people with money.

And finding those people does you no good without knowing how to diagnose those problems (sellers are FAMOUSLY bad at understanding, or being able to verbalize, their 'real' problems, and they literally need your help to do that), and how to build rapport that lets sellers and private investors trust you to explain and implement a solution that they've never even heard of, much less considered.

Creative deal structuring isn't documents and financing strategies. That's an important part, but it's the LAST part, and the part you'll never get to if you don't do the first part.

Creative deal structuring is more of a process that starts with a MINDSET that says, "*My job is to find problems, and to come up with out-of-the-box[6] solutions that work BETTER for both me and the seller/investor than me going to a bank to get money or just plunking down a wad of cash on the closing table, and then explain those to the other guy in a way that's both simple enough for us both to understand and also complete enough to not be misleading, and then to memorialize our agreement in writing in a way that's clear and enforceable."*

Why "Everyone" Isn't Doing It (And Why That Means <u>You</u> Should)

If a lot of what was said above doesn't make any sense to you right now, you're exactly like most of your competition.

You've been trained in the same way they have: to know, without question, that the 'right' deal for you is one that you can buy at 70% of the after-repaired value, less repair costs.

You KNOW that what you're looking for is a seller who's desperate enough to, and who doesn't owe too much to, sell at that price, right?

But isn't one of the reasons you're attending this workshop is to learn how to leave your competition in the dust…to be able to do deals they can't do?

To accomplish this, you must be willing to do something your competitors won't do (and in fact, may not even be aware exists): learn <u>new ways</u> to solve people's real estate problems. When you do, you can solve a much wider variety of problems than "I need to sell my house cheap and fast". Problems like "I need money, but I really still want to live in my house." And "I hate managing and maintaining my rentals, but I hate the capital gains taxes I'd incur by selling them even more." And "I owe too much to accept your competitions' low-ball offers."

If you had that magic power, you'd HAVE no competition, right?

[6] Yeah, yeah, Bill, we know…"What Box?"

What You'll Have to DO to Become a Creative Deal Structuring Ninja

Creative deal structuring isn't like learning a foreign language, despite Bill's clumsy metaphor to that effect in the first version of this manual.

It's more like trying to fully immerse yourself in a foreign culture. You're not just trying to learn speak Thai, or Uzbeki, or Klingon—you're trying to BECOME Thai, or Uzbeki, or a giant nerd[7].

And you'd never attempt to do that by reading a book or taking a seminar, right?

No, you'd know in your gut that the best way to learn to be something is to immerse yourself in it. You'd quickly realize that it takes a heck of a lot of time, repetition, hard work, and good old fashion *going out and doing it* to gain fluency and comfort in a whole new culture.

Said another way, if you believe that by the end of this workshop, you'll be a creative deal structuring ninja, you need to have your head examined.

There's a price to be paid BEYOND buying and sitting through and internalizing education. And that price is 10,000 written offers (Sorry, you won't find any free lunches, or pie-in-the-sky fantasies in this workshop.)

> So I have to interject here, because this 10,000 offer thing is Bill's obsession, and my gut tells me that it's not the written offers that are the magic.
>
> It's the time spent thinking through, and doing calculations for, the offers, and (even more importantly) the time spent with sellers getting used to all the weird logic they employ and objections they make ("I need $45,000 for my [$25,000] house because that's what a new pickup costs" and "I demand $200,000 for my house, but no, I won't finance that because if I have to take it back, it's not worth that much").
>
> Yes, offers must be written, but 10,000 offers isn't the goal; it's 10,000 hours of studying, thinking about, talking about, negotiating, and writing up creative offers. Which yes, is as much of a PFA number as Bill's 10,000 written offers.
>
> And Bill, if you don't like my "gut feel", try this math on for size: you're about to tell these nice people that they need to make 25 written offers a week. To get to 10,000, they'd need to make 25 a week EVERY week for 400 months, which is 33 1/3rd years. You haven't made 10,000 written offers, and neither have I, and neither will they. But we've both spent 10,000+ hours up to our eyebrows in the OTHER activities around making offers.

[7] To my fellow giant nerds: jup, nuqneH! 'ej chep'a' lo'lu'bogh chuS'ughmeyvam'e'!

If learning creative deal structuring sounds like it's going to take more effort, work and sacrifice than you're willing to give, it's best to quit now, get your money back and go home.

But before quitting, know this: Both Vena and I knew *nothing* about creative deal structuring when we were baby real estate investors. Back then, in our respective REIAs, we were[8] the dumbest people in the room. We didn't understand *anything* anybody said. All baby investors start life this way.

You have two choices:

1) You can remain the dumbest person in the room – which will probably lead to you quitting out of sheer frustration and embarrassment

2) You can decide that one day you'll be the smartest investor in the room, and you're willing to pay the price and do what is required to achieve this goal.[9]

Here is an exercise: Make a list of everything required of you to achieve your real estate investing goals.

Now, circle every hard task on that list that you think is too hard to do, too hard to learn, that you'll never 'get'.

Here's where this exercise gets interesting. Look again at the to-dos you circled.

Do you realize that if you're not willing to do these hard-to-do things, you'll never achieve your goal?

With this realization, you can now make an enlightened choice. Either uncross off those things you crossed off and get busy accomplishing those tasks or lower your expectations and gear down your goals.

The thing is, creative deal structuring is a learned thing, not a born-knowing-how-to do-it thing. The Rule of 10,000[10] applies. If you have a great passion to succeed, and if you are willing to pay the price, you most certainly will succeed!

What are the Best Ways of Finding Sellers Willing to do Creative Deals?

As Vena and I discuss this topic during this workshop, you will be fascinated…and probably get a chuckle or two.

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[8] Bill was

[9] 3) And if you're REALLY smart, you'll then find other rooms to be the dumbest person in, so that you can continue to learn and grow until you die

[10] Hours.

In many areas of real estate investing, Vena and I have interchangeable points of view. In other areas, we are polar opposites. The best way to find sellers is one of the areas where we're polar opposites.

Remember this: Vena's way is right for Vena. Our way is right for us. There is no *THE* way. There is just *A* way…and *YOUR* way… and your way will always be changing and improving.

Investors use a variety of marketing techniques to find motivated sellers. Here are a few:

- Direct mailing
- Telemarketing
- Bandit signs
- Foreclosures and pre-foreclosures
- Social media advertising
- Referrals
- Door hangers
- Marketing to Realtors®
- Marketing to expired listings
- Marketing to probate estates

- And way down at the bottom of this list… DOOR KNOCKING! (lions, and tigers, and bears, oh my!)

Kim and I have lots of friends who are successful real estate investors. Many own a lot more real estate than we do. They employ two or more of the above marketing techniques. Most will tell you that door knocking is the most effective way to get face-to-face with sellers and homeowners. That said, none use door knocking to any extent, if at all.

On the other hand, close to 95% of my and Kim's real estate investing deals have come from door knocking.

In my opinion, door knocking is the fastest, cheapest, and most effective way to get face-to-face with homeowners and find motivated sellers.

Want proof? In the past, I'd take 30 investors out for a day of door knocking. Before knocking on the first door, I share that day's expectations.

1. We will make between five and 10 written offers. (By the way, how many written offers have *you* made in the last 30 days?)

2. *Eight out of ten* sellers will invite us – *all of us* – into their home. (This is not a typo!)

3. We will find between *one and three* shadow sellers. (A shadow seller is someone who will be putting their home on the market in the next 3 to 6 months. They are sellers who are not on anybody's radar. Your competition knows nothing about them!)

If anyone can show me another marketing technique that will get me to the seller's kitchen table 80% of the time, I'll quit door knocking and switch to that technique el pronto.

I'm aware, to use a sportsman's analogy, I am fishing with a cane pole. On the other hand, an investor like Vena is fishing with a trawler's net. Because she is using a huge net and I am using a single cane pole, of course she'll catch a lot more than I do.

Kim and I never had the goal, temperament or ability to do 30 deals a month[11]. We are simple, small-town investors. On average, we did 12 and 15 deals a year. We stayed with this pace for a bit over 20 years. More importantly, we kept a fair number of the properties we purchased. Our focus was to own paid-for investment properties. These free-and-clear keepers allowed us to achieve financial freedom. Bottom line, our way worked for us. Your goal is to find a way that best works for *you*!

This is not a workshop about door knocking. I have written an excellent course about door knocking. It contains the most important lessons I've learned over the past 49 years. I've made my living knocking on homeowners' doors since 1972. There is no other book on the market like it. You'll find this course on our website at **BillandKimCook.com**.

One more thing to add. Kim and I work a very tight area. It's a 5-mile circle around the Cartersville, Georgia Walmart. I believe if you work a concentrated area such as this, within 2 to 3 years you'll become known as THE person to go to when one has a real estate problem. Talk about making your phone ring!

I'm confident during this workshop, Vena and I will talk a good bit about how to find sellers who will be open minded to creatively constructed deals. To boil it down, let curiosity drive your questions and imagination form your solutions.

You just need to get face-to-face with a lot of sellers, ask a lot of questions and listen!

My Turn: How to Find Sellers with Whom to Get Belly to Belly Without Getting 3rd Degree Sunburn, Garage Door-Related Injuries, or Having the Police Called On You

"How do you find sellers who are willing to do creative financing?" is one of the most, if not THE most, common question I get about creative deals. And I always give the same answer: I don't find sellers who are willing to do creative deals. I find sellers, and then I talk to them to gauge what it is they have and what it is they need, and once I'm crystal clear on those things, I

[11] I think it's hilarious that Bill thinks I do 30 deals a month. VJC

make them a couple of offers (usually one cash, one seller financed), based on what the situation calls for. ALL of my deal flow, whether for wholesale deals, rentals, lease/options, whatever, come from the same set of strategies:

- "Direct mailing", as Bill calls it
- Referrals—both from civilians and other investors
- And, when the market slows down, MLS

Your NEXT question is going to be, OK, who do you mail to?[12]

The answer is, anyone that I can find that I have reason to believe has a property and a problem.

So all the 'usual' lists—probate, distressed landlords (meaning that they're evicting a tenant or have code violations, NOT just that they're an absentee owner), out of state owners, expired listings, etc.—I send a LOT of mail.

But **if I were looking specifically for seller-financed deals** (remember, that's not the only kind of creative deal—we're also going to talk about bringing in partners and private lenders later), there are a few of these that bring in more creative deals than others, and a few I'd ditch.

For seller financed deals, I WOULD NOT bother to mail to:

- **Pre-foreclosures/lis pendens**. These are people in serious financial trouble (most people let their house go LAST, after the car, the credit cards, etc.), and so they could easily be headed for bankruptcy even AFTER you bail out the home loan.

  As we'll discuss as we get to these strategies, a bankruptcy court can, and will, void "executory contracts" like lease/options, options, master leases, and land contracts in order to clear the way for secured creditors to foreclose, so I'd never buy a house that was in pre-foreclosure using one of those.

  In the way of seller financing, that ONLY leaves us with subject to or wrap mortgage, and while it's not a huge threat, lenders CAN foreclose on borrowers who declare bankruptcy, even if the payments are being made.

  The bigger problem, in my experience, is that when I look at what it's going to cost to bring the seller current on the loan, and then do the work the property needs (pre-foreclosures are rarely turn-key), then consider the remaining loan balance, the deal rarely 'works' from a financial perspective.

- **Probates**. These get very complex because a. there are often multiple heirs involved, all of whom must agree to something creative, and THEN agree to split any

[12] The CORRECT question, of course, is, "To whom do you mail?"

payments 2, or 4, or 6 ways and b. Depending on what the will says, if you buy the property subject to the existing mortgage, that MAY mean that the estate has to remain open until you pay it off, which can be decades later and c. The involvement of the court, and of attorneys, in this process can kill a deal even if you and the executor/administrator/surrogate/heirs are totally up for it.

I've done 2 or 3 subject to deals on probate cases, where the value of the property was right around, or even less than, the loan on the property, and the (usually only-child) seller just wants to be done with it, but probates on the whole lend themselves better to an all-cash-and-out solution than to a creative one.

By the way, probates are different than **INHERITED PROPERTIES**. Probates are actively in legal process of paying off the creditors and distributing what's left to heirs; inherited properties are already through that process and owned by the heirs. I've successfully done a handful of deals, mostly subject to but also some seller-carryback mortgages, with people who've INHERITED properties.

- **Marketing to Realtors®/using MLS**. I only do this in buyer's markets, where there are lots of (literally) hungry listing agents anyway, and I never expect the agent to be open to the idea of a creative, seller-financed offer. We—I'm a licensed agent myself—are not trained on the structure or benefits of creative deals, and in fact are actively encouraged to believe that they're somehow shady. Not counting loan assumptions (which no longer exist for investors) I've done a total of 3 creative deals where the property was listed. In all 3 cases the agent was at the end of his or her rope with the property, and was willing to be educated about how it might help their seller and also get them the commission they wanted.

One glaring exception to the 'You're probably not going to get a creative deal accepted if it has to go through an agent' rule might be if you were offering a lease with option to buy. Agents are 1000x more familiar with these than with any other type of creative financing, and lease/option goddess Wendy Patton has done HUNDREDS of lease/option deals using agents as her main source of leads.

In looking back on it, most of the leads that have turned into creative, rather than lowball cash, deals, have been from just a couple of the many categories of motivated sellers I market to:

1. **Various categories of LANDLORDS**—out of state owners, distressed landlords, eviction, that sort of thing. This is for 2 reasons, I think—first, landlords are more likely to be immediately comfortable with the language and practice of creative financing, and they're also comfortable with the concept of trusting people to make payments. After all, that's what they were hoping for when they became landlords in the first place.

2. **Marketing to expired listings**. Why do listings expire? Because the seller was asking too much for the property. Who can pay more for a property than the market thinks it's worth? Me, under the right terms. I actually do more creative deals than cheap cash deals with expired listings.

While I do occasionally make 'cold calls' when I've identified a property that looks particularly distressed, **I would NEVER recommend following the current craze for ringless voicemails, text blasting, etc. if you were hoping for a creative deal at the end**.

These 'spam' calls and texts are not only largely illegal, but they're so much more invasive and impersonal than mail, and yes, even door-knocking, that I seriously doubt that it's effective as a way to start a relationship that you're hoping will end with the seller agreeing to get into a long-term arrangement with you.

As to door-knocking: I have no objection to it in principal.

It's just not for me, because I would rather spend 2 hours reaching out to 500 sellers via mail, and letting THEM call ME at THEIR convenience and tell me whether they actually have a house for sale and what their story is than spend 2 hours knocking on 20 doors, finding 18 people not home, spending 45 minutes apiece at the tables of 2 strangers writing down offers that they're totally unprepared for, having the police called on me, getting chased out of people's driveways[13], and generally doing things in a way that seems slow, tedious, and a little too stranger-heavy for my tastes.

In short, I feel like I get MORE of what I do want (leads) and less of what I don't want (handcuffs) for a lot less effort by mailing.

Finally, I don't limit myself to any particular radius, and don't know where the closest Walmart is because I'm willing to spend the extra 40 cents a roll to buy the good toilet paper. Since I flip more than half of the creative deals I do, and since I have a property manager who deals with the tenant drama, I don't care where the property is, as long as it's within, say, an hour of my house. I'm only going to see it one time anyway.

How to Talk to Sellers: Scripts, Teeter-totters & T-bars

I'm not too keen with this section's title: *How to Talk to Sellers.*

I don't *talk* "to" or "at" a seller.

Instead, I ask questions of a seller and then listen. Really, really listen. Oh, and I take notes. Lots and lots of notes. Listening and note taking always leads to more questions. Which leads to more listening and note taking.

After an hour or so, not only do you have a crystal-clear understanding of the seller's real estate problems, *FOR PROBABLY THE VERY FIRST TIME, SO DO THEY*! We can't begin to express how critically important this is. Because you are the *only* person who took time to *fully* understand the seller's situation, and because you helped the seller to *fully* understand their situation, you won't believe the number of times sellers will thank you and accept your offer!

[13] Oh, wait, Bill didn't tell you about those adventures? He should. He really should.

If you're a wholesaler or flipper, and the only tool in your deal structuring toolbox is a big damn hammer (70-cent-on-the-dollar, all-cash offer), then you probably don't ask a seller many questions. Why would you? The answers don't matter. Yours is a simple, straight forward, take-it-or-leave it offer.

But here's the problem with a big-damn-hammer offer: If selling to you for 70-cents-on-the-dollar isn't the best solution for the seller, then you have no deal, no accord. All the time, effort and expense you've invested is for naught. You've fired your bullet, but like Barnie Fife (that's another lookup for millennials, and don't think I'm not enjoying this), you only carry one bullet. When that bullet is gone, your goose is cooked. Turn out the lights, the party's over![14]

Worse, you are of no further help to the seller because you don't have the tools, know-how, or understanding required to help the seller fix her real estate problem. This means a failure of our primary purpose as real estate investors…to help people solve their real estate problems.

Remember why you're attending this workshop. Your goal is to learn additional ways to creatively help folks be done with a house they no longer want, or to creatively help folks keep a house they'd rather not sell. Yes, sometimes a big-damn-hammer offer will solve the seller's problem if they want to sell, but more often than not, some other creative deal structuring solution will solve their problem ***better***…especially if they want to ***keep*** the property. Want proof? In a few paragraphs, read about the Prater Drive deal.

One of your first questions about creative deal structuring is probably about how to know which financing strategy—subject to, or wrap mortgage, or lease/option—to use to construct an offer.

Again, that's thinking backwards. Do you think that before going into a house, you should already know which financing structure you'll use? In other words, do you think you walk in the front door already knowing you'll make a subject-to deal offer?

In a word: No. In fact, I don't construct the offer, or decide on which financing strategy will work.

Who does? The seller.

"Wait!", you're thinking. "There's no way that's true!", you're thinking. "There aren't more than a handful of sellers in the market today who even know what a subject-to is; how is THE SELLER going to construct the offer?"

Yes, you're the one who puts the lingo and the contracts around it, but it's the seller's answers to my many questions which gives me the solution the seller seeks.

Maybe the seller tells me she needs a three-day, fast-close solution. Maybe she needs an all cash solution. Maybe she has an I-don't-care-about-the-cash solution. Maybe she needs an I-

[14] That metaphor isn't just mixed. It's pureed.

really-hate-tenants solution. Maybe she doesn't want to sell at all and instead has a $1,000 to $10,000 short-term, money-shortage problem.

I don't know until I ask and understand the full scope of the problem. ("You'd like to stay, but your soon-to-be-ex-husband is a co-owner and you can't afford to buy him out, and he also wants his name off the bank loan?" is a different problem than "You and your husband would like to stay, but you need $10,000 to catch up the back payments on the loan?")

Are you beginning to see why it's important to find a seller who has a problem and meet with a seller face-to-face[15]?

In case it's a bit murky, let me spell out the most important thing you do as a creative deal structurer.

It's getting face-to-face[16] with sellers and asking questions.

Doing this allows you to best understand their real estate problems. A clear understanding of their problems, combined with a toolbox filled with creative deal-structuring tools, allows you to structure custom made, win-win solutions that best solve the seller's real estate problems.

The rest of the things in this manual—the "toolbox" of forms that those solutions might take—are literally useless if you won't take this first step, over and over.

And even though explaining those takes ten times the space, and time, that it takes to explain this first step (and, let's face it, you probably THOUGHT you signed up to learn those, not this), they are not important until you fully understand the seller's real estate problem.

The important thing to remember is this: The creative structures you learn during this course will work only if you first do the work of finding the seller, learn what his real estate problems are, and then letting your imagination find solutions to his problems.

Time for me to get off the soapbox. (Soapbox? If you're a millennial, this is another colloquial you'll need to look up. Oh, and I bet as Vena reads this, she's thinking, "I didn't know Bill knew big words like "colloquial." Truth: Because Siri couldn't understand the word I was pronouncing, it took me 10 minutes to look up the spelling for "colloquial".[17])

Let's look at a real-world example that better explains why you want to meet with and ask questions of homeowners and sellers.

[15] [Get good at talking to sellers on the phone…]--VJC
[16] [Or on the phone with…]--VJC
[17] I'll bet any amount of money that Siri can't translate the word Bill's trying to say because he pronounces it CaLokyAl.

Prater Drive Deal

Here's an example of a creative offer Kim and I made many years ago, back in 2001. Pay attention to how the seller's answers helped me choose the right creative deal structuring tools to build a win-win accord.

The seller lived in his current house for only one year. He liked his new house just fine, but his dream home across town unexpectedly went on the market the month before. That dream home was about 10 minutes from where the seller currently lived. It was in the neighborhood where he grew up. His family lived in that neighborhood. His wife's family lived close by.

Hoping for the best, he made an offer to buy his dream home. His offer was accepted. The contract was contingent upon him selling the house he'd owned for the past year.

Unfortunately, he didn't have any acceptable offers come in on his current residence. To make matters worse, his contingency contract on the dream house was due to expire in about 15 days. The seller of that house had a strong all-cash backup offer waiting in the wings. Because of this, that seller refused to extend my seller's contingent contract.

Then along comes our hero. A very handsome, quick-witted, wise-beyond-his-years, you-can't-really-tell-he's-old-and-bald real estate investor. A man Vena believes is the funniest[18] man, and best real estate investor on earth. She counts herself lucky just to walk in this gentleman's shadow[19]. When the investor saw the Realtor's® sign in the yard, did he drive on by? Not on your life. He stopped his car, got out, walked to the front door, knocked, then backed up 10 paces (30 feet) into the seller's yard.[20]

When the seller came to the door, after answering several of our hero-real-estate-investor's questions, the seller invited him in to see the home.

At the kitchen table, our debonair and well-dressed real estate investor – who would probably look good with a Trumpian comb-over, quickly learned the extent of the seller's real estate problems. He also learned that though the seller, without selling his house first, *COULD* qualify for a new mortgage to buy his dream home, the seller didn't want to do that. He felt it was too risky. Yes, the seller could qualify for a new mortgage, but he felt – and rightly so – that he couldn't afford to make two mortgage payments on two homes.

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[18] Looking

[19] The sun has to be at a very specific angle for this to occur, since I'm 6' tall and Bill is like 5'2".

[20] On a serious note, PLEASE do not directly approach sellers with listed properties if you have a real estate license yourself. It's called "crossing the other agent's sign", and even if you fully intend to make your offer through the listing agent and make sure he's compensated, the very ACT is a violation of the rules you signed onto when you got your license. If you don't have a real estate license, what you're risking by doing this is that the agent gets super-mad, can't be talked down from the ledge, and reports you to the Division of Real Estate (a complaint that probably won't go anywhere, but which WILL trigger a pain in the butt investigation of your business by the state). Whether or not you have a real estate license, if you encourage a seller to cancel his listing agreement to sell to you, that's called "tortious interference in contract", and is legally actionable. So don't do that, ever.

Because he didn't know when his current home would sell, and because he was terrified of being forced to make two mortgage payments, it looked to all as if he would not get his dream home.

Let's look at the seller's problems:

- He wants to buy the house of his dreams
- He needs to get his house sold in 15 days
- He's terrified of making two mortgage payments

Stop here for a moment. Think. If it was *you* sitting at this seller's kitchen table, how would *you* structure this deal? How would *you* solve this seller's real estate problem?

Do you see the creative deal structuring tools needed to make this deal work? If not, you will by the time this workshop ends!

My offer:

- I agreed to buy his house subject to his existing mortgage
- I agreed to close in 10 days
- I agreed to make his mortgage payments on his mortgage for him, as well as pay all other expenses, following the closing.

He accepted my offer. Why? Because this solution solved his real estate problems. Who structured this deal? The seller did when he told me he really wanted the house of his dreams, he was already qualified for a new mortgage, and that he was terrified of two mortgage payments.

By buying the seller's current home quickly, and by agreeing to take over the seller's mortgage payments, this solved the seller's problems and allowed him to acquire his dream home.

And what percentage of value did we pay for his house? What was the ARV and the repair costs? What words did I use on the purchase agreement? Whose subject-to documents did I use?

It doesn't matter.

The seller got the solution that solved his problem and allowed him to move on to his big goal: buying his dream house.

Kim and I paid a price we liked with terms we could live with, and we still own this home. It's in our single-family rental portfolio. It's now a free-and-clear property that brings in $1,100/month in mailbox money.

Do you think I'm glad I knocked on this seller's door instead of driving on by? In the past year, how many properties like Prater have you driven by without stopping? How many of those people do you think you could have helped? Nauseating, isn't it? To fix this problem, all you need to do is start stopping at properties that interest you instead of driving by them.

The often-used quote is wrong! You shouldn't be *Driving for Dollars*. You should be *Stopping for Dollars*, or *Getting Out of Your Car for Dollars*, or *Meeting with Homeowners for Dollars*.

What's the most important lesson to learn from this deal? Obviously, it's that Vena believes I'm the funniest[21] man and best real estate investor on earth. (NOTE: I don't believe she's ever said these *exact* words…nor any words even similar to these. But I'm confident she meant to, and probably will utter them one day soon…like today, right Vena?[22])

Vena again: There's a key negotiation mindset embedded in this example: what sellers THINK they need is rarely what they REALLY need. Every seller comes at the sale of their property in the same way: I NEED cash, because _____". This is true even of sellers who would get no cash by selling their house for cash, because between the payoff on their loan and the closing costs, they'd walk away from a closing with nothing.

So why do they believe that they need cash? Because they don't have the perspective that you're busily developing. They don't know that they can sell their house without paying off the loan, so the ONLY solution they see is to sell for cash and pay off the loan. They don't know that they can continue to get rent from a property without dealing with a rotating cast of tenants, so they think they need to sell the house to get rid of the problems created by the rotating cast of tenants. So don't ask them what they need, 'cause they'll give you the wrong answer 99% of the time. Ask them what their STORY is. It often falls to YOU to work out what they actually 'need', and then explain to them how what YOU want to do meets that need.

Questions to Ask Sellers at the Kitchen Table[23]

- Why are you selling such a nice house like this? (NOTE: This is always my lead off question at the kitchen table and is just one example of Pete Fortunato's genius at work.)[24]
- Do you *want* to sell, or is it a case of you *must* sell?

[21] Looking
[22] Not today, I'm busy washing my hair. You remember hair, right?
[23] Or better yet, on the phone
[24] Translated through the ears of Bill Cook. What Pete actually asks is, "Why would you sell such a nice house?" or "Why would you sell a nice house like this?"
Also, I've never been able to choke out ANY of these phrases, because they don't "sound like" me. When I say them, I feel like I SOUND snarky, even when I'm not BEING snarky, which I'll admit is a rare thing.
And this is another important negotiation lesson—FIND WORDS THAT YOU'RE COMFORTABLE WITH. You do that by trying a lot of words over the course of your 10,000 hours (not offers) of creative finance practice, and once you find them, you'll use them thousands of times.
By the way, my words to get the same answer are: "So, tell me the story."

- What is your asking price?
- How long has your house been on the market?
- *If their house has been on the market for more than two months and is still not under contract:* Why do you think your house hasn't sold?
- Once you sell, where are you moving?
- In a perfect world, when would you like to move?
- Have you already found or bought your next home?
- *If their house is listed with a Realtor®:* I'm looking for a good Realtor®. Do you like yours? Is she doing what she promised? What does she do right, and what does she do wrong?
- How much are the mortgage payments on a house like this?
- How much are the property taxes?
- Have you ever fought your property taxes?
- How much is homeowner's insurance?
- Do you like the neighborhood?
- Do you like your neighbors?
- Are there any vicious, or forever-barking dogs in the area?
- What work did you do to get your home ready for sale?
- How much are homes selling for in this neighborhood?
- In your neighborhood, are there mostly homeowners or tenants?
- Would you please show me the closing documents from when you bought this house?

Vena Speaks: Things to Ask the Seller from the Comfort of Your Own Home, In Your Bunny Slippers, to Avoid Wasting Your Time and Theirs'

Bill likes people. Well, actually, I don't know whether Bill likes people or not, but he sure likes to TALK to people. Friends, students, strangers, anyone. Bill probably talks to the guy at the next urinal, which, as I understand it, is the ultimate male taboo. The guy LIKES to talk. He denies it, but I once rode 7 miles on a bike trail with him, and in 45 minutes he spoke to no fewer than 19 strangers *while simultaneously talking to me the entire time*. Hand to God.

I take a very different philosophical approach to the entire matter of 'opening the negotiation' and it's this: I'm not going to bother if there's no deal to be had. With 20, 30, 40 sellers a week calling ME, I need to be able to quickly left-swipe (Google it, Bill) people who:

1. **Don't have a property I'm interested in** (I got a call last week from someone wanting to sell an empty car lot in an area so distressed that it's possible that all the cars were stolen. I truly don't need to know if there are any vicious, barking dogs nearby to know that I'm not interested).

2. **Clearly don't have a problem, or don't believe they have a problem, or don't have a problem I can solve**. When someone tells me, directly or indirectly (via the usual "Well, I wasn't thinking about selling, and I have a great tenant, and I'm super-happy with the cash flow, but I got your postcard, and I got curious about what the house is worth, so come out and make me an offer" stuff that 3/4ths of the 'sellers' out there will spout), I believe them. And I tell them that no offer I'm going to make will make them happy, and that I don't want to waste their time, and thank them for calling, and ask them to call back if anything changes, and MOVE ON. I don't get in my car and go visit with them in their kitchen for an hour. I don't care much about whether they like their neighbors or what their closing documents look like. A long, in-person conversation is just an hour neither of us will ever get back.

I approach the initial conversation not as an attempt to get people to work with me, but as a screening mechanism to decide if I want to work with them.

I've also found that MANY sellers are very nervous at the beginning of a conversation with a real estate investor, whether it's in person or on the phone, and get more comfortable as they realize that you're perfectly nice, and on their side, and aren't going to try to talk the shirt off their back.

It seems to ease a lot of them to ask really easy, no-brainer, non-personal questions (How many bedrooms? Do you have a garage?) up front, and work your way up to the more 'difficult'—i.e. potentially emotionally charged-questions (What do you owe? Are you current on that? What will you do if you can't sell the house?) as you build rapport.

So yes, I use, and my acquisitions people use, a questionnaire. It's not a script—it's not meant to be read robotically, or memorized—but it serves the function of getting some important things ("Are you the owner? Where's the house?") out of the way before we waste too much time talking to what turns out to be the actual owner's mom, who wants her daughter to sell the house because the daughter's boyfriend is a ne'er-do-well meth head and her daughter's an angel, and if she could just get darling daughter to sell the house, then evil BF would have no choice but to go live somewhere else…[25] but has no actual ability to sell us the house. That's an example of "Problem I can't solve", and it's good to find it out in the first 2 minutes of the conversation, not the last 2.

[25] Yeah, I've actually heard this. More than once, in fact.

Before I EVER leave the comfort of my couch, and put any more miles on my already-living-on-borrowed-time car, I always KNOW that the seller I'm going to see has a deal that I want, and is motivated to sell it at some price and terms that might work for me, and isn't hostile or crazy, has a feel for me and I have a feel for them.

That just makes sense to me, because no, I don't want to waste my time, but I also don't want to waste theirs. With dozens of potential sellers a week calling me, I need to help the ones who most want my help, not meet new friends and find out how they're feeling about their real estate agent.

The exact questionnaire I use is included at the end of this section.

Teeter-Totter Offers

Disambiguation:

The first time I heard Bill talk about his teeter-totter offers, I got more and more confused until it dawned on me that he wasn't actually talking about an OFFER. He was talking about a MARKETING PIECE that he uses when he knocks on a door and gets no answer.

Why he calls it an offer and not "A way of getting a call back from an owner whose house I've never seen but would like to" is a mystery, but it might help YOU not to be confused if you just know this: when he writes these 'offers', he has no actual idea what he'd like to pay for, or what the owner would like to get for, the property. The "offer" is just an attention-getter meant to open a conversation with the owner. He doesn't actually know that he'd be willing to pay the price and terms he's offering, because he's never seen the property or talked to the seller. And I have some issues with that, too, that I'll express when he's done.

I believe that he ALSO makes 2 offers to owner after he's actually seen their properties and actually knows the numbers, but what he's describing here is writing numbers down on a piece of paper to generate a lead --Vena

In a few pages, you will see an example of a Teeter-totter Offer written on the back of my canvass card. (NOTE: To see a lot more examples of our Teeter-totter Offers, go to our Facebook page: ***Bill and Kim Cook***.)

Here is how my Teeter-totter Offer reads. Of course, the figures and terms change with each offer:

I love your house. I want to own a home here. If my offer is ever of interest, let's talk over coffee!

Thanks,

Bill Cook

<u>Offer #1:</u> I will pay $160,000. I will give $30,000 down. I will make monthly payments of $700.

<u>Offer #2:</u> I can pay $75,560 cash

I can close anytime!

What's my Teeter-totter Offer *really* asking? What's my *actual* offer? Many think it's an offer to buy the seller's house. While there are two offers listed, that's not what I seek. Re-read my offer, now do you see what I'm *really* after?

Let me help: *"If my offer is ever of interest, let's talk over coffee!"*

That's right, I'm asking for a *<u>face-to-face</u>* meeting. Why? Because 80% of communication is non-verbal.

Now let's look at *Offer #1* and *Offer #2* on the back of the cavass card. I call this a Teeter-totter Offer. Another name for this type of offer is a Price-Terms Offer.

Offer #1 is a terms offer. I'm willing to pay *<u>whatever</u>* price the seller wants, as long as I get to name the terms…*how I pay the seller*.

Offer #2 is a price offer. I'm willing to agree to the seller's terms (all cash at closing), as long as I get to name the price…*the amount I pay the seller.*

Put simply, the rule is, "My price (low), your terms (cash); your price (high), my terms (payments that create cash flow)". And it's a teeter-totter because the seller has to choose one seat or the other; he doesn't get high price AND cash terms, because then the deal has no equity AND no cash flow, which doesn't work for me.

I learned the two-offer technique from the world's greatest sales trainer. He's a famous doctor who you not only have heard of, but you've also read his books; probably many, many times.

Who is this doctor? What books has he written? Here's a hint; see if this sounds familiar:

Would you like them in the rain, would you like them on a train? Would you like them in a box, would you like them with a fox? Would you like them on a boat, would you like them with a goat?

That's right, we're talking about the great Dr. Seuss, in his seminal sales manual *Green Eggs and Ham*.

When I was 19 years old, reading this book to my eight-year-old sister[26], I realized I was not reading a children's book. Rather, I was reading the world's greatest sales training manual. And because Sam-I-Am always used *two* offers, then and there I began using two offers when demonstrating an Electrolux vacuum cleaner – and it worked!!!! These days, because I'm no longer a seller of Electrolux products, and instead am a buyer of people's houses, I altered Dr. Seuss' two-questions technique from *closes to sell* to *offers to buy*.

That said, when sitting at a seller's kitchen table and I'm able to do a T-bar Offer (you're about to learn about T-bar Offers in the subsequent section), I usually make one offer, not two. This is because I ask the seller lots of questions. By asking the seller lots of questions, I can better understand the seller's problems, I'm able to structure *a single offer* that will be agreeable to the seller *and* best solve the seller's real estate problems. (Remember Prater Drive?)

When making Teeter-totter Offers, remember, the seller didn't invite me in; I didn't make it to the seller's kitchen table. That said, how on earth can I accurately estimate the cost of rehab, or the cost of money? Frankly, I can't.

Please know that when making a Teeter-totter Offer, your offer is not written in stone. It's a starting point. It's the beginning of the discussion. It's the start of the dance. [27] Count on your estimated costs increasing or decreasing once you see the inside of the seller's house and have time to properly inspect the property.

[26] Yeah, sure. Reading it to your SISTER…
[27] Yes, it's like starting a dance by tripping over your partners' feet. See my comments on the next page --VJC

It's Vena Again…

Confession time: every time Bill talks about these sight-unseen, teeter-totter "offers", I REALLY try to keep an open mind about their value as a way of getting the attention of, and a contact from, potential sellers.

But then I think it through, decide, *yep, it's still a bad idea*, and sing the entire Les Mis soundtrack (original Broadway cast, not that horrible movie version) in my head until he moves on.

Maybe I'm just a victim of my own limiting thoughts here, but I just can't get past the idea that putting numbers *that you have no basis for believing are true* on paper for the purpose of generating a phone call is a really, really bad way to open a relationship with a seller.

Sure, I can know what houses in that area sell for, and I can guess based on the condition of the outside of the house what the inside might look like.

But I also know sellers, and I know that if I write $160,000 on a piece of paper and stick it in their door, most of them are going to believe that $160,000 is my firm offer, and *they're going to feel betrayed when I actually see the property, find out that it needs $25,000 in foundation work, and back that number down to $125,000*. Once a number is out there, it sets an expectation that I may or may not be able to meet, and not meeting a seller's expectations early on does not set up a good scenario for getting them to trust me with their house payments.

Do I make sight-unseen (or site-unseen, in this case) offers on houses? Every day, usually 3 or 4 times. But it's after I've talked to the seller about the condition of the property at some length, and it's always couched in language about "Assuming that when I come out there, it's as you say, and I don't decide that I want to put a new roof on it, or something else expensive like that…"

To be clear, it's making a cash offer and a financed offer that I have the problem with—that's actually a great idea, and something I do with probably 60% of the sellers I talk to.

It's the 2 specific, with-numbers-attached offers *that I don't really mean because I don't yet know what I can pay* part that leaves me cold.

.

Here's a picture of the back of our canvass card and my Teeter-totter Offer.

Here's a picture of the front of our canvas card.

How to Determine the Right "Terms" for the Teeter-Totter Terms Offer

The key to a Terms Offer is cash flow. You want to buy the home and keep it as a rental. You want the tenant's rent to cover all the property's expenses and generate a monthly landlording profit to boot.

Let's say a home will rent for $1,500. Here's how to determine the maximum monthly mortgage payment (principal and interest) you can pay and still have the tenant's rent payment cover all expenses.

Expected Monthly Rent	$1,500.00
Monthly Expenses 40% of Rent (taxes, insurance, vacancy, repairs, management)	- $600.00[28]
Minimum Acceptable Monthly Landlording Profit	- $200.00
Maximum Monthly Payment (mortgage or rent) You Can Pay	**$700.00**

Once we know $700 is the ***most*** mortgage payment (principal and interest (if interest can be paid)) we can pay each month and still make our minimum acceptable landlording profit, then we're willing to pay ***any*** price the seller wants for the property. Why? Because no matter the sale price of the property, we will make $200 per month in mailbox money! The name of the game is *mailbox money*!

IMPORTANT: Rental property expenses vary based on the state in which the home is located, your property tax laws, the cost of non-owner occupant insurance where you live, the age and condition of your property, etc. We've seen monthly expenses run as low as 20% and as high as 55% of rents.

[28] I calculate this a bit differently. Since taxes and insurance are knowable monthly numbers, I just find out what they are, and subtract them, and then subtract 20% of the gross rent for the irregular-but-predictable monthly expenses, which are vacancy, maintenance, and long-term reserves. If the property will be professionally managed, I subtract ANOTHER 10% of gross rent. --Vena

From the Couch of Vena Jones-Cox

Dear Bill,

Are you SURE that cash flow is the name of the game?

So are you saying that you wouldn't do this deal?

Expected rent:	$1,500
Total principal and interest payment	-$1,000
Total taxes and insurance	-$250
Maintenance/vacancy/reserve	-$300
Total monthly cash flow	**-$50**

What if I told you that the house was worth $300,000, and that PITI payment was for a $150,000 bank mortgage with 11 years left to pay off, that the owner would let you take over for JUST the closing costs? You'd walk away from $149,500 in equity and a house that would be free and clear house in 11 years because of a $50 a month negative cash flow?

What if I told you that it was a $150,000 house that you were buying for $150,000, zero money down and zero interest? That means that the $1,000 you pay to the seller every month reduces your debt—or, to look at it another way, increases your wealth—by $1,000 a month. Oh, and is completely paid off in 12.5 years. You wouldn't trade $50 a month in cash for a $1,000 a month bump in your net worth?

Ok, let me try one more thing: $300,000 house, you can take over the $150,000 mortgage with 11 years left to run just by paying closing costs. You can't afford both the $50 a month negative cash flow and also the Walmart toilet paper, but I can. I'll give you $50,000 cash, right now, to assign me that contract, and I'LL pay the negative cash flow going forward. Are you still walking away?

Either you weren't serious about mailbox money being the name of the game, or you meant to say that mailbox money is ONE of the names of the game, or you have just proven that you are NOT, in fact, the smartest real estate investor I've ever met.

Love, Vena

P.S. I'm sending this to Pete. He'll be so ashamed of you.

How to Determine the Price[29] Offer for the Teeter-Totter Offer

Why do creative deal structurers even bother to make a 'cash' offer. Isn't the whole purpose of learning this stuff that you be able to buy properties without having a bunch of cash?

If you're asking yourself that question, you may be forgetting that there are 2 kinds of creative deal structuring: deals where all the terms are negotiated between you and the seller, and deals where a 3rd party partner or private lender brings cash to the table.

When you have the ability to make either thing happen, your offers are going to be at 2 very different prices, because when you buy for cash—and it doesn't matter WHOSE cash it is—you HAVE to get equity when you do.

Why? Because equity protects your private lender's investment. Equity protects your partners' investment. Equity means that if something goes badly wrong—you missed a major problem with the property, or you drop dead and can't make payments, or the real estate market crashes and the property is suddenly worth 70% of what it was last year—there's still room in the deal for the guy who risked the cash to get it back--Vena

Determining your Price Offer – the most you can pay for a property and still make your minimum acceptable profit after all holding costs and expenses have been paid - is a straight-forward math problem. List the conservative after-repaired value of the property. Then subtract your minimum acceptable profit, along with all expenses and holding costs. You are left with your top offer price.

On the next page or two, you'll see my filled-in Top Offer Price Form (TOP Form). Even with minimal real estate experience, it is self-explanatory.

Investors often ask whether I show my TOP Form to the seller. If the seller asks to see it, then yes, I do. Look, when it comes to helping people solve their real estate problems, I'm an open book.

What if a seller balks when they see the amount Kim and I hope to make at the deal's completion? If we can't modify the agreement so it's mutually agreeable to both the seller and us, then there's no deal to be done. It's a case of Kim and me not being the best solution to this seller's problem.

Said another way: We will help someone OUT of the quicksand, but we will not take their place IN the quicksand!

[29] In other words, your "cash" offer—any offer where you have to bring the full purchase price to the closing in cash, whether it's your cash, or a partners, or a private lenders', or…VJC

Here's a common mistake we see investors make, and this is what makes this course unique. Most investors' main problem is not making enough written offers. When they get ahold of a possible deal, because they think there are so few deals to be had, they are willing to do almost anything to get that deal – even if it means doing a marginal (read: bad) deal.

On the other hand, because I make 25 written offers per week through door knocking, at any one time, we're working on 5 to 7 possible deals. If a deal becomes too tough to do, we quickly let it go, knock on some more doors, and within a few days, we have a replacement deal in place.

Something to remember: When making a price offer, be conservative with your numbers. Houses don't sell as fast as you think, nor for as much as you wish. On top of this, rehabs take longer, and cost more than you estimate. Oh, and houses often take longer to sell or rent than you planned.

Another Perspective on Terms Offers and Cash Offers

When I'm calculating a cash offer, I generally use the simple formula of
ARV
x .7
- Repair cost
- Any wholesale fee I might be hoping to get
= Maximum Allowable offer

So, this is much less detailed than the evaluation Bill goes through for his cash offers.

But when I'm calculating a TERMS offer, it's a whole different ballgame, and here's why: there are generally several very different, and very do-able, scenarios for each deal. I often end up with I look at EACH in several dimensions—

1. What's the cash flow?
2. What's the equity capture?
3. How fast is the pay down?

What I'm looking for is the offer—or offers, as the case may be—that get me:

a. One of those three things in abundance OR
b. Two of those things in moderation OR
c. All 3 of them to a reasonable degree
d. (or better yet, all 3 of them in abundance, but that's kinda rare)

I usually go through multiple scenarios on paper to look at how different terms offers meet these various requirements, ALSO accounting for any additional money I might have to borrow for repairs and so on. In fact, I have a different form I use to run scenarios for subject to deals and seller-carryback deals—the 2 most common types of deals that I do. I'll share those with you as we get to those topics.

Like Bill, though, I only EVER make 2 offers simultaneously—one cash, one with terms. I've heard the whole "make 3 offers" theory, and what I've found is that most sellers can't process 3 offers. They can process 2, if one is cash. If the seller rejects both of my 2 offers, I'll find out what he doesn't like about them, and if another one of my scenarios solves that, THEN I give the 3rd. And if that doesn't work, the 4th. And so on.

.

Here's what our TOP Form looks like.

Top Offer Price Form (TOP Form)

Date: 5-5-2018

Property Address: 143 Main Street

1. *Conservative* After Repaired Value (CARV) (*AFTER* repaired value) **$** 150,000

2. Your *Minimum* Acceptable Profit (*AFTER* paying all expenses and holding costs) **$** 20,000

Expenses:

a) Closing costs to buy	$ 2,000
b) Appraisal fee	$ 500
c) Home inspection fee	$ 400
d) Rehab estimate	$ 19,000
e) Funding cost (3 pts + 13%)	$ 11,440
f) Holding cost (*see below*)	$ 4,100
g) Marketing cost (to sell)	$ 500
h) Realtor commission (to sell)	$ 9,000
i) Closing cost (to sell)	$ 4,500
j) Oops (unexpected expenses)	$ 3,000
k) Miscellaneous expenses	$ —

3. *Total* Expenses (add lines A thru K = Total Expenses) **$** 54,440

4. Top Offer Price (line 1 – line 2 – line 3 = Top Offer Price) **$** 75,560

(The Top Offer Price is THE MOST you can pay for the property and still make your MINIMUM acceptable profit AFTER ALL holding costs AND expenses have been paid!)

- As a real estate investor, you make your profit when you ***BUY*** a property. If you pay too much, or if the property will not cash flow as a rental, *you will lose money* – so **BUY RIGHT!** Don't do a deal just to do a deal.

- **Holding Costs:** In most cases, we estimate a property's hold time (*the time it takes to sell or rent a property from the day it was bought*) to be ***six months***. Holding costs should include six months of insurance payments, property taxes, utility bills, landscaping expenses, etc.

- Make sure the numbers you use are ***CONSERVATIVE*** numbers. A property rarely sells for *as much* as you estimate; the rehab and holding costs are usually *more than* you estimate; and the property rarely sells *as fast* as you estimate. *Be mindful of these important facts*, and remember to **ALWAYS** do your **DUE DILIGENCE** and verify **EVERYTHING** about a deal – *including who actually owns the property, their mortgage balance(s), whether there are any liens against the property, the cost of and the time it will take to rehab, etc.*

At the Kitchen Table: T-bar Offers

A T-bar Offer is the most important document I use in real estate investing. It's what makes my written offers different – *significantly different* – from any other offer you've ever seen.

Most investors, when making a written offer, only talk about the *how much*. Remember this: ***Often times, a seller's why is more important than their how much.***

The Birth of the T-bar Offer

When we were baby investors, Kim and I used an early variation of my three-page Purchase Agreement to make written offers.

Around 2003, while door knocking in my five-mile circle around the Cartersville, Georgia Walmart, a seller invited me in to see her house that she and her husband were selling.

After getting the obligatory tour of the house, we finally made it to the kitchen table. Almost an hour of asking questions later, I had a good understanding of why the sellers were selling, what the sellers wanted, and why they wanted it.

I took out my purchase contract and made a written offer to buy the property.

Time for a sidebar. During the hour spent asking the seller questions, I made extensive notes of the seller's answers to Pete's famous question, "Why are you selling such a nice house like this?" My notes were written in the form of a T-bar.

To make a T-bar, take out a sheet of paper. Draw a big T on the sheet. On the top left, write *Current Position*. On the top right, write *Potential Position*.

The left-hand side is used to make a list of the seller's uncomfortable situation caused by the owning of the property she wants to sell. The right-hand side is used to list what happens to the seller's uncomfortable situation if she will just say yes to my offer. Thus: *Current* Position and *Potential* Position.

Back to the story. After handing my Purchase Agreement to the seller, she asked if I would also leave the T-bar I'd drawn up. Until that moment, I'd never thought about, nor had been asked to leave a T-bar with a seller. Not minding a bit, I handed the seller the T-bar.

Looking back, this one decision created one of the biggest monumental shifts in my investing life. When the realization of what I'd done made its full impact, from that day to this, I always leave the seller with a T-bar.

Three weeks later, this seller called and asked if my offer was still good. Know that I *didn't* know who was on the other end of the phone, what I had offered, where the house was located, or when the offer had been made.

What did I say to the caller? "Yes, ma'am, it is. What's your address and when can we meet?" Remember, the thing I'm always after is a face-to-face meeting!

After being invited into the seller's house the second time, we sat at the kitchen table. This time her husband was home. This was the time I noticed something remarkable; something that would forever change the way I made written offers.

On the kitchen table were both the Purchase Agreement and the T-bar I had written three weeks before. The thing was, the two documents were ***not*** in similar condition. The Purchase Agreement was pristine. The pages were lily-white and unbent. It was as if the Purchase Agreement had been sealed and left untouched in a vault. On the other hand, the T-bar looked as if it had been to hell and back. The paper was wrinkled. A corner was torn. There were visible food stains on the paper. It was easy to tell the T-bar and been held and read many, many times.

As we discussed their situation there at the table, it became obvious that the sellers were accepting my offer because of their ***why***. To them, their ***why*** was much more important than their how much.

A Purchase Agreement ***only*** shows the ***how much***. It doesn't even hint at the seller's ***why***. This means if you are ***only*** using Purchase Agreements to make written offers, you are leaving out the most important reason a seller is selling her house…*the why*!

For the next year, when presenting written offers, I'd give the seller ***both*** our Purchase Agreement and a T-bar. Then one day I asked myself why I was still using a Purchase Agreement. Why not just use a T-bar and then write my offer on the bottom of the page? And that's how my T-bar Offer was born. This is also why I haven't used my Purchase Agreement in years. The T-bar Offer has become my "purchase agreement" and "sale agreement" of choice.

One more thing to contemplate: It's probably also true that your competition is also only using a standard Purchase Agreement. That said, what if you started using T-bars? Would this one act set you apart from your competition? Would you become known as the guy[30] who listens, cares and solves sellers' problems while the rest are known to be poor listeners who only make 70-cent-on-the-dollar offers?

How to Write a T-bar Offer

In the coming pages you'll see two examples of T-bar Offers I've written. Both were real-world deals. The second T-bar Offer was written for the buyers of our horse ranch. In other words, you can use a T-bar when buying or selling a property.

When writing a T-bar Offer, I'm usually sitting at the seller's kitchen table. It gives me a good writing surface, plus the TV is usually on in the den, and a TV is a pesky distraction.

[30] He meant to say guy or gal.

Earlier in this course, I gave examples of questions I ask sellers at the kitchen table, so those won't be repeated here.

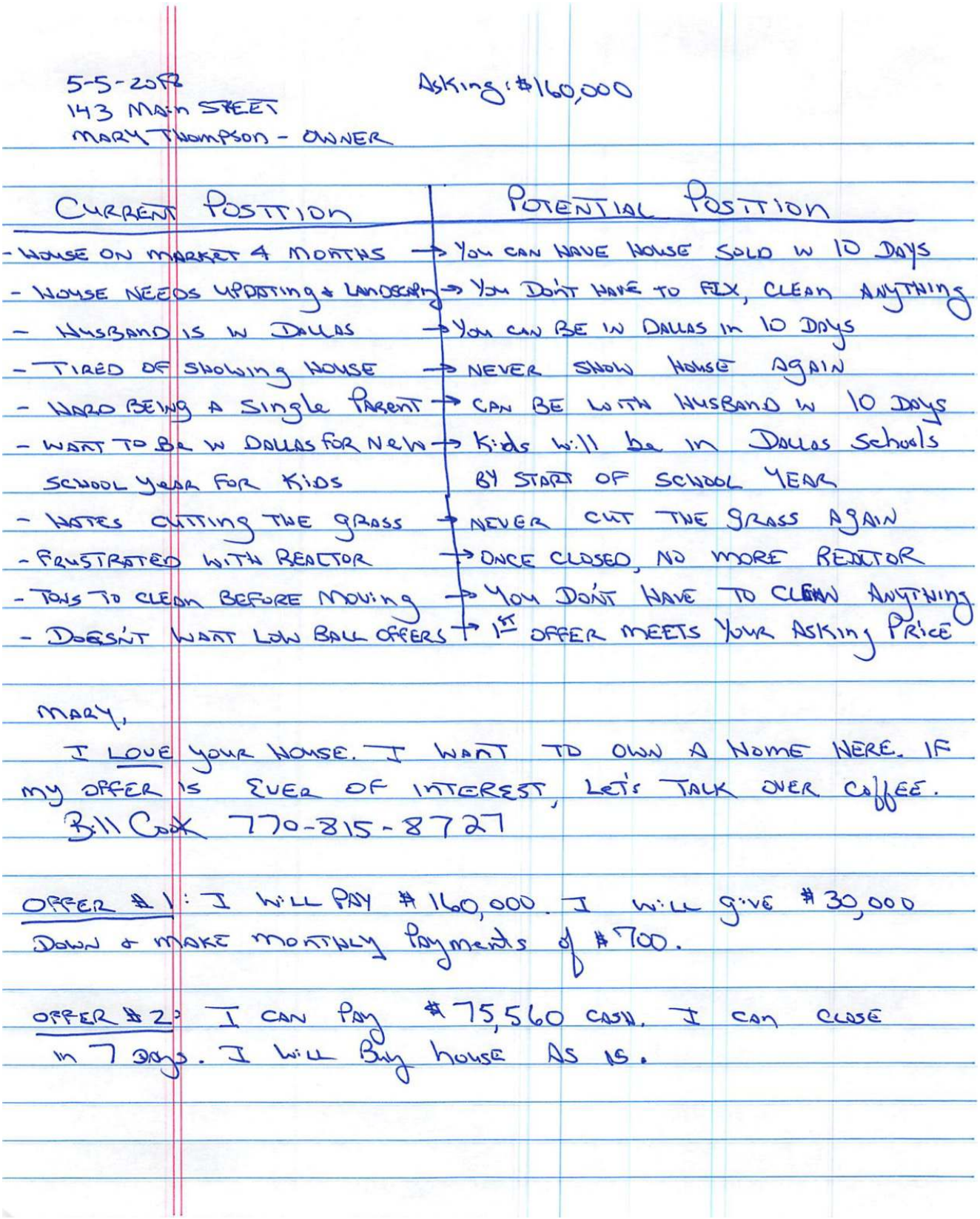
Instead, look at these two real-world T-bar Offers. They'll give you a good idea about what your T-bar Offer should look like.

Notice that when you look at the bottom of the second T-bar Offer, I only made a ***single*** offer, not a Teeter-totter Offer. With all the information the seller gave me, I structured a win-win offer the buyer was likely to accept. This is true with most of the T-bar Offers I make.

And for the record, the buyer accepted my offer.

On the next two pages are two real-world T-bars. The first one is an offer I made to buy a property. The second T-bar allowed me to sell a property creatively.

And yes, ***both*** houses were listed with Realtors®.



5-5-20R
143 Main Street
Mary Thompson - Owner

Asking: $160,000

Current Position	Potential Position
- House on market 4 months	→ You can have house sold w 10 days
- House needs updating & landscaping	→ You don't have to fix, clean anything
- Husband is w Dallas	→ You can be in Dallas in 10 days
- Tired of showing house	→ Never show house again
- Hard being a single parent	→ Can be with husband w 10 days
- Want to be w Dallas for new school year for kids	→ Kids will be in Dallas schools by start of school year
- Hates cutting the grass	→ Never cut the grass again
- Frustrated with Realtor	→ Once closed, no more Realtor
- Tons to clean before moving	→ You don't have to clean anything
- Doesn't want low ball offers	→ 1st offer meets your asking price

Mary,

I love your house. I want to own a home here. If my offer is ever of interest, let's talk over coffee.

Bill Cook 770-815-8727

Offer #1: I will pay $160,000. I will give $30,000 down & make monthly payments of $700.

Offer #2: I can pay $75,560 cash. I can close in 7 days. I will buy house as is.

7-27-2018

141 Boyo Mt Rd - Talking To Buyers

Current Position	Potential Position
- Where they live, it has Sub Division Covenants	→ No more Covenants
- Doesn't like Nosey Neighbors	→ No more Nosey Neighbors
- Can't park Equipment Trailer in Driveway	→ ~~He~~ can park your Equipment Trailer any where you want.
- Rules about water usage	→ No water usage Rules - on A well
- He likes to Ride motor cycles, can't where he lives	→ Ride Dirt Bike all Day Long. Build A track on the 34 Acres.
→ can't hunt where he lives	→ can hunt on his own land.
→ He wants a Big Shop so he can work on clients machines	→ can have a shop as Big as you want it to be
→ Wants ~~to~~ To keep Equipment at his house	→ You can keep all of your Equipt here - tons of room To Expand.
→ He likes To Buy & Sell Equipment	→ You'll Be able To Buy & Sell Equipment
→ Can't have Two mortgages. must get Rid of their house To Buy This house with institutional mortgage.	→ If I sold you house for a lot less than $497,000, you may Be able To qualify for a 2nd mortgage.

Offer To Sell

- I will sell you Ranch for $300,000. You will get a mortgage for $300,000.
- You will give me an option To Buy the Ranch back at any time in the next 30 years. For $300,000.
- I will give You an option To Buy My option Anytime in the next year for $~~2~~97,000

Crucially Important: Promises & Paperwork

Most new investors are way too focused and too concerned about the paperwork. They feel (wrongly by the way) that without the perfect Purchase and Sale Agreement, there's no way they can meet with a seller.

Where should new investors begin? Get[31] to a seller's kitchen table TODAY and ask one question. It's Peter Fortunato's famous question: "*Why are you selling such a nice house like this?"*

As the seller answers the question, listen intently. Write down the seller's answer. From the seller's answer, if you can't think of another question to ask, your work there is done. Thank the nice lady and be on your way.

Congratulations, you've just launched! Now go do it again and again and again.

In time, you'll think of more and more questions to ask. Example: the seller answers, "I'm moving to Texas." You then ask, "Why are you moving to Texas?"

In wanting to get the paperwork right BEFORE meeting with sellers, too many creative deal structurer-wannabes have put the cart before the horse. (Yet another phrase for millennials to look up. And yes, I'm picking on you.)

One of the big lessons Kim and I learned early on from Jack Miller and Pete Fortunato is that the accord comes first. Once the accord is reached, only then is it memorialized.

I know, I know, you have no idea what I just said. Let me reword the above paragraph.

First you ask the seller a lot of questions. From the seller's answers, you use your (or someone else's) knowledge, know-how, experience and funding ability to creatively structure a solution to the seller's real estate problems. This solution must work - and be agreeable - for both the seller and you.

Now that the hard work is done, you *write down* what the seller and you agreed to, being very careful not to betray y'all's (Yes, this is an actual word, and no proofer better correct it! It's the plural possessive form of y'all. Remember, many literary giants - like me - were hatched south of the Mason-Dixon Line.) carefully constructed agreement.

The accord refers to the oral agreement the seller and you achieved. The memorialization refers to that agreement being put into writing – the paperwork.

Many years ago, we learned not to use standardized paperwork. Why? Think of it this way: You go to a shoe store because of a shoe problem; your shoes are worn out. Once in the shoe

[31] Your marketing out and sellers calling you--VJC

store you realize all they have is size 8 brown-tassel loafers. Problem is, you don't want brown-tassel loafers, and you have a size 12 foot.

This is the root of the problem when it comes to standardized paperwork. As you gain experience as a deal maker, each creative solution you construct is unique to that seller or buyer. Think of it as *custom-made* shoes!

During this workshop, as you see examples of the deals Vena, Kim and I have done, you'll quickly realize that none of the paperwork used for one deal is just like the paperwork used for another.

We can't begin to stress enough the importance of this lesson!

As I said earlier, the paperwork simply memorializes the accord you reached with the seller (or buyer). You mustn't ever betray this accord. It's a simple case of promises made and promises kept.

To help give you a better understanding about the importance of promises made and promises kept, I recorded a video on March 29, 2020, titled *What One Thing Drives Real Estate Investing Deals?* You'll find this on our YouTube channel. Our channel is *Bill and Kim Cook*.

Why is it important to memorialize (write down) the accord (the agreement) the seller and you reached? The proverbial bus. What if you or the seller are hit by a bus? Who is supposed to remember what was agreed to if you and the seller are no longer around? What if either of you has a change of heart or develops a case of forgetfulness? From the start, by *clearly* writing down the accord *in English*, memory – which can be fallible – is no longer the deal's linchpin.

In the coming chapters, as we look at different deal structures, you'll see the documents Vena and I use when buying or selling property. Just don't get so hung up on paperwork that you fail to get face-to-face with sellers and ask Pete Fortunato's famous question![32]

Remember, if you don't fully understand how to memorialize an accord, it simply means you need to bring in the help of a been-there-and-done-that investor. You know, someone with a bald head and/or gray hair…or, if you're wise, a beautiful, tall, red-headed, deal-making goddess! (Yes, this is a great example of sucking up in action!)

[32] Which is NOT "Why would you sell such a nice house like this", because Pete generally constructs sentences that make sense.

How to Pick the Right Creative Deal Structuring Tools to Use

Me First This Time…
(by Vena)

Yes, there are a LOT of potential creative deal structures.

And yes, some of them look pretty similar to one another on the surface, and might seem interchangeable. I mean, what's the practical difference between buying a house with an owner-held mortgage of $150,000 and interest-only payments of $1000 a month including taxes and insurance, and 'buying' a house on a lease/option for $150,000 with monthly rent of $1,000 a month?

The thing is, they're NOT interchangeable. They're very different in terms of paperwork—but more importantly, in terms of tax consequences for you and your seller. And in terms of how much control you really have over the property. And in terms of the entire FIELD of laws that regulate them.

Well, that didn't help, did it? Now you're MORE confused about how to choose a structure, and MORE overwhelmed by all there is to learn, than you were a mere 3 paragraphs ago.

Let me give you a little tip that will simplify your choices in any given deal, a LOT. That tip is, "Begin with the End in Mind".

By that, I mean **before you start spinning out scenarios in your head about how to do with the deal, be clear on what you'll do WITH the deal.**

Why?

Because what you intend to do with the property—and the income or profit, costs, risks, and time frames that are baked-in to any given exit strategy—will determine a BUNCH of stuff about the offer you make, the specific method you use to control the property, and about what terms make sense for that particular deal.

Let's take a very simple example.

Let's say you find a deal that you know you intend to rehab and retail. You already know some things about that strategy:

1. If everything goes well, you'll be in the deal for less than 6 months.

2. You'll probably need money—and maybe a lot of money—to buy the materials, pay the contractor, all that.

3. PRICE is really the deciding factor, because *no matter how favorable the financing might be, the property will be sold, and that financing will be paid off and cease to exist, in about 6 months.*

4. You want the deed to the property before you start on the rehab, because:

    a) You need the deed in order to secure additional financing for repairs

    b) Without the deed, you're making repairs to someone else's property, and there are too many things that the "someone else" can do that might make it difficult or impossible for you to sell the property (like get an additional loan on it themselves, or get a judgement against them)

    c) Unless you have the deed, you could have problems with YOUR buyer's purchase of the property (for instance, the bank might insist that since you're not the title holder, the owner and the buyer must go directly into contract with each other, which could cause issues when your seller finds out you're making $55,000 on the deal)

Just knowing these things about your exit strategy immediately eliminates several possible deal structures:

- You won't buy it using a lease/option, because you won't have the deed
- You won't get a simple option for the same reason
- Ditto a master lease

So what does this leave you with?

- Buy it with a seller held mortgage, which gets you the deed you want, but no money for repairs
- Buy it subject to the seller's existing loan, which has the same pros and cons
- Get a money partner or private lender who can loan you the money for the repairs AND the purchase price, all at once, getting you the deed, and getting you the money you need all in one fell swoop

See? We've cut the number potential deal structures in half just by thinking through the exit strategy.

Ask Yourself Questions, Too.

Bill has already written at length about the importance of asking the SELLER lots of questions. But if you can remember to ask YOURSELF some questions before choosing a deal structure, you'll make quickly narrowing down the potential structures a lot easier.

Here are some good questions to ask YOU:

- What is my exit strategy for this property? If that doesn't work, what's plan B?
- What does the property need, in the way of repairs/upgrades, in order for me to implement my exit strategy?
- Will I have to borrow that repair money, or do I have it available?
- How long will this 'repositioning' take, and what will the holding costs be during that time?
- Can I pay those holding costs? If not, who will?
- How long do I plan to own or control the property?
- (If the exit strategy is any cash flow strategy—rental, lease/option, sell with owner financing): What is the best case, worst case, and most likely case monthly income I can expect?
- (For a cash flow exit strategy): What are the best case, worst case, and most likely case monthly operating expenses (and don't forget to account for that 20% of gross rent for vacancy, maintenance, and reserve on single family homes)
- What is the worst thing that could happen in the implementation of my exit strategy—the biggest horror story I can come up with where everything goes wrong and it just turns into a giant mess?
- What can I do NOW to prevent/mitigate that worst case scenario?

Those last 2 questions might seem a bit extreme, but boy, are they important.

"Best case assumptions" when going into a deal have probably caused more creative deals to "go wrong" than any other mistake creative deal makers make.

Yeah, sure, on paper, we can assume that when we plan to lease/option a property, the tenant/buyer WILL maintain the property as required by their contract, and get WILL get financing to buy the property within the 2-year option period we plan to give them.

But, statistically, there's a pretty good chance that they'll move out, instead, and that we'll probably then need to paint and carpet the house to make it attractive to the next tenant-buyer. And that the property will be vacant for a few months while we do that, and guess what? The guy we're lease/optioning FROM expects his payments even when we don't get ours.

And that means we'll need some cash reserves to weather that period, and if we don't have them the day we close with our seller, the best way to get them is to not spend the option fee we got up front, and to sock away the cash flow until we have enough money to cover a turnover and 2-3 months' payments.

See? Thinking through the possible (in fact, likely) hitches in the EXIT strategy changes how we plan out the whole deal. Nope, not gonna go on vacation with that option fee. Gonna put it in the bank so we can keep our commitments to our sellers.

Similarly, we can project that our proposed retail deal will have no unexpected "gotchas" in the rehab process, and get finished on time, and sell within the usual timeframe, with no delays in the buyer's financing. And if we do, we'll probably be optimistic about the offer we make to our private lender—"Yeah, no problem; a 3 month balloon is MORE than enough."

But only someone who's never actually rehabbed a property believes that rehabs happen in real life like they do on HGTV. In reality, there's always SOMETHING: an unexpected repair, a flaky contractor, a 6-week delay in the kitchen cabinet order. And recognizing that fact makes us unwilling to agree to a short balloon that we almost certainly can't meet.

Or we can use the most aggressive, optimistic rents that we think our future rental might produce when figuring out the cash flow, and also assume that a great house like that in a great area like that will have practically no vacancies, and that a pandemic will never hit the U.S. and cause a recession and that the government will never issue an edict that says that our tenants don't have to pay us, when in fact these things rarely turn out in practice like they do in our fantasies.

It's not that these real-world challenges are fatal in and of themselves; it's that they can prove fatal if you've negotiated terms with the seller, or a money partner that don't consider the possibility of something going wrong. Amateur deal-structurers often do exactly that, even when that thing that goes wrong is common enough that it should really be expected.

Ignoring the possibility of expenses and delay when negotiating the payments and length of the seller financing or private financing is a big mistake.

And it doesn't just hurt your profits; it hurts your seller or lender. If you can't keep your promise to pay off a balloon in 5 years, or you discover that you can't make the payments you agreed to make because the property has a $500 a month negative cash flow that you can't cover, it's not just you that suffers. And it's not a faceless institution that's likely to get a government bailout anyway. It's another individual human being, too.

And then there's the question of "control"…

"Control", as it applies to real estate, has to do with the level of legal rights and responsibilities you hold, vs. those that someone else holds ON THE SAME PROPERTY.

If you're a rental housing provider, you already know that, while your tenant doesn't own your rental, he does have a certain level of control over it.

Why? Because you legally conveyed it some of it to him via the lease, and the government conveyed some more of it through tenant- landlord[33] law.

He has the right not to be harassed by you (that's the 'quiet enjoyment' clause in your lease), the right to continue to live there during the entire term of the lease, as long as he keeps up his end[34], and the right to a legal process if you do need to evict him.

[33] Which I'm agitating to get renamed "Tenant/Housing Provider" law, because I neither own land nor am I a lord who inherited what I do own, and it's an outmoded term that brings to mind serfdom and implies an unequal relationship that tenants no longer have with the owners of the properties they occupy.
[34] Unless and until the government tells him he doesn't have to, and still can't be evicted

Basically, he controls the right to OCCUPY your property. You don't have that right anymore, because you conveyed it to him.

And that same lease also conveyed some responsibilities: the responsibility to pay as agreed, or be evicted[35]. The responsibility to maintain the property in a reasonable manner, or be evicted AND get charged for damages. The responsibility to not do, or allow others to do, illegal things in or on the property.

At the same time, that tenant would be nuts to spend $10,000 of his own money putting a new kitchen and bath into the property he occupies, because there's an important thing he DOESN'T control, and that's the right to profit from the sale of, or benefit from the increase in value of, the property—or even to be guaranteed the right to continue to occupy the property beyond the term of his lease.

We know this because he doesn't have the deed, and it's the deed that conveys these rights.

YOU have the deed, and with it came a whole bunch of rights—to sell the property, pledge to property as security for any promise you've made, to pass the property on to your heirs, to change it, to tear it down, and a bunch of other things. It also came with a bunch of responsibilities and risks: to pay the property taxes, or lose the property. To keep it in whatever condition your city deems safe and attractive, or face fines and jail time. You get the picture.

Control is a cool thing to think about, because when you stop thinking about real estate as bricks and mortar, and start thinking about it as a "bundle of rights", you can start thinking about all kinds of cool ways to divide those rights up between different people who want and value them, which is one of the foundations of the 'partners and private lenders' section we'll get to later. But what we're talking about right now is YOU, deciding on an appropriate structure by beginning with the end in mind.

All this is to emphasize the importance of this next statement: different deal structures give you different levels of legal control of the subject property. You and the seller or money person might agree on the structure in general, but the FORM of the deal (subject to vs. lease/option vs. option, for instance) determines how to risks and responsibilities are divided up between you and the other guy, whoever that is.

In general;

- **The more of the risks and responsibilities of ownership you want to leave with the seller, the more <u>control</u> you'll give up to do that**. If you want him to continue to pay for the taxes, insurance, and maintenance, you'll also have to leave him in possession of the title.

- **The more money you'll need to invest in the property, the more control you'll want**. If a property needs $50,000 in rehab to be placed into service or sold, you probably

[35] See previous footnote

want to get the deed to that property, so that you're not effectively fixing up someone else's' house for them.

- **The less money the deal itself is likely to make, or the less certain that profit is (for instance, you think the value of the property might be dropping, rather than rising) the less control you want of it**—you'll want the right to give it back, as it were, if it doesn't turn out to be very profitable, and getting the deed doesn't let you easily do that.

- **The more control you leave with the seller or partner, the greater the chance that he can do something to mess up the deal**, even post-closing, a topic we'll discuss when we get to the sections about controlling properties without the title (lease/option, options, master leases)

We'll discuss some of the specific risks of strategies when we discuss the strategies themselves, but in general, the strategies from highest control (and risk and responsibility) are:

Seller-held mortgage or private loan
Cash partner
Credit partner
Buying Subject to the existing loan

Because these structures give you legal title, or the equivalent in your state

Land contract/contract for deed
Lease/option
Lease alone or option alone

And these give you some sort of non-title control

One more thing about control, exit strategies, and deal structure: it's important to note that part of "beginning with the end in mind" is understanding that **you can't pass on, sandwich or assign to a tenant or buyer, more control than you <u>have</u>**.

In other words, if you've 'bought' a property via a lease/option, you can't sell it via a land contract: you don't HAVE equitable title, so you can't GIVE equitable title. If you buy on a land contract, you can't give a lender a mortgage, because you don't have legal title with which to secure it.

On the next page, there's a chart that compares these strategies in terms of where the control and responsibilities lie. You'll choose which to use based on the details of the deal and your exit strategy.

	Seller-held mortgage	Buy subject to the Seller's existing loan	"Wrap around" to seller's existing loan	Contract for deed/land contract	Lease with option to buy
Who holds "title"?	Buyer	Buyer	Buyer	Seller, until final payment is made	Seller, until buyer gets money to exercise the option
What can the seller do to mess up the deal post-closing?	Nothing	Declare bankruptcy	Declare bankruptcy on underlying loan; not make payments to bank if payments are made directly to the seller	Declare bankruptcy if there is an underlying loan; get judgments or liens; not make payments to the bank if there's an underlying loan seller is paying directly; refuse to convey title when final payment is made	Declare bankruptcy if there is an underlying loan; get judgments or liens; not make payments to the bank if there's an underlying loan seller is paying directly; refuse to convey title when final payment is made; borrow additional money against the property
How easily can the seller "repossess" the property?	Foreclosure, unless you've given a deed in escrow or set up a land trust with default protection	He can't, unless you've given a deed in escrow or set up a land trust with default protection	Foreclosure, unless you've given a deed in escrow or set up a land trust with default protection	In some states, Foreclosure, unless you've given a deed in escrow or set up a land trust with default protection. In others, a shorter and less expensive forfeiture process	Eviction
Who is responsible for taxes and insurance?	Buyer	Buyer, often through an escrow with the bank	Buyer, often through an escrow with the bank	Usually the buyer, but negotiable	Seller
Who is legally responsible for repairs and maintance?	Buyer	Buyer	Buyer	Buyer	Seller, though buyer usually agrees to take this on as part of the option agreement
Who gets to claim depreciation?	Buyer	Buyer	Buyer	Buyer	Seller, if he qualifies
Level of control	Very high	High	High	Medium	Low—do not buy this way if you will be investing additional money in renovation

And now, back to Bill.

A couple of paragraphs after the start of the section titled, *How to Talk to Sellers: Scripts, Teeter-totters & T-bars*, I wrote about how Kim and I pick the right deal structuring tools to use for a particular deal.

Bottom line: we don't pick the tools, nor do we structure the deal. The seller, or said more clearly, the seller's answers to our many questions tell us how the seller wants his real estate problems solved.

Can creative deal making, can picking the right deal structuring tools, really be this simple? Yep. What are the most important attributes required to make this happen?

- Caring
- Giving
- Character
- Curiosity
- Imagination
- Persistence
- Fearlessness[36]
- Questioning
- Listening
- Patience

The more times you get face-to-face with sellers, the more times you ask sellers questions at their kitchen tables, the better you'll be at knowing which creative deal structuring tools will best solve that particular person's real estate problems and which ones won't.

Remember this: Real estate investing is a very simple business, but it's not easy! Never confuse "simple" and "easy."

What makes real estate investing in general, and becoming a master creative deal structurer in particular, so hard? There are no short cuts. You can't cheat experience. Is your goal to be a great deal maker? I've said this before: Make 10,000 face-to-face written offers[37]!

If you'll do this, you'll probably be a very, very successful real estate investor. You'll be financially free. You'll have the ability to do what you want, when you want, where you want,

[36] Nah, you don't need fearlessness. You need the willingness to be afraid and do it anyway.

[37] You've said it before, and you're still wrong. 10,000 offers will take you, conservatively, 30,000 hours, which is 750 working weeks, which will take 15 years, of full-time work, which is a hurdle that no one, including Bill, can possibly overcome. You need one course and a good, experienced partner to do your first deal, and that can happen TOMORROW if you have a good seller lead to work on and some relationships with people who know more about deal structuring than you do. That'll make your next deal easier, which will make the next one easier, and pretty soon you'll be pretty good at this. When you've done 10,000 HOURS of it, you'll be great—and you'll realize that you still don't know everything.

with whom you want. You'll have the time and resources to travel, spend quality time with family, and help a lot of people by giving them a hand up.

For Kim and me, there is no template that allows us to determine exactly which deal-making tools are needed for each deal. The seller's situation, and the seller's many answers to our many questions allow us to decide which deal structuring tools will work best. Remember: each seller's situation is different. The solution to each seller's problem is custom made, so to speak.

Now, it's on to Part 2 where we begin looking at deal structuring examples and case studies!

Part 2: Seller-Carryback Notes

First, Let's Review What We Know About Notes and Mortgages

In the first version of this section (that's always the one we call 'needs revision' around here, since Bill writes it and then I fix it), Bill jumped straight on into a discussion of seller-carryback notes, and when I read it, I got worried that we might be leaving a big chunk of the would-be learners behind if we didn't just have a general discussion about mortgages and notes, what they actually are, and what they do, at some point during this workshop.

This is that point.

It's important that you really grasp the full meaning and power of these instruments, because they're used all the time, and in different ways, in creative[38] deal structuring.

We use, or deal with, them in all sorts of creative transactions, from owner-held notes, to subject to deals, to wrap-around mortgages to private loans to, yes, even options and lease/options.

And we use them in much more varied and sophisticated ways than do traditional lenders and borrowers, so it's important that we really understand what they are and all the things that they can be modified to do.

So let's start with a very un-Bill like academic lesson on mortgages and notes.

First Order of Business: Lien Theory States versus Title Theory States

One of the problems with talking to a nationwide audience about real estate is that there are some big differences in real estate laws and practices between states, and we tend to forget that, because we're so entrenched on how we do it 'here', wherever 'here' happens to be.

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[38] Since he was mentioned every 3 or 4 pages in the last chapter, I sent it to Pete Fortunato when it was finished.

His main input, other than that I was completely right about everything and Bill was wrong about most things, was to cross out the word 'creative' in red pen every time it appeared. He was either trying to say that we shouldn't use that word with civilians—an opinion I second, because it's both jargon-y and sounds vaguely illegal—or that he thinks that all these structures are, or should become, run-of-the-mill.

Or there might be a third option; who knows what's going on in that over-crowded cranium at any given moment. All those IQ points flying around in there make it hard for the rest of us to see what's going on in there a lot of the time. Anyway, I thanked him for his input, but also declined to stop using the word creative in a workshop titled The Ultimate Creative Deal Structuring Workshop.

This is one of the best arguments I know for why you should always have documents reviewed by a (local, competent, real-estate-proficient) attorney before using them. A contract that's common in your state may be completely unusable in another state—case in point is a property I'm trying to buy here in Cincinnati that was sold to the current owner by a private fund out of Texas. The paperwork that she inherited includes a security deed—something that's literally not used and isn't enforceable here in Ohio—and a contract for deed that contains none of the language REQUIRED in Ohio to make it enforceable. It's a mess, and it's a mess because the (now-bankrupt) hedge fund thought that it was too big of a pain to (or perhaps that the managers were too smart to need to) get local counsel.

And this applies in a BIG way to the whole CONCEPT of notes and mortgages.

About half the states in the U.S. are "lien theory" states, which means that those states have a property law doctrine that considers a mortgage a lien against your property. The lien is removed (with a "satisfaction of mortgage") when the debt is paid off.

If you live in a lien theory state, you'll know it because the deed to your home is in your name, and your lender has a mortgage recorded as a lien against the title.

The other half of the states are either "title theory" states or "intermediary theory" (also called hybrid theory) states, which means that, when you borrow money against a property, you don't have full legal title to your property until the loan is paid off. Instead, you have "equitable title" while someone else (usually a 3rd party trustee) holds, or can get, the title.

In title theory states, the security instrument to which I'm referring as a mortgage is often fully replaced by a document called, in various places, a deed of trust, trust deed, security deed, or deed to secure debt. These look a lot like mortgages in their wording, but usually start with clauses that actually convey title to the property to the trustee to hold for the benefit of the lender. In some states, both a mortgage and a trust deed are used.

Here's the importance to you, someone who's looking to use these documents to put together deals: your particular state controls whether you'll use a mortgage or deed of trust-like instrument, and also some of the particular language that must be included in those documents.

It also controls the particulars of the foreclosure process (in most lien-theory states, the only option is a judicial foreclosure, which tends to be fairly slow; in most title-theory states, it can be judicial or non-judicial, the latter of which seems to happen at lightening-speed to those of us who live in judicial foreclosure states).

The good news, with few exceptions, the "creative" part of creative deals—the terms you negotiate, as opposed to the document you write it on—is achievable anywhere, and don't let any attorney you've hired tell you it's not. The fact that he's never seen a zero interest note, or a first right of refusal to buy the note, before doesn't mean they're 'illegal' in your state; it just means he's never heard of it. Still, these things have to be incorporated into the agreements in a way that's clear, understandable, and enforceable; that's another reason why it's also important to

connect with other creative deal-doers who do business in your state, so that you can see how they're practicing those things.

So FYI, in order to avoid the word hash of mortgage/deed of trust/security deed/trust deed, every time I want to refer to these instruments, I'ma just say "mortgage."

Mortgage Basics

The most basic misunderstanding that Americans have about mortgages is this: they think that a mortgage is a loan.

It's not: a mortgage is a **security instrument**: it basically says that the mortgaged property has been pledged as a security for a promise of some sort.

In what we'll call a 'typical' mortgage arrangement, the 'promise' is to repay an amount of money that was loaned to the **mortgagor**[39]—who is also the owner of the property—along with a certain amount of profit to the **mortgagee**, called interest.

The terms of the loan itself are documented as part of the **note**, AKA the mortgage note, AKA the promissory note, which contains language reciting the amount loaned, the interest rate, the amount of the payment, the date of origination, the date the final payment is due, the day of the month that the payment is due and late, the amount of the late fee, and so on.

In other words, the note is the promise—usually to repay a loan.

The mortgage is the security for the promise—what the promisor is pledging to the promisee as a guarantee that he'll do what he said he'd do.

The mortgage document itself usually doesn't usually contain the terms of the loan, but instead describes the property that's up for grabs if the promise made by the note isn't kept. It includes a legal description, certain "covenants" (like that the owner will keep the property in good condition and insured), and other agreements between the mortgagee and mortgagor (the due on sale clause is one example). It always REFERENCES the existence of the note, if there is one.

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[39] The terms mortgagee and mortgagor are amongst the most often mixed-up in real estate. It seems like the mortgagee ought to be the person who owes the money and the mortgagor should be the person to whom it's owed, as in lessor and lessee, right? But since the mortgage isn't the debt instrument—the note is—that's thinking about it wrong; the mortgagor is the person who GIVES the security interest (that's the property owner) and the mortgagee is the one who RECEIVES it (the lender, typically).

Years ago, like when I was 10, my father taught me a mnemonic to keep them straight (and, let's face it, they do seem like they should mean the opposite of what they do). It goes "Simon Legree is the mortgagee, and that means you're the mortgagor." That won't make a lot of sense to you if you've never read Uncle Tom's Cabin, and, honestly, I don't recall Simon Legree originating any real estate financing in the plot. But it's always helped me to remember, nonetheless.

Finally—and you'll probably not absorb the importance of this until you try to find out 'what a seller owes' on a property in public record, it's typically the case that mortgages are recorded in public record, but notes are not. In other words, it's fairly easy to find out that a seller has pledged his property as security for something; it's not possible to find out under what terms any loan was made.

More Basics: Speaking the Language of Notes and Mortgages

If, like seemingly every other man, woman, and child in the U.S., you were a mortgage broker back in the early '00s, you can probably skip this section. If not, it helps to 'speak the language' of mortgages if you're going to use them in your deals, so here's a rundown of common mortgage terms and what they typically refer to:

- The person who pledges the property as security for repayment of the loan is the **mortgagor.**

- If the mortgage is security for the loan, the person or entity that lends the money is the **lender.**

- The person or entity to whom the property is promised—that is, the one that has the right to auction, or otherwise take the property for non-payment, is the **mortgagee**. The lender and mortgagee are almost always the same person or institution, though they could, in theory, be different (see section below).

- Almost all mortgage loans have a periodic payment, usually (and incorrectly) called the **mortgage payment** (it's really a **note payment**). In nearly all conventional or institutional, residential mortgage loans, the payment is monthly, and due at the beginning of the month. This is a practice, not a rule; in owner-held and private loans, the payment can be due at any interval you agree upon (monthly, semi-annually, not at all), and on any due date that the lender and borrower choose.

- The payment can consist of any combination of **principal** (pay down of the actual loan), **interest** (a cost to the borrower for using the money), real estate **taxes** (if they are part of the mortgage payment, the borrower pays $1/12^{th}$ of the taxes each month) and hazard **insurance** that protects the lender and borrower against potential loss of value of the property (also paid in monthly installments of $1/12^{th}$ of the total yearly bill). When a mortgage loan payment contains all four of these items—as is most common in conventional loans—it is often referred to as a **"PITI"** payment.

- When real estate taxes and/or insurance are included as part of the monthly payment, they are said to be **escrowed**. When paid to an institutional lender, these sums are required by law to be held in an **escrow account,** where they accrue until the various bills are due, at which point the escrow agent pays the bill from the escrow account.

- When you're buying properties 'subject to' a conventional mortgage, there's another monthly charge that you may see in the payment: the **mortgage insurance premium**, commonly referred to as **PMI** (private mortgage insurance), or in the case of FHA loans, **MIP** (mortgage insurance premium). This is insurance for the lender against default on the mortgage by the borrower, and can add up to ten percent to the cost of the monthly mortgage payment. It is not typically available to individual lenders, and so is not used in owner-held or private mortgages.

- The **amortization period** of a loan is the timeframe over which the loan balance would be completely paid off in equal installments. A loan with 360 identical payments, where the last payment completely pays off the remaining balance, is a thirty-year loan.

- The **loan term** is the timeframe over which the loan will ACTUALLY be paid off. When the loan term and amortization periods are the same, the loan is called "**fully amortized."**

- When the loan term and amortization period are different—for instance, when the payments are set up to pay off the loan over thirty years, but the loan must actually be paid off in five, the final, large payment is called a **balloon payment.** In the example I just gave, the loan would have fifty-nine equal monthly payments followed by a very large one that pays off the entire remaining balance owed.

- Some conventional loans, and many private loans, do not amortize at all, because they're **interest-only loans**. In these loans, there is no principal payment included in the monthly payment, and so the balance due at the end of the loan term is the same as it was in the beginning. Many conventional interest-only loans (and in the current highly-regulated consumer credit market, you'll only find these in commercial loans or lines of credit, not conventional mortgages) eventually reset to include principal and interest—generally at the end of three, five or ten years. What this does is create a situation where the loan term is, say, 30 years, but the amortization period is only 27, or 25, or 23 years. What happens in these cases is that, at the point at which the loan changes from interest-only to principal and interest, the monthly payment rises significantly, because the entire loan balance has to be paid off, with interest, over the shorter, remaining period of time

- Just as there can be interest-only loans, there can be **principal-only notes**, as well. These are ALWAYS transacted directly with owners as installment sales rather than "loans", and are basically mortgage notes with no interest rate. These are more commonly called **"zero percent interest loans**."

- **Loan to Value Ratio**, AKA **LTV**, is the percentage of the value of the property that the loan represents[40]. With private and seller-held mortgages, the LTV is calculated as a true

[40] Conventional lenders commonly use this term incorrectly with respect to purchase money loans; they talk about LTV when what they really mean is "Loan to Purchase Price." If you call a bank and ask about their terms for investor loans, they'll probably say something like, we'll do "80% LTV", which means that you're required to pay twenty percent down on a property you buy. However, this isn't a true LTV, because the bank does not base this on the VALUE of the property—they base it on the purchase price. You could put the Empire State Building under

loan-to-VALUE, as opposed to loan to purchase price. If you buy a property worth $100,000 as-is, for $70,000, and a private lender loans you the full $70,000, you've still gotten a loan at just 70% LTV. Lower LTVs lower the risk of a loan to the lender, because he's 'in it' for significantly less than the property would sell for in a foreclosure auction.

- In a **fixed-rate** loan, the rate of interest stays the same throughout the loan term.

- In the much-maligned **adjustable rate loan**, or **ARM**, the interest rate varies based on an **index** (most commonly the London Interbank Offered Rate, or LIBOR[41] the Prime Rate, or the rate paid on U.S. Treasury Bonds of various maturities) to which a **margin** is added to calculate the current rate. The margin is defined in the mortgage, and does not change from year to year (although the **initial rate**, or '**teaser rate**' paid on an ARM can be significantly lower than the index plus the margin for that period). Instead, it's the rising and falling of the index that causes a mortgage loan's interest rate—and therefore payments—to rise and fall. It's common to see ARMs in the conventional non-owner occupied loan market, but rare in the private/seller-loan market, as the adjustable rate makes it impossible for you, as the borrower to predict the income from an investment property since the rate adjusting changes your payment. Most consumer mortgage loans made since 2009 or so are fixed-rate, but look for (and beware) of these ARMs when considering a subject to deal, especially on a property where the current loan was originated before 2009.

- In the traditional mortgage market, there are other terms and fees that are commonly applied, (like **loan origination fees**, **application fees**, etc.) that are so rare in our creative use of mortgages that they don't merit discussion.

Beyond the Basics: Mind-Blowing Things About Notes and Mortgages

Ok, so now we've covered the basics of notes and mortgages that everyone who passes the real estate agent license test should know.

But golly, Wally…if you believe that the metaphorical tip of the metaphorical mortgage iceberg is all there is, you're going to miss out on a LOT of cool ways to play with (and, I guess, more importantly, solve seller and buyer problems with), notes and mortgages.

There are a lot of things about that can be done with, and to, these contracts that can make deals better, safer, more likely to work, and more likely to win your association's "Most

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contract for $1, and if you tried to get a purchase money mortgage from the bank, you'd probably have to put twenty cents down.

[41] You'll still see LIBOR referenced in older adjustable rate mortgages for a while, but it technically no longer exists. It's been replaced by the SOFR (Secured Overnight Financing Rate) in the U.S., which is of course MUCH more confusing than the already-confusing LIBOR rate.

Creative Deal of the Year" award at the end the year (which is, let's face it, the REAL reason we do these things).

Here are a few examples to wet your whistle; we'll talk about what the contracts and clauses actually LOOK like as the need arises. Just try to grasp the concepts for now:

Mortgages Can Secure ANY Promise, Not Just a Promise to Pay Back a Loan

Mortgages are security interests, right? And they usually secure a loan of money, right? But here's a key understanding: **repayment of a loan is not the only promise that a mortgage can secure**.

This is a powerful thing to know and use as a creative deal maker, but it's one of those out-of-the-box[42] things you have to get used to, if you've never thought of it that way.

You can back up ANY promise you've made (or received) with a mortgage against real estate.

For instance, I could promise you that I'd walk your dog every day, and give you a mortgage against my home that would allow you to foreclose, auction it off and take the proceeds if I failed to take Fido out tomorrow.

Or, if you'd like a more real-world example, here's one: a seller-held mortgage does NOT secure a loan.

"But wait", you say, "Of course it does! The seller loaned me $145,000 to buy his house, and he gets to take it back if I don't pay."

Wrong—the seller traded you a deed to a house for note saying that you'd pay him $145,000 and a mortgage saying that if you broke your promise, he could take legal action to have the property sold at auction to repay the debt.

If he'd "made you a loan", at some point, $145,000 would have passed through your hands, or at least the hands of the title company or attorney closing the deal, right? And it didn't, right?

The mortgage, in this case, secures your promise to pay—not RE-pay—$145,000 at some payment over some time period. The seller has agreed to accept the purchase price of his house in multiple payments, and you've promised him the house as security for performance.

Digest this, because it's going to become super-important when we talk about options and lease/options, and how to protect yourself when doing them.

The Mortgagor and the Person Making the Promise do NOT have to be the Same Person

[42] Yeah, yeah, I know. There is no box. What Box?® Bill Cook. Sorry, I need something to think outside of.

The mortgagor is the person who owns, and puts up, the security for the promise, right? I can't put up YOUR house as security for a loan made to ME, only YOU can do that.

But there's nothing to stop you from going ahead and securing a promise of MINE with a property of YOURS, right? I mean, grandmas of accused criminals do this all the time: they pledge the deed to their house to a bail bondsman to secure the promise of their grandson to show up for his hearing, so that the bail bondsman can get back the bail he put up. When sonny boy flees the state instead, bail bondsman collects the bail from grandma, or has her house auctioned off to get his money back.

I used an example of promising to walk your dog a minute ago. For that matter, my teenaged son could promise to walk your dog, and I could give you a mortgage against my home to guarantee HIS performance.

That's a silly example—no one in their right mind would give any guarantee that a teenager would do ANYTHING he'd promised to do—but it's an important concept, because in the day-to-day activities of a creative deal-maker, it's often the case that for technical/legal reasons, the mortgagor and the person who's on the hook for the debt or promise should NOT be the same.

A simple example of this is in the case of a private loan to buy a property, where your LLC (limited liability company) is to be the owner of the property.

Because your LLC is the owner, only the LLC (or rather you, in your role as manager of that LLC, and only with a resolution from all of the owners of the LLC, even if that's just you) can be the mortgagor.

If you sign the mortgage personally, the mortgage isn't enforceable, because the owner of the property (the LLC) didn't promise the title as security—you did, and you're not the owner.

At the same time, a private lender, if he's half-sophisticated, will normally want your PERSONAL signature on the note, NOT your signature "as manager" of the LLC.

Why?

Because if you don't sign it PERSONALLY, only the LLC is obligated to pay, not you. Only the LLC can be 'gone after' for any deficiency in repayment, not you. Having you, personally, and all of your personal assets, on the hook for repayment is a much better position for the lender than just having the LLC's pledge to repay.

And what about this common investment situation: your LLC is the beneficiary of a land trust that is buying a property with a seller-held mortgage and note?

Who guarantees the property as security? Or, in legalese, who is the mortgagor?

It has to be the trustee, because he's the title holder of the property, and—this is important—only the owner of a property can pledge it as security.

But should the trustee sign the note?

NO, because it's not the trustee who's responsible for keeping the promise. It's the LLC or, if you're giving a personal promise to repay on behalf of your LLC, you. So the note will be signed by you as member of the LLC, or by you personally, or both.

A good rule to remember is that ONLY the person(s), or entity(ies) who own(s) the property can pledge it, and thus has (have) to be the mortgagor; ONLY the person(s) or entity responsible for repaying the loan should sign the repayment instrument—that is, the note.

So, if only the owner of a property can pledge it as security, how does a 'subject to' deal, where you become the owner but the existing note and mortgage stay in place, work?

Like this: the existing mortgage is not extinguished by your purchase of the property. It survives until the loan that it secures is paid in full, which could happen through normal amortization, a payoff when you sell the property, or through the lender exercising its "due on sale" clause and forcing the payoff—or sale of the property—early.

That agreement was made between the lender and your seller long before you came into the picture; **the fact that the seller later transferred title to the property to you does not 'undo' or supersede his agreement with his lender**. That agreement is ongoing between himself and the mortgagee until the loan is paid off; the fact that you are now the owner of the property does not release the prior owner from his obligation to pay.

What you have in the case of a subject to transaction is a separate agreement with the prior owner—one that the lender hasn't agreed to, and doesn't have to abide by—that you'll make the payments.

So in a 'subject to' deal, you as buyer <u>are neither the mortgagor, nor the borrower</u>—and yet the lender can still take <u>your</u> property if the original borrower's obligation to make the payments is not met.

But wait—there's even more mind-blowing to be done here.

Mortgages Don't Have to Be Accompanied by Notes, or by Payments

You can secure a SELLER'S promise to sell you his property by getting a mortgage against HIS property, without giving him any money at all and without him owing you any payments.

Wait…what???

Yeah, mortgages can secure ANY promise, including a promise to convey clear title to you—like the promise that's made by a seller in a lease/option 'sale' or a land contract sale.

Think about the example of a property that you want to control via a long-term option or lease/option. There are big advantages to lease/optioning a house, or even a commercial property in certain circumstances, but there are also certain risks to you as the buyer.

The question is, what promises have been exchanged in a lease/option, and what are the risks to each party if those promises are not kept? In a typical lease/option arrangement:

- The tenant/buyer promises to pay the rent, maintain the property, and, if he feels like it, ultimately buy it at some agreed-upon price. If he doesn't pay the rent, he gets evicted; if he doesn't maintain the property, he loses his right to buy it.

- The landlord/optionor promises that he can and will sell the property at the agreed-upon price during the term of the option, as long as the tenant/buyer has kept up his end of the bargain.

The danger TO YOU as a tenant/buyer in such an arrangement is, of course, that you do what you're supposed to do (make the payments, maintain the property, whatever), but when it comes time to exercise your option and buy the property, the seller can't, or won't, do what he's supposed to do (give you clear title).

If the seller can't convey the property at the agreed-upon price, or refuses to, your USUAL remedy is to sue the owner to force him to sell.

The problem is that, while a lawsuit to force the seller to sell to you at the agreed-upon price might be successful from a legal standpoint, it can still fail from a practical standpoint. For instance, if the reason the seller can't give you clear title is that he went out and refinanced the property for $30,000 more than your option price, and he just doesn't have the money to pay the difference between what he owes the bank and what you owe him, you're kind of stuck. The lender doesn't have to—and will not—'short' their debt just because the seller promised to sell to you at a lower price.

Or, what if the seller neglected to pay his income taxes during the option term, and had a $100,000 IRS lien against the property by the time you wanted to exercise your $90,000 option? Or got into a car accident and ended up with a huge judgement against the property? Or if he declared bankruptcy, and surrendered 'your' property to the bank?

In any of these cases, a lawsuit to try to force the seller to sell at the agreed-upon price would be useless, from a practical "it gets you the property as promised" standpoint.

Now if it happened that YOU had a mortgage against the property that secured your seller's promise to sell at the agreed-upon price, you'd be in much better shape. Why? Because being a lienholder puts you in a completely different position, legally, than having a promise in the form of an option contract or contract for deed, from the seller.

This kind of mortgage, called a "mortgage to secure option," is a mortgage that the owner—the optionor—gives YOU against the property you intend to buy, making you, weirdly, the mortgagee, and him the mortgagor.

It doesn't necessarily include a note, because the owner doesn't owe you money—what he owes you is a sale at a particular price and terms. The mortgage simply says that if you've done what you're supposed to do and the owner refuses to sell to you, you can foreclose on the property.

And a mortgage to secure option solves 2 other potential problems, as well: once it's recorded, it takes its place in the chain of title just like any other mortgage, which means that any subsequent liens against the property that the seller might get voluntarily (like a home loan), or involuntarily (like an income tax lien or judgment), are junior to your mortgage. If the seller finds himself in the position of being unable to sell to you because, say, he forgot to pay his income taxes for the prior 20 years, and has a $1 million judgment against everything he owns, *you can foreclose on the property and wipe out any liens junior to yours*.

In addition, when you have a recorded mortgage against his property, it keeps him from intentionally borrowing more than you owe him for the property, because any intelligent lender is going to do a title search, and discover that their mortgage will fall behind yours in the order of liens, and that they can be wiped out in a foreclosure.

And We Haven't Even Talked Terms Yet…

In the world of mortgages, the seller-held variety is the only one where literally every term of the mortgage and note is pretty much 100% negotiable.

Because you're dealing with someone whose motive isn't to invest money and then earn interest and fees from that money—and more importantly, because you're dealing with an individual human being, who doesn't have government or corporate imposed rules about minimum down payments, minimum credit scores, payment due dates, and so on—the way in which you structure the terms is completely up to you and the seller.

Think about that statement: it means that everything, from the amount of the monthly payment to whether the payment is even paid monthly, and on which day of the month, is not foisted upon you, as it is with an institution. None of these things even have to be 'assumed'—I mean, who says there's an interest rate on a mortgage note? Not me! Instead, they're agreed upon by you and the seller (or, I suppose, buyer) you're trying to reach agreement with.

This leads to all sorts of interesting options, like:

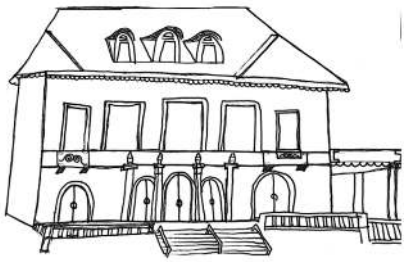
- **0% interest loans**. No private lender or bank will agree to payments without interest; private lenders need the interest because it's their only source of profit, and banks need it because their secondary buyers use it as their source of profit. But sellers, as you'll soon find, don't care about interest. They care about price, and about payments, and about how long those payments will go on, but not so much about interest. They view the carryback as making

money on the PROPERTY, not on an investment of money. You'll occasionally talk to a seller who's 'in the business' in some way (they're also lenders, or CPAs, or real estate brokers) who will object to a no-interest loan; these folks are usually happy to agree to carry financing at a rate at, or below, current bank rates, though.

- **Deferred payments**. When a property is vacant or needs major work, it's not unusual for sellers to agree to let you make the first payment several months—or sometimes longer—after you get title to the property. Simply asking for this, with the reasoning that you have a lot of investment to make in the property over the next several months and you'd like to focus all your money on improving their security, often gets a quick agreement from a seller.

- **Payment due dates**. If you're like most real estate investors, you have a major outlay of money on the first of the month: mortgage payments to banks (including on your subject to deals), utility bills, and semi-annual taxes all tend to be due on the first. Unfortunately, the income that pays these bills—rent from your tenants—is often, shall we say, more staggered throughout the month. So when negotiating your seller-held loans, you might think about making the payment due dates later in the month, like on the 15th or 20th, simply to even out your cash flow throughout the month

- **Low or no money down deals**. Sellers don't have mandatory down payments, like banks do, nor do they have policies about loan to value ratio, like many private lenders do. They are often willing to carry financing with just enough down to cover their closing costs[43]--and this up-front money doesn't have to be in the form of a "down payment." In fact, I rarely offer down payments at all, even when my seller 'needs' money up front to pay closing costs, or pay a bill, or buy something they want. Instead, I offer pre-paid payments at closing. If the seller needs $10,000 for some reason, and I've agreed to payments of $1,000 a month, I'll agree to pay the first 10 payments at closing (which of course means that I don't owe my next payment until month 11, which means I get



Fun with seller terms example 1:
The seller of this property (which I couldn't retrieve a picture of, because the house was subsequently torn down to make room for a mall) simply wouldn't budge from his asking price, despite the fact that the property needed major work to be rent-ready (and, in fact, looked strikingly like this drawing).

So we landed on terms that DID work: his price, but a seller-held note with no down payment, no payments, and no interest for 1 year. I then wholesaled the property to a buyer who paid $7,000 down to get the same no-payments, no-interest financing that I did.

Sadly, the seller died in the year that followed, and when the buyer tried to pay off the loan, the estate wasn't opened yet, so there was no one to pay it to. She ended up getting an additional 6 months without interest or payment, during which she collected rents but had very little in expenses.

[43] A negotiation note: I always start with the assumption that sellers carrying financing will pay their own closing costs, including title search, deed preparation, and transfer fees and taxes, and will pay the real estate taxes up to the date of the closing and pay off any liens from the city or other sources at closing. In a true no money down deal, this would require the seller to bring cash to closing to sell their property, which is unpalatable to most sellers. But me paying costs that are really and truly the sellers'—like his taxes, which are due whether or not I buy his property,

10 months of collecting rent without an outgoing P&I payment).

- **Odd amortization periods**. With seller-held financing, you don't have to make the payments fit into any specific "round number" amortization period, like 5 years or 15 years or 30 years. Instead, you can agree on a price and payment, and then figure out what the amortization period is based on that. One of my favorite ways to make seller-financed offers is to simply divide the purchase price by 100 months—which is 8 years, 4 months—and offer the resulting payment. I recently tied up a deal where the seller's 2nd mortgage runs 54.32 months—54 months plus a small remainder payment in month 55—because she had already agreed to a $500/mo. payment, and it turned out that the purchase price didn't exactly work out to what we thought.

- **Non-monthly payment dates**. I've negotiated seller-held mortgages where, due to the low purchase price, the monthly payments were pretty negligible. So instead of offering a monthly payment of, say, $113.47 a month, I've offered an annual payment, up front or around a major "spending" holiday like Christmas, of $1,361.64. If there's a reason for you to do so, you can offer payments annually, semi-annually, quarterly, and so on—just watch out for that pesky additional interest if the note has interest and is written to compound monthly. You'll end up paying MORE interest overall if you don't pay the payments monthly, or in advance.

- **Unusual payoff and payment terms**. Because of the freedom created when people negotiate with other people, you and your seller can literally dream up any unusual payoff terms that you can then document and enforce. Whether it's a bonus (not penalty) for early payoff that actually reduces the loan balance if you pay it off before the end date or balloon date, or credits against the balance for you completing certain work (and therefore increasing the value of his security) within a certain time frame, or an interest rate that increases over time NOT based on any index (0% the first year, 1% the 2nd year, 3% the 3rd year, etc.) seller-held notes and mortgages can contain nearly any terms that work for both of you.

Fun with seller terms example 2:

I negotiated this deal with a seller who was absolutely stuck on a particular price, for the odd reason that he'd added up his purchase price plus every bill he'd ever paid on the property—it had nothing to do with the actual value of the property in its current condition at the time.

So I offered him that price, with the term that the mortgage balance would be reduced by $5,000 when I finished replacing the windows, paint and carpet, and adding much-needed siding.

He was very satisfied with this outcome, despite the fact that he <u>really</u> got $5,000 less than what he wanted. Why? Because he saw the "right" price on the purchase contract, and because, in his mind, it was fair that I should be paid back for money I spent on the property!

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and his county transfer tax—is unpalatable to me, and big down payment just take cash out of my pocket that I'd rather spend on…other things.
For that reason, instead of making down payments, I offer sellers who want cash up front pre-paid payments at closing to "cover" their costs. I might make the first 5, or 10, or 20 payments at closing, which makes my first regular payment 'due' at the beginning of month 6, or 11, or 21.

But Wait, There's More…
Three Things That Should Be in EVERY Seller-Carryback Mortgage

The examples I just gave are big-picture, macro ways to think about mortgages and notes. But there are some specific clauses that, unless the seller objects (which is rarely), go into ALL my seller-carryback mortgages.

This has to do with that "10 year view" Bill was talking about in Part 1: it turns out that, during the course of a seller-carryback note that you thought on day 1 was going to go a certain way, other stuff crops up as the years wear on.

For instance, you might decide to sell the property for one reason or another, and YOU might want to wrap the seller's financing when you do that. Heck, that might be your plan from day 1. For that reason, you'll want to START the whole arrangement with a:

1. **Modified Due-On-Sale Clause**. You know those, right? They're the things that make you pee your pants when you think about buying a property subject to a bank loan. They say that if the title is transferred, the lender—in this case the seller—can call the entire loan balance due immediately, even if payments are current. You don't want such a thing in your seller-carryback mortgages, because it gives your seller the power to force you to pay off the balance of what you owe him the second you transfer the title, or even give a buyer a contract for deed or similar. Not what you intended, so fix it.

There's literally no law that says that a mortgage HAS to contain a due-on-sale clause, so one option is to simply remove the clause altogether. Another is to modify it so that you can sell the property while keeping the loan in place AS LONG AS YOU AGREE TO STAY RESPONSIBLE FOR THE PAYMENTS, like this (see underlined clause):

If all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent, <u>excluding</u> (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) <u>a transfer wherein the Borrower remains fully liable for all payments on the note</u>, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer, Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Lender and that the interest payable on the sums secured by this Mortgage shall be at such rate as Lender shall request. If Lender has waived the option to accelerate provided in this paragraph 17, and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by the Lender, Lender shall release Borrower from all obligations under this Mortgage and the Note.

In this case, if you stop getting payments from your buyer[44], you deal with it but continue to pay the seller.

2. **First right of refusal to buy the note and mortgage**. So there's this vivacious, convincing chick named Donna Bauer (AKA The Original Notebuyer®) who goes around the country telling people that they should LOOK FOR seller-held mortgages in the public record, and then reach out to those noteholders and offer to turn their payment streams into instant cash—at a discount, of course.

Here's how it works: you agree to pay a seller $100,000 at 4% interest for 20 years. The seller now has a payment stream of $603.97 a month. Immediately, and pretty much every month until that note is paid off and the mortgage released, your seller/mortgagee gets mail from note buyers offering to buy those payments. In month 1, while the balance is still $100,000, a typical note buyer might offer—I kid you not—$55,400 to buy the remaining 240 payments of $603.97. The seller will probably say no to that.

But what if, in 10 years, he decides he doesn't like his payments anymore, and wants cash instead? It could happen, right? At month 120, you owe the seller $59,852, and a note buyer will give him $42,517 in cash for that note. And maybe NOW he decides to take it, 'cause the discount isn't nearly as big as it seemed before and also he has a new, much younger girlfriend who wants a great big diamond engagement ring, and he wants the cash to give it to her.

The seller selling the note doesn't affect you in any way, except that you'll make your payments to someone else for the remainder of the term.

But IF your $59,852 balance can be bought for $42,517, don't you want the chance to buy it? I mean, you'll just owe the money to yourself, so it's exactly like paying off your loan at a 29% discount.

By inserting a "first right of refusal option" in the mortgage, you require[45] the seller to come to you with any offer he's contemplating accepting for his mortgage note, and if you match it, he

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[44] Note that you're never going to simply assign the responsibility to make the payments on a seller-held note, subject to, or private loan to another person and walk away. Why? Because it's not right. YOU made the deal, and a big part of the reason you were able to do that was because the seller (or lender) trusted YOU. YOU will always 'stay responsible' by WRAPPING any seller-held or assumed financing with your own financing…in other words, your buyer pays you, and you pay the seller and/or his bank. If your buyer doesn't pay you, you STILL pay the seller and/or his bank, and fix the problem with your buyer yourself.

[45] *One of the most common questions I get when talking about first right of refusal is, "What if the seller sells the mortgage and note without giving me the chance to match the offer?" This IS a possibility—sellers forget terms like this when a number of years have passed. However, it's extremely likely that the potential note buyer will notice the clause and bring it to the seller's attention. If not, or if either the seller or the note buyer chooses to ignore the agreement, you could theoretically take legal action to try to enforce it, but why would you? All that happens if someone else buys the note is that you continue to make the same payments that you agreed to, just to the new mortgagee. One assumes that you were happy with those terms, or you wouldn't have negotiated them. It's probably not worth subjecting yourself to a lawsuit to get a discount on your payoff, unless it's a gigantic discount.*

has to let you buy the mortgage note yourself for that price. The first right of refusal option clause looks like this:

RIGHT OF FIRST REFUSAL. *Should Lender choose to sell some or all of his rights in this mortgage and/or the note of even date, Borrower shall have the exclusive and irrevocable right to purchase it at the same price offered by any buyer. Lender is obligated to notify Borrower immediately of any bona fide offer to purchase the rights in the mortgage and note and Borrower shall have ten (10) calendar days from notification to decide to purchase said rights at the same offered price or waive this right of first refusal.*

3. **Substitution of Collateral.** Let's say that you negotiated a 0% interest, 10 year loan with a seller. Let's further imagine that, for some reason, you sold that property prior to the end of the 10 years. Isn't it painful to think about paying off that loan? It's such a good loan. It doesn't deserve to die.

You can potentially extend its life span with a substitution of collateral clause in your mortgage. This clause basically says that, should you sell the property (or even refinance it to 'take out' a hard money or other renovation loan), the seller agrees to let you "substitute the collateral," meaning give him a mortgage on another property, release the original collateral property, and continue to make the same payments you have been.

Confused? It works like this: the seller carries back a $100,000, 0% loan on his property, property A. After 5 years, you sell property A to the tenant for $150,000. Absent substitution of collateral, you pay off the seller's mortgage and get $100,000 in your pocket at closing.

WITH substitution of collateral, you "move" (which really means create and record a brand-new mortgage document) the mortgage to property B, which you happen to own, and which happens to have at least $50,000 in equity in it, to secure the new mortgage for the same seller. The seller continues to receive the same payments he did before, but he now has a mortgage on a different property as security.

The substitution of collateral clause looks like this:

It is further agreed that the Mortgagor may secure repayment of the debt evidenced by the Note and Mortgage with collateral other than the real property that is the subject of this Mortgage provided the market value of the new collateral exceeds One Hundred Twenty Percent (120%) of the mortgage balance at the time of the substitution. Should Mortgagee not cooperate in completing documents to release the collateral securing the Note and Mortgage, and substitute the replacement collateral, upon Mortgagor providing a valuation showing the new collateral meets the criteria above, payments and interest shall be suspended as of the date of said valuation and the Maturity Date shall be extended until such time as Mortgagee executes all necessary documents releasing said collateral and accepting the new collateral. Neither interest nor payments shall accrue during the suspended period and the Maturity Date of the debt shall be automatically and permanently extended by a time equal to the length of the suspended period.

Note that this clause does not, in any practical way, FORCE the seller to agree to "walk the mortgage." The seller can reject the new collateral, or can simply dig his heels in and refuse to release the mortgage from property A unless he gets the full payoff. The reason to put the clause in the mortgage anyway is that many sellers will do it because they agreed to do it.

And if they don't agree to do it, it opens the door for a negotiation about an early payoff discount—"OK, Mr. Seller, you agreed to do this and now you don't want to, which puts me in a pickle. I'll tell you what: I'll just pay off the $50,000 balance if you'll let me pay it off for $40,000, given that you're the one who wants to break the agreement."

Now, back to your regularly scheduled dose of Bill, who's going to bring it back down to earth with the actual topic for this section:

What is a Seller-Carryback Note?

Seller-carryback notes, also known as purchase money notes or owner-financed deals, occur when a seller accepts payments, memorialized by a note, instead of requiring all cash when he/she sells his/her property.

Think of seller-carryback notes as IOUs. They are a promise to pay at some point in the future. Included within the bounds of the note are the terms and conditions agreed to between the buyer and seller about how the buyer will pay the seller.

A seller-carryback note alone is an *unsecured* instrument. This means that if the buyer (payor) refuses to pay the seller (note holder) what he/she has promised to pay, unless the buyer signed for the note personally, there is nothing the seller can do; the seller has no recourse.

This is where mortgages and trust deeds step in

A seller-carryback note is NOT a loan of money. Rather, it's part of the terms of the sale of a property. In essence, it's financing the seller's equity in the property.

Because a seller-carryback note is not a loan of money, then the terms "lender" and "borrower" should not be used in the note nor the securing instrument (mortgage or trust deed). Instead, use the terms "seller" and "buyer", or "note holder" and "note payor."

Dang this is great information! Any idea how many hours Kim and I spent attending Jack Miller's, Pete Fortunato's and Dyches Boddiford's seminars learning these valuable nuggets?

Vena was wrong when she said you don't go to a seminar on vacation. If we hadn't 'vacationed' at seminars eight to ten times per year for all these years, we'd probably not be as well versed as we are in the language of creative deal structuring. My point: find great teachers like Vena, then go to everything they teach, every time they teach it. It's both time and money well spent!

Seller-Carryback Notes Can Be Used When Buying or Selling a Property

Kim and I have successfully used Seller-carryback Financing when ***buying*** or ***selling*** a home.

The advantages of receiving owner financing when buying a property can be many. Here are just four:

- Quick closings
- Low closing costs
- Incredibly flexible terms and conditions
- Possible 'Second-Bite-of-the-Apple' Deal

Over the years we've learned that one of the biggest advantages of buying with owner financing is that it can lead to the seller doing additional deals with us. In other words, because we always pay on time, and because we do what we promise, and because we are easy to work with, our owner-financed sellers on one deal often become our private-money lenders on other deals.

Now let's look at the other side of the coin. Kim and I have sold many properties over the years and offered owner financing on a majority of these sales. Here are just a few of the advantages we receive when giving owner financing:

- We can sell the property for well above fair market value.
- The interest we charge is significantly higher than the interest we'd receive if we put our money in a bank account.
- The buyer, in order to receive owner financing, must agree to give us a Right of First Refusal Option to buy the property.
- Often enough, because of people's nature to move on, we get the property back at some point in the future. This allows us, due to inflation, to sell the home again, only this time for a higher price.

Terms and Conditions in Seller-Carryback Notes

Too many investors will give up their right arm to get a seller-carryback, zero-interest note.

Maybe a zero-interest note is a good thing, but maybe it's not.

A seller offers to sell you his home and agrees to accept a seller-carryback note.

You love his property because it will be a great rental property for many years to come. Great neighborhood. Great schools. Great churches. Great shopping.

Seller's Offer #1: Sale price is $200,000. The note terms are 120 monthly payments, 0% interest.

Seller's Offer #2: Sale price is $200,000. The note terms are 480 monthly payments, 4% interest.

The property will rent for $1,600 per month.

Which offer will you take, pay 0% interest for 120 months, or pay 4% interest for 480 months?

Don't just say, "I'll take the 0% interest deal because 0% interest is a lot less than 4% interest!"

Do you know what the monthly payments for either of the seller-carryback notes will be? If not, why not?

You plan to keep this house as a rental. Once the house has paying tenants, what will be the monthly rental income after paying the mortgage payment for Seller's Offer #1 and Seller's Offer #2?

Let's take a look:

Seller's Offer #1: $1,600 monthly rent - $1,666.67 mortgage payment = <$66.67>. Before taking into account additional expenses like insurance, taxes, vacancies, repairs and management, you will be losing $66.67 each month if you agree to the 0% interest seller-carryback note. OUCH!

Seller's Offer #2: $1,600 monthly rent - $835.88 mortgage payment = $764.12 gain before expenses each month with the 4% interest note.

As a real estate investor, there's a big difference between losing $66.67 each month and making $764.12 each month. For landlords, cash flow is the name of the game.

Objection: Stop Comparing Apples to Orangutans.

The example given above is what's called, in competitive debate, a "straw man fallacy."

It spits out a scenario in which a seller is very price-driven (common) but is apparently equally happy to accept payments of $1,667 or of $836 a month (uncommon), is fine with accepting a FORTY YEAR term with no balloon (scarce) and also, apparently, needs an interest rate to make him feel better about his life (rare as hen's teeth).

Most sellers are interested in price, how much payment they'll get each month, and when they'll get paid off, full stop. In my extensive experience, sellers will almost never bring up the IDEA of an interest rate if you don't.

So either this seller wants $200,000 and $1,667 a month, in which case you have a couple of choices:

1. Stay in Bill's box and reject the deal because it loses something like $500 a month, not $66 as his 30 year old HP12C calculator apparently spit out at random, or;

2. Think outside Bill's box and do the deal anyway, but get a high-income partner who wants ½ the deal in return for paying the shortage every month for 10 years.

    a. At 0% interest, for his $500 a month, the high-income partner gets $833 in equity AND protects something like $272 of his OTHER income from taxes every month through depreciation. After 10 years, when that loan pays off, he's 'fed' the property $60,000, and owns half a property worth $200,000+ appreciation, gets an income of something like, I dunno, $500 a month ($6000 a year) for life for his $60k investment. Pretty good, if you ask me.

    b. However, if you believe that sellers need interest, then that $1667 a month will have to be paid for 152 months to pay off a $200,000 loan at 4%. That adds another 32 months of the partner needing to feed the property, or $16,000 to his investment, making it $76,000 to capture $100,000 (+appreciation) in equity, and setting back the time when he MAKES, instead of SPENDS, money by almost 3 years. Not as good.

It's very unlikely that seller actually cares about interest. Chances are, he just wants $200,000 and $835 a month, in which case—

1. You can commit to Bill's 40 year mortgage at 4% OR
2. You can offer him exactly what he ACTUALLY wants, which is $200,000 at payments of $835 a month. At 0% interest, that will only take 239 months—less than half of what Bill is suggesting—to pay off.

Sellers. Don't. Care. About. Interest.

When it comes to terms and conditions that can be in owner-carry notes, your imagination is the only limiting factor.

To better understand paper, I strongly recommend you attend Pete Fortunato's Paper Course (PeterFortunato.com) he teaches every December!

Let's Look at Examples of Owner-Carryback Notes

Example 1: When buying a property and getting owner financing

The first example we'll look at is when you want to ***buy*** a property and ***get*** owner financing.

In this example, I'm buying a property from Cindy Seller. The agreed-to sale price is $200,000.

The terms: $15,000 down, plus I give Cindy Seller a purchase money note in the amount of $185,000. I promise to make 360 monthly payments (30 years) of $880 at 3.97% simple interest.

When you look at page one of the purchase agreement (next page), you'll see my terms offer. If you want to buy properties and get owner financing, then you must make owner-financed offers – *a lot of them*!

The first document is the purchase agreement (next page). The second document is the purchase money note.

By the way, notice on page 2 of the purchase money note, the note holder gives me a right of first refusal option. This means that if the note holder is approached by someone who wants to buy my note, the note holder must give me an option to match the agreed-to price and terms the note buyer offers.

You must, to reach your full potential as a creative deal structurer, understand fully how to use a financial calculator. The hammer is the main tool of a carpenter. A paint brush is the main tool of a painter. For deal makers, it's the financial calculator. I have an excellent financial calculator course on our website: BillandKimCook.com .[46]

[46] Gee, Bill, I think you forgot to mention this up until now.

Page 1: Purchase Agreement

FOR INSTRUCTIONAL PURPOSES ONLY

PURCHASE AGREEMENT
(use when buying a property)

Offer Date: 5-10-2020 **Subdivision:** EVERGLADES

Seller: CINDY SELLER **Phone:** _____

Buyer: BILL COOK **Phone:** 770-815-8727

Property Address: 313 OAK TREE LANE, CARTERSVILLE GA 30120

Legal Description: The Legal Description for the above property will be attached as "Exhibit A" within 72 hours after this agreement becomes a legally binding contract.

The Buyer, and the Seller (including the Seller's heirs, successors, legal representatives and assigns) agree that the Buyer will buy and the Seller will sell the above described real property under the following terms and conditions:

1. **Price:** $ $200,000

2. **Terms:** DOWN PAYMENT → $15,000
PURCHASE MONEY NOTE → $185,000
→ 360 monthly payments of $880.2 3.99% int

3. **Conveyance:** Fee simple title to the property, with an owner's title insurance policy guaranteeing marketable title, will be delivered to the Buyer, or to the Buyer's assigns, by a General Warranty Deed free from any liens, restrictions, encumbrances, easements or encroachments not specifically referenced in this contract. Risk of loss to the property shall be borne by the Seller until title transfers.

4. **Possession:** Possession of the property and occupancy, with all keys and garage door openers, will be delivered to the Buyer when title transfers.

5. **Expenses:** The Buyer will prepare, and pay for the preparation and recording of all notes, deeds and options. The Seller will pay for the transfer tax and the intangible tax stamps on all deeds, notes and options. Real property taxes will be prorated based on the current year's tax without allowance for discounts, such as homestead or other exemptions. All real estate commissions, and any other real estate fees, will become due and payable only after Seller has conveyed to the Buyer good and marketable title to said property by General Warranty Deed.

6. **Earnest Money:** Earnest money, if any, will be paid to LEE PERKINS (Holder) in the amount of $ 1,000 within 72 hours after this agreement becomes a legally binding contract. At the time of closing, earnest money, to be held in escrow by the Holder, will be applied to the purchase price of the subject property. All earnest money will be returned to the Buyer within 24 hours if title does not transfer in accordance with this agreement.

7. **Inspections:** This contract is contingent upon the Buyer's inspection and approval of the subject property prior to the transfer of title. If inspection is not satisfactory for any reason, then Buyer may declare this Agreement void and will immediately receive a full refund of all earnest money. The Seller agrees to provide unlimited access to the subject property to the Buyer and Buyer's representatives, with all utilities (power, water, gas) turned on. Seller will remove all personal property not included in this sale and deliver the subject property vacated and clean, with all trash removed at the walk-through inspection immediately preceding title transfer. If the property is accepted, it will convey in "AS IS" condition. Any personal property left at the property after title transfers will be considered abandoned property left by the Seller and the Buyer may dispose of said personal property in any manner he/she/they/it wishes.

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Page 2: Purchase Agreement

8. **Defects:** Seller warrants property to be free from hazardous substances and from violations of zoning, environmental, building, health or other governmental codes or ordinances, and that there are no known defects or facts regarding this property that could adversely affect the value of said property.

9. **Survey:** Seller agrees to provide a survey of the property certified within 30 days of closing.

10. **Termite Letter:** Seller will provide an Infestation Report prepared by a licensed pest control operator within 5 days after acceptance of this agreement.

11. **No Judgments:** Seller warrants that there are no judgments threatening the equity in subject property, and that there is no bankruptcy pending or contemplated by any title-holder. Seller will not further encumber the property.

12. **Default:** If the Buyer or Seller fails to perform any covenant of this contract, the defaulting party will pay to the other party $500 as consideration for the execution of this contact and as agreed liquidated damages in full settlement of any claims for damages.

13. **Other Provisions:**
    A. **Entire Agreement:** This Agreement constitutes the sole and entire agreement between the parties hereto and no modification of this Agreement shall be binding unless signed by all parties to this Agreement. No representation, promise or inducement not included in this Agreement shall be binding upon any party hereto. Any assignee shall fulfill all the terms and conditions of this Agreement.
    B. **Working:** All electrical, plumbing, mechanical, heating and cooling systems and appliances will be in good working order and functioning properly. Carpeting, drapes and rods, blinds, ranges, refrigerators, heaters, air conditioners, built in appliances, and ceiling fans will be clean, operable and delivered with transfer of title to real estate.
    C. **Survival of Agreement:** All conditions or stipulations not fulfilled at time of closing shall survive the closing until such time as the conditions or stipulations are fulfilled.
    D. **Time of Essence:** Time is of the essence for this Agreement.
    E. **Legal Counsel:** This is a legally binding contract. All parties should seek legal advice before signing.

14. **Acceptance:** This agreement will become a binding contract once accepted by the Seller and signed by both the Buyer and Seller. If Seller doesn't accept and sign this agreement before _____, this agreement will be void.

15. **Closing:** This transaction shall be closed at Lee Peakin Attorney on or before 6-30-2020.

16. **Special Stipulations:** The following Special Stipulations (if any) (see Exhibit "B"), if conflicting with any exhibit, addendum, or proceeding paragraph, shall control.

X _____ X _____
Seller's Signature and Date Buyer's Signature and Date

X _____ X _____
Seller's Signature and Date Buyer's Signature and Date

X _____
Realtor's Signature and Date

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Page 3: Purchase Agreement

SPECIAL STIPULATIONS AGREEMENT: EXHIBIT "B":
(use when making a purchase offer)

1) Buyer is buying property subject to Seller's mortgage(s). All escrow balance(s) have been calculated into the price and will transfer to the Buyer along with title. Seller agrees to give Buyer an irrevocable limited power of attorney at closing that will allow Buyer to work with Seller's lender(s) and insurance provider(s). Seller understands that with a "Subject-to Deal" the Seller's mortgage is not being paid off, nor is it being assumed by the Buyer, rather the Seller's mortgage remains in the Seller's name and the Buyer is agreeing to make the Seller's mortgage payments on the Seller's mortgage for the Seller.

2) If the Seller has not vacated the property at the time title transfers as agreed to in this contract, then at the time of closing, the Buyer shall hold $ 10,000 of the Seller's proceeds as the Seller's "Move Out Deposit". The Seller's Move Out Deposit will be returned to the Seller as long as: 1) Seller vacates the property on or before the move out date agreed to by Buyer and Seller in writing. 2) Seller has given Buyer the keys to the property. 3) Seller has abided by all of the terms and conditions of this Agreement. If the Seller does not move from the property by the date Seller agreed to, Seller agrees to pay the Buyer a Daily Property Rental fee of $100 per day until the Seller vacates the property. The Seller's Daily Property Rental fee will be deducted from the Seller's Move Out Deposit and paid to the Buyer.

3) Purchase Money Note: Buyer shall execute and deliver to the Seller a Purchase Money Note, in recordable form, that may be secured to the property by way of a Security Deed. This Purchase Money Note may be recorded as an attachment to the Security Deed. All parties agree that the Purchase Money Note is part of the terms of the sale, and is a loan of the Seller's equity – not loan of money. This is a non-recourse note.

4) Leases, applications, advanced rents, security deposits, all landlord-tenant correspondence, tenant's rental history, and all other landlord-tenant paperwork will transfer to the Buyer with title.

X _____ X _____
Seller's Signature and Date Buyer's Signature and Date

X _____ X _____
Seller's Signature and Date Buyer's Signature and Date

X _____
Realtor's Signature and Date

 3

Page 1: Purchase Money Note

FOR INSTRUCTIONAL PURPOSES ONLY

1

PURCHASE MONEY NOTE

Date: June 5, 2020

Amount of Purchase Money Note: $185,000.00

As partial consideration, and part of the terms of sale for the property at **313 Oak Tree Lane, Cartersville GA 30120**, the undersigned Buyer (Payor), **Bill Cook**, will pay to the Seller (Note Holder), **Cindy Seller**, the principal sum of **One Hundred and Eighty-five Thousand 00/XX ($185,000.00) Dollars**, together with simple interest rate of **3.97%** on the unpaid principal balance. Interest will begin on **June 5, 2020**, and be paid in consecutive monthly installments of **Eight Hundred and Eighty 00/XX ($880.00) Dollars**, or more, beginning on **August 1, 2020**, and continuing until **July 1, 2050**, when any balance then unpaid is due in full.

Principal and interest shall be payable at **34 Birch Road, Cartersville GA 30121** or at such other place the Note Holder shall designate.

Failure to pay any monthly installment within 10 days of the date due, Payor will pay a late charge to the Note Holder. The amount of the late charge will be **$50.00**.

The Payor will be in default of this Purchase Money Note 30 days after receiving a non-payment notice from the Note Holder. Notice shall be deemed given if mailed to the Payor's last known address and mailed by certified mail with return receipt requested.

If the Payor is in default, the payor has 30 days to cure the default. If the Payor does not cure the default by the end of the default period, the Note Holder may require the Payor to immediately pay the full amount of unpaid principal and all unpaid interest and late charges.\

Payor is using this extension of credit, which are part of the terms of the sale of this property, in a commercial venture in which I expect to make a substantial profit. The commercial purpose is confirmed by the Buyer and Seller.

Page 2: Purchase Money Note

A Right of First Refusal is hereby granted to the Payor to match any offer accepted by the Note Holder for the sale of this Purchase Money Note. The Payor may purchase this Purchase Money Note from the Note Holder by paying to the Note Holder a price equal in amount and terms to the net proceeds, which the Note Holder would receive if the accepted sale of this Note had happened. This Right of First Refusal applies to any sale or assignment of this Purchase Money Note.

This non-recourse note is secured solely by the Security Deed on the property located at: **313 Oak Tree Lane, Cartersville GA 30120**.

_____

Payor

Example 1.1: Vena's Much Better Deal

So this guy calls, and he tells me this story that goes like this:

- I live in Pennsylvania.
- One night I was bored, and went on eBay, and won an auction o which I paid cash.
- I hired a property manager to rent them, and it's been 3 years of hell
- First of all, I paid $105,000 for them, and then put another 20,000 into fixing them, when they were supposed to be turnkey.
- My property manager hasn't been able to keep them consistently rented at the rent I was told they'd bring; right now, one unit isn't paying but is occupied, and one is occupied at $50/mo. less than I was told it would bring in.
- And today, I got a letter from the city giving me a bunch of orders. My property manager says I'll have to spend $7,000 fixing these new orders.
- I'm done—and I'll take the $105,000 I paid for them and call it good.

It was my job to then tell him that he also bought in one of the worst areas in Cincinnati, and that I'd made probably 100 offers in that area in the last 6 months, and that without even seeing them I could tell him that I could only pay maybe $15,000 each—$45,000 total—for 2 bedrooms renting for $625/mo. that needed work.

He IMMEDIATELY came back with, "Could you do $65,000?" (meaning that he knew that $105K was a dream price). I said, "I'm really not optimistic about getting to $65,000, but I could get a lot closer to that price if you let me make you payments." He said, "How much and for how long?" and I said, "Well, I'd need to look before I say that, because I don't want to tell you something that turns out not to be true, but it will be the highest payment I can make for the shortest time, and it'll be mailbox money, because I'll take care of all the taxes, insurance, maintenance, and vacancy costs, and you'll just collect the check from me. If that sounds good, I'll go see it and get you an offer."

So I did, and came back to him with this offer;

- $53,000
- $3,000 down at closing so he'd have the money to give me the $1,875 in security deposits he'd collected, the prorated rent for the month, and pay the transfer and real estate taxes
- And then pay him $500/mo for 100 months

He didn't like that, and I asked why, and he said 100 months was a long time. I asked how many months he'd like to collect mailbox money, and he said 5 years, so we settled on $833.33/month for 60 months.

And you know at what point he asked about what the interest rate was?

At no point at all.

(Purchase contract for the purchase of W. 8th properties)

Contract to Purchase Real Estate

I/We offer to purchase from LLC the real estate located at W. 8th, Cincinnati, Ohio (hereinafter called "Real Estate"). This real estate will include all the land, buildings, outbuildings, and everything currently attached to the property plus any appliances and air conditioners currently on the premises.

Purchase price will be:$ 53,0000 ,payable as follows: $3,000 down at closing. Balance of $50,000 to be paid in monthly installments of $833.33 per month for 60 months. This agreement will be memorialized by a mortgage against the real estate and by a note to be prepared by Buyer's attorney and presented for review by seller within 5 days of acceptance of this agreement.

At the closing, the Seller will give the Buyer a General Warranty Deed with release of dower. The closing will be no later than June 1st, 2014 . The title will be free and clear. The title does not have any easements or restrictions except No Exceptions .

Seller will give Buyer possession of the property on Day of closing .
At the time of the closing, Seller will pay from Seller's proceeds: all taxes and assessments due to the date of closing; deed preparation, transfer taxes assessed by the city or county; preparation and recording of any documents needed to release any mortgages or other debts owed by the Seller against the property. Buyer will pay for attorney or title company fees to close, title search, and title insurance and for recording fees for deed and any new mortgages. Seller agrees to pay out of pocket for the title search if the title search discloses problems which prevent Seller from conveying clear title to the Buyer.

Property is currently rented, and any damage deposits will be transferred to the Buyer at closing, and the balance of any rents already paid for that month will be transferred to the Buyer at closing.

Seller agrees that at the time of closing, the Real Estate will be in the same condition as it is on the date of this offer.

This accepted offer is the entire agreement between the Buyer and Seller, and no other agreements have been made that are not part of this contract or its addendum, if there is one.

Federally mandated lead disclosure clause: Every Buyer of any interest in residential real property on which a residential dwelling unit was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. If the dwelling unit was built prior to 1978, Buyer has the right to inspect for lead, at Buyer's cost, for a minimum of ten (10) days following contract acceptance. **BUYER WAIVES THE RIGHT TO THIS INSPECTION.**

OTHER TERMS: Buyer understands that Buyer is an entity owned, in part, by Vena Jones-Cox, a licensed Broker in the State of Ohio.

This offer shall remain open for acceptance until: Noon 5/3/14 .

Buyer	Date	Seller	Date

MORTGAGE NOTE (Purchase of W. 8th properties)

W. 8th St. Cincinnati, Ohio **Date May 29th 2014**

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I/we promise to pay $50,000 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is **Anthony**.

2. INTENTIONALLY LEFT BLANK

3. PAYMENTS

(A) Time and Place of Payments

I/we will pay principal by making payments every month.

I/we will make my monthly payments on **the first** day of each month beginning on **July 1, 2014.** I/we will make these payments every month until I/we have paid all of the principal and any other charges described below that I/we may owe under this Note. My/our monthly payments will be applied first to late fees, then to amounts owed for an escrow for insurance, then to amounts owed for an escrow for taxes, then any other amounts owed for any reason before principal. If, **on June 1, 2019,** I/we still owe amounts under this Note, I/we will pay those amounts in full on that date, which is called the "maturity date".

I/we will make My/our monthly payments at **Seller's address** or at a different place if required by the Note Holder

(B) Amount of Monthly Payments

My/our initial monthly payment of principal will be in the amount of U.S. **$833.33**

4. BORROWER'S RIGHT TO PREPAY

I/we have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment."

When I/we make a prepayment, I/we will tell the Note Holder in writing that I/we am doing so.

I/we may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use the amount of My/our to reduce the amount of principal that I/we owe under this Note. If I/we make a partial prepayment, there will be no changes in the due date or in the amount of my/our monthly payment unless the Note Holder agrees in writing to those changes.

5. TAXES AND INSURANCE

I/we shall pay all tax assessments and insurance premiums directly.

6. INTENTIONALLY LEFT BLANK

7. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment within **10** calendar days after the date it is due, I/we will pay a late charge to the Note Holder. The amount of the charge will be 10% of my/our overdue payment of principal and interest. I/we will pay this late charge promptly but only once on each late payment. This late charge is to compensate the Note Holder for their inconvenience and is not to be considered additional interest.

(B) Default

If I/we do not pay the full amount of each monthly payment within 30 days of the date it is due, I/we will be in default.

(C) Notice of Default

If I/we am in default, the Note Holder shall send me/us a written notice telling me/us that if I/we do not pay the overdue amount by a certain date, the Note Holder may require me/us to pay immediately the full amount of principal which has not been paid that I/we owe on that amount.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me/us under this Note will be given by delivering it or by mailing it by first class mail to me/us at 3707 Warsaw Ave., Cincinnati Ohio 45205

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I/we am given a notice of that different address.

9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together This means that any one of us may be required to pay all of the amounts owed under this Note.

10. SECURED NOTE

In addition to the protections given to the Lender under this Note, a Mortgage, (the "Instrument"), dated the same date as this Note, protects the Lender from possible losses which might result if I/we do not keep the promises which I/we make in this Note. That Instrument describes how and under what conditions I/we may be required to make immediate payment in full of all amounts I/we owe under this Note.

X _____ X _____

Vena Jones-Cox as Secretary for Bowie Properties LLC

OPEN-END MORTGAGE (buying W. 8th)

THIS MORTGAGE is made this 29th day of May, 2014, between Mortgagor, Bowie Properties LLC (herein "Borrower"), and the Mortgagees, Anthony whose address is Address (herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of $50,000.00 Dollars, which indebtedness is evidenced by Borrower's note dated the 29th of May, 2014 (herein "Note"), providing for monthly installments of interest, with the balance of the indebtedness, if not sooner paid, due and payable on June 1, 2019.

TO SECURE to Lender (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower herein contained, and (b) the repayment of any future advances, with interest thereon, made to Borrower by Lender pursuant to paragraph 21 hereof (herein "Future Advances"), Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of Hamilton, State of Ohio:

See Addendum A for Legal Descriptions

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are herein referred to as the "Property".

BORROWER covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, that the Property is unencumbered, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **PAYMENT OF PRINCIPAL AND INTEREST**. Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, prepayment and late charges as provided in the Note, and the principal of and interest on any Future Advances secured by this Mortgage.

2. **FUNDS FOR TAXES AND INSURANCE**. Borrower shall be responsible for paying taxes and insurance as they become due.

3. **APPLICATION OF PAYMENTS**. Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraph 2 hereof, then to interest payable on the Note, then to the principal of the Note, and then to interest and principal on any Future Advances.

4. **CHARGES; LIENS**. Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any, in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the payee thereof, Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Mortgage; provided, that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

5. **HAZARD INSURANCE**. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require; provided, that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the insurance carrier.

All insurance policies and renewals thereof shall be in form acceptable to Lender and shall include a standard mortgage clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments. If under paragraph 18 hereof the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

6. **PRESERVATION AND MAINTENANCE OF PROPERTY; LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS**. Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under

the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents. If a condominium or planned unit development rider is executed by Borrower and recorded together with this Mortgage, the covenants and agreements of such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider were a part hereof.

7. **PROTECTION OF LENDER'S SECURITY**. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law. Borrower shall pay the amount of all mortgage insurance premiums in the manner provided under paragraph 2 hereof.

Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the rate payable from time to time on outstanding principal under the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible under applicable law. Nothing contained in the paragraph 7 shall require Lender to incur any expense or take any action hereunder.

8. **INSPECTION**. Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.

9. **CONDEMNATION**. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments.

10. **BORROWER NOT RELEASED.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest.

11. **FORBEARANCE BY LENDER NOT A WAIVER**. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

12. **REMEDIES CUMULATIVE**. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

13. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CAPTIONS**. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

14. **NOTICE**. Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

15. **UNIFORM MORTGAGE; GOVERNING LAW; SEVERABILITY**. This form of mortgage combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property. This Mortgage shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision or clause or this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable.

16. **BORROWER'S COPY**. Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.

17. **TRANSFER OF THE PROPERTY; ASSUMPTION**. If all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) a transfer wherein the Borrower remains fully liable for all payments on the note, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer,

Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Lender and that the interest payable on the sums secured by this Mortgage shall be at such rate as Lender shall request. If Lender has waived the option to accelerate provided in this paragraph 17, and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by the Lender, Lender shall release Borrower from all obligations under this Mortgage and the Note.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 14 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 18 hereof.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

18. **ACCELERATION; REMEDIES**. Except as provided in paragraph 17 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender prior to acceleration shall mail notice to Borrower as provided in paragraph 14 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 30 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, costs of documentary evidence, abstracts and title reports.

19. **BORROWER'S RIGHT TO REINSTATE**. Notwithstanding Lender's acceleration of the sums secured by this Mortgage, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Borrower pays Lender all sums which would be then due under this Mortgage, the Note and notes securing Future Advances, if any, had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage and in enforcing Lender's remedies as provided in paragraph 18 hereof, including, but not limited to, reasonable attorney's fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

20. **ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER**. As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 18 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under Paragraph 18 hereof or abandonment of the Property, Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property

and to collect the rents of the Property, including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

21. **FUTURE ADVANCES**. Upon request of Borrower, Lender, at Lender's option prior to release of this Mortgage, may make Future Advances to Borrower. Such Future Advances, with interest thereon, shall be secured by this Mortgage when evidenced by promissory notes stating that said notes are secured hereby. At no time shall the principal amount of the indebtedness secured by this Mortgage, not including sums advanced in accordance herewith to protect the security of this Mortgage, exceed the original amount of the Note plus US $10,000.

22. **RELEASE**. Upon payment of all sums secured by this Mortgage, Lender shall discharge this Mortgage, without charge to Borrower. Borrower shall pay all costs of recordation, if any.

IN WITNESS WHEREOF, BORROWER has executed this Mortgage.

Witness: _____ Borrower: _____

Witness: _____ Borrower: _____

STATE OF Ohio, Hamilton County ss:

On this 29th day of May, 2014, before me, a Notary Public in and for said County and State, personally appeared Vena Jones-Cox as secretary of Bowie Properties LLC, the individual who executed the foregoing instrument and acknowledged that he did examine and read the same and did sign the foregoing instrument, and the same is his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____ (seal)

Notary Public: _____

My commission expires: _____

Example 2: When selling a property and giving owner financing

In this second example, we'll look at a property you want to ***sell*** and ***give*** owner financing.

In this example, I'm selling a property to Mike Brown. His agreed-to purchase price is $140,000.

Mike agrees to put down $10,000. Mike will also give a purchase money note in the amount of $130,000. The terms of the note are 360 monthly payments of $925 at 7.697% interest, compounded monthly.

Notice, in the next to last paragraph in the purchase money note, the right of first refusal option. If Mike decides to sell his house, he must give me the right to buy his property for a price and terms equal to any buyer's offer.

Page 1: Purchase Money Note

PURCHASE MONEY NOTE

Loan Amount: $ 130,000
Loan Date: May 11, 2020
Cartersville, Georgia

Buyer: Mike Brown
Note Holder: Bill Cook

Collateral: 3 Ridgemont Drive, Cartersville GA 30120

Buyer's Promise to Pay

AS PARTIAL CONSIDERATION, and part of terms of sales for the property at **3 Ridgemont Drive, Cartersville GA 30120**, the undersigned Buyer (Maker), **Mike Brown**, promises to pay to the Note Holder **Bill Cook**, or assigns, the principal sum of **One Hundred and Thirty Thousand 00/XX Dollars ($130,000.00)**, together with interest at a rate of **7.679%** per annum, compounded monthly on all unpaid principal and interest, payable in the lawful money of the United States (or in other currency acceptable to the Note Holder.) Payments shall be made at **P.O. Box 22, Adairsville GA 30103** or other such address as the Note Holder may direct, in the following manner:

Interest will accrue and compound monthly beginning on **May 11, 2020**. Payments of **Nine Hundred and Twenty-five 00/XX Dollars ($925.00)**, or more, principal and interest are due on or before the **1st** day of each month beginning on **July 1, 2020** and continuing thereafter until the entire principal balance and all accrued interest and late charges have been paid in full. Payments will be applied first to late fees, then to interest and finally to principal. The entire balance of principal, interest and any other outstanding indebtedness of the Maker to the Note Holder is due and payable on **June 1, 2050**.

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION, ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

AMOUNT OF MONTHLY PAYMENT: **$925.00**

MAKE PAYMENTS PAYABLE TO: **Bill Cook**

MAIL PAYMENTS TO: **P.O. Box 22, Adairsville GA 30103**

Page 2: Purchase Money Note

If fulfillment of any provision hereof or any transaction related hereto or to any indebtedness secured hereby, at the time performance of such provisions shall be due, shall involve transcending the limit of validity prescribed by law, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; and if any clause or provisions herein contained operate or would prospectively operate to invalidate this Note in whole or in part, then such clause or provision only shall be held for naught, as though not herein contained, and the remainder of this Note shall remain operative and in full force and effect.

In the event any installment is made by personal check, and such check is returned by the financial institution on which it is drawn without payment of same, for any reason, the holder of this Note shall be entitled to collect from the borrower a handling fee of 5% of the amount of such check or $50, whichever is greater. Such fee shall be in addition to any other fees and costs allowed by this Note. Also, the Note Holder can demand that all future payments be made in the form of Postal Money Orders or Certified Funds.

Any installment not received within ten (10) days of the due date of said installment, shall bear a late charge ten (10%) percent of the amount of said installment, minimum $25.00.

Should any installment not be paid when due, or should the maker, or makers, hereof fail to comply with any of the terms or requirements of the Security Deed of even date herewith, conveying title to real property located in Bartow County, Georgia known as 3 Ridgemont Drive, Cartersville GA 30120 (Target Property) as security for this indebtedness, the entire unpaid principal sum evidenced by this note, with all accrued interest, shall, at the option of holder, and without notice to the undersigned, become due and may be collected forthwith, time being of the essence of this contract. Default under any other obligation of maker, or makers, jointly and severally, to note holder, shall be considered a default under this note also. It is further agreed that failure of the holder to exercise this right of accelerating the maturity of the debt, or indulgence granted from time to time, shall in no event be considered as a waiver of such right of acceleration or estop the holder from exercising the right.

Installments not paid when due shall bear interest at the highest rate allowed by law per annum from maturity. Should this note, or any part of the indebtedness evidenced hereby, be collected by law or through an attorney-at-law, the holder shall be entitled to collect Attorney's fees and all costs of collection.

Maker shall have the right to prepay the principal balance in whole or part at any time. Any partial prepayment shall be applied against the principal balance and shall not extend or postpone the due date of any subsequent installment or change the amount of such installments.

A Right of First Refusal is hereby granted to the Maker to match any offer accepted by the Maker for the Target Property. The Note Holder may purchase the Target Property from the Maker by paying to the Maker a price equal in amount and terms to the net (after costs of sale and payment of principal and interest) proceeds which Maker would receive if the accepted transfer agreement closed. This right of first refusal applies to any sale of the Target Property.

And each of the undersigned, whether principal, surety, guarantor, endorser, or other party, severally waives and renounces each for himself and family, any and all homestead and exemption rights either of us, or the family of either of us, may have under or by virtue of the laws of the State of Georgia, or any other State, or the United States, as against this debt or any renewal or extension thereof, and further waives demand, protest, presentment, notice of demand, protest and non-payment.

WITNESS the hand and seal of the undersigned.

X_____(Seal)

Mike Brown – Payor

Example 2.1: Vena's Much Better

So the problem is: I don't like these houses.

20 years ago, I would have been all over this deal, because the rents SHOULD HAVE BEEN $695 per unit, and it would have cash flowed like crazy, and I'd have been fine dealing with the management drama.

But that was then, this is now. I don't buy properties as keepers that I wouldn't be happy to die owning, and I don't buy properties within the city limits of Cincinnati, and this met neither goal. In fact, it was my plan from minute one to flip them.

So once I had these properties under contract, I started calling people on my buyers list who I know are a) landlords and b) tolerant of trashflow properties. My pitch was, "I'll even owner finance them for you, with a fully amortized 8% loan!"

Within a week, I found a buyer under these terms:

- Total sale price: $65,700
- Down Payment: $12,700
- Financed amount: $53,000
- Rate: 8%
- Payment: $1,074.65/mo
- Term: 5 years

I usually 'wrap' mortgages with land contracts in Ohio, because the law here makes it much easier to repossess a property subject to a land contract upon a default than a mortgage; however, that same law also says that if the buyer has paid off more than 20% of the original purchase price, it becomes a regular foreclosure upon default, and since my buyer paid that much up front, there was no special value in the land contract.

Instead, I 'wrapped' the seller's mortgage with my own—so there were 2 mortgages on the property, one from me to the seller for $50,000, and one from my buyer to me for $53,000. The wrap mortgage was in second position behind the seller's first mortgage, and didn't affect him at all.

So I got:

- $12,700 cash the same day I closed with the seller—a profit, after expenses, of over $11,000
- An income stream of $241 a month for 60 months with no expenses, management responsibilities or ownership liabilities
- To NOT own and manage properties I really didn't like

Or at least that's how it was SUPPOSED to turn out. As it happened, a year later, the seller released the mortgage on these properties in return for getting rid of ANOTHER Cincinnati house he didn't want, so I owed nothing but collected payments for another 4 years…but that's another story.

(sale contract for W. 8th properties)

Contract to Purchase Real Estate

I/We offer to purchase from Vena Jones-Cox, Trustee the real estate located at W. 8th, Cincinnati, Ohio (hereinafter called "Real Estate"). This real estate will include all the land, buildings, outbuildings, and everything currently attached to the property plus any appliances and air conditioners currently on the premises.

Purchase price will be: $ 65,700 ,payable as follows: $12,700 down at closing. Balance to be carried as a wrap-around mortgage at 8% interest amortized over 5 years.

.

At the closing, the Seller will give the Buyer a General Warranty Deed with release of dower. The closing will be no later than June 1st, 2014 . The title will be free and clear. The title does not have any easements or restrictions except an underlying mortgage to Tony in the amount of $50,000 .

Seller will give Buyer possession of the property on day of closing . At the time of the closing, Seller will pay from Seller's proceeds: all taxes and assessments due to the date of closing; deed preparation, transfer taxes assessed by the city or county; preparation and recording of any documents needed to release any mortgages or other debts owed by the Seller against the property, except underlying mortgage to Tony Edgell. Buyer will pay for attorney or title company fees to close, title search, and title insurance and for recording fees for deed and any new mortgages. Seller agrees to pay out of pocket for the title search if the title search discloses problems which prevent Seller from conveying clear title to the Buyer.

If the property is currently rented, the damage deposits will be transferred to the Buyer at closing, and the balance of any rents already paid for that month will be transferred to the Buyer at closing.

Seller agrees that at the time of closing, the Real Estate will be in the same condition as it is on the date of this offer.

This accepted offer is the entire agreement between the Buyer and Seller, and no other agreements have been made that are not part of this contract or its addendum, if there is one.

Federally mandated lead disclosure clause: Every Buyer of any interest in residential real property on which a residential dwelling unit was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. If the dwelling unit was built prior to 1978, Buyer has the right to inspect for lead, at Buyer's cost, for a minimum of ten (10) days following contract acceptance. **BUYER WAIVES THE RIGHT TO THIS INSPECTION.**

OTHER TERMS: Buyer understands that Seller is an entity owned, in part, by Vena Jones-Cox, a licensed Broker in the State of Ohio.

This offer shall remain open for acceptance until: Noon 5/23/14 .

_____ _____

Buyer Date Seller Date

Part 3: Buying "Subject To" Existing Financing

What is a Subject-to Deal?

Traditional Real Estate Sales vs. Subject To Sales

To understand the mechanics of a "subject to" sale, it might be helpful to compare and contrast what a traditional, plain vanilla closing looks like vs. closing a property subject to the existing loan.

The Traditional Closing…

In a traditional real estate sale, the closing usually happens in a real estate attorney's or title agent's office.

At the closing, the title to the property—ownership, in other words—is transferred from the seller to the buyer using a document called a deed.

Most buyers pay for that deed by borrowing purchase funds from and institutional lender like a bank. In return for the loan of the purchase money, the buyer/borrower gives the lender a promissory note and a mortgage or trust deed, just like we talked about in the last chapter.

The attorney or title company receives the proceeds from this new loan, and uses them to pay off the seller's loan, which causes the seller's lender to 'release' the mortgage against the property.

Because the mortgage that the seller used to secure his loan is paid off and released, the buyer gets 'clear title' to the property—or does he? At the same time that the seller's mortgage release is filed at the courthouse by the attorney or title company, a new mortgage—this one pledging the same property to a new lender as a guarantee for payment on a new loan, is filed.

Yep, that's what happens in a majority of all closings. Pretty boring, right? Not much creativity, is there?

The Subject-to Closing

For the most part, a straight Subject-to Deal closing follows the same path as a normal closing.

At the closing table, the title to the property transfers from the seller to the buyer. Once the deed is recorded, the buyer becomes the 'owner of record.'

There's one big difference in a subject to closing, though. The seller's loan is ***NOT*** paid off.

The buyer does not borrow funds from a lender. The buyer does not sign a promissory note and does not pledge the property as security for a loan. The buyer does not assume[47] the seller's mortgage. Instead, the seller's mortgage remains in place.

READ THIS CAREFULLY: The buyer agrees with the ***seller***, not the bank, to make the ***seller's*** mortgage payments, on the ***seller's*** mortgage, on behalf the ***seller***, until the ***seller's*** mortgage is paid in full.

After the closing, the seller no longer owns the home. However, the seller is still responsible for his mortgage. His mortgage is still in place, and the property he just sold is still the collateral for his loan.

VJC-- It's at this point that I often get quizzical looks from learners, followed by the question, "Wait, how can the title be transferred without the mortgage and note also being transferred??"

Because the 'standard' closing process Bill described above is so ingrained in our psyches, it's easy to forget that mortgages, notes, and deeds are different documents that do different things.

Mortgages secure promises. Notes are those promises. Deeds—or rather 'title', which is the legal concept that deeds convey—serves as the security for mortgages, but what they DO is tell us who holds title.

If you're still confused, think about it this way: if your distant aunt dies and leaves you a property, how do you 'get' that property?

The deed is transferred to you, probably via a legal process involving probate court.

If your aunt also had a mortgage against the property, does it go away? No—it still has to be released by the bank. Her death didn't extinguish it, nor did you getting the title.

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[47] A loan ASSUMPTION is a 3-way agreement between a lender, a borrower, and a proposed new borrower where the LENDER agrees to make the new borrower fully, or partly, responsible for re-payment of an existing loan.

In old FHA assumptions, any new borrower could simply step in and, for a $45 fee, 'take over' an FHA loan with literally no qualification. The old borrower remained 'also liable'—meaning she was equally responsible for making sure the payments were made—for 2 years, then was released from all liability for repayment. The same thing was possible, through a slightly different mechanism, with VA mortgages.

Those "Freely assumable" FHA and VA loans went away in 1989 and 1988, respectively; FHA and VA loans are still assumable, but only 'with qualification'. Don't get excited, though, because that doesn't mean that you can assume an FHA or VA loan: one of the qualifications is that you plan to occupy the property as your primary residence.

What about the note? Auntie isn't making payments anymore, and barring a biblical-level miracle, won't ever make another.

Does that mean the debt is somehow forgiven?

Nope, it means that if someone doesn't make the payments, or pay off the property, the bank will foreclose on its mortgage.

Yes, even though it's YOUR property that your aunt wanted YOU to have.

Why is this? Because **the mortgage and note are contracts between your aunt, or in the case of a subject to deal, your seller**—s person that bank would call the borrower—and the lender.

You can't intervene to change the terms of those contracts, or the existence of them. You aren't party to them.

The deed, on the other hand, is a transfer between you and your seller, which the BANK is not party to, and can't stop from happening (but can enforce the rights conveyed to it by the mortgage and note after it happens.)

So clearly, yes, deeds can transfer from one person to another without any mortgage secured by that deed, or any note promising to payment on the loan secured by that mortgage also transferring.--VJC

The Dreaded "Due-on-Sale Clause"

All institutional mortgages include a whole series of clauses that talk about what constitutes "default", which is a scary way of saying the simple thing, "The terms of the agreement between the borrower and lender have been violated by the borrower, and therefore the lender has the right to call the entire loan balance due and payable right now, and if the borrower doesn't repay it right away, the lender can enforce the part of the agreement that allows the property to be sold off at a public auction to recover its money."

There probably more things in your mortgage that constitute a 'default' than you realize. For example, you'd be in default for:

- Not paying your mortgage payment on time
- Not paying your property taxes
- Not keeping insurance on the property
- Not taking care of the property, and letting it run down
- Transferring the title, or interest in the title, to someone else—the dreaded "Due on Sale" clause

VJC -- Take another look the list of the ways in which you can default on a mortgage agreement and really think about it, because one of these things is NOT like the other.

The first four reasons Bill listed to 'send a loan into default' make perfect sense when you consider that any institutional lender's #1 goal is to be paid as agreed, and plan B is to auction off the property to recover their investment, should plan A not come to pass.

So items 1-4 make sense from a pure business perspective—the lender must get paid in order to reach its business goals in making the loan in the first place, right? The property taxes also have to be paid to keep the lender's lien in first position, because unpaid property taxes and tax liens always create a 'super-lien' that takes precedence over all other liens, even if they came later in time. Property insurance and adequate maintenance of the property protect the physical condition of the security, so that the lender doesn't find itself in the position of 'taking back' a smoking hole in the ground where a house securing their $300,000 loan used to be.

But what's the logic, or even the business reason, behind sending a loan into default when all of these other conditions are being met, just because their borrower is no longer the owner?

Selling the property without paying off the loan neither voids the mortgage—only the release of that mortgage by the lender can do that—*nor does it exterminate the original borrower's obligation to make payments*.

In other words, after the seller—their borrower—transfers the title, the bank is effectively in the same position as it was before the transfer happened, PLUS it has a new owner who, one assumes, plans to actually make the payments on behalf of the old borrower. How is the lender WORSE OFF with 2 people who have a vested interest in making sure the payment is made every month —the original borrower, whose credit is on the line, and the new buyer, who has a profit motive that involves retailing ownership of the property—when before, it just had 1?

Depends on who you ask.

If you ask a banker, you'll probably get an answer like[48], "We need to know who we're dealing with. We qualified our original borrower, not this new payor, and the risk of default is much higher when an unknown, possibly unqualified person 'takes over' our loan." [49]

But if you ask an investor who was active in the '70s and '80s, they'll give a different reason: back then, most banks actually lent out depositors' money, and way the bank actually made

[48] Let's be honest; you'll probably get an answer like, "I have no idea why that's there. I guess it's probably something that Fannie Mae/Freddy Mac/the loan insurance company insists we put in there. We don't make the paperwork, they do."

[49] Which, of course, begs the question, "If you're so worried about default, why send a performing mortgage into default?"

money was on the spread between the rates they paid depositors and rates they got from borrowers.[50]

It was in the bank's best business interest in those days to maximize their 'spread' by keeping money out in the world at the highest interest rates they could, so as interest rates skyrocket ed during the 70's and 80's, the ability to call loans (that might have been originated in 1972 at 7% interest) back into the fold and loan that same money out at, in 1979, 20% interest. Oh, and each time they 'recycled' the money, taking it back into cash deposits and loaning it to a new borrower, they collected additional profits from application fees, points, and so on.

Whatever the reason for WANTING to do it, the reason banks CAN do this goes back to a law passed in 1982 (note that date, and that interest rates quintupled in the prior decade) that was that decade's equivalent of the Dodd-Frank act: an omnibus (and much-hated by investors) banking reform act called the Garn-St. Germain act.

It formalized this ability of banks to enforce the due-on-sale clause, a term that had been included in mortgages for many years, but which multiple courts in multiple cases had decided for the borrower up until then.

In other words, when banks tried to enforce the due-on-sale clause, and their borrower sued them, banks LOST. Until congress got involved on their behalf.

As a Libertarian and an investor, I'm, of course, torn about the due-on-sale clause; I think that banks, as (sort of) private institutions, have the right to make and enforce contracts with borrowers, and in return, borrowers are free to decline the bank's money if they don't like the due-on-sale clause.

On the other hand, I hate that the banks bought the right to override court decisions.—VJC

If a loan goes into default, the first thing the lender will do is call the note due. This means the borrower must pay the full balance on the loan within the allotted time. If the borrower fails to do this, the lender's next step is to foreclose on the property.

At foreclosure auction, the property will sell to the highest bidder. The high bidder becomes the owner of the property, and the lender receives the high bidder's purchase funds. Hopefully, the auction sale price will be above the amount the borrower owes the lender, which will allow the lender to be made whole.

It's important to remember that the borrower's default can be cured at any time. All the borrower need do is correct the problem that created the default. Once the problem is corrected, there is no more default, which means there's no more foreclosure.

[50] Today, most banks lend depositor money, or money lent to them temporarily by other banks or the Fed, only for a matter of days, then sell the loan to a GSA like FNMA or private loan buyer, and their profits on mortgage loans are made entirely from points, fees, and servicing.

How does the borrower fix the default problem? By 'curing' it. If the mortgage is behind, bring it current. If there's no insurance, get insurance. You get the idea.

So what happens in the case of a default when the mortgage and note are signed by one person, but the property is owned by a different person, as is the case in a subject to deal?

It depends on the type of default.

If the buyer in a subject to deal fails to make the seller's mortgage payments in full and on time or quits making the seller's mortgage payments altogether, it's the seller's credit that will be wrecked, NOT the buyer's.

Worse still, if the lender calls the note due and then forecloses on the property, the foreclosure will be against the borrower/seller. Yes, the buyer will be NAMED in the foreclosure, and lose the house, but the seller will be the one with a foreclosure on his credit report, and that will follow him around and make it difficult or impossible to get credit for years.

Now you have a question: **why would any seller in his/her right mind ever agree to a Subject-to Deal?**

In a word: Need! Remember the T-bar? The seller desperately needs to move from his/her *current position*, to a position he/she *likes better*. It's as simple as that!

But let's assume that you're always going to do the right thing, and make the seller's payments on time and in full, and keep the insurance in force, and pay the property taxes, and maintain the collateral, even if it becomes inconvenient for you to do that.

It's still the case that if you buy a property subject to a seller's mortgage, the due-on-sale clause in the seller's mortgage/trust deed has been violated. This means there is a risk the lender may call the note due.

Notice that I didn't say you broke the law. That's because no laws have been broken. All that's happened is you've[51] violated the due-on-sale clause. If the lender finds out, they have the right to call the note due.

Your biggest question is probably, "Will the lender find out, and what happens if they do?". Kim and I have been doing Subject-to Deals since 1998. Our horse ranch, which we owned for 19 years, was a Subject-to Deal. In no case, with none of our Subject-to Deals, has the lender found out.

Let me repeat, Kim and I have been doing Subject-to Deals for more than 20 years. Never has a lender contacted us to say, "You've violated the due-on-sale clause and we're calling the note due." Not once!

[51] Actually, Bill, YOU haven't violated the due on sale clause, because YOU aren't party to the agreement that the due on sale clause is part of. The SELLER has violated the due on sale clause.

Experience has taught me that if you run your Subject-to Deal properly, you shouldn't catch any flak from the lender or the seller.

That said, if you don't dot your i's and cross your t's, a blowup is sure to happen. I know this because like clockwork, one to three times a month, I get a phone call from an investor who has a Subject-to Deal problem. Almost every time the problem was created because the investor did something wrong.

My best advice is the first time you do a Subject-to Deal, be willing to give away part of your deal and order to bring in and investor who steeped in Subject-to Deal experience. I promise you this: you'll get back much more than you give up! And need I remind you Vena has done bunches of Sub-2s!

If you will do your Subject-to Deals right, if you will make sure the seller fully understands how a Subject-to Deal works, you should never have a Subject-to Deal blow up in your face.

A Little Deeper Discussion of This from Someone Who's "Done Bunches of Sub-2s"…

Unlike Bill, I HAVE had banks find out that I've bought a property subject to their mortgage. It's happened 6 separate times, in fact. Let me recount those times:

1. The bank mis-applied the payment I made to someone else's account, decided that the payment hadn't been made, notified the seller that the payment hadn't been made, and the seller said something like, "that's not my problem anymore, I don't own that house". In other words, the SELLER told his bank that he'd violated the due on sale clause in his own mortgage.

2. The bank got the new insurance policy on the property with my name as insured, couldn't figure out which account it belonged with, decided the property wasn't insured, applied forced-placed insurance to the loan, raised my payment $300 a month, and *I* had to call them and tell them what had happened, so that they could association the insurance policy they already had with the correct loan account.

3. The bank ignored the change of address form I sent them for mortgage correspondence, changed the monthly escrow amount, and sent that notification to the seller, who neglected to tell me, then 3 months later sent the seller a notice saying he was a month behind in payments (because the escrow had increased, and I was still innocently making the old payments, and those payments were 'short' for 3 months). The seller called the bank and explained that he wasn't responsible for the payments anymore and that he credit shouldn't be 'dinged' for the 'late payment'. In other words, the seller notified his bank that he'd violated the due on sale clause, right before he called me and yelled at me for 5 minutes about how I was ruining his perfect credit.

4. About 2 years ago, year or so into a sub to deal, large servicer mysteriously noticed that the deed had changed hands, called and inquired about it. I never quite figured this one out, but it could be a result of a post-great recession FNMA policy change where FNMA audits the files of their servicers quarterly; it's possible that the auditor noticed the mismatch in insurance to borrower name and insisted that the servicer look into it.[52]

5. The bank ignored the change of address form I sent them for mortgage correspondence, sent the very next payment statement to the seller, who instead of calling me, called the bank and unleashed holy hell on them about how it wasn't his problem anymore because he sold the house and if they ever bothered him again, he'd come down there and give them the what-for.

6. A very small, one-branch portfolio lender who still, literally, had a payment book that one brought in or sent in every month with the payment, and it was then sent back with the payment debited and the new balance calculated, literally noticed that the return address on the envelope wasn't that of their borrower, Joe. The little old lady whose job it was to do this every month called me and asked what happened to Joe. I explained that he'd lost his job and moved out of town, and that that I'd taken over the property and payments and would be making them from here on out.

This is 6 cases in 25 years out of, I'm guessing, over 100 subject to deals I've done. I'll confess that the first 3 times it happened, I came very close to peeing my pants in panic.

But then I discovered something important: the minions at the bank or servicer who discover the loan default don't, for the most part, care that it happened. They're just trying to solve a problem that their job description says is their responsibility. Since they're not paid to care (or probably even know) about the due on sale clause, they just…don't.

If you can stop focusing for a moment on the anxiety that MY experience is creating in YOU at this very moment, you'll realize that the important thing is to consider the outcomes.

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[52] I suspect FNMA of being behind this one because around the same time, I had a property manager friend who, for reasons of convenience and control, had over 150 of her clients transfer their properties into land trusts, for which she then became trustee.

All of these clients had loans serviced by the same bank; the FNMA auditor noticed the transfer of the deeds to the trustee and told the servicer that if they didn't 'fix it' they'd lose their contract to service ALL of the FNMA loans under their care, which is apparently a pretty profitable thing for banks to do. The servicing bank called my friend and told her that they were calling all 150 loans due, so she had to transfer them all back to the original borrowers.

What's interesting about this episode is that I don't think she actually DID have to do that; one of the exceptions that the Garn-St. Germain act specifically spells out is that lenders can't enforce the due on sale clause in cases where the borrower has transferred the property into an inter vivos trust--

In situations 1-3, I talked to a bank employee who couldn't care less about the due-on-sale clause, straightened out the misapplied payment/underpayment/insurance problem, and went on with my life.

In cases 4 and 5, someone from the servicing bank called and asked for clarification on what had happened with the property.

We[53] politely explained that we had 'taken over' the property. Both asked when they would get their payoff from the sale. We explained that our intention was to keep paying the loan, and didn't know when it would be paid off.

The big servicer in case 4 thanked us, hung up, and we haven't heard from them since.

The smaller servicer in case 5 stayed on the phone for 30 minutes insisting that what we'd done was impossible.

We assured him repeatedly that not only was it possible, it had in fact happened.

Once he got past that, he said, "Well, I'm going to have to refer this to our legal department!" at which point we said, "*Ok, when you do that, point out to the attorney that your borrower is about to file bankruptcy, and that when he does, his obligation to pay you will go away. We, however, intend to continue to make the payments until they're all paid, or we sell the house, whichever comes first.*

If ya'll decide that you need to call the loan due, we have an agreement with your borrower that says that we don't have to make his payments anymore—and we won't.

So for the 11 months or so it takes you to foreclose, we won't be paying the taxes, we won't carry insurance, and we won't pay you—but we will collect rent. You understand that we have to do that to make up for the money we've already put in it, right?

We don't WANT to do that; we WANT to keep paying you as agreed. But you won't be able to come after us for the money, because we didn't sign the note, and you won't be able to go after your bankrupt borrower, because, well, he's bankrupt. so if we have to, that's what we'll do.
You have to do what's best for your business, though, and no hard feelings if you decide to foreclose. Just let us know so we can stop making the payments."

And then we never heard from them again.

The closest I think I ever came to an actual foreclosure on a subject to was in situation #6, because that little old lady who ran the payment processing department was personally, and mortally, pissed that I thought I could just start making Joe's payment for him.

[53] Because I like to, you know, have a life, all of my business calls go to my office, not to my cell phone, and I'm rarely AT the office. So this isn't some kind of goddess royal "we"; that phone might be answered by my partner, or my in-house attorney, or my property manager or assistant. They handle 98% of the business calls 'we' get, and only refer them to me when my particular expertise is required.

She called Joe and read him the riot act, then called me back and told me that they—the bank—could, and would, call the loan due and wouldn't accept any future payments from me. She was kind of a nasty woman.

The conversation went much the same way as the one above, with two exceptions: first, this was only about the 5th subject to deal I'd ever done, and I was quaking in my boots about the whole thing.

Second, we'd sold this house on contract for deed to a rehabber, who had a 6 month balloon with only 4 months to go.

I explained to her that if they could just keep accepting payments for a few more months, it'd be paid off (it wasn't, the rehabber took 2 additional months to finish the deal). She said that she didn't care, they wouldn't wait, and inserted an ad hominem attack on my character. I mentioned that there was no way they could complete a foreclosure before the payoff anyway, so it might be a waste of their money; she responded by again opining about where my parents had gone wrong in raising me.

But apparently, she didn't have the sway over the powers that be at the bank that she thought she did, because they kept accepting payments for another 6 months until the loan was paid off.

So, if it's not too late to make a long story short, **let me say this about your fear of "getting caught":**

1. Chances are good that no bank, especially a large servicer, will ever notice the transfer of title.

2. If they do, it will be because of missed payments, short payments, or their perceived lack of insurance on the property—so try to avoid these, and keep the line of communications open with your seller so that they know how to reach you. Also, make sure that they know that SHOULD reach you if they get some notice from the bank that's meant for you

3. Even if the band DOES notice, there's a really good chance they won't care, especially in a stable or dropping interest rate environment.

4. Even if they notice and care, you don't have to freak out—they probably won't call the loan due once they look at the downsides of that to them

5. Even if they notice, care, <u>and start foreclosure</u>, you have a lot of options. Like:
    a. Bring in a private lender or partner and pay off the loan, if the deal supports it
    b. If you have a tenant/buyer in the property, offer them a discount to buy NOW instead of later
    c. If not, sell the property and pay off the loan

d. If your seller/their borrower can't be hurt by it—for instance, if they've declared chapter 7 bankruptcy and are no longer personally liable to repay the loan, or if they're deceased—and there's not a buyer or tenant/buyer that you've 'sold' the property to who will be hurt by it, you can stop making payments and let the lender foreclose, while you collect rent (after notifying the tenant that his time there is limited, but the good news is that he has post-foreclosure rights that will allow him to live their rent-free for 30-90 days, depending on the state

e. If all else fails, GIVE THE PROPERTY BACK TO THE SELLER. This 'cures' the default, right? And it sucks, but it's better than ruining someone else's credit[54]. You could even give the property back to the seller, then immediately lease/option it under the same terms that you bought it under in the first place, if the seller is willing

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How Bill Does Subject To

When doing a Subject-to Deal, there are a number of things Kim and I do to make sure the transaction goes smoothly. Here are a few.

- We never talk a seller into a Subject-to Deal. Ever!
- We make sure the seller understands all the risks associated with a Subject-to Deal.
- We make sure the seller understands we are not assuming the seller's loan.
- We discuss in detail with the seller the steps we'll take if the lender activates the due-on-sale clause.
- We put daylight all over a Subject-to Deal. Nothing is hidden! Nothing is whitewashed!
- If we do a Subject-to Deal, we never assign or wholesale the deal to another investor.
- If we do a Subject-to Deal, we never transfer the title to another buyer until after the seller's mortgage has been paid off.
- If we do a Subject-to Deal, the property will remain a rental until the seller's mortgage is paid off…unless we decide to straight sell the property, in which case the seller's loan is paid off at closing.
- We always do a title search, and we always get title insurance.
- We always close with our attorney.
- We always get a Power of Attorney from the seller(s).

[54] I've always wondered

- Before buying the property, the seller must give us full access to their lender. We must be able to talk to the lender on the phone and access all of the seller's mortgage information on the lender's website.
- We make sure the people who are selling us the property are the same people who own the home and are on the mortgage.
- At closing, we cancel the seller's insurance policy, and replace it with our insurance policy.[55]
- We make sure our insurance policy has the correct loss payee[56], mortgagee, and additional insureds[57].
- After the closing, we send the seller's lender a change-of-address form showing our PO Box as the new place to send mail.[58]
- Several days before closing, we record the seller on video explaining our accord. They also explain how a Subject-to Deal works.
- At closing, we have the seller sign our Acknowledgments Document.
- If, FOR ANY REASON, the seller changes his/her mind about selling their home subject to their mortgage, we tear up the contract, no questions asked!

Ways to NOT Do Subject-to Deals

Don't Do Them if You're Clueless

Most new investors don't know what they don't know.

When it comes to Subject-to Deals, certain pieces of the deal must be put together in a certain order and done in a certain way. If things are done incorrectly, there will be problems galore. We all know that problems are those pesky things that suck time, create headaches and pull us off course.

In days of yore, if someone wanted to learn a trade or business, they sought a knowledgeable teacher and became that teacher's apprentice. Kim and I feel these wise lessons from the past still work effectively today.

You should not do your first Subject-to Deal by yourself. Be willing to give up part of your deal in order to bring in another investor who has loads of experience in doing Subject-to Deals

[55] In other words, a proper rental or rehab policy that actually covers the property for the use it's being put to
[56] The holder of the title, which will be you, your LLC, or your trustee
[57] The seller, "As his interest appears". This is really so that the bank can see the name they expect to see on the policy. He's not actually entitled to any proceeds from an insurance claim, because he has no interest in the property.
[58] Note: never send the original to the lender; send a copy. Then, when they send the next month's statement to the seller anyway, send another copy. Repeat as necessary.

Don't focus on what you're giving up, rather look at what you're gaining: wisdom, experience, know how, and most importantly the relationship with a been-there-and done-that investor.

We promise, you'll get much more than you give!

VJC -- While I'm generally in favor of partnering with other [deeply experienced, ethical] investors, there's another option: pay someone (whose also deeply experienced and ethical) to mentor you. It's a bigger outlay of money up front[59], but it also means that you don't entangle yourself with a partner that you may or may not turn out to like for the 10-20 years that a subject to deal might end up lasting.

Most of my experience with subject to disasters lies in mentoring people who did the deal BEFORE we established that relationship, or who just flat-out didn't run the deal by me before closing it.

In that experience, I find that most of the mistakes made by new-ish investors in subject to deals have less to do with the mechanics of the deal than in evaluating whether it should be done in the first place.

Lots of newer creative deal structurers get super-excited the first time a seller agrees to sell them a property subject to the existing loan: so excited, in fact, that they neglect to do the math to figure out whether or not it's a GOOD deal. Just because a deal is no qualifying, or low interest, or creates a little cash flow, doesn't mean it's a deal you should do.

Most of the bad situations I'm asked to untangle result from the fact that the investor/buyer didn't understand the realities of the exit strategy, and as a result got both themselves and their sellers (and sometimes their tenant/buyers, as well) into a mess that a more experienced investor would have seen predicted, and nipped in the bud.

A REALLY common example is investors buying properties subject to a loan with very little equity and very little cash flow, with the intention of lease/optioning it (so they can raise the price over market price, and create equity that doesn't actually exist).

They figure that as long as the incoming rent covers the outgoing payments, they're in good shape, because there's a potential $10,000 profit at the end when the tenant/buyer (inevitably, in the new investor's view) buys.

The problem, of course, is that a lot of things have to work out perfectly in order for this to work: the tenant buyer has to actually buy; the property has to appraise at the higher-than-market

[59] People with decades of experience spanning hundreds of deals don't charge a few thousand dollars and half of your first 5 deals to really and truly mentor you—they charge 5 figures. Of course, so do education mills who assign you to one of THEIR students who's done 7 wholesale deals over 24 months, and so is by their measure a huge success story.

value he agreed to pay; the tenant/buyer has to actually maintain the property (ya'll do know that landlord/tenant law applies to lease/options, right? Which means that if the roof starts leaking, you're legally required to repair it *even if* the tenant has agreed to do so contractually?); the tenant buyer has to pay the rent every month, in full, on time, and never move out.

What ACTUALLY happens is that the tenant/buyer and her husband split up, she stays another 45 days without making a payment, and when you finally get possession, there are holes in all the walls—and you have to cover 3 payments AND a turnover out of non-existent cash flow and equity. And you can't, so you miss payments to the bank, and then the seller's credit score drops by 100 points, and then he gets all litigious, and then, well, you're in trouble.

Similarly, I've seen subject to deals where the buyer meant to hold the property for rental. The math he did said that there was $150 in cash flow, because the market rent was $1,500 and the PITI payment was only $1,350. If you don't know what that property actually has NEGATIVE cash flow, you probably shouldn't be doing subject to deals until you DO know.

Yes, local investors do come to me wanting to partner on, or assign me, a subject to deal. Of every 10 who do, I tell 8 of them not to do the deal, at all, with anyone, ever, because once I've had a good look at the terms of the underlying loan, and the expenses and risks involved in owning the property, it's just not a good deal.

And the other 2? They've often found deals so marginal that it makes no sense for me to 'split' them, which is what the new investor always wants. Maybe the underlying loan is a good one, but it's going to require $20,000 of my cash to make a down payment and/or make necessary repairs. They have no cash to contribute, and no understanding of how to close the deal, and no special rehab or management experience, and want me to put in the money AND the knowledge AND the work for 50% of the deal.

When I express this, usually by saying, "Look, I don't think it's fair to ask someone else to contribute 90% of the resources and take 100% of the financial risk for half the deal, when half the cash flow represents a 5% return on the cash needed to make it work; how about if I just pay you a few thousand dollars to assign it to me, walk you through the whole thing, and prepare you to do your next one all on your own?", they get offended because I'm "Taking advantage" of them.

Honestly, I can't see myself in a long-term partnership with someone who undervalues the years of experience that let me easily put these deals together or the years of work that have put me in a position where I can easily write a $20,000 check, anyway. But I find it much cleaner and less likely to cause offense to simply say, "You don't need a partner, you need a mentor. And if you want to pay enough for that, that mentor can be me."--VJC

Don't Do Them if You Have to "Talk the Seller Into it"

Kim and I don't talk sellers into doing Subject-to Deals. In fact, we think we'd be heading down a very rough road if we did. Instead, by means of a T-bar, we let the seller sell us on the idea of doing a Subject-to Deal.

If we're sitting with a seller, asking questions, and filling out a T-bar, there are certain real estate problems that sellers have which can be easily resolved by using a Subject-to Deal structure. Here are three examples:

- The seller needs his home sold immediately.

- The seller needs to sell, but he's upside down (he owes more than what the home is worth).

- The seller is behind on mortgage payments, is worried about foreclosure, and no longer wants his house.

Think of it this way: It's Sunday around lunch time. You're driving home from church. You see yard sale signs at a house in your subdivision. You pull to the curb, get out of your car, and walk up the driveway.

In talking to the homeowners, you discover they are ending the yard sale within the hour. They don't want to haul the things that didn't sell back into the garage. After all, the whole point of the yard sale was to get rid of all their crap, not just some of it.

You mention that there are several items that have gone unsold that you might be interested in buying. The sellers light up! They see you as their last chance to solve their problem of getting rid of their remaining junk. They make you this offer: For $20 you can buy everything that remains provided you take everything with you now.

Do you see how the seller, and not the buyer, constructed this problem-solving offer? Remember: Sometimes the seller's why is more important than their how or how much.

From the lap of Vena…

I, on the other hand, "Talk people into" subject to deals all the time. Or rather, I listen to their story and what they have to say about the property, and I tell them that the only way I can help them is to take over their payments.

I have yet to meet a seller that came up with this idea all on their own, no matter how many T-bars I drew for them. But some version of this conversation happens on a weekly basis:

Seller: "I have a $200,000 house that needs paint and carpet, and I owe $180,000 at 4% interest, and I need to sell right away and I need $180,000 to pay that loan off."

Me: "Mr. Seller, I can tell you right now, here, over the phone, without wasting your time or mine with a visit to your kitchen table, that the only way I can POSSIBLY help you is if you let me take over those payments."

Seller: "Oh, I don't think my loan is assumable, but I'll call my bank and ask."

Me: "Oh, I guarantee it's not; none of them are today. But I've still taken over payments from probably 100 sellers in the last 20 years. We just go to a closing with an attorney, you sign the deed and some other documents that the attorney prepares, you give me the payment book, I make all the payments from then on out."

Seller: "What if you don't make the payments?"

Me: "Well, that would be dumb of me, since if I don't make the payments the bank takes the house back, and I haven't figured out how to make money on houses I don't own.

But I think what you're REALLY worried about is that I'm going to get hit by a bus and not be ABLE to make your payments. I worry about that, too, so I had my attorney work out a contract where if I get a month late on your payment, you just get the house back, with all the paydown I've done and any improvements I've made, right away[60], and we'll sign that at closing, too. If you're open to me taking over your payments, I should come over so we can talk about it and I can give you all the forms to take to YOUR attorney, so that he can bless this whole thing. Should we make an appointment, or do you have more questions?"

Don't Promise to Pay Off the Seller's Mortgage Early

This is one of the biggest and most common mistakes we see real estate investors make when doing a Subject-to Deal.

Early on, we learned to never promise to pay off a seller's mortgage early[61]. If the seller has 190 months of payments left to pay, we carefully explain it will take us exactly 190 months to pay his mortgage off.

Look at it this way: The seller sought the loan, agreed to the loan, signed for the loan, and guaranteed the loan. While we'll agree to step into the borrower's shoes and make ***his*** payments for him, we will not take on the added burden and risk of paying off ***his*** obligation early.

If this is what the seller demands, then his problem is too tough for us to solve, and off we go.

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[60] Yeah I know, you want to know HOW. I'll explain later in the manual.

[61] In fact, let me take it a step further, and say "Don't even think aloud in front of the seller about the fact that it MIGHT be paid off early. If a seller hears you say a date—like "I plan to lease/option it, and that's usually like a 5-year gig", what he's sure he heard (later when he needs the loan paid off) is, "Mr. Seller, I guarantee on my life that I'll pay this loan off within 5 years!"

Don't Take Over Bad Notes or Bad Properties

Before agreeing to do a Subject-to Deal, it's critical that you first read all of the seller's loan information.

Be mindful of things like adjustable-rate mortgages, balloon payments, pre-payment penalties, foreclosure notices, etc. Sellers can have some real gotchas in their loan documents.

And always review those loan documents, or have your attorney do it.

It's surprising how often sellers don't know that their interest rate is adjustable (even though their payments seem to change every year), or don't remember that they got a loan modification in 2011 (a BIG gotcha, because some of those loan mods specify that if the seller moves out or sells the property, the terms of the loan revert to their pre-modification terms, which may include a BIG bump in the principal, if there was any loan forgiveness in the modification. Also some loan mods were temporary, which might mean you take over a 3% fixed-rate loan that becomes a 7.5% adjustable rate loan 18 months from now).

I've even had a handful of sellers who 'forgot' that they had both a first and second mortgage on the property.

Never take over a property subject to a Home Equity Line of Credit (HELOC). These are almost always adjustable—often monthly—almost always have a 10 year term after which the line must be paid in full, and have the added feature that if the borrower doesn't close the account (meaning pay off the line), he has a checkbook that allows him to increase what's owed on the property with the stroke of a pen.

A monthly loan statement from the bank is enough to write a purchase agreement based on, but never CLOSE until you've seen the full, current mortgage and note. The mortgage will probably be recorded at the courthouse, and easy to retrieve; if the seller has lost the note (also common), he can request a copy from his bank.--VJC

Also, just because you ***can*** buy a house doesn't mean you ***should*** - whether it's a Subject-to Deal or not. Bad houses are bad houses. Bad locations are bad locations. It's often wise to stay focused on doing good deals on good homes in good neighborhoods.

Remember: It's OK to help someone out of the quicksand, but it's not OK to take their place in the quicksand!

Don't Buy Subject to When the Seller Wants to Buy Another House

Here is another big mistake we see investors make regularly. They fail to explain to the sellers that if the sellers' goal is to buy another house in the future, their chances of getting a mortgage with which to pay for that house could be a challenge. This means there's a good probability they will not be able to buy another house unless they find a seller who's willing to give owner financing.

Wellllll…that's not entirely true.

Hard and fast rule, as of this writing: borrowers are only allowed one FHA loan at a time, so if they have one and intend to get another, they MUST pay off the first once. VA borrowers have an "allowance" that they can't exceed, so typically they can only have 1 VA loan at a time.

A seller with a conventional loan is, under the current FNMA/FHLMC guidelines, limited to 10 loans—assuming that their credit score and, more importantly, debt-to-income ratio, will support all 10.

Before approaching a subject to deal, I always find out what the seller's housing plan is. About 40% of the sub to deals I do are with sellers who insist that they won't be buying another home, ever.

About 50% are with landlords, who didn't have a 'homeowner' loan in the first place, and never have FHA or VA loans, and seem to have no problem getting a new conventional loan to buy a property, assuming their credit score and income hasn't changed.

The other 10% are with people who have already purchased the next home, because their debt-to-income ratio was low enough that the qualified for the new home before selling the old one.

I do occasionally hear from one of the 40% who were 'never gonna buy again', or even the 10% who already bought, because they're either buying AGAIN, or refinancing the loan on their current house.

I hear from them, because heir mortgage broker has found this old loan on their credit report, and tells them that he can't get them qualified because it's destroying their ratios. And that's why there's a clause in my disclosure saying that if this happens, they should call me.

So far, fingers crossed, we've worked it out this way:
I call the mortgage broker and say, "*I understand that this debt is a problem. If I send you the lease *I* have on the property, can you use that income to offset the debt on their balance sheet? I know it's not actually going to them, but they're not actually making the payment, either, so it seems like we should be able to use income they're not getting to offset debt they're not paying".*

So far, it's worked 100% of the time. But loan rules are changing all the time, so someday it may not, and then I'll have to figure out how to get around it, and remind myself to edit this text box.

Explain this ***carefully*** to sellers who are considering selling you their home subject to their mortgage. The last thing you want to have happen is for the sellers to call you two years from now claiming you're a lying cur dog because you didn't tell them that if they did the deal with you, they'd never be able to buy a house again.

Put daylight on everything when doing a Subject-to Deal!

The Biggest Danger You HAVEN'T Thought About: The Seller's Bankruptcy

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Bankruptcy law is a specialized area of law that can get super-complex, and is WAAAY beyond the scope of this workshop.

But the most common kind of bankruptcy—personal bankruptcy—is a potential gotcha for sub to buyers, so it helps to understand a little bit about why that is.

If you look carefully at most mortgage documents, they have a clause allowing the lender to call a performing loan due in the case of a chapter 7 (liquidation) bankruptcy.

Why? Because a Chapter 7 bankruptcy effectively voids the NOTE. Not the mortgage, but the promise to pay.

As Bill notes below, this isn't common: mostly, the bank keeps taking the payment. But because of this threat, I don't buy properties subject to the existing loan from people that I know are headed toward bankruptcy unless I'll be putting very little money into them and there's a ton of equity in them—and a ton of equity potentially creates another problem, because in a business bankruptcy where the seller is accused of dumping assets to avoid paying unsecured creditors, the court could, in theory, undo the sale so that it can auction the property and capture some of that equity for the benefit of the unsecured creditors. Again, this is extraordinarily rare unless it's a commercial property or a very high-end residential one with more than 23% equity.

What this means in the real world is that the sellers who are most likely to agree to a subject to without a second thought—those who can't make their next payment, anyway, or who are already behind in payments—aren't people that I get excited about doing subject to deals with. Those folks often end up declaring bankruptcy even AFTER I've relieved them of their largest debt, and even after they've signed a disclosure saying they're not.

That's why my disclosure allows me to stop making payments in the case of a seller bankruptcy. Doing this doesn't hurt their credit any more than they already have, and it gives me bargaining power with a bank that decides to call the loan due because of the bankruptcy.—VJC

Over the years, we've had three or four people who sold us their homes subject to their mortgage, and then declare bankruptcy sometime after we purchased their homes.

In each case, we were contacted by the seller's bankruptcy attorney. The bankruptcy attorney wanted to include the seller's mortgage we were paying on in the seller's bankruptcy.

In a couple of the cases, after talking to the sellers, the sellers agreed that because we were living up to our promise of making their mortgage payments on their mortgage on time each month, they would not include the mortgage in the bankruptcy.

One or two other times, the mortgage we were paying on was included in the seller's bankruptcy. No matter, we continued to do what we promised. We continued making the seller's mortgage payments on the seller's mortgage without missing a beat.

We never heard again from the seller or the seller's bankruptcy attorney, and the seller's lender was thrilled we kept making on-time, in-full monthly payments.

The Documents Used to Memorialize a Subject-to Deal

In this course, you'll receive the documents both Vena and I use to memorialize a Subject-to Deal…including disclosure statements.

I've not seen the documents Vena uses, nor has she seen mine. That said, I feel certain they are significantly different. I'm guessing mine will look lax when compared to Vena's.

Just remember, with real estate investing, there is no THE way. Our documents work for us, and Vena's documents work for her.

In Kim's and my case, even though we've had the people who sold us their homes subject to go bankrupt, get divorced, move overseas or straight out die, we've never encountered the first problem with the lender of a seller who sold us their home subject-to their mortgage(s).

We believe the main reason we've never encountered a problem is because:

- We had a good relationship and rapport with the seller.
- We always paid the seller's mortgage payments on time.
- We had current insurance on the property.
- We paid the property taxes when due.
- We took excellent care of the property.

We believe if you'll treat people right and do what you promise, 99% of the problems you could face never materialize.

One night during a workshop Zoom meeting Vena heard me say this and accused me of being an eternal optimist, that I only see the best in people. About this one thing, *and only this one thing*, Vena is absolutely right![62]

List of Documents We Use When Doing a Subject-to Deal

The case studies included in this workbook will include many of the documents we use when doing a Subject-to Deal.

Here's a list of these documents:

- Purchase Agreement, with Special Stipulations for a Subject-to Deal
- Assignment Agreement. The Purchase Agreement usually shows me as the buyer. Before closing, I assign the Purchase Agreement to my Trustee/Trust
- Notice to Release Information
- Power of Attorney
- Seller's Acknowledgements
- Closing directions for attorney
- Warranty Deed Inclusion. This goes in the Warranty Deed. It references deed book and page number to the location of the seller's mortgage. It also explains that the seller's mortgage was not paid off when seller sold the property.
- Trust Documents (NOTE: this is not a trust class. Therefore, my trust documents are not included in this course. The best trust course is sold by Dyches Boddiford. His website is ***Assets101.com***. It's his documents we use.
- Letter to seller's lender notifying lender of change of mailing address
- Letter to seller's lender notifying lender the title has been transferred to a trust for estate planning purposes
- Estopple Letter from the seller's lender
- Letter to our insurance agent notifying him how we want property to be insured

[62] [Eye roll]

- HOA information

- Video interview with sellers. I have the sellers, in the sellers' own words, explain the deal structure we are doing. Can't begin to tell you the importance of this step!

Examples of Our Subject-to Deals

Maple Lane

The following Subject-to Deal is made up. We want you to see some of the paperwork we use when putting a Subject-to Closing together.

The documents you'll see:

- Purchase Agreement
- Notice to Release
- Assignment of Purchase Agreement
- Warranty Deed
- Limited Power of Attorney
- Seller's Acknowledgement Form
- Change of Address Form

Purchase Agreement – page 1

PURCHASE AGREEMENT
(use when buying a property)

Offer Date: 5-1-2020 **Subdivision:** _____

Seller: TINA TURNER **Phone:** _____

Buyer: Bill Cook **Phone:** 770-815-8727

Property Address: 13 MAPLE LANE, CARTERSVILLE GA 30121

Legal Description: The Legal Description for the above property will be attached as "Exhibit A" within 72 hours after this agreement becomes a legally binding contract.

The Buyer, and the Seller (including the Seller's heirs, successors, legal representatives and assigns) agree that the Buyer will buy and the Seller will sell the above described real property under the following terms and conditions:

1. **Price:** $ 170,000

2. **Terms:** BUYER WILL PAY SELLER $10000 AT CLOSING. SELLER'S LOAN WILL REMAIN IN PLACE. BUYER WILL MAKE SELLER'S MORTGAGE PAYMENTS UNTIL SELLERS MORTGAGE IS PAID IN FULL. SELLER'S CURRENT ESTIMATED LOAN BALANCE IS $160,000

3. **Conveyance:** Fee simple title to the property, with an owner's title insurance policy guaranteeing marketable title, will be delivered to the Buyer, or to the Buyer's assigns, by a General Warranty Deed free from any liens, restrictions, encumbrances, easements or encroachments not specifically referenced in this contract. Risk of loss to the property shall be borne by the Seller until title transfers.

4. **Possession:** Possession of the property and occupancy, with all keys and garage door openers, will be delivered to the Buyer when title transfers.

5. **Expenses:** The Buyer will prepare, and pay for the preparation and recording of all notes, deeds and options. The Seller will pay for the transfer tax and the intangible tax stamps on all deeds, notes and options. Real property taxes will be prorated based on the current year's tax without allowance for discounts, such as homestead or other exemptions. All real estate commissions, and any other real estate fees, will become due and payable only after Seller has conveyed to the Buyer good and marketable title to said property by General Warranty Deed.

6. **Earnest Money:** Earnest money, if any, will be paid to N/A (Holder) in the amount of $ N/A within 72 hours after this agreement becomes a legally binding contract. At the time of closing, earnest money, to be held in escrow by the Holder, will be applied to the purchase price of the subject property. All earnest money will be returned to the Buyer within 24 hours if title does not transfer in accordance with this agreement.

7. **Inspections:** This contract is contingent upon the Buyer's inspection and approval of the subject property prior to the transfer of title. If inspection is not satisfactory for any reason, then Buyer may declare this Agreement void and will immediately receive a full refund of all earnest money. The Seller agrees to provide unlimited access to the subject property to the Buyer and Buyer's representatives, with all utilities (power, water, gas) turned on. Seller will remove all personal property not included in this sale and deliver the subject property vacated and clean, with all trash removed at the walk-through inspection immediately preceding title transfer. If the property is accepted, it will convey in "AS IS" condition. Any personal property left at the property after title transfers will be considered abandoned property left by the Seller and the Buyer may dispose of said personal property in any manner he/she/they/it wishes.

 1

Purchase Agreement – page 2

8. **Defects:** Seller warrants property to be free from hazardous substances and from violations of zoning, environmental, building, health or other governmental codes or ordinances, and that there are no known defects or facts regarding this property that could adversely affect the value of said property.

9. **Survey:** Seller agrees to provide a survey of the property certified within 30 days of closing.

10. **Termite Letter:** Seller will provide an Infestation Report prepared by a licensed pest control operator within 5 days after acceptance of this agreement.

11. **No Judgments:** Seller warrants that there are no judgments threatening the equity in subject property, and that there is no bankruptcy pending or contemplated by any title-holder. Seller will not further encumber the property.

12. **Default:** If the Buyer or Seller fails to perform any covenant of this contract, the defaulting party will pay to the other party $500 as consideration for the execution of this contact and as agreed liquidated damages in full settlement of any claims for damages.

13. **Other Provisions:**
    A. **Entire Agreement:** This Agreement constitutes the sole and entire agreement between the parties hereto and no modification of this Agreement shall be binding unless signed by all parties to this Agreement. No representation, promise or inducement not included in this Agreement shall be binding upon any party hereto. Any assignee shall fulfill all the terms and conditions of this Agreement.
    B. **Working:** All electrical, plumbing, mechanical, heating and cooling systems and appliances will be in good working order and functioning properly. Carpeting, drapes and rods, blinds, ranges, refrigerators, heaters, air conditioners, built in appliances, and ceiling fans will be clean, operable and delivered with transfer of title to real estate.
    C. **Survival of Agreement:** All conditions or stipulations not fulfilled at time of closing shall survive the closing until such time as the conditions or stipulations are fulfilled.
    D. **Time of Essence:** Time is of the essence for this Agreement.
    E. **Legal Counsel:** This is a legally binding contract. All parties should seek legal advice before signing.

14. **Acceptance:** This agreement will become a binding contract once accepted by the Seller and signed by both the Buyer and Seller. If Seller doesn't accept and sign this agreement before _____, this agreement will be void.

15. **Closing:** This transaction shall be closed at _____ on or before _____.

16. **Special Stipulations:** The following Special Stipulations (if any) (see Exhibit "B"), if conflicting with any exhibit, addendum, or proceeding paragraph, shall control.

X _____ X _____
Seller's Signature and Date Buyer's Signature and Date

X _____ X _____
Seller's Signature and Date Buyer's Signature and Date

X _____
Realtor's Signature and Date

Purchase Agreement – page 3

SPECIAL STIPULATIONS AGREEMENT: EXHIBIT "B":
(use when making a purchase offer)

1) Buyer is buying property subject to Seller's mortgage(s). All escrow balance(s) have been calculated into the price and will transfer to the Buyer along with title. Seller agrees to give Buyer an irrevocable limited power of attorney at closing that will allow Buyer to work with Seller's lender(s) and insurance provider(s). Seller understands that with a "Subject-to Deal" the Seller's mortgage is not being paid off, nor is it being assumed by the Buyer, rather the Seller's mortgage remains in the Seller's name and the Buyer is agreeing to make the Seller's mortgage payments on the Seller's mortgage for the Seller.

2) If the Seller has not vacated the property at the time title transfers as agreed to in this contract, then at the time of closing, the Buyer shall hold $ 3,000.00 of the Seller's proceeds as the Seller's "Move Out Deposit". The Seller's Move Out Deposit will be returned to the Seller as long as: 1) Seller vacates the property on or before the move out date agreed to by Buyer and Seller in writing. 2) Seller has given Buyer the keys to the property. 3) Seller has abided by all of the terms and conditions of this Agreement. If the Seller does not move from the property by the date Seller agreed to, Seller agrees to pay the Buyer a Daily Property Rental fee of $100 per day until the Seller vacates the property. The Seller's Daily Property Rental fee will be deducted from the Seller's Move Out Deposit and paid to the Buyer.

3) Purchase Money Note: Buyer shall execute and deliver to the Seller a Purchase Money Note, in recordable form, that may be secured to the property by way of a Security Deed. This Purchase Money Note may be recorded as an attachment to the Security Deed. All parties agree that the Purchase Money Note is part of the terms of the sale, and is a loan of the Seller's equity – not loan of money. This is a non-recourse note.

4) Leases, applications, advanced rents, security deposits, all landlord-tenant correspondence, tenant's rental history, and all other landlord-tenant paperwork will transfer to the Buyer with title.

X _____
Seller's Signature and Date

X _____
Buyer's Signature and Date

X _____
Seller's Signature and Date

X _____
Buyer's Signature and Date

X _____
Realtor's Signature and Date

 3

Notice to Release Information

North Georgia Homes
P.O. Box 22
Adairsville, GA 30103
770 815-8728-Kim direct
678-550-2155-fax
Kim@BartowRealEstate.com

To Whom It May Concern:

I hereby authorized you to release any and all information regarding my loan, including loan status, interest rate, payoff amount, amount of monthly payment, late charges, penalties, attorney fees, foreclosing information, and any additional fees (if applicable) to:

North Georgia Homes: Kim Cook, Terrah Whitlock, Bill Cook

It is requested that this information be faxed immediately to North Georgia Homes:

Signed **X** _____

Date: 5-1-2020

(PLEASE PRINT CLEARLY)

Borrower TINA TURNER

Borrower's SSN 131-14-1997

Address: 13 MAPLE LANE,

City/State/Zip: CARTERSVILLE GA 30121

Lender BANK of AMERICA

Lender Phone Number or Address 1-800-198-671

Lender's Email Address _____

Account or Loan # 1971697113

Assignment of Purchase Agreement

ASSIGNMENT OF PURCHASE AGREEMENT

STATE OF **GEORGIA**

COUNTY OF **BARTOW**

Address of Property Being Assigned: **13 Maple Lane, Cartersville GA 30121**

Assignor (person selling rights to Purchase Agreement): **Bill Cook**

Assignee (person buying rights to Purchase Agreement): **M. Thompson as Trustee of the Turner Property Holding Trust**

Be it known that **Bill Cook** (the Assignor), is assigning all rights, title and interest in the Purchase Agreement dated **May 1, 2020**, for the real property located at **13 Maple Lane, Cartersville GA 30121** to **M. Thompson as Trustee of the Turner Property Holding Trust** (the Assignee) on this the **12th** day of **May, 2020**, for the amount of **$0**. The amount being paid is known as the "Assignment Fee".

Additional terms: **None**.

The Assignor does hereby grant, bargain, sell, transfer, convey, and assign all of his/her/their purchase rights of the property listed on the above referenced Purchase Agreement.

Exhibit "A" is a copy of the assignment property's Legal Description

Exhibit "B" is a copy of the Purchases Agreement being Assigned

To have and to hold the same unto the said Assignment Buyer, and the heirs, legal representatives, successors and assigns forever.

Accepted this day of **May 12, 2020**

X _____ **X** _____

Assignor (sign and date) Assignee (sign and date)

Warranty Deed with Subject-to Notice

WARRANTY DEED

STATE OF GEORGIA

COUNTY OF BARTOW

This Indenture made this **12th day of May, 2020**, between **Tina Turner**, as party or parties of the first part, hereinafter called Grantor (seller), and **M. Thompson as Trustee of the Turner Property Holding Trust**, as party or parties of the second part, hereinafter called Grantee (buyer) (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration for the sum of **TEN AND 00/100's ($10.00) Dollars** and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee.

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION, ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

This Deed is given subject to all easements and restrictions of record, if any.

Property conveyed here in is subject to that certain Security Deed from Tina Turner to Bank of America, dated June 2, 2010, recorded in Deed Book 1586, Page 127, on which there remains an approximate balance of $160,000.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in **FEE SIMPLE**.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

M. Thompson, AS TRUSTEE, shall have full Trustee Powers and Authority as described in Exhibit "B".

SEE EXHIBIT "B" FOR LIST OF TRUSTEE POWERS, ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this day and year first above written.

Signed, sealed and delivered in the presence of:

_____ _____ (Seal)
Witness

Power of Attorney

LIMITED IRREVOCABLE POWER OF ATTORNEY

STATE OF Georgia

COUNTY OF Bartow

That I/we, Tina Turner, resident(s) of Bartow County, State of Georgia, being desirous of arranging for the transaction of business through an attorney in fact, have appointed, named and constituted, and by these presents do name, constitute and irrevocably appoint William T. Cook, Jr., Kim A. Cook, What Box LLC, and Cash Flow REI, Inc. as my true and lawful attorney in fact. Any of these individuals or entities may act individually. I authorize said attorney in fact, for me, and in my name, place and stead:

(a) To act on my/our behalf pertaining to any matters concerning property located at 13 Maple Lane, City of Cartersville, County of Bartow, State of Georgtia, ***shown on attached Exhibit A***, including the right to obtain any and all mortgage information, insurance information, and to act on my/our behalf pertaining to any secured notes and deeds to secure debt applicable to such property and to any insurance applicable to such property;

(b) To purchase, cancel, change, sign, endorse, receive, and deposit any checks, drafts, or other proceeds pertaining to any insurance or insurance claims applicable to the above described property for the benefit of the then current title holder and/or beneficiary or beneficiaries;

(c) To sign, endorse, receive, and deposit any checks, drafts, or other proceeds pertaining to any escrow refunds or tax refunds applicable to the above described property;

(d) To negotiate and arrange any transactions pertaining to any loans secured against the above described property with any lender or lender's servicing agent with authority to act on behalf of such loan holder.

In the event that the party holding this power of attorney has any interest in the property described herein, or is the designated agent for any party having any interest in the property described herein, ***then this power of attorney is deemed to be irrevocable by the grantor of the power*** unless the holder of the power has expressly consented to the revocation and such express consent appears on any document revoking this power of attorney.

This power of attorney shall remain effective until the same is revoked by written instrument recorded in the Office of the Clerk of the Superior Court of Bartow County, State of Georgia.

IN WITNESS WHEREOF, we have hereunto set our hands and affixed our seals, this 12th day of May, 2020.

Signed, sealed and delivered
In the presence of:

_____ X _____
Witness

_____ X _____
Notary Public

Acknowledgement Form

SELLER'S ACKNOWLEDGEMENT FORM – SUBJECT-TO DEAL

I, TINA TURNER (Seller), on this 12 day of May, 2020, am selling my property commonly known as 13 MAPLE LANE, CARTERSVILLE GA 30121 (The Property), to M. THOMPSON AS TRUSTEE OF THE TURNER PROPERTY HOLDING TRUST (Buyer) and or assigns, according to the terms and conditions contained in the Purchase Agreement (The Agreement) dated 5-12-2020.

I acknowledge that the following is true:

TT 1. I understand that I am selling my property subject-to my mortgage(s).

TT 2. I understand that this is known as a "Subject-to Deal".

TT 3. I understand that when I sell my property, my mortgage(s) will not be paid off. Instead, my mortgage will remain in my name.

TT 4. I understand that the buyer is not assuming my mortgage(s). Instead, the buyer is agreeing to make *my* mortgage payments on *my* mortgage for *me*.

TT 5. I understand that by selling my property and not paying off my mortgage(s), I'm in violation of the Due on Sale clause in my Security Deed. Additionally, I understand that my lender has the right to call my mortgage due at any time. I accept this risk as part of the consideration for getting my property sold.

TT 6. I understand that even though I am selling my property, if the buyer fails to make my mortgage payments on my mortgage for me, the lender will hold me responsible for my mortgage, and that my lender has the right to foreclose on the property because the property is the collateral for the mortgage.

T 7. I understand that because my mortgage(s) will remain in my name after the sale of my property, it may affect my ability to get new loans.

T 8. I acknowledge that the buyer has not agreed to pay off my mortgage(s) early.

TT 9. I acknowledge that there are no judgments threatening the equity in the subject property, and that there is no bankruptcy pending or contemplated by any title-holder.

TT 10. I indemnify and hold the real estate broker(s) (if any) and closing attorney involved in this transaction, as well as the buyer of this property, harmless regarding this transfer subject to the existing debt.

TT 11. I will not further encumber this property.

TT 12. I acknowledge that the buyer has recommended that if I have any questions about selling my property subject to my mortgage, I should seek legal council.

 1

Change of Address Form

Tina Turner
13 Maple Lane
Cartersville GA 30121

May 12, 2020

Bank of America
PO Box 1123
New York, New York 40857

Re: LOAN # 3948563328
PROPERTY ADDRESS: 13 Maple Lane, Cartersville GA 30121

Dear Sirs/Ladies:

I have a new mailing address. Please update your files and send all further correspondence to:

P.O. Box 22
Adairsville GA 30103

Thanks very much.

Sincerely,

Tina Turner

Prater Drive

Prater Drive was a Subject-to Deal we did in 2001. This is before Kim and I used Title Holding Trusts to hold our property. I say that to say this: If you think you must have all your entities in place *before* you can do a Subject-to Deal, you're *more* wrong than Vena is every time she tells me I'm wrong[63]. I'm beginning to think she thinks there's a possibility, however slight, that it's possible for me to make a mistake. Silly girl. Tricks are for kids!

What follows are the actual documents from this deal we did 19 years ago when we were still considered baby real estate investors.

Pay particular attention to the HUD-1. This is the closing statement. If you look at lines 203 (on the left side of the document), and 503 (on the right side of the document), read what it says.

Existing loan(s) taken subject to

This has been on HUD-1s for decades.

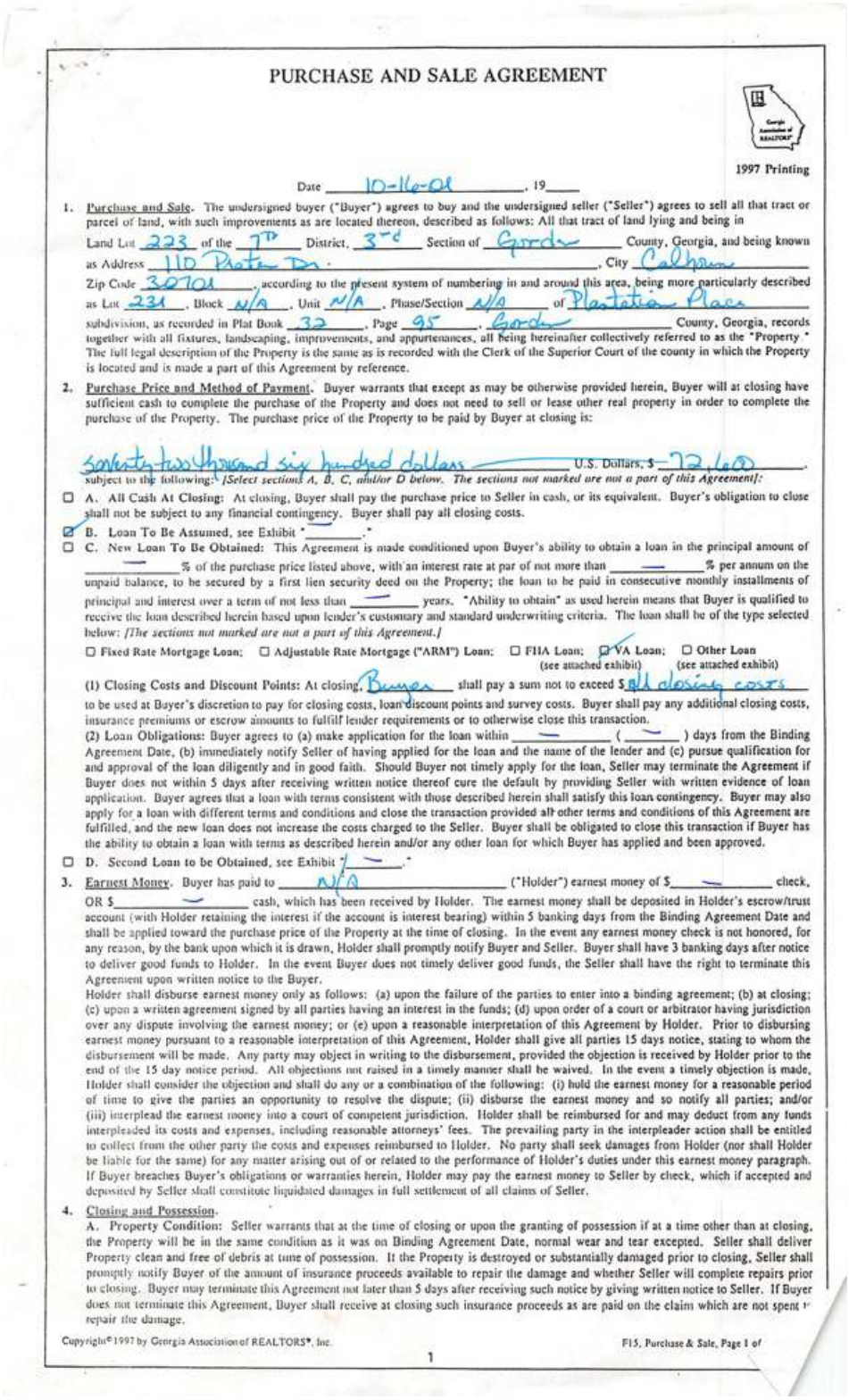
When someone (real estate attorney, realtor or mortgage broker) tell me Subject-to Deals are illegal, I simply point to lines 203 and 503 and ask, "So why is there subject-to language on every HUD-1?

Here's a great lesson we learned from Jack Miller. When someone tells you what you're doing is "illegal," ask them for chapter and verse. This means to ask them for the code section. In other words, have them show you the law in writing.

When you do this, it's amazing how mousey the "experts" get!

[63] The very fact that Bill believes that a title holding trust is an entity, in the legal sense, shows you how wrong he is. It's not an entity. It's a contract between a Trustee and a Beneficiary saying that the trustee will hold the title to a property for the benefit of the beneficiary. The trustee is the owner of the property, not the trust. Because the trust isn't an entity. It's a contract. [mic drop].

Purchase and Sale Agreement – page 1



PURCHASE AND SALE AGREEMENT

1997 Printing

Date 10-16-01, 19____

1. Purchase and Sale. The undersigned buyer ("Buyer") agrees to buy and the undersigned seller ("Seller") agrees to sell all that tract or parcel of land, with such improvements as are located thereon, described as follows: All that tract of land lying and being in Land Lot 223 of the 7th District, 3rd Section of Gordon County, Georgia, and being known as Address 110 Plantation Dr., City Calhoun Zip Code 30701, according to the present system of numbering in and around this area, being more particularly described as Lot 231, Block N/A, Unit N/A, Phase/Section N/A of Plantation Place subdivision, as recorded in Plat Book 32, Page 95, Gordon County, Georgia, records together with all fixtures, landscaping, improvements, and appurtenances, all being hereinafter collectively referred to as the "Property." The full legal description of the Property is the same as is recorded with the Clerk of the Superior Court of the county in which the Property is located and is made a part of this Agreement by reference.

2. Purchase Price and Method of Payment. Buyer warrants that except as may be otherwise provided herein, Buyer will at closing have sufficient cash to complete the purchase of the Property and does not need to sell or lease other real property in order to complete the purchase of the Property. The purchase price of the Property to be paid by Buyer at closing is:

seventy-two thousand six hundred dollars U.S. Dollars, $ 72,600, subject to the following: *[Select sections A, B, C, and/or D below. The sections not marked are not a part of this Agreement.]*

☐ A. All Cash At Closing: At closing, Buyer shall pay the purchase price to Seller in cash, or its equivalent. Buyer's obligation to close shall not be subject to any financial contingency. Buyer shall pay all closing costs.

☑ B. Loan To Be Assumed, see Exhibit "—."

☐ C. New Loan To Be Obtained: This Agreement is made conditioned upon Buyer's ability to obtain a loan in the principal amount of — % of the purchase price listed above, with an interest rate at par of not more than — % per annum on the unpaid balance, to be secured by a first lien security deed on the Property; the loan to be paid in consecutive monthly installments of principal and interest over a term of not less than — years. "Ability to obtain" as used herein means that Buyer is qualified to receive the loan described herein based upon lender's customary and standard underwriting criteria. The loan shall be of the type selected below: *[The sections not marked are not a part of this Agreement.]*

☐ Fixed Rate Mortgage Loan; ☐ Adjustable Rate Mortgage ("ARM") Loan; ☐ FHA Loan; ☑ VA Loan; ☐ Other Loan (see attached exhibit) (see attached exhibit)

(1) Closing Costs and Discount Points: At closing, Buyer shall pay a sum not to exceed $ all closing costs to be used at Buyer's discretion to pay for closing costs, loan discount points and survey costs. Buyer shall pay any additional closing costs, insurance premiums or escrow amounts to fulfill lender requirements or to otherwise close this transaction.

(2) Loan Obligations: Buyer agrees to (a) make application for the loan within — (—) days from the Binding Agreement Date, (b) immediately notify Seller of having applied for the loan and the name of the lender and (c) pursue qualification for and approval of the loan diligently and in good faith. Should Buyer not timely apply for the loan, Seller may terminate the Agreement if Buyer does not within 5 days after receiving written notice thereof cure the default by providing Seller with written evidence of loan application. Buyer agrees that a loan with terms consistent with those described herein shall satisfy this loan contingency. Buyer may also apply for a loan with different terms and conditions and close the transaction provided all other terms and conditions of this Agreement are fulfilled, and the new loan does not increase the costs charged to the Seller. Buyer shall be obligated to close this transaction if Buyer has the ability to obtain a loan with terms as described herein and/or any other loan for which Buyer has applied and been approved.

☐ D. Second Loan to be Obtained, see Exhibit "—."

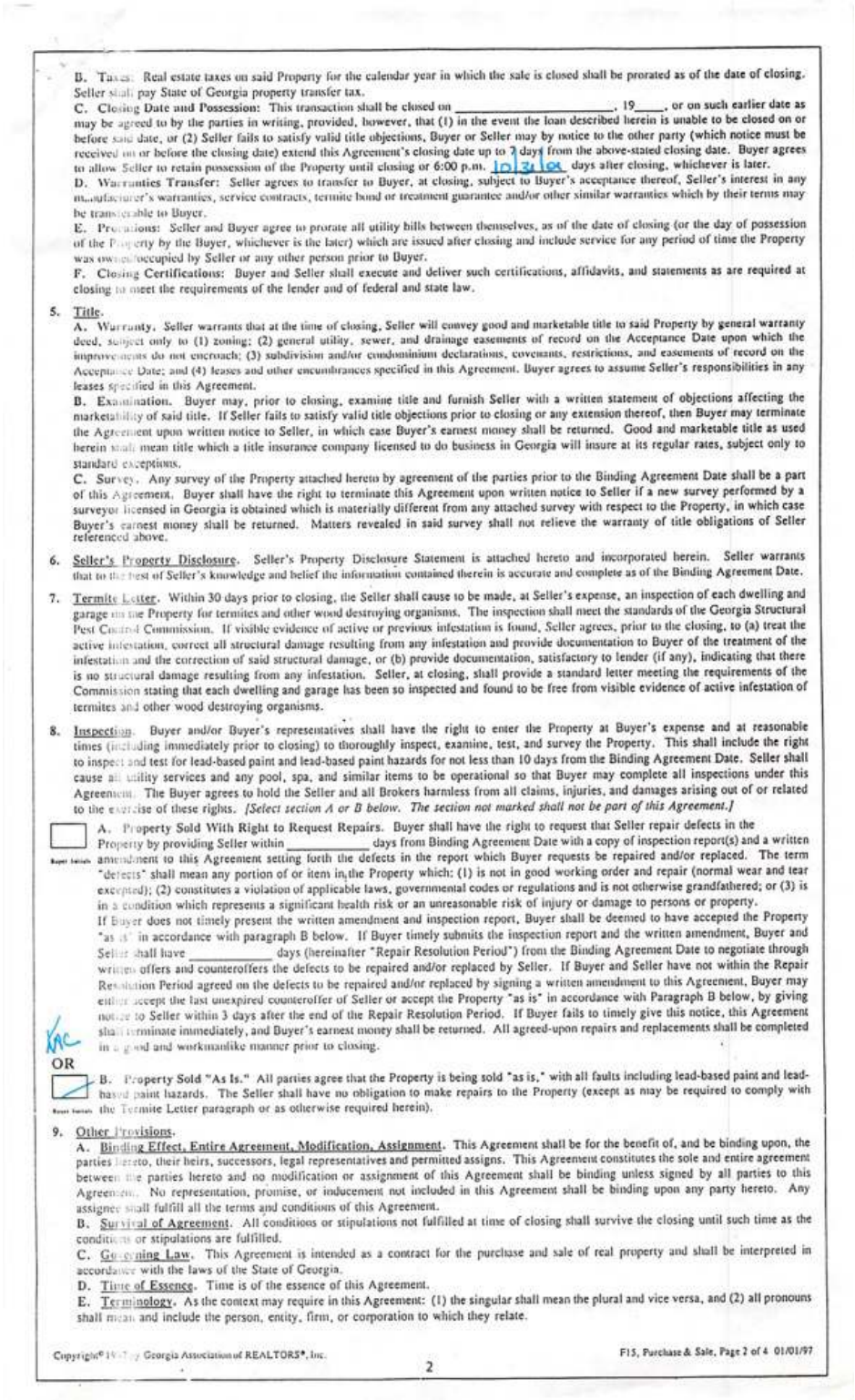
3. Earnest Money. Buyer has paid to N/A ("Holder") earnest money of $— check, OR $— cash, which has been received by Holder. The earnest money shall be deposited in Holder's escrow/trust account (with Holder retaining the interest if the account is interest bearing) within 5 banking days from the Binding Agreement Date and shall be applied toward the purchase price of the Property at the time of closing. In the event any earnest money check is not honored, for any reason, by the bank upon which it is drawn, Holder shall promptly notify Buyer and Seller. Buyer shall have 3 banking days after notice to deliver good funds to Holder. In the event Buyer does not timely deliver good funds, the Seller shall have the right to terminate this Agreement upon written notice to the Buyer.

Holder shall disburse earnest money only as follows: (a) upon the failure of the parties to enter into a binding agreement; (b) at closing; (c) upon a written agreement signed by all parties having an interest in the funds; (d) upon order of a court or arbitrator having jurisdiction over any dispute involving the earnest money; or (e) upon a reasonable interpretation of this Agreement by Holder. Prior to disbursing earnest money pursuant to a reasonable interpretation of this Agreement, Holder shall give all parties 15 days notice, stating to whom the disbursement will be made. Any party may object in writing to the disbursement, provided the objection is received by Holder prior to the end of the 15 day notice period. All objections not raised in a timely manner shall be waived. In the event a timely objection is made, Holder shall consider the objection and shall do any or a combination of the following: (i) hold the earnest money for a reasonable period of time to give the parties an opportunity to resolve the dispute; (ii) disburse the earnest money and so notify all parties; and/or (iii) interplead the earnest money into a court of competent jurisdiction. Holder shall be reimbursed for and may deduct from any funds interpleaded its costs and expenses, including reasonable attorneys' fees. The prevailing party in the interpleader action shall be entitled to collect from the other party the costs and expenses reimbursed to Holder. No party shall seek damages from Holder (nor shall Holder be liable for the same) for any matter arising out of or related to the performance of Holder's duties under this earnest money paragraph. If Buyer breaches Buyer's obligations or warranties herein, Holder may pay the earnest money to Seller by check, which if accepted and deposited by Seller shall constitute liquidated damages in full settlement of all claims of Seller.

4. Closing and Possession.

A. Property Condition: Seller warrants that at the time of closing or upon the granting of possession if at a time other than at closing, the Property will be in the same condition as it was on Binding Agreement Date, normal wear and tear excepted. Seller shall deliver Property clean and free of debris at time of possession. If the Property is destroyed or substantially damaged prior to closing, Seller shall promptly notify Buyer of the amount of insurance proceeds available to repair the damage and whether Seller will complete repairs prior to closing. Buyer may terminate this Agreement not later than 5 days after receiving such notice by giving written notice to Seller. If Buyer does not terminate this Agreement, Buyer shall receive at closing such insurance proceeds as are paid on the claim which are not spent to repair the damage.

Purchase and Sale Agreement – page 2



B. Taxes: Real estate taxes on said Property for the calendar year in which the sale is closed shall be prorated as of the date of closing. Seller shall pay State of Georgia property transfer tax.

C. Closing Date and Possession: This transaction shall be closed on _____, 19____, or on such earlier date as may be agreed to by the parties in writing, provided, however, that (1) in the event the loan described herein is unable to be closed on or before said date, or (2) Seller fails to satisfy valid title objections, Buyer or Seller may by notice to the other party (which notice must be received on or before the closing date) extend this Agreement's closing date up to 7 days from the above-stated closing date. Buyer agrees to allow Seller to retain possession of the Property until closing or 6:00 p.m. 10/31/04 days after closing, whichever is later.

D. Warranties Transfer: Seller agrees to transfer to Buyer, at closing, subject to Buyer's acceptance thereof, Seller's interest in any manufacturer's warranties, service contracts, termite bond or treatment guarantee and/or other similar warranties which by their terms may be transferable to Buyer.

E. Prorations: Seller and Buyer agree to prorate all utility bills between themselves, as of the date of closing (or the day of possession of the Property by the Buyer, whichever is the later) which are issued after closing and include service for any period of time the Property was owned/occupied by Seller or any other person prior to Buyer.

F. Closing Certifications: Buyer and Seller shall execute and deliver such certifications, affidavits, and statements as are required at closing to meet the requirements of the lender and of federal and state law.

5. Title.

A. Warranty. Seller warrants that at the time of closing, Seller will convey good and marketable title to said Property by general warranty deed, subject only to (1) zoning; (2) general utility, sewer, and drainage easements of record on the Acceptance Date upon which the improvements do not encroach; (3) subdivision and/or condominium declarations, covenants, restrictions, and easements of record on the Acceptance Date; and (4) leases and other encumbrances specified in this Agreement. Buyer agrees to assume Seller's responsibilities in any leases specified in this Agreement.

B. Examination. Buyer may, prior to closing, examine title and furnish Seller with a written statement of objections affecting the marketability of said title. If Seller fails to satisfy valid title objections prior to closing or any extension thereof, then Buyer may terminate the Agreement upon written notice to Seller, in which case Buyer's earnest money shall be returned. Good and marketable title as used herein shall mean title which a title insurance company licensed to do business in Georgia will insure at its regular rates, subject only to standard exceptions.

C. Survey. Any survey of the Property attached hereto by agreement of the parties prior to the Binding Agreement Date shall be a part of this Agreement. Buyer shall have the right to terminate this Agreement upon written notice to Seller if a new survey performed by a surveyor licensed in Georgia is obtained which is materially different from any attached survey with respect to the Property, in which case Buyer's earnest money shall be returned. Matters revealed in said survey shall not relieve the warranty of title obligations of Seller referenced above.

6. Seller's Property Disclosure. Seller's Property Disclosure Statement is attached hereto and incorporated herein. Seller warrants that to the best of Seller's knowledge and belief the information contained therein is accurate and complete as of the Binding Agreement Date.

7. Termite Letter. Within 30 days prior to closing, the Seller shall cause to be made, at Seller's expense, an inspection of each dwelling and garage on the Property for termites and other wood destroying organisms. The inspection shall meet the standards of the Georgia Structural Pest Control Commission. If visible evidence of active or previous infestation is found, Seller agrees, prior to the closing, to (a) treat the active infestation, correct all structural damage resulting from any infestation and provide documentation to Buyer of the treatment of the infestation and the correction of said structural damage, or (b) provide documentation, satisfactory to lender (if any), indicating that there is no structural damage resulting from any infestation. Seller, at closing, shall provide a standard letter meeting the requirements of the Commission stating that each dwelling and garage has been so inspected and found to be free from visible evidence of active infestation of termites and other wood destroying organisms.

8. Inspection. Buyer and/or Buyer's representatives shall have the right to enter the Property at Buyer's expense and at reasonable times (including immediately prior to closing) to thoroughly inspect, examine, test, and survey the Property. This shall include the right to inspect and test for lead-based paint and lead-based paint hazards for not less than 10 days from the Binding Agreement Date. Seller shall cause all utility services and any pool, spa, and similar items to be operational so that Buyer may complete all inspections under this Agreement. The Buyer agrees to hold the Seller and all Brokers harmless from all claims, injuries, and damages arising out of or related to the exercise of these rights. *[Select section A or B below. The section not marked shall not be part of this Agreement.]*

☐ Buyer Initials

A. Property Sold With Right to Request Repairs. Buyer shall have the right to request that Seller repair defects in the Property by providing Seller within _____ days from Binding Agreement Date with a copy of inspection report(s) and a written amendment to this Agreement setting forth the defects in the report which Buyer requests be repaired and/or replaced. The term "defects" shall mean any portion of or item in the Property which: (1) is not in good working order and repair (normal wear and tear excepted); (2) constitutes a violation of applicable laws, governmental codes or regulations and is not otherwise grandfathered; or (3) is in a condition which represents a significant health risk or an unreasonable risk of injury or damage to persons or property.

If Buyer does not timely present the written amendment and inspection report, Buyer shall be deemed to have accepted the Property "as is" in accordance with paragraph B below. If Buyer timely submits the inspection report and the written amendment, Buyer and Seller shall have _____ days (hereinafter "Repair Resolution Period") from the Binding Agreement Date to negotiate through written offers and counteroffers the defects to be repaired and/or replaced by Seller. If Buyer and Seller have not within the Repair Resolution Period agreed on the defects to be repaired and/or replaced by signing a written amendment to this Agreement, Buyer may either accept the last unexpired counteroffer of Seller or accept the Property "as is" in accordance with Paragraph B below, by giving notice to Seller within 3 days after the end of the Repair Resolution Period. If Buyer fails to timely give this notice, this Agreement shall terminate immediately, and Buyer's earnest money shall be returned. All agreed-upon repairs and replacements shall be completed in a good and workmanlike manner prior to closing.

KAC

OR

☑ Buyer Initials

B. Property Sold "As Is." All parties agree that the Property is being sold "as is," with all faults including lead-based paint and lead-based paint hazards. The Seller shall have no obligation to make repairs to the Property (except as may be required to comply with the Termite Letter paragraph or as otherwise required herein).

9. Other Provisions.

A. Binding Effect, Entire Agreement, Modification, Assignment. This Agreement shall be for the benefit of, and be binding upon, the parties hereto, their heirs, successors, legal representatives and permitted assigns. This Agreement constitutes the sole and entire agreement between the parties hereto and no modification or assignment of this Agreement shall be binding unless signed by all parties to this Agreement. No representation, promise, or inducement not included in this Agreement shall be binding upon any party hereto. Any assignee shall fulfill all the terms and conditions of this Agreement.

B. Survival of Agreement. All conditions or stipulations not fulfilled at time of closing shall survive the closing until such time as the conditions or stipulations are fulfilled.

C. Governing Law. This Agreement is intended as a contract for the purchase and sale of real property and shall be interpreted in accordance with the laws of the State of Georgia.

D. Time of Essence. Time is of the essence of this Agreement.

E. Terminology. As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa, and (2) all pronouns shall mean and include the person, entity, firm, or corporation to which they relate.

Purchase and Sale Agreement – page 3

F. Responsibility to Cooperate. All parties agree to timely take such actions and produce, execute, and/or deliver such information and documentation as is reasonably necessary to carry out the responsibilities and obligations of this Agreement.

G. Notices. Except as otherwise provided herein, all notices, including demands, required or permitted hereunder shall be in writing and delivered either (1) in person, (2) by an overnight delivery service, prepaid, (3) by facsimile transmission (FAX) or (4) by the United States Postal Service, postage prepaid, registered or certified return receipt requested. Notice shall be deemed to have been given as of the date and time it is actually received. Notwithstanding the above, notice by FAX shall be deemed to have been given as of the date and time it is transmitted if the sending FAX produces a written confirmation with the date, time and telephone number to which the notice was sent. Receipt of notice by the Broker representing a party as a client shall be deemed to be notice to that party for all purposes herein.

10. Disclaimer. Buyer and Seller acknowledge that they have not relied upon any advice, representations or statements of Brokers and waive and shall not assert any claims against Brokers involving the same. Buyer and Seller agree that Brokers shall not be responsible to advise Buyer and Seller on any matter, including but not limited to the following: any matter which could have been revealed through a survey, title search or inspection of the Property; the condition of the Property, any portion thereof, or any item therein; the necessity or cost of any repairs to the Property; hazardous or toxic materials; the tax or legal consequences of this transaction; the availability and cost of utilities or community amenities; the appraised or future value of the Property; any condition(s) existing off the Property which may affect the Property; the terms, conditions and availability of financing; and the uses and zoning of the Property whether permitted or proposed. Buyer and Seller acknowledge that Brokers are not experts with respect to the above matters and that, if any of these matters or any other matters are of concern to them, they shall seek independent expert advice relative thereto.

11. Brokerage and Agency. The Brokers listed below have performed a valuable service in negotiating this Agreement and are made parties hereunder to enforce their commission rights. Payment of commission to a Broker shall not create an agency or subagency relationship between Buyer's Broker and either Seller or Seller's Broker. Seller agrees to pay the Listing Broker, if any, listed below at closing a commission (which commission has already been negotiated in a separate agreement) of $____ or ____% of the purchase price. In the event this sale is made in cooperation with another Broker listed below as the Selling Broker, the Listing Broker shall receive ____% of the total real estate commission paid hereunder and the Selling Broker shall receive ____% of the total real estate commission paid hereunder. In the event the sale is not closed because of Buyer's and/or Seller's failure or refusal to perform any of their obligations herein, the non-performing party shall immediately pay the Listing Broker and the Selling Broker their full commissions. The Listing Broker and Selling Broker may jointly or independently pursue the non-performing party for that portion of the commission which they would have otherwise received had the transaction closed. No Brokers shall owe any duty to Buyer or Seller greater than is set forth in the Brokerage Relationships in Real Estate Transactions Act, O.C.G.A. § 10-6A-1 et seq. Seller and Buyer agree to indemnify and hold Broker harmless against all claims, damages, losses, expenses and/or liabilities arising out of or related to this transaction except those arising from Broker's intentional wrongful acts. Seller and Buyer acknowledge that if they have entered into a client relationship with a Broker, that Broker has disclosed on a prior basis (1) the types of brokerage relationships offered by the Broker, (2) any other brokerage relationships which would conflict with the client's interest and (3) the compensation of Broker and whether commissions will be shared with other Brokers. In this Agreement, the term "Broker" shall mean a licensed Georgia real estate broker and the broker's affiliated licensees. In this transaction, the relationship of the Listing Broker and the Selling Broker to the Buyer and Seller is as specified below.

Listing Broker: *[Select A or B below. The section not marked shall not be a part of this Agreement]*

- ☐ A. SELLER AGENCY: Listing Broker has entered into a client relationship with Seller.
- ☐ B. DUAL AGENCY: Listing Broker has entered into a client relationship with Buyer and Seller.

Selling Broker: *[Select A, B, C, D or E below. The section not marked shall not be a part of this Agreement]*

- ☐ A. BUYER AGENCY: Selling Broker has entered into a client relationship with Buyer.
- ☐ B. DUAL AGENCY: Selling Broker has entered into a client relationship with Buyer and Seller.
- ☐ C. SELLER AGENCY: Selling Broker has entered into a client relationship with Seller.
- ☐ D. TRANSACTION BROKERAGE: Selling Broker has not entered into a client relationship with Buyer or Seller.
- ☐ E. SELLER SUBAGENCY: Listing Broker has entered into a client relationship with Seller and has appointed Selling Broker as its subagent.

If dual agency or transaction brokerage is selected above, the applicable disclosure below is incorporated herein. Otherwise, the disclosure(s) is not a part of this Agreement.

Dual Agency Disclosure

Seller and Buyer are aware of Broker's dual agency role and have determined that the benefits of Broker's role outweigh the detriments. Seller and Buyer have been advised (1) that in this transaction the Broker has acted as a dual agent, (2) that the Broker represents two clients whose interests may be different or adverse, (3) that as a dual agent, Broker may not disclose information made confidential by request of either client unless it is allowed or required to be disclosed and (4) that the clients do not have to consent to dual agency. The clients referenced above have voluntarily consented to dual agency and have read and understood their brokerage engagement agreements. The Broker and/or affiliated licensees have no material relationship with either client except as follows: _____

_____.

A material relationship means one actually known of a personal, familial or business nature between the Broker and affiliated licensees and a client which would impair their ability to exercise fair judgment relative to another client.

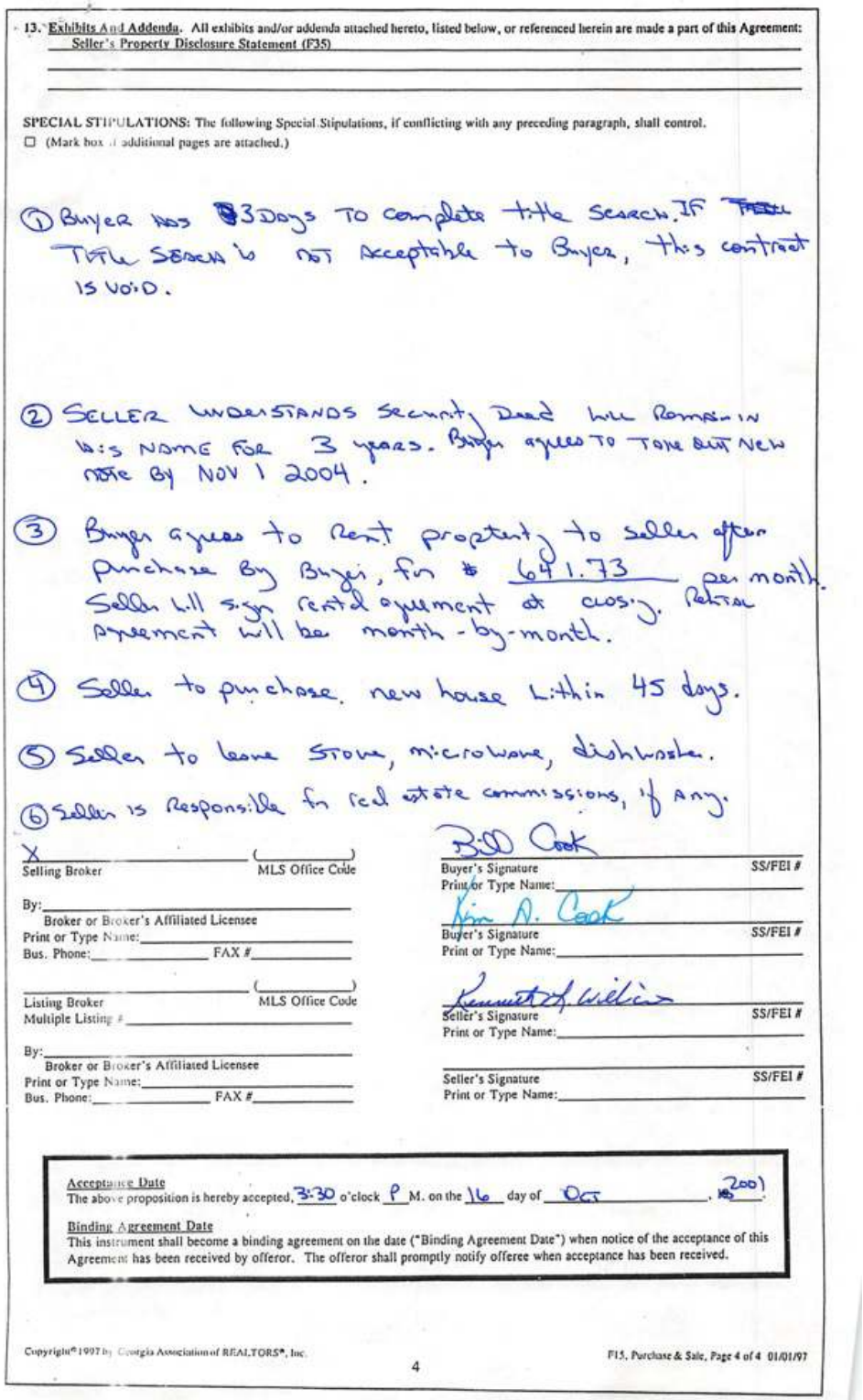
Affiliated Licensee Assignment: The Broker has assigned _____ (Selling Licensee) to work with Buyer and _____ (Listing Licensee) to work with Seller. Each shall be deemed to act for and represent exclusively the party to whom each has been assigned.

Transaction Brokerage Disclosure

Seller and Buyer are aware that if they are not represented by a Broker they are each solely responsible for protecting their own interests. Seller and Buyer acknowledge that the Broker may perform ministerial acts for either party as a transaction Broker.

12. Time Limit of Offer.
This instrument shall be open for acceptance until 6 o'clock P M. on the 18th day of October, 19 21.

Purchase and Sale Agreement – page 4



13. Exhibits And Addenda. All exhibits and/or addenda attached hereto, listed below, or referenced herein are made a part of this Agreement:
Seller's Property Disclosure Statement (F35)

SPECIAL STIPULATIONS: The following Special Stipulations, if conflicting with any preceding paragraph, shall control.
☐ (Mark box if additional pages are attached.)

(1) Buyer has 3 Days to complete title search. If Title Search is not Acceptable to Buyer, this contract is void.

(2) Seller understands Security Deed will Remain in his name for 3 years. Buyer agrees to take out New note By NOV 1 2004.

(3) Buyer agrees to Rent property to seller after purchase By Buyer, for $ 641.73 per month. Seller will sign rental agreement at closing. Rental Agreement will be month-by-month.

(4) Seller to purchase new house within 45 days.

(5) Seller to leave Stove, microwave, dishwasher.

(6) Seller is Responsible for real estate commissions, if Any.

X _____ (_____)
Selling Broker MLS Office Code

By: _____
Broker or Broker's Affiliated Licensee
Print or Type Name: _____
Bus. Phone: _____ FAX # _____

_____ (_____)
Listing Broker MLS Office Code
Multiple Listing # _____

By: _____
Broker or Broker's Affiliated Licensee
Print or Type Name: _____
Bus. Phone: _____ FAX # _____

Bill Cook
Buyer's Signature SS/FEI #
Print or Type Name: _____

Kim A. Cook
Buyer's Signature SS/FEI #
Print or Type Name: _____

Kenneth A. Wilcox
Seller's Signature SS/FEI #
Print or Type Name: _____

Seller's Signature SS/FEI #
Print or Type Name: _____

Acceptance Date
The above proposition is hereby accepted, 3:30 o'clock P M. on the 16 day of Oct, 2001.

Binding Agreement Date
This instrument shall become a binding agreement on the date ("Binding Agreement Date") when notice of the acceptance of this Agreement has been received by offeror. The offeror shall promptly notify offeree when acceptance has been received.

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F15, Purchase & Sale, Page 4 of 4 01/01/97

Change of Address Form

10-19-01

SunTrust Mortgage, Inc.
P.O. Box 26149
Richmond, VA 23260-6149

Dear Sirs:

My name is Kenneth L. Williams. My address is 110 Prater Dr., Calhoun, GA 30701. My account number is 137905733.

This letter is to inform you that from now on Aspen Management Company will be managing all affairs and making the loan payments on the above described property.

I request that all future statements or notices regarding changes in the amount of the payment, escrow, refunds, and any other correspondence regarding the loan be sent directly to Aspen Management Company. Their address is P.O. Box 22, Adairsville, GA 30103.

Thank you.

Sincerely,

Kenneth L. Williams

HUD-1 Closing Statement

A. SETTLEMENT STATEMENT U.S. Department of Housing and Urban Development

OMB No. 2502-0265

B. Type of Loan	6. File Number	7. Loan Number	8. Mortgage Insurance Case Number
1. __ FHA 2. __ FmHA 3. __ Conv. Unins. 4. __ VA 5. __ Conv. Ins.			

C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked (P.O.C.) were paid outside the closing; they are shown here for information purposes and are not included in the totals.

D. Name and Address of Borrower	E. Name and Address of Seller	F. Name and Address of Lender
WILLIAM T. COOK, JR. KIM COOK (BUYER) 141 BOYD MOUNTAIN ROAD ADAIRSVILLE, GA 30103	KENNETH LEE WILLIAMS (SELLER) 110 PRATER DRIVE CALHOUN, GA 30701-4370	CRESTAR MORTGAGE

G. Property Location	H. Settlement Agent	
110 PRATER DRIVE CALHOUN, GA 30701-4370	Place of Settlement	I. Settlement Date 10/19/01

J. SUMMARY OF BORROWER'S TRANSACTION:		K. SUMMARY OF SELLER'S TRANSACTION:	
100. Gross Amount Due From Borrower		400. Gross Amount Due To Seller	
101. Contract sales price	72,600.00	401. Contract sales price	72,600.00
102. Personal property		402. Personal property	
103. Settlement charges to borrower (line 1400)	515.00	403.	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance		Adjustments for items paid by seller in advance	
106. City/town taxes to		406. City/town taxes to	
107. County taxes to		407. County taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	73,115.00	420. GROSS AMOUNT DUE TO SELLER	72,600.00
200. Amounts Paid By or In Behalf of Borrower		500. Reductions In Amount Due To Seller	
201. Deposit or earnest money		501. Excess Deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	
203. Existing loan(s) taken subject to	72,600.00	503. Existing loan(s) taken subject to	72,600.00
204.		504. Payoff of first mortgage loan	
205.		505. Payoff of second mortgage loan	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
Adjustments for items unpaid by seller		Adjustments for items unpaid by seller	
210. City/town taxes to		510. City/town taxes to	
211. County taxes to		511. County taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY/FOR BORROWER	72,600.00	520. TOTAL REDUCTION AMOUNT DUE SELLER	72,600.00
300. Cash At Settlement From or To Borrower		600. Cash At Settlement To or From Seller	
301. Gross amount due from borrower (line 120)	73,115.00	601. Gross amount due to seller (line 420)	72,600.00
302. Less amounts paid by/for borrower (line 220)	72,600.00	602. Less reduction amount due seller (line 520)	72,600.00
303. CASH FROM BORROWER	515.00	603. CASH TO SELLER	

LINE 203 & 503 ON ALL HUD-1s "EXISTING LOANS TAKEN SUBJECT TO"

SUBSTITUTE FORM 1099 SELLER STATEMENT: The information contained herein is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is required to be reported and the IRS determines that it has not been reported. The Contract Sales Price described on Line 401 above constitutes the Gross Proceeds of this transaction.

SELLER INSTRUCTIONS: If this real estate was your principal residence, file Form 2119, Sale or Exchange of Principal Residence, for any gain, with your income tax return; for other transactions, complete the applicable parts of Form 4797, Form 6252 and/or Schedule D (Form 1040).

You are required by law to provide The Law Office of Daniel O'Connor Duncan () with your correct taxpayer identification number. If you do not provide your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law. Under penalties of perjury, I certify that the number shown on this statement is my correct taxpayer identification number.

RESPA, HB 4305.2 -- REV. HUD-1 (3/86)

Power of Attorney

SPECIAL POWER OF ATTORNEY

I, Kenneth L. Williams, residing at 110 Prater Dr., Calhoun, Georgia 30701, hereby appoint William T. Cook, Jr. of 141 Boyd Mountain Rd., Adairsville, Georgia 30103, as my Attorney-in-Fact ("Agent").

If my Agent is unable to serve for any reason, I designate Kim A. Cook, of 141 Boyd Mountain Rd., Adairsville, Georgia 30103, as my successor Agent.

I hereby revoke any and all special powers of attorney that previously have been signed by me. However, the preceding sentence shall not have the effect of revoking any powers of attorney that are directly related to my health care that previously have been signed by me.

My agent shall have full power and authority to act on my behalf but only to the extent permitted by this Special Power of Attorney. My Agent's powers shall include the power to:

Manage all affairs concerning any and all insurance on 110 Prater Dr., Calhoun, GA 30701.

I hereby grant to my Agent the full right, power, and authority to do every act, deed, and thing necessary or advisable to be done regarding the above powers, as fully as I could do if personally present and acting.

Any power or authority granted to my Agent under this document shall be limited to the extent necessary to prevent this Power of Attorney from causing, (i) my income to be taxable to my Agent, (ii) my assets to be subject to a general power of appointment by my Agent, and (iii) my Agent to have any incidents of ownership with respect to any life insurance policies that I may own on the life of my Agent.

My Agent shall not be liable for any loss that results from a judgment error that was made in good faith. However, my Agent shall be liable for willful misconduct or the failure to act in good faith while acting under the authority of this Power of Attorney.

My Agent shall not be entitled to any compensation, during my lifetime or upon my death, for any services provided as my Agent. My Agent shall not be entitled to reimbursement of expenses incurred in connection with this Power of Attorney.

My Agent shall provide an accounting for all funds handled and all acts performed as my Agent, if I so request or if such a request is made by any authorized personal representative or fiduciary acting on my behalf.

This Power of Attorney shall become effective immediately, and shall not be affected by my disability or lack of mental competence, except as may be provided otherwise by an applicable state statute. This is a Durable Power of Attorney. This Power of Attorney shall continue effective until my death. This Power of Attorney may be revoked by me at any time by providing written notice to my Agent.

Kenneth L. Williams

Warranty Deed

Return Recorded Document to:
William + Kim Cook
141 Boyd Mountain Rd.
Adairsville, GA 30103

GORDON COUNTY GEORGIA
REAL ESTATE TRANSFER TAX
0
10-26-01
LEWIS COUCH, CLERK OF SUPERIOR COURT

FILED & RECORDED
TIME: 10:00
DATE: 10-26-01
BOOK 783 PAGE 316
LEWIS COUCH, C.S.C.
GORDON COUNTY, GA.

JOINT TENANCY WITH SURVIVORSHIP I 2001-9175
WARRANTY DEED

STATE OF GEORGIA,
COUNTY OF GORDON

This Indenture made this **19th** day of **October,** in the year **Two Thousand One**, between **KENNETH LEE WILLIAMS**, of the County of GORDON, State of Georgia, as party or parties of the first part, hereinafter called Grantor, and **WILLIAM T. COOK, JR. and KIM COOK**, as joint tenants with survivorship and not as tenants in common as parties of the second part, hereinafter called Grantees (the words "Grantor" and "Grantees" to include their respective heirs, successors and assigns where the context requires or permits).

W I T N E S S E T H that: Grantor, for and in consideration of the sum of **TEN AND 00/100'S ($10.00) Dollars** and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipts whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantees, as joint tenants and not as tenants in common, for and during their joint lives, and upon the death of either of them, then to the survivor of them, in fee simple, together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor, the following described property:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 223 OF THE 7TH DISTRICT, 3RD SECTION, GORDON COUNTY, GEORGIA, AND BEING LOT 231, PHASE V IN PLANTATION PLACE SUBDIVISION, AS PER PLAT RECORDED IN PLAT BOOK 32, PAGE 95 OF GORDON COUNTY, GEORGIA RECORDS. SAID PLAT IS INCORPORATED HEREIN AND MADE A PART HEREOF.

THIS CONVEYANCE is made subject to all zoning ordinances, easements and restrictions of record affecting said bargained premises.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantees, as joint tenants and not as tenants in common, for and during their joint lives, and upon the death of either of them, then to the survivor of them in **FEE SIMPLE**, together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor.

THIS CONVEYANCE is made pursuant to Official Code of Georgia Section 44-6-190, and it is the intention of the parties hereto to hereby create in Grantees a joint tenancy estate with right of survivorship and not as tenants in common.

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has hereunto set grantor's hand and seal this day and year first above written.

Signed, sealed and delivered in the presence of:

Witness

Notary Public

My commission expires

KAREN MOSTELLER
COM. EXP.
NOTARY
PUBLIC
CHEROKEE COUNTY, GEORGIA

KENNETH LEE WILLIAMS (Seal)

(Seal)

N.P. SEAL AFFIXED

FILED & RECORDED 10-26-01 LEWIS COUCH, CSC

783

Hillside Drive

Some Subject-to Deals are more interesting than others, but this one stands out as something special!

Until this deal, we thought it very unwise for an investor to buy a house subject to the seller's mortgage, and then sell the house to someone else while leaving the subject-to mortgage in place. This type of transaction has problems written all over it.

Then Sandra Glawson happened.

In March 2006, a homeowner, Sandra Glawson, called with a house problem. Because her mother could no longer navigate steps, Sandra was forced to find a new home with no steps. Due to her mom's deteriorating condition, Sandra needed to make this move quickly.

On March 10, 2006, Sandra signed a Purchase and Sale Agreement. She agreed to sell us her house for the balance of her existing mortgage, plus she agreed to leave her mortgage in place.

It took Sandra a bit longer than she estimated to find an adequate house for her and her mom. Once she found a home that would work, we bought her house on May 26, 2006.

You'll find the Subject-to purchase documents for this deal on the following pages.

After buying the house, it needed very little fix up, we quickly rented the home to a very nice couple. About a year later, this couple, due to a job transfer, moved from the property. We quickly put it back on the market.

Now for the interesting part of this deal. At the same time our tenants moved out and we stuck a For Rent sign in the yard, Sandra happen to drive by her old home. She called me immediately.

It turned out her mother had passed away the month before. She didn't like the house she was currently renting because it was government housing. It was an OK house when her mother was alive, but it wasn't OK anymore. She asked if she could rent her old house from me.

As is my way, we met for a cup of coffee to discuss her situation. Here is the accord we reached:

- Kim and I would sell her back her old house.

- It would be a Subject-to Deal.

- We would sell her back her old house, which we bought subject-to her mortgage, subject to her own subject to mortgage. WHAT????

- At closing, due to some rehab work we'd done to our/her property, she'd pay us $10,000 and pay all closing costs.

And over the years, Kim and I have done many Subject-to Deals, but never one where we sold the house back to the original owner with his mortgage still intact.

On the following pages you'll also find the documents used to sell Sandra back her home.

Purchase and Sale – to buy the property – page 1

Bill Cook
770-815-8727

PURCHASE AND SALE AGREEMENT

Offer Date: 3-10-06, 20____

1. **Purchase and Sale:** The buyer ("Buyer") Bill Cook agrees to buy and the seller ("Seller") SANDRA GAWSON agrees to sell the property *(Legal Described located below, item #3)* located at the following address:
   Street: 36 HILLSIDE DRIVE S.E.,
   City: CARTERSVILLE, Georgia, zip code 30120.

2. **Buyer's and Seller's Phone Numbers:** The Seller's phone number is 678-986-1534.
   The Buyer's phone number is 770-815-8727.

3. **The Property's Legal Description is:** All that tract or parcel of land listed in the following Legal Description: Land Lot 14-127 of the D District, 3 Section of BARTOW County, Georgia, more particularly described as Lot _____, Block _____, Unit _____, Phase/Section _____, of _____ Subdivision, as recorded in Plat Book _____, page _____, in _____ County, Georgia recorded together with all fixtures, landscaping, improvements, and appurtenances, all being hereinafter collectively referred to as the "Property". The full legal description of the Property is the same as is recorded with the Clerk of the Superior Court of the county in which the Property is located and is made a part of this Agreement by reference.

4. **Purchase Price:** The purchase price of the Property to be paid by the Buyer at closing is: _____
   Ninety-three thousand U.S. Dollars, $ 93,700.

5. **Realtor Commissions:** The real estate agent will receive ____% of the sale price of the Property. The realtor's commission will be paid by N/A.

6. **The Closing Attorney:** The transaction shall be closed by the law firm of LEE PERKINS.

7. **Earnest Money:** Buyer will pay to N/A (Holder) earnest money in the amount of $ N/A. The earnest money, if any, shall be deposited into the Holder's account (with the Holder retaining the interest if the account is an interest bearing account) within twenty-four (24) hours after the Binding Agreement Date. At the time of closing, earnest money shall be applied toward the purchase price of the property. If the Buyer's check is not honored by bank for any reason, Holder shall immediately notify both the Buyer and Seller and the Seller has the right to terminate this Agreement. No party shall seek damages from Holder (nor shall Holder be liable for the same) for any matter arising out of or related to the performance of Holder's duties under this earnest money paragraph. If Buyer breaches Buyer's obligations or warranties herein, Holder may pay the earnest money to the Seller by check, which if accepted and deposited by Seller, shall constitute liquidated damages in full settlement of all claims of Seller. It is agreed to by the parties that such liquidated damages are not a penalty and are a good faith estimate of Seller's actual damages, which damages are difficult to ascertain.

8. **Closing and Possession:**
   A) **Property Condition:** Seller warrants that at the time of closing or upon the granting of possession if at a time other than closing, the Property will be in substantially the same condition as it was on the binding Agreement date.
   B) **Real Estate Taxes:** Any real estate taxes on the Property for the calendar year in which the sale is closed shall be prorated as of the date of the closing.
   C) **Time of Closing and Possession:** This transaction shall be closed on or before June 10, 2006.
   The Buyer agrees to allow Seller to remain at property until 5 day(s) after the closing date.

9. **Title:** Seller warrants that at the time of closing, Seller will convey good and marketable title to said Property by general Warranty Deed to the Buyer.

SC

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Purchase and Sale – to buy the property – page 2

10. **Termite Letter:** Seller will provide an official Georgia Infestation Report prepared by a licensed pest control operator on or before the closing date.

11. **Property is sold EITHER with right to Request Repairs OR is sold "As Is":**
N/A **A. Property sold with right to request repairs.** On the day this Agreement is agreed to by both the Buyer and Seller, the Buyer has N/A days to inspect the property. If any defects are detected, the Buyer gives the Seller _____ days to make the agreed to repairs. If Seller does not make the requested repairs, the Buyer has the right to terminate this Agreement and be immediately refunded all earnest monies held by the Holder.
NR **B. Property is sold "As Is".** All parties agree that the Property will be sold "As Is".

12. **Other Provisions:**
A. **Binding Effect, Entire Agreement, Modification, Assignment:** This Agreement shall be for the benefit of, and be binding upon, Buyer and Seller, their heirs, successors, legal representatives and permitted assigns. This Agreement constitutes the sole and entire agreement between the parties hereto and no modification or assignment of this Agreement shall be binding unless signed by all parties to this Agreement. No representation, promise or inducement not included in this Agreement shall be binding upon any party hereto. Any assignee shall fulfill all the terms and conditions of this Agreement.
B. **Survival of Agreement:** All conditions or stipulations not fulfilled at time of closing shall survive the closing until such time as the conditions or stipulations are fulfilled.
C. **Governing Law:** This Agreement may be signed in multiple counterparts, is intended as a contract for the purchase and sale of real property and shall be interpreted in accordance with the laws of Georgia.
D. **Time of Essence:** Time is of the essence of this Agreement.
E. **Terminology:** As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa; and (2) all pronouns shall mean and included the person, entity, firm, trustee, corporation or LLC to which they relate.
F. **Seek Legal Council:** It is advised that both Buyer and Seller seek knowledgeable legal council to review this Agreement before signing.

13. **Limited Time Offer:**
This offer is good until 12:00 o'clock, P M., on the 24th day of March, 20 06. (date: 5-24-06)

14. **Binding Agreement Date:** The Binding Agreement Date is the day and time when both the Buyer and Seller agreed to all terms and conditions in the Purchase and Sale Agreement. The Binding Agreement time and date is:
4:40 o'clock, P M., on the 23 day of May, 20 06.

SPECIAL STIPULATIONS: The following Special Stipulations (if any) (see Attachment A), if conflicting with any exhibit, addendum, or proceeding paragraph, shall control.

Bill Cook	Sandra Gleason
Buyer's Signature	Seller's Signature
Bill Cook	Sandra Gleason
Print Buyer's Name	Print Seller's Name
N/A	N/A
Buyer's Signature	Seller's Signature
N/A	N/A
Print Buyer's Name	Print Seller's Name
N/A	N/A
Realtor's Signature	Print Realtor's Name and Phone number

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Purchase and Sale – to buy the property – page 3

SPECIAL STIPULATIONS AGREEMENT: ATTACHMENT "A":
(Use when BUYING a property)

ADDRESS: 36 W 45.02

1) The abbreviation "N/A" that may appear in this Purchase and Sale Agreement shall mean "NOT APPLICABLE".
2) Seller has not signed a Purchase and Sale Agreement with another Buyer.
3) ~~Earnest money, if any, will be given to~~ N/A within 72 hours ~~after the Binding Agreement Date~~.
4) All real estate commissions, or any other real estate fees, if any, shall become due and payable only after this real property's Warranty Deed has transferred from Seller to Buyer.
5) ~~Seller~~ agrees to pay all closing costs and realtor commissions.
6) This is not a Lease Agreement. The Seller understands that all of the Seller's ownership interest and/or beneficial interest in the property is relinquished at the time of closing.
7) After the closing, any of the Seller's personal property left at the property will be considered abandoned personal property. The Buyer may do as he/she wishes with the Seller's abandoned personal property.
8) Buyer (and or assigns) reserves right to transfer or assign this contract.
9) At the time of closing, the closing attorney shall hold in escrow $ N/A of the Seller's proceeds as the Seller's "Move Out Deposit". The Seller's Move Out Deposit will be given to the Seller when: 1) Seller vacates the property. 2) Seller has given Buyer the keys to the property. 3) Seller has abided by all of the terms and conditions of this Agreement. 4) The closing attorney has received confirmation from the Buyer that the Seller has vacated the property as agreed. If the Seller does not move from the property as agreed, the Seller agrees to pay the Buyer a Daily Property Rental fee of $75 per day until the Seller vacates the property. The Seller's Daily Property Rental fee will be deducted from the Seller's Move Out Deposit and paid to the Buyer by the closing attorney on a weekly basis.
10) Buyer may extend this contract by an additional 10 days
11) In the event this sale is not consummated because of Buyer's inability, failure, or refusal to perform any of Buyer's covenants herein, then Seller and Broker or Broker's Agent agree to accept Buyer's earnest money, if any, as Buyer's total liquidated damages in full settlement of any claims for damages.
12) The endorsement made below by the Trustee of the _____ Trust is made with the express understanding that the Trustee is signing on behalf of said trust and not personally, in the exercise of the power and authority vested by said trust and the Trustee shall bear no personal liability whatsoever for the obligations incurred by his or her signature. Nothing contained in this agreement shall create any personal liability, culpability or guarantee on the part of the Trustee, his or her heirs or assigns.
13) Buyer is buying property subject to Seller's mortgage(s).
14) ~~This contract is subject to all mortgage and lien holders accepting Buyer's Short Sale offer and agreeing to accept payment in full without pursuit of any deficiency judgment against Seller.~~
15) This offer is contingent upon inspection of the property by (date) 5-27-06. If inspection is not satisfactory to Buyer - or Buyer's assignees or agents - for any reason, then Buyer may declare this agreement void and will immediately receive a full refund of any and all earnest money.

X Bill Cook Buyer's Signature	X Sandra Clawson Seller's Signature
Bill Cook Print Buyer's Name	SANDRA GLAWSON Print Seller's Name
X N/A Buyer's Signature	X N/A Seller's Signature
N/A Print Buyer's Name	N/A Print Seller's Name
X N/A Realtor's Signature (if any)	N/A Realtor's Name and Phone (if any)

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HUD-1 Closing Statement – to buy property

A. Settlement Statement — U.S. Department of Housing and Urban Development — OMB No. 2502-0265

B. Type of Loan			
1.☐ FHA 2.☐ RHS 3.☐ Conv. Unins. 4.☐ VA 5.☐ Conv. Ins.	6. File Number 060498	7. Loan Number	8. Mortgage Insurance Case Number

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for information purposes and are not included in the totals.

D. Name and Address of Borrower	E. Name and Address of Seller	F. Name and Address of Lender
T. WHITLOCK as Trustee -	SANDRA A. GLAWSON	To Buy

G. Property Location	H. Settlement Agent	I. Settlement Date
36 HILLSIDE DRIVE, S.E. CARTERSVILLE, GA 30120	COX BYINGTON, P.C. Place of Settlement 104 STONEWALL STREET CARTERSVILLE, GA 30120	05/26/06 DD: 05/26/06

J. SUMMARY OF BORROWER'S TRANSACTION:		K. SUMMARY OF SELLER'S TRANSACTION:	
100. GROSS AMOUNT DUE FROM BORROWER		400. GROSS AMOUNT DUE TO SELLER	
101. Contract sales price	93,700.00	401. Contract sales price	93,700.00
102. Personal property		402. Personal property	
103. Settlement charges to borrower (line 1400)	834.00	403.	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance		Adjustments for items paid by seller in advance	
106. City/town taxes to		406. City/town taxes to	
107. County taxes to		407. County taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	94,534.00	420. GROSS AMOUNT DUE TO SELLER	93,700.00
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER		500. REDUCTIONS IN AMOUNT TO SELLER	
201. Deposit or earnest money		501. Excess Deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	0.00
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first mortgage loan	
205.		505. Payoff of second mortgage loan	
206. EXISTING LOAN TAKEN SUBJECT TO	92,779.85	506. EXISTING LOAN TAKEN SUBJECT TO	92,779.85
207.		507.	
208.		508.	
209.		509.	
Adjustments for items unpaid by seller		Adjustments for items unpaid by seller	
210. City/town taxes to		510. City/town taxes to	
211. County taxes 01/01 to 05/26	65.45	511. County taxes 01/01 to 05/26	65.45
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY / FOR BORROWER	92,845.30	520. TOTAL REDUCTION AMOUNT DUE SELLER	92,845.30
300. CASH AT SETTLEMENT FROM OR TO BORROWER		600. CASH AT SETTLEMENT TO OR FROM SELLER	
301. Gross amount due from borrower (line 120)	94,534.00	601. Gross amount due to seller (line 420)	93,700.00
302. Less amounts paid by/for borrower (line 220)	92,845.30	602. Less reduction amount due to seller (line 520)	92,845.30
303. CASH FROM BORROWER	1,688.70	603. CASH TO SELLER	854.70

RESPA, HB 4305.2 - REV. HUD1(3/86)

Warranty Deed – to buy the property

FILED IN OFFICE
06/07/2006 02:41 AM
BK:2089 PG:86-88
GARY BELL
CLERK OF SUPERIOR COURT
BARTOW COUNTY

REAL ESTATE TRANSFER TAX
PAID: $1.00

Return Recorded Document to:
COX BYINGTON, P.C.
ATTN: KELLEY TURNER
104 STONEWALL STREET
CARTERSVILLE, GA 30120
File #060498

STATE OF GEORGIA

COUNTY OF BARTOW

PT-61-008-2006-003185

WARRANTY DEED

This Indenture made this 26th day of May, 2006 between **SANDRA A. GLAWSON**, of the County of BARTOW, State of Georgia, as party or parties of the first part, hereinafter called Grantor, and **T. WHITLOCK AS TRUSTEE OF THE HILLSIDE TRUST DATED MAY 26, 2006**, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

W I T N E S S E T H that: Grantor, for and in consideration of the sum of **TEN AND 00/100'S ($10.00) Dollars** and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee,

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 14 of the 4th District and 3rd Section of Bartow County Georgia, and LOT 14 of JORDAN HEIGHTS, as per plat recorded in Plat Book 5 page 10, Clerk's Office, Superior Court of Bartow County Georgia, to which plat reference is hereby made and incorporated herein.

PROPERTY HEREIN CONVEYED is subject to an existing Mortgage from Grantor to Pine State Mortgage Corporation, dated August 5, 2005, recorded in Deed Book 1955 page 999, Bartow County records, in the original principal amount of $94,598.00, of which there remains a balance of $92,779.85. Grantee herein agrees to make payments pursuant to the terms of said loan.

This Deed is given subject to all easements and restrictions of record, if any.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in **FEE SIMPLE.**

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has hereunto set grantor's hand and seal this day and year first above written.

Signed, sealed and delivered in the presence of:

Witness

Notary Public

Sandra Glawson (Seal)
SANDRA A. GLAWSON

_____ (Seal)

AGREED TO BY:
T. Whitlock as Trustee
T. WHITLOCK AS TRUSTEE

Sale Agreement – to sell property – page 1

SEND COPY TO
211 Boxwood DR
CART 30120

PURCHASE AGREEMENT
(Document used when you are ***MAKING AN OFFER*** purchase)

Offer Date: 8-2-07

Street: 36 Hillside Dr

City: CARTERSVILLE **State:** Ga **Zip:** 30120

Seller: North Georgia Homes, Inc. Phone: 770-815-8727

Buyer: SANDRA GLASON Phone: 678-986-1534

1. **Purchase Price:** Total purchase price to be paid by Buyer at closing will be: $ Balance of mortgage + $9,935.00

2. **Realtor Commission:** The realtor will be paid N/A % commission of the sale price of the property. This commission will be paid by N/A. All real estate commissions, or any other real estate fees, if any, shall become due and payable only after this property's Warranty Deed has transferred from Seller to Buyer.

3. **Earnest Money:** Earnest money, if any, will be paid to North Georgia Homes, Inc (Holder) in the amount of $ 500 $ within 72 hours after the Binding Agreement Date. At the time of closing, earnest money shall be applied toward the purchase price of the property. If Buyer breaches Buyer's obligations or warranties herein, Holder may pay the earnest money to the Seller(s) by check, which shall constitute liquidated damages in full settlement of all claims of Seller. It is agreed to by the parties that such liquidated damages are not a penalty and are a good faith estimate of Seller's actual damages, which damages are difficult to ascertain.

4. **The Property's Legal Description is:** All that tract or parcel of land listed in the following Legal Description: Land Lot _____ of the _____ District, _____ Section of _____ County, _____, more particularly described as Lot _____ Block _____, Unit _____, Phase/Section _____, of _____ Subdivision, as recorded in Plat Book _____, page _____, in _____ County, _____ recorded together with all fixtures, landscaping, improvements, and appurtenances, all being hereinafter collectively referred to as the "Property". The full legal description of the Property is the same as is recorded with the Clerk of the Superior Court of the county in which the Property is located and is made a part of this Agreement by reference.

5. **The Closing Attorney:** This transaction shall be closed by the law firm of:
LEE PERKINS.

6. **Closing and Possession:**
   A) **Time of Closing and Possession:** This transaction shall be closed on or before 8-15-07. The Buyer agrees to allow Seller to remain at property until 0 days after the closing date. Buyer may extend this contract by an additional 0 days.
   B) Buyer agrees to pay all closing costs.
   C) **Property Condition:** Seller warrants that at the time of closing or upon the granting of possession if at a time other than closing, the Property will be in substantially the same condition as it was on the binding Agreement date.
   D) **Real Estate Taxes:** Any real estate taxes on the Property for the calendar year in which the sale is closed shall be prorated as of the date of the closing.

7. **Property is sold EITHER with right to Request Repairs OR is sold "As Is":**
N/A **A. Property sold with right to request repairs.** On the day this Agreement is agreed to by both the Buyer and Seller, the Buyer has N/A days to inspect the property. If any defects are

 1

Sale Agreement – to sell property – page 2

detected, the Buyer gives the Seller N/A days to make the agreed to repairs. If Seller does not make the requested repairs, the Buyer has the right to terminate this Agreement and be immediately refunded all earnest monies held by the Holder.

WK **B. Property is sold "As Is".** All parties agree that the Property will be sold "As Is".

8. **Property Inspection:** This offer is contingent upon inspection of the property within 10 days after binding agreement date. If inspection is not satisfactory to Buyer – or Buyer's assignees or agents – for any reason, then Buyer may declare this agreement void and will immediately receive a full refund of any and all earnest money (if any.)

9. **Title:** Seller warrants that at the time of closing, Seller will convey good and marketable title to said Property by general Warranty Deed to the Buyer.

10. **Termite Letter:** Seller will provide an official Georgia Infestation Report prepared by a licensed pest control operator on or before the closing date.

11. **Other Provisions:**
    A. **Binding Effect, Entire Agreement, Modification, Assignment:** This Agreement shall be for the benefit of, and be binding upon, Buyer and Seller, their heirs, successors, legal representatives and permitted assigns. This Agreement constitutes the sole and entire agreement between the parties hereto and no modification or assignment of this Agreement shall be binding unless signed by all parties to this Agreement. No representation, promise or inducement not included in this Agreement shall be binding upon any party hereto. Any assignee shall fulfill all the terms and conditions of this Agreement.
    B. **Survival of Agreement:** All conditions or stipulations not fulfilled at time of closing shall survive the closing until such time as the conditions or stipulations are fulfilled.
    C. **Governing Law:** This Agreement may be signed in multiple counterparts, is intended as a contract for the purchase and sale of real property and shall be interpreted in accordance with the laws of Georgia.
    D. **Time of Essence:** Time is of the essence of this Agreement.
    E. **Terminology:** As the context may require in this Agreement: (1) the singular shall mean the plural and vice versa; and (2) all pronouns shall mean and included the person, entity, firm, trustee, corporation or LLC to which they relate.
    F. **Seek Legal Council:** It is advised that both Buyer and Seller seek knowledgeable legal council to review this Agreement before signing.

12. **Limited Time Offer:**
    This offer is good until _____ o'clock, _____ M., on the _____ day of _____, 20_____.

13. **Binding Agreement Date:** The Binding Agreement Date is the day and time when both the Buyer and Seller agreed to all terms and conditions in the Purchase and Sale Agreement. The Binding Agreement time and date is: 5:00 o'clock, 8 M., on the 2 day of August, 2007.

SPECIAL STIPULATIONS: The following Special Stipulations (if any) (see Attachment A), if conflicting with any exhibit, addendum, or proceeding paragraph, shall control.

X Sandra Clawson
Buyer's Signature and Date

X Bill Cook - Prop. Mgr 7-2-07
Seller's Signature and Date

X _____
Realtor's Signature (if any)

X _____
Seller's Signature and Date

2

HUD-1 to Sell Property

A. Settlement Statement — U.S. Department of Housing and Urban Development — OMB No. 2502-0265

B. Type of Loan			
1.☐ FHA 2.☐ RHS 3.☒ Conv. Unins. 4.☐ VA 5.☐ Conv. Ins.	6. File Number 070608	7. Loan Number	8. Mortgage Insurance Case Number

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for information purposes and are not included in the totals.

D. Name and Address of Borrower	E. Name and Address of Seller	F. Name and Address of Lender
SANDRA A. GLAWSON	K. ANDERSON AS SUCCESSOR TRUSTEE OF THE HILLSIDE TRUST, DATED MAY 26, 2006	

G. Property Location	H. Settlement Agent	
36 HILLSIDE DRIVE, SE CARTERSVILLE, GA 30120 BARTOW COUNTY, GEORGIA MAP REF# 71A-15-2	COX BYINGTON, P.C. Place of Settlement 104 STONEWALL STREET CARTERSVILLE, GA 30120	I. Settlement Date 08/10/07 DD: 08/10/07

J. SUMMARY OF BORROWER'S TRANSACTION:		K. SUMMARY OF SELLER'S TRANSACTION:	
100. **GROSS AMOUNT DUE FROM BORROWER**		400. **GROSS AMOUNT DUE TO SELLER**	
101. Contract sales price	101,876.36	401. Contract sales price	101,876.36
102. Personal property		402. Personal property	
103. Settlement charges to borrower (line 1400)	756.00	403.	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance		**Adjustments for items paid by seller in advance**	
106. City/town taxes to		406. City/town taxes to	
107. County taxes to		407. County taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. **GROSS AMOUNT DUE FROM BORROWER**	102,632.36	420. **GROSS AMOUNT DUE TO SELLER**	101,876.36
200. **AMOUNTS PAID BY OR IN BEHALF OF BORROWER**		500. **REDUCTIONS IN AMOUNT TO SELLER**	
201. Deposit or earnest money	500.00	501. Excess Deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	101.90
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first mortgage loan	
205.		505. Payoff of second mortgage loan	
206.		506.	
207. EXISTING LOAN TAKEN SUBJECT TO	91,941.36	507. EXISTING LOAN TAKEN SUBJECT TO	91,941.36
208.		508.	
209.		509.	
Adjustments for items unpaid by seller		**Adjustments for items unpaid by seller**	
210. City/town taxes to		510. City/town taxes to	
211. County taxes to		511. County taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. **TOTAL PAID BY / FOR BORROWER**	92,441.36	520. **TOTAL REDUCTION AMOUNT DUE SELLER**	92,043.26
300. **CASH AT SETTLEMENT FROM OR TO BORROWER**		600. **CASH AT SETTLEMENT TO OR FROM SELLER**	
301. Gross amount due from borrower (line 120)	102,632.36	601. Gross amount due to seller (line 420)	101,876.36
302. Less amounts paid by/for borrower (line 220)	92,441.36	602. Less reduction amount due to seller (line 520)	92,043.26
303. **CASH** FROM **BORROWER**	10,191.00	603. **CASH** TO **SELLER**	9,833.10

I Think Ya'll are Ready for This: Vena's Bethel Farm Deal

I've done dozens of simple subject to deals, similar to those that Bill describes on the previous pages.

But they're not ALL as cut-and-dried as you'd like them to be. Some come with some hair on them, and the more you know about creative deal structuring, the more you're able to deal with the hairballs.

I'll outline this deal the way I process all deals mentally, which is:

1. Am I interested in the property?
2. What's the story?
3. What are the numbers: after-repaired value, repair costs, details of the financing?
4. How do I put those things together in a way that works for the seller, and works for me?

The property:

- A 2,000 square foot 1970s bi-level with a great room added on the front in the 80s
- 4 bedrooms, 2 full baths, 2 car attached garage
- Family room and great room
- Outdated, but livable
- WAAAY out in the country, 40 minutes to downtown Cincinnati
- On 17 acres with a horse barn
- So am I interested? Probably. I've had good experiences with rural properties in the past, especially those with a bunch of land

The story:

- The seller's husband died about 18 months before her first call to us.
- Because he wasn't around to maintain the property, and because of Cincinnati winters, she moved to Arizona into an apartment in a senior community

- She initially didn't sell the house because of emotional attachment, and then because she hadn't cleaned it out
- However, she'd finally listed it the prior summer with an agent who swore she could get $285,000 for it
- And it expired after 3 months on the market with zero offers
- She was ready to take $210,000, cash on the barrelhead, BUT
- There was this one…minor…thing…her niece, who had been diagnosed with some sort of mood disorder, had been living in the house (rent-free, of course) for 2 years, and had no place to go, and no amount of encouragement by her aunt had caused her to apply for Section 8 or other housing assistance that might allow her to move on to a more appropriate living situation than a 2,000 square foot house furnished only with one bed and a lawn chair.
- Meanwhile, Aunty was paying for everything: the house payment, taxes, insurance, utilities, maintenance. But Aunty was also very clear that she didn't want to turn over possession of the property until Niecy found another place to live, and moved there.

The Numbers

- Worth about $280,000 fixed up, at the time of our first call (which explained why it didn't sell at $299,000)
- Needed about $50,000 in updating to resell for that price; about $20,000 to make nicely rent-ready
- Estimated rent at the time of our first call: $1,500-$1,700 per month
- Seller owed about $97,000 on an adjustable rate loan, currently at 6.5% interest and with 15 years left until payoff

A note about my process:

As I may have mentioned before, I do a LOT of marketing, and get a LOT of calls. Since 17 out of every 20 of those is from an unmotivated seller with a property I don't even want, I don't take the initial calls from sellers, practically even, anymore.

Instead, they're taken by my acquisitions coordinator, who asks the same questions and gets the same information I did when this WAS my job.

I've included a copy of the actual intake call on this deal on the next page, because there's something you need to see: this seller, like many sellers, didn't actually know the interest rate, or remaining term, or the correct balance, on her loan. Getting that required us to ask her to find a recent loan statement, and a second call. It was also in the 2nd call that the details about the niece came out.

Still, even with the information that the acquisitions guy was able to get in that first call, I had enough info to know some things that I'll share next.

Original phone intake form for Bethel Farm

Phone Interview Form

Date:

What's your name? [redacted]
Are you the owner? Yes
(If not, who is? Why are you calling for them?)
In case we get cut off, what's your number? 513-[redacted]
And your email address? N/A
What is the address of the property you'd like to sell? [redacted] Rd, Bethel, OH 45106
What neighborhood is that in? Tate Township, Bethel
What's the school district?
How did you hear about me? Expired Postcard

Please tell me about your property:
What type is it (1 fam, 2 fam etc.)? Single fam
Is it a rental, or do you live there? Vacant, own occ.
How many rms, bdrms, and baths does it have? 4/2
SQF: 1,716
Acreage: 17.5 Has some wooded area. Has runoff pond. Farmer rents part.

Do you know how old the house is? 1975. Built in sections. LL built first, with flat roof, then 2nd level added afterward.
How much Taxes? 1,640 semi-annually
Up to date on taxes? Yes
What's the construction? Barn siding, wood, partial brick
Does it have a basement? Yes/ Lower level. Crawl space beneath upper lever
What kind?
A garage/parking? 2 car garage
What kind? attached
Does it have public water, sewer, and electric? Septic, county water, public electric. Septic tank in good condition, regularly maintained.
What kind of heating system? Electric baseboard, 2 WDFP Cooling? Window units

What's the condition of:
Roof: Brand new, 1 yr old Approx. Age:
Gutters: Working Approx. Age: unknown age. Prob original
Plumbing: copper & pvc. Working Approx. Age Original
Electric: Brand new breaker box Approx. Age Fall 2018

Furnace/Air: Electric Baseboards Heat, and WB stoves in Fireplaces Approx. Age
Foundation:
Kitchen: Working. Original Approx. Age Original from building of home
Bath: Working. Original Approx. Age Remodeled upon purchase
Windows: Some replaced, some original Approx. Age original, and 5/6 years ago
Hot water Tank: Replaced 7 yrs ago. Good condition Approx. Age
Any City violations or work orders? No

If you were going to continue to live there (own it), what work would you do?

Please tell me about yourself.
How long have you owned this property? Since 1991
Any liens on the property? Not that she's aware of
Why are you selling? Husband died last year, and moved AZ
How long has your home been on the market? 4 month
Is it listed w/ a real estate agent? Which one? For how much?
When do you need to sell? ASAP
What will you do if it doesn't sell by then?
How much are you asking? 285k
How did you decide on that figure? Its what she thinks its worth with the land
What's the least you could take for all cash and a quick closing? Needs to think about it.
How much do you owe on the property? 100k
Are your payments current? Yes
How much are they? 1168
Does that include taxes and insurance? Just insurance
What's the interest rate? unsure
Is that fixed rate, or adjustable? adjustable
When did you get the loan? Refinanced a couple times, unsure when the loan originated
How many years was the loan for? 30
Is there anything else you think I should know?

Purchased in '91 since she and her husband were fed up with Hamilton county. Both worked at UC. Enjoyed the county life. Built 15x35x40 Quonset hut, with 2 horse stalls. House is trilevel, 4/2, very large family room. Husband passed away July 29th 2018. Home has too many memories, so she couldn't stay. Daughter and son live in the region, but nearby. Moved to AZ in Feb '19. Originally appraised at 305k, and agents kept wanting her to reduce it. LR/DR is 1 room with cathedral ceiling. At least 2 ditch lines need to be cleaned out. Land is rented out for ¼ of profit. Goes towards taxes. Profits are anywhere from 800 to 1,100 annually. Has motor for whirlpool tub, but needs installed
ADRI financial is the bank, in Louisville
Niece is currently living in property

Perhaps you've already worked out some of the problems here:

1. The seller's evaluation of what her house was worth--$285,000—was deeply inaccurate, and clouded by an agent telling her it would sell for $299,000
2. The seller's niece was unlikely to take ANY action to move voluntarily. I mean, getting to live for free in a great big house on a beautiful lot in the quiet countryside? Sign me up!
3. The seller's loan is adjustable rate, meaning that the rate can go up or down by as much as 2 percentage points in any year, and by as much as 8% over the original rate over a 3 year period. The original rate was 85%, so the rate could theoretically increase to as much as 16.5%, making the payments far higher than the projected rent
4. The seller's loan balance was only about 35% of the asking price, meaning that in a simple subject to deal, a LOT of money would have to be brought to the closing to get to the loan—so much, in fact, that I'd hate to tie up that amount in a single property for years on end

But my job, and yours, isn't to look at the 'facts' and decide there's nothing we can do. It's to listen to the story and craft the best solution I can, put it in front of the seller, and see if it works for them.

I spent an hour working out some scenarios, which were presented to her (by phone) thusly:

1. I can pay cash for your house, but not $285,000. If you want all cash, I can pay $115,000 (a number I derived by taking 70% of the ARV, subtracting the repair costs, and subtracting a $10,000 wholesale fee, since I, you know, don't do rehabs)
2. If make it easy for me by letting me make payments, I can pay $160,000, but that will have to happen like this:
    a. I take over your $103,000 first mortgage
    b. I pay you $500 a month 114 months to make up the $57,000 difference
    c. And I'll give you the 1st 5 of those payments at closing so that you can pay your tax proration and closing costs
    d. I'll give you as much time as you need to get your niece moved out and comfortable, but my payments don't start until she's gone

She said no.

But not until she first said, "Can you make me payments of $1,000 a month instead of $500?" which told me something important: she wasn't completely put off by the lower price, and was open to the IDEA of payments; she just didn't like the AMOUNT of the payments.

So she went on the follow up list, which I'd like to take a moment to sing the praises of.

In the last 12 months, I've bought THREE properties subject to the existing loan where the seller completely refused the offer the first time it was made.

In each case, the seller was put into a follow up funnel including repeated check-in calls ("Hey, just wondering how you're doing, did you sell the house, how are you feeling about that, just remember we're still here if you change your mind") and texts (largely the same message) and emails (ditto). These happen every single month, and I know that they do because IT'S NOT MY JOB TO DO THEM (it's my acquisition coordinator's. He gets paid only when deals close. He makes the calls because there's a check at the end of one of them, and he doesn't know which.)

9 Months Later, Offer 2

Anywho, That first call was in August. The following April, she answered the follow up call with, "Is there any way you can put more money up front?" and we were off to the races.

The situation was largely unchanged other than that her 15 year, $97,000 loan was now a 14 ½ year, $96,000 loan. Also, the interest rate adjusted in September, and was now 5% So offer number 2—which was in writing--was as follows:

- I'll pay you $160,000, as follows:
    - I'll give you $10,000 down
    - I'll take over your $96,000 loan
    - I'll pay the rest in payments of $500/month until paid—that's 108 months if you don't have a calculator handy
    - I'll close in 30 days, but start making all the payments when your niece moves out

That purchase contract is on the next page. And as you can see, she said yes. If only that were the end of the story.

Contract to Purchase Real Estate

I/We offer to purchase from [redacted] the real estate located at [redacted] (hereinafter called "Real Estate"). This real estate will include all the land, buildings, outbuildings, and everything currently attached to the property plus any appliances and air conditioners currently on the premises.

Purchase price will be:$ 160,000 ,payable as follows: Buyer to pay $10,000 down at closing. Buyer to take property subject to Seller's mortgage with [redacted] Bank of approximately $96,000 with PITI payments of $1,168.84 at 5% interest. Buyer will also give Seller a 2nd mortgage for approximately $54,000 with payments of $500 per month until paid. Both payments will start the month after Buyer gets possession of the property .

At the closing, the Seller will give the Buyer a General Warranty Deed with release of dower. The closing will be no later than within 30 days of acceptance . The title will be free and clear, and will not have any building department orders against it. The title does not have any easements or restrictions except None .

Seller will give Buyer possession of the property on To be determined . At the time of the closing, Seller will pay from Seller's proceeds: all taxes and assessments due to the date of closing; transfer taxes assessed by the city or county; preparation and recording of any documents needed to release any mortgages or other debts owed by the Seller against the property, title search, and title insurance. Seller agrees to pay out of pocket for the title search if the title search discloses problems which prevent Seller from conveying clear title to the Buyer. Buyer will pay for attorney or title company fees to close, tax stamp, deed preparation, and for recording fees for the deed and any new mortgages.

Seller certifies that the Real Estate is zoned As used , and is not in a historic district, not in a flood plain, and not in an Environmental Quality District. Seller agrees that at the time of closing, the Real Estate will be in the same condition as it is on the date of this offer.

Seller will allow Buyer and/or his inspectors complete access to the property for a whole-house inspection, a wood-destroying pest inspection, and any other inspections the Buyer deems necessary, **all at the Buyers expense.** If the results of these inspections are not satisfactory to the Buyer, the Buyer will not be obligated to close

This accepted offer is the entire agreement between the Buyer and Seller, and no other agreements have been made that are not part of this contract or its addendum, if there is one. Buyer and Seller agree that, upon any default by the Buyer, Seller will keep any earnest money as full liquidated damages.

Federally mandated lead disclosure clause: Every Buyer of any interest in residential real property on which a residential dwelling unit was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. If the dwelling unit was built prior to 1978, Buyer has the right to inspect for lead, at Buyer's cost, for a minimum of ten (10) days following contract acceptance. **BUYER WAIVES THE RIGHT TO THIS INSPECTION.**

OTHER TERMS: Seller understands that Buyer is an entity owned, in part, by Vena Jones-Cox, a licensed Broker in the State of Ohio.

This offer shall remain open for acceptance until April 13th, 2020 .

I/We as Sellers accept the above offer.

[redacted] 4/11/20

Buyer Date

[redacted] 04/26/2020

[redacted] Date

So you understand what's happened so far, right?

I combined the concept that we talked about in Chapter 2—the no-interest seller carryback mortgage—with the one we're talking about now, the subject to.

Yes, you can do that.

The net result in April was that I had a deal all signed up where:

- My total payment, between the seller's first mortgage of $1,168 (including taxes and insurance) and the $500 a month I'd committed to pay as a 2nd, was $1,668/month
- Which, given a probable rent of $1,750 a month or so, meant a near-guaranteed monthly loss of about $270 a month
- But I ALSO had a plan of lease/optioning the property—which I had all signed up at $160,000—for $210,000 to a mildly handy buyer, thus, maybe, avoiding the vacancy/maintenance/reserves problem and making the property break even
- And the $270 a month loss would be more than offset by the fact that every time I made the monthly payment, I be buying an extra $700+ in equity from mortgage paydown.

Wait, what?

Negative cash flow is not necessarily the same as a loss.

In this case, that negative cash flow bought WAY more equity every month than the dollars spent.

Yes, I might have to take $270 a month out of my pocket to own this house until the rents increased enough to cover that. And it might be MORE than $270 a month if the first mortgage rate happened to increase; I have a super-complex spreadsheet in my computer calculating the new payment on the loan every year for the next 12 years in a worst-case scenario where rates increased by 2% per year every year.

But at the end of 9 years—and a potential total negative cash flow of $29,160 over that time—I'd pay off the 2nd mortgage, right? And 3 years after that, I'd pay off the first, as well.

So the only question I had to ask myself was, "Am I willing to potentially pay $29,000 over the next 9 years to get over $100,000 in equity?"

And the answer was yes. But it was not to be.

The Seller Goes Dark

Toward the middle of May, we were getting close to closing. The title search was clean, we'd had the septic inspected, and it was time to coordinate the long-distance closing with the seller.

Only problem was, the seller was unreachable.

She wouldn't return calls, or texts, or emails. Not even to say "I changed my mind". She just straight up disappeared, which was worrisome, because we were in the middle of a pandemic, and she was old.

We put the title company on hold, tried reaching out to the niece—and nothing. Back into the follow up funnel again. For months. Until she finally called back with a sort of 'explanation'.

As it turned out that, unsurprisingly, the seller had been emotionally hogtied by the very same niece, who, once informed by her aunt that she needed to seriously start looking for another place, started laying the pressure on THICK: "Where am I supposed to go? There's nothing on the market for rent! I'll be homeless! Don't you love me? You promised mom you'd take care of me!"

The seller was fed up with the niece, but also afraid that we'd pressure her into moving out into the cold and snow, but also feeling helpless because she was a thousand miles away and couldn't do anything about the niece, but also definitely wanted to do the deal.

So we swung into 'problem solver' mode again, and started looking for a place for the niece to move, because, yes, it was now month 1 of a nationwide eviction ban, and there WAS very little available for rent, because very few people were moving.

About a week later, I was talking to ANOTHER seller about a completely different subject to deal, when he mentioned that he had to go out to a small town near this house to check on a house he owned where the tenant had just moved out. Since this was the very same town the niece had mentioned wanting to move to, I asked this fellow whether he'd like to get a new tenant right away, and he of course said yes. I connected him with the niece, she loved the place, signed a lease, and was gone a few weeks later.[64]

So, with offer #2 long expired, we wrote ANOTHER offer—but by now, things had changed pretty drastically.

- The loan balance on the first had fallen to $95,300
- The interest rate had reset again in September to 4.5%.
- The payment had dropped from $1,168 to $1,010 a month
- New comps showed the after-repaired value to now be $325,000-ish
- And the tiny number of rentals available in the area seemed to indicate that the proper rent for a lease/option on this property was closer to $2,000 than $1,750

[64] No, I didn't buy this guy's house, or at least not yet. He and I don't agree on the ultimate ARV of his property and therefore on what I should pay for it. Maybe the market will change his mind and I'll eventually buy it. Or maybe he just appeared in my life at that moment because he needed a tenant and I needed a house to put a tenant in. The agent I referred him to was really grateful, though, and called me last week looking to partner on a rehab deal she found off market that, if her numbers are right, will mean something like a 23% return on investment for me with no rehab on my part. Call it kismet if you want; I call it being actively in the real estate market day in and day out.

So we revised the April contract to reflect the new loan balances--$95,300 for the first and $54,700 for her no-interest second, got it signed, got it closed, and got it on the market in January—at $255,900, with $25,000 up front and monthly payments of $1,975/month.

Our biggest problem now is that, with interest rates current hovering around 3%, we keep getting full-price cash offers instead of the tenant-buyers we actually want. Seriously. I've turned down 3[65].

But the lessons here for YOU are:

1. **Never refuse to make an offer just because you're sure the seller will reject it**. Her original asking price was $285,000, and she really believed the house was worth that. I was pretty sure she's say no to a $115,000 cash offer AND a $160,000 financed offer, because her expectations had been so firmly set. But I also know that if I don't tell people what I CAN do for them, they never say yes.
2. **Follow up forever**. It's really common for sellers to sit with the price and terms you gave them and, after the shock wears off, start thinking, "I wonder if she'd give me more money down?" instead of "$160,000? That's ridiculous!!" But don't depend on them to call YOU back. You call THEM, and keep doing it. Even when they make you mad by signing a contract and then disappearing.
3. **"Solve Problems" sometimes means problems that aren't even remotely yours, but are stopping your seller from moving forward**. Finding this seller's niece a new place might seem like a long way to go to get a deal done, but it was one of TWO subject to deals I did in the past 4 months that hinged promising to find someone—in the other case, the owner/occupant—a new place to live.

When you help in every way you can (we've changed locks for out of state owners who didn't have a key to their own house; we've retrieved their property management agreements from property managers that have stonewalled them for months; we've prepared and delivered eviction notices to tenants that the sellers were afraid of; we've referred endless numbers to good agents or good attorneys), you build a rapport that means that when they DO decide to sell, they trust you to do what you'll say you do, and they ONLY want to work with you.

[65] Can't understand why I'd turn down a quick $90k profit? It's because I'd rather have a slow $170k profit that's taxed at half the rate and gives me the chance to pay basically no taxes at all by exchanging the property when I sell it.

Part 4: "Buying" with Lease Options

You've Been Lied to About Lease/Options[66] Your Whole Life

Most real estate investors are at least somewhat familiar with lease/options, because there are numerous course that pitch them as:

- A short-ish term strategy for controlling a property SO THAT you can make a quick, cash profit by 'assigning' or 'sandwiching' the lease option you GOT to a buyer who will pay a much larger up-front fee than the one you paid

"Negotiate an option to pay full price for a property, then find a tenant/buyer with bad credit but $10,000 down, assign your lease/option to that tenant, and walk away with money in hand and no further responsibilities!" This may be a do-able strategy, but it's not necessarily an ethical one—and it's certainly not the BEST use of the power of lease/options

- A no-risk way to get control of a cash-flowing property, then walk away without repercussions if it becomes inconvenient for you to keep making payments

"Don't buy your AirBnB properties, lease/option them! Then, if the latest occupant has a giant party and does $10,000 in damages, you can just tell the owner you're not exercising your option, end your lease, and move on!" You wouldn't let a tenant do $10,000 in damages and break a lease and NOT sue them for that, would you? Neither will any other owner.

- A way of getting rid of many of the legal obligations—like maintenance, repairs, and maybe even taxes and insurance—that come with providing rental housing, thus allowing you to get all the cash flow with a lot less of the expense

"Stop renting your houses, you fool! Lease/option them, and you'll never have to do another repair!" The people who say this may very well believe it's true, but it's not. Lease/options, being, you know, leases…with options attached…are governed by tenant/landlord law. Tenant/landlord law in EVERY state says that it's the OWNER'S legal responsibility to keep the property in safe and habitable condition, and that the owner cannot, even if the tenant agrees to it, place that responsibility on the tenant.

There's a lot of hype around lease/options, and a lot of incorrect information about them out in the world, and it all MISSES the most important thing about thing about them:

Lease/options, done right, make time your friend.

[66] You're pretty much going to be able to tell which sections of this chapter Vena wrote and which chapters Bill wrote based on the punctuation alone. Vena ALWAYS uses lease/option. Bill ALWAYS uses lease option.

By the end of this chapter, you'll see why, but only if you follow this very important instruction:

For right now, forget everything you think you know about how and why lease/options work. The way Bill and I use them is not about short-term profits or even high initial monthly cash flow. And it's certainly not about walking away from a damaged or otherwise inconvenient property.

It's about the long-term picture of controlling the appreciation, and the future cash flow, and, who knows, maybe even amortization of a loan we never took over.

We'll begin at the beginning, but we'll end by showing you why lease/options should be a long-term, not a short term, strategy.

What is a Lease Option?

The vast majority of real estate investors believe "lease option" is a single word without a space between the two words: *leaseoption*. They couldn't be more wrong!

The full phrase for this creative deal structuring technique is: A ***LEASE*** WITH AN ***OPTION*** TO PURCHASE THE PROPERTY AT SOME POINT IN THE FUTURE AT A PRE-AGREED-TO PRICE AND TERMS. You see, the *two deal-structuring techniques* are combined to form a *single deal-structuring technique*.

To better understand what a lease option is, let's take a look at the two parts individually.

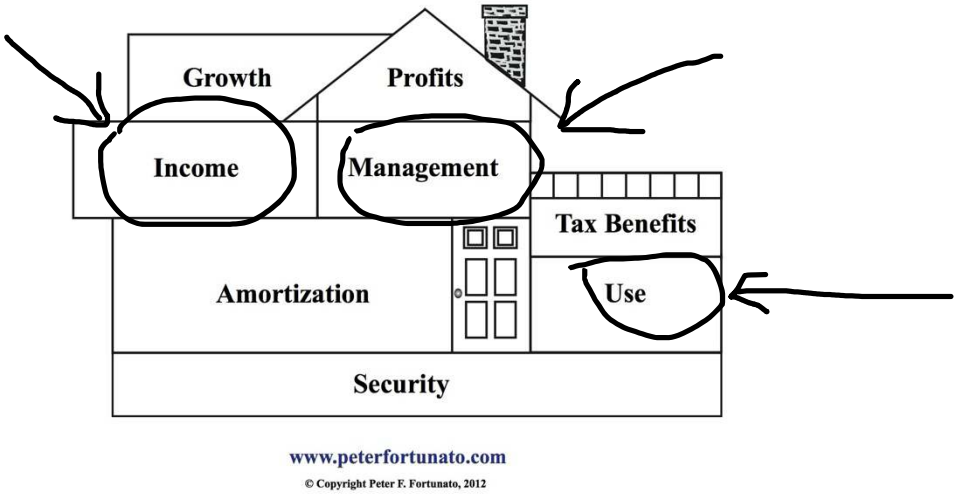
What is a Lease?

Below you see a picture of Pete Fortunato's *Benefits House*. For the record, before the turn of the century, I enlarged a picture of Pete's *Benefits House* to poster size. It was framed and hung above my desk where it stayed until we sold our ranch in 2018. Whenever we were trying to structure a deal, gazing at Pete's *Benefits House* would help inspire us to create a win-win offer that would solve the seller's (or buyer's) real estate problems.

The purpose of Pete's *Benefits House* is to let you *see* the *eight* benefits involved in a real estate transaction. You can pass one or more of the eight benefits to other people or keep all of the benefits for yourself.

In the case of a lease, the benefits in question are Use, Income and Management. The landlord *gives up* Use and *takes on* Management in order to *receive* Income. In return, the tenant gives up Income in order to gain Use.

A lease agreement memorializes the accord between the landlord and the tenant. It answers the question: What must the tenant do, and keep doing, if he wants to continue using the property? The other question it answers is what happens if the tenant doesn't live up to his side of the accord.



What is an Option?

In my opinion (and unlike Vena's opinion, my opinion is always right and can't be questioned) options have the ability to be the most creative-deal structuring tool in a real estate investor's deal-making toolbox. Better still, very few real estate investors fully understand the full potential of options.

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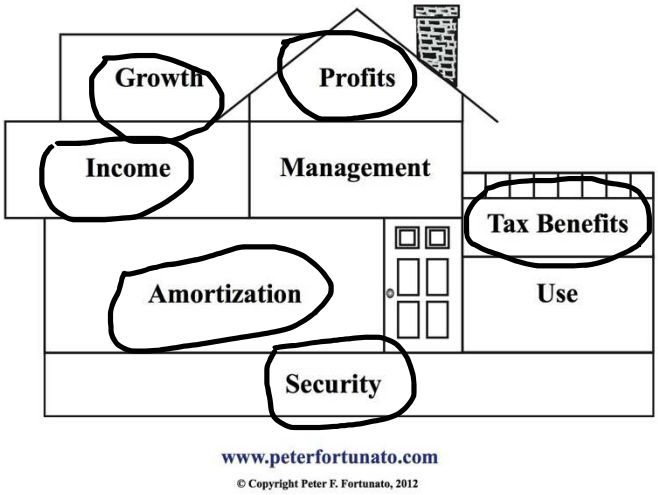
Take a look at the benefits an option can capture: Growth, Profits, Income, Amortization, Tax Benefits and Security.



An option is a right, not an obligation. It's a unilateral contract, as opposed to a bilateral contract. This means one party ***must*** perform while the other party ***may*** perform.

Said differently, the property owner who is selling/trading/giving the option (he's known as the Optionor) ***MUST*** sell his property to the person who is buying/trading/receiving the option (he's known as the Optionee). On the other hand, the Optionee ***has the right*** to buy the property, but he can also choose to ***not*** buy the property.

Are you beginning to get a glimpse of all the possibilities that lay at the feet of the investor who has a full understanding of how options can help people solve their real estate problems?

Time Out for a Language Lesson

Like mortgages and subject to deals, lease/options have their own particular language, and it's valuable to learn it both in service of continual self-improvement and because mixing up language, particularly when writing agreements, can lead to all sorts of problems down the road.

For instance, a fellow REIA member here in Cincinnati was forced by a court to return a sizable option fee to a tenant/buyer who abandoned an option after living in—and therefore effectively tying up—a property for over 2 years.

How can this be, when option fees are, by their nature, non-refundable? Because she didn't use the work option fee in the option: she used the word deposit. Deposits are refundable, or so sayeth the Hamilton County Courts.

Further muddying the waters, she used the word tenant in the option agreement rather than tenant/buyer or buyer. A tenant with a deposit has much more claim to getting that refunded than a buyer with a non-refundable option fee.

I've also seen a number of cases around the country where lease/options were re-cast by a court as land contracts, because the word down payment was used to refer to the option fee, and because some sort of reference was made in the option to an interest rate or to the tenant/buyer paying taxes and insurance. It LOOKED like a land contract, and thus was ruled by the judge to be a land contract.

So what's the problem with that?

Well, in a lot of states, it takes about 45 days to evict a tenant, but getting a non-payer out of a property in which they're a vendee in a land contract requires a full-on (expensive, lengthy) foreclosure—and that's exactly what various judges have told various investors they had to do in various courts around the U.S.

Yes, these are examples of language issues causing problems in the SALE of a property on lease/option, and what we're talking about here is the opposite—you're the 'tenant/buyer', not the seller. Still. Let's speak the language.

The parties to a lease/option each wear 2 hats: in the lease, one is the **lessee** or **tenant** and one is the **landlord**, or, for preference, the **lessor** and should always be referred to in that way throughout the lease. In the option agreement, the same two people are referred to as the buyer or tenant/buyer, and the **seller** or **landord/seller**

The monthly payment in a lease/option is called **rent**.

The 'upfront payment', if there is one, is called an **option fee** or **option consideration**. In general, the option fee is non-refundable if the tenant/buyer chooses not to buy the property, and deducted from the final sale price if he does. The option fee is NOT the same as a **security deposit** and should never be referenced in the lease, only in the option. The lease may include a refundable security deposit that is separate from the option fee.

The price at which the tenant/buyer may exercise his option is called the **option price** or the **strike price**. This can be a set amount--$xxx,xxx—or a price to be determined at the time of the exercise of the option, such as "The balance on the seller's first mortgage at the time of

exercise of the option" or "A price to be determined based on a professional appraisal of the property to occur within 30 days of the end of the option period".

The timeframe during which an option can be exercised is called the **option period**. The option period usually begins on the day of the lease and option signing and lasts for an agreed-upon period, but it can also be written to start at a different time than the lease; for instance, the option period can be 10 years beginning 2 years from today and ending 12 years from today, with the lease beginning today.

The rent may or may not include a **rent credit**, which is a part of the monthly payment that applies to the option price when and if the tenant/buyer exercises the option. Any rent credit should not be referenced in the lease, but rather in the option as "**additional option consideration**".

Additional option consideration is anything that the tenant/buyer must do in order to fulfill the terms of the option—for instance, if the agreement is that the tenant/buyer will repair or maintain the property, that agreement would be memorialized as "additional option consideration" in the option[67]. Additional option consideration can also be anything that the tenant/buyer CAN do in order to reduce the option price—for instance, paying extra option fee, or adding a driveway to the property in return for a $7,000 reduction in the option price.

That should be enough for now. Back to Bill.

Why Use Lease Options?

Depending on how they are structured, Lease Options can give you a lot of control of a property without obligating you to buy it. At the same time, while giving you the ability to buy the property at some point in the future, they can allow you to capture the property's appreciation and amortization.

By *appreciation*, I mean that you're able to capture some or all of the property's growth. For example, let's say you have the right to buy a property 10 years from now. Your strike price (the agreed-to sale price) is set at $100,000. That's the property's current fair market value. Let's say that 10 years from now the property's value has increased to $175,000. This means that if you exercise your option and purchase the property, your purchase price will be the strike price of $100,000. If you then immediately sell the property, and you sell it for the *then* fair market value of $175,000, you would net a $75,000 profit.

[67] And never referenced at all in the lease, because it's an unenforceable term of the lease under tenant/landlord law. The ONLY thing you can do to a tenant/buyer who agrees to repair or maintain a property, and then doesn't, is make that requirement part of the additional option consideration and clearly state that the tenant/buyer voids the option (and loses his option fee) by NOT doing those repairs.

By *amortization*, I mean that if you structure the option right, you're able to capture the property's mortgage pay-down.

For example, if you have the right to buy a property 15 years from now, and you've agreed with the seller up front that the price will be the *then* balance of the seller's mortgage, if that means that as the seller's mortgage amortizes, your strike price drops.

The most powerful thing about having your purchase price based on the property's *then* mortgage balance is that you not only capture amortization, you also capture the property's appreciation!

What is the Advantage to an Investor Who Does Lease Option Deals?

For investors, particularly new investors, with property ownership comes great risk and often sizable debt. The use of lease options can allow an investor to capture some or all of the benefits of ownership without increasing the risk of ownership.

How? Go back and look at Pete's Benefits House and look at all the benefits and option can capture. Are these not the same benefits that ownership captures?

Let's Get a Little More Specific: Exactly WHEN is it Advantageous for You to Do a Lease/Option Deal?

For the most part, I like to OWN the houses I own. It just makes me feel good. You know, safe. Warm. Cuddly. Like no one can screw up my deal except me.

But there are some cases when it just makes more sense to control them without owning them. You should seriously consider lease/optioning, rather than buying, a property when:

- **There's something about the underlying financing that scares you enough that you don't want to commit to taking it over, subject to the existing loan**. Maybe it's an adjustable rate loan with a long remaining term, and you've done the math, and if the rate maxes out, the property won't cash flow, so you don't want to commit to making a series of potentially increasing payments. Maybe there was a loan modification that says that if the seller transfers the title, $20,000 in forgiven debt immediately gets un-forgiven. Maybe the payment is just too high, and you need the seller to cover some of it. A lease/option lets you do that, by fixing your rent payment for the entire period of the lease, no matter what happens with the seller's underlying payment

- **The market is in flux, and the value or cash flow of a property could decrease**; in this case, you might want the ability to easily "give back" the property at the end of the lease term, should the market turn against you.
- **The seller has some personal, financial, or tax reason that he doesn't want to give up title right now, but he <u>does</u> want to give up some of the responsibilities of ownership**. Far and away, the most common of these is that the seller has owned the property for a long time, and selling it would mean a HUGE capital gains tax bill. Of the strategies we'll discuss in detail in this course, ONLY a lease/option allows him to give up all the stuff he doesn't want—the management and maintenance—and still not pay capital gains taxes on the sale, because there is no sale.
- **You want to leave some of the benefits—perhaps mortgage pay down, or tax deductions—with the seller to entice him to give you the ones—perhaps appreciation and cash flow—that you want**.
- **Have a seller who's willing to accept payments, but is concerned about your ability/willingness to pay, and needs a period to test your mettle.** The agreement could be that the title transfers to you subject to the existing loan—a "Lease with Option to Buy Subject to the Existing Mortgage", if you will—only after 12 months of on-time payments, for instance.
- **YOU have current or pending financial issues—IRS or state tax liens, unpaid child support obligations, judgments, a pending divorce—that mean that when you take title to a property, those issues immediately affect that title**. In this case, you might want to take control of properties without immediately getting title to them until you settle with, pay off, or otherwise rid yourself of your problems. I know at least 3 people who've bought the house of their dreams despite being the subject of a huge IRS lien, by lease/optioning it until they could pay off the lien and get a loan.

In short, not every deal you run across is one that you can, or want to, have title to immediately. There are some that, for one reason or another, require a strategy that gets you enough control to make money, without getting the deed. That's probably a lease/option.

When NOT Do a Lease/Option Deal

The biggest risks inherent in lease/option deals all revolve around a single fact that you MUST keep in the forefront of your brain EVERY time you're contemplating making an offer on a property that involves a lease/option, and it's this:

While you have control of many of the benefits of ownership, when you lease/option a property, **you are NOT, in fact, the owner**.

You do NOT have title to the property.

Someone else does.

And that has all sorts of potential impacts on your deal that may well make you decide NOT to make a lease/option offer, but to make a subject to or seller-held note offer instead.

Here are a few:

1. **Without title, you have nothing with which to secure additional financing**. If you need to additional money to make the deal work—say, for instance, because the property needs $20,000 in repairs and upgrades to make it rent-ready—you won't be able to borrow it against the one you lease/optioned, because you have no title against which to secure a loan. There are ways around this; you could bring in a money partner and give him part of the deal, or you could borrow money against the title to a different house, or you could just put it all on your credit card, but don't fall into the trap of thinking, "It'll be ok, as soon as I lease/option it I'll get a hard money loan against it for the repairs." You won't.

   It's for this reason that lease/options are most commonly used to buy properties that don't need work, which would seem to solve the problem. But in the kind of long-term lease/option that Bill, we're really talking about here, the current condition of the property is just a snapshot. The whole movie would show that in 10 years, you're still leasing the property with an option to buy it, someday, but now it needs a new roof because the one that was 12 years old when you took control is now 22 years old.

2. **Without title, your exit strategies are limited to conveying the rights that you DO have**. If you 'buy' a house on lease/option, you can lease it, or you can wrap your lease/option with another lease/option in a strategy commonly known as a "sandwich lease/option." You could, in theory, wholesale your whole lease/option contract, just collecting the up front fee and then assigning the lease and option you have with the seller, in a strategy called a "lease/option assignment."[68]

[68] Please be careful with these; I have some real legal and ethical concerns with the way most of the gurus approach them. The legal issue is simple: most of the paperwork I've seen tells the seller that while he's agreeing to lease to you, and option to you, at a particular price and terms, you have no intention of paying so much as payment #1 unless you find someone else to take over your position. In other words, even though a lease and option are signed, the agreement is really more like a purchase agreement to buy on lease/option, IF you can find a tenant/buyer. This outright statement that you have no intention of being a principal in the transaction, but are rather looking to be paid to find a tenant/buyer that you'll ultimately leave the seller to manage, is the very definition of getting paid to find buyers for other people—and it's a violation of license law. I don't happen to think that most of 'license law' should exist, but it does, and that means that this particular approach is illegal IMHO, unless you have a real estate license.

My other objection is more practical: what you're doing in a lease/option assignment is taking out money up front, then leaving a civilian seller with the hard part: collecting rents, managing tenants, doing evictions if necessary. Not only is this fraught with moral hazard (I may not be talking about YOU, but you do understand that a lot of people would put a tenant unqualified to pay the rent into a house, if that person had $20k up front, and if it wasn't their problem to collect that rent, or deal with damages going forward, right?) Civilians are, for the most part, completely unprepared to manage rentals: they don't know the law, the management practices, the bookkeeping, the notices, how to evict…nothing. It's not fair for you to take a bunch of money up front, with no continued obligation to pay anything, do anything, fix anything, or sweat anything going forward. And you can't offer to manage the property for pay when you have no real estate license and no legal interest in the property, either.

3. **When title rests with someone else, stuff that that someone else does can cloud the title, interfering with his ability to convey it to you when the time comes.**

   Imagine these scenarios, for instance:

- You have a 10-year time frame in which to pay off the property. During year 5, unbeknownst to you, the seller neglects to pay a $100,000 tax bill to the IRS. In year 7, the IRS attaches a lien to all of the seller's assets, including "your" property. By year 10, when you're supposed to have paid off the property and gotten title, the lien has increased to $250,000, which we can safely assume the seller can't pay off. If you take title, you take it subject to a quarter of a million in debt. If you don't take title, but continue to control the property, you risk the IRS auctioning off the property for payment. And getting the seller, who has no further money coming from the property in any case, to attempt to settle the debt and get the lien released, is unlikely to work: what motivation does he have to spend time and money fixing a problem 'for you'?

- Ditto liens from car accidents, unpaid credit card bills, unpaid child support, deficiency judgements…

- And those are just the INvoluntary liens. Imagine a seller who has lots of equity in "his" property, and convinces a private lender, or a bail bondsman, to let him use it as security for a loan. At the end of year 10, you ask for title, and find out that he's got a debt that he can't pay off, secured by a title that he legally owes to you.

- Or he runs into a cash flow crunch, and uses the payments you send him to pay his personal bills, or feed his gambling habit, instead of paying the mortgage payment, or the taxes, or the insurance, and you find out about HIS foreclosure on what you have, for years, considered YOUR property, only when the sheriff knocks on your tenant's door and says, 'move'.

- Or he dies during those 10 years, and his heirs find out that the property they've been looking forward to inheriting (because it's worth $200,000) is subject to a contract (with you) that they knew nothing about, and that contract allows you to buy it for half of its value, and they decide to claim that poor old dad was senile when he signed that contract, and that they'd rather sue you than give you the title he promised you.

- Or—and this has happened, a LOT, during times when prices were on a consistent upward trend—the seller decides after 10 years that he made a bad deal by agreeing to sell you the property at full market value and letting you make payments for a decade, and when the time comes for you to get the title, he simply refuses to sign it over unless he gets some of the appreciation from the house he didn't pay for, didn't maintain, didn't manage, and didn't want for the past decade. With a properly-drafted option agreement and enough time and money spent on attorneys, you could sue him to force him to perform and you'd almost certainly win; however, if the seller's demand for more money comes simultaneously with your own tenant/buyer's exercise of HIS option, you could

find yourself at the receiving end of your own litigation, unless you bow to the seller's unreasonable demands and let the buyer's closing go forward as planned.

- Or the seller declares bankruptcy and 'surrenders' the property to the secured creditor (the bank), or the bankruptcy court decides that it should be sold to pay off the unsecured creditors, and voids your lease/option in order to do that.

While it's true that none of these scenarios is legally OK—in every case except the last, you could sue the seller for specific performance, or damages— whether you'd win, or collect, or spend more money on legal fees than you'd make by winning, is another question altogether.

For all these reasons, not having title to a property carries risks that having that title does not, we typically mitigate this risk in one of more of these ways:

1. Not using lease/options to control properties that will require a big investment of cash in repairs or down payment. Any cash you put into the property is at risk. No cash, no risk.

2. Disclosing the possibility that we won't get, and therefore may not be able to pass on, clear title to anyone that WE lease/option the property TO, and creating 'liquidated damages' language with those parties that outlines, up front, exactly what they can get from us, should this turn out to be the case.

3. Using these strategies primarily (though not exclusively, as you'll see in a moment) for short- and medium-term control, when we have a plan to sell the property, or take out the financing with a new loan or partnership agreement within a few years.

4. Recording our interest in the public record.

5. Using additional documents to 'secure' our unsecured interest—an issue we'll deal with later in this section.

What Skills Are Required to Do Lease Options?

If the best use of lease options is to control properties that we plan to use as rentals, then it follows that the most important skill required to do lease options are the skill of management. This means both the skills to manage the property and to manage the tenants.

There are a number of good landlord and teachers. Kim and I believe David Tilney (DavidTilney.com) is the best. He teaches both a landlording class and a master leasing course. We recommend him highly!

What Owner Will Agree to a Lease Option

We've found there are two types of property owners who will agree to a lease option. Property owners who ***don't want to sell*** their property, and property owners who ***desperately seek to sell*** their property.

Property Owners Who Don't Want to Sell

different reasons, some people don't want to sell, but at the same time there's something about their property that is a burden. This is where the T-bar comes in, and why it's so important. Remember, a T-bar helps you to see the buyer's/seller's why.

Let's say you meet a fellow investor. He's a spry and frisky 60 years old. (This makes him 12 years younger than Vena.).[69] He lives in a motorhome traveling the country with his very hot wife. The problem is he also owns a rental home. He loves his rental home because it generates monthly mailbox money. In addition, he fears the tax expense he'd incur if he sold an investment property that he's owned for 25 years. Another concern he has involves management. Because he's traveling around the country, he can no longer keep close watch on his property. This keeps him awake at night.

Knowing what you know now, do you see that offering him a lease option can be a solution to his real estate and tenant headaches?

In excepting[70] your lease-option offer, he gets the joy of management off his back. At the same time, with acceptable terms, he has found someone who can one day by the property.

Property Owners Who Desperately Seek to Sell

You meet with a don't-want-to-be landlord. He bought a rental property because the TV infomercial guy said it was the smart thing to do. He now realizes the TV infomercial guy was actually Satan disguised as a real estate guru.

As you investigate, you learn he did an OK job buying the property. It's a good home in a good neighborhood. On the other hand, tenants are eating this man's shorts. In the past year he's had to evict three tenants. Each worse than the last.

[69] Clearly, he's also terrible at math. And not so good with punctuation.
[70] Or spelling. Or maybe the poor guy is just dyslexic, and can't tell if he's badly misspelled a word if the resulting mess is still a word, and his spellchecker doesn't highlight it in red for him.

Due to his hatred of tenants, he is desperate to sell his property. Unfortunately, the value of his rental property has fallen. The problem: the home is now worth $150,000, but his mortgage balance is $175,000. He's $25,000 upside down. He's agreeable to any solution that allows him to never come face-to-face with tenants again.

You offer to master lease his property. With this structure, you rent the property from him and have the right to rent the property to a tenant of your choice.

In addition, for removing his tenant headaches he happily agrees to give you an option to buy his property at any time in the next 20 years. The strike price will be the *then* balance of his mortgage.

In structuring the deal this way, you're able to capture monthly cash flow from rents. In addition, you capture all of the property's appreciation and amortization over the next 20 years.

A Quick Aside About Regulation

There didn't seem to be an obvious place to insert this, so here's as good a place as any.

You need to be aware that in recent years, both lease/options and land contracts have become targets of over-regulation in many cities and states.

Why? Because, thanks to the actions of a small handful of bad, and/or ignorant, operators, they're viewed as abusive, one-sided arrangements that take advantage of tenant/buyers.

By 'buyers', of course, politicians and regulators mean people who want to own a home, but can't qualify under the government's standards to get a conventional mortgage. The working poor, and a big chunk of the middle class, fall into this category, and the feeling is that lease/options and land contracts exist not as a person-to-person way of giving them a chance at homeownership, but as a way of preying on them.

The laws that have come out of this (completely skewed and incorrect) view of these strategies weren't meant to protect you as a buyer in a lease/option, because you're an evil investor, not a victimized homeowner wannabe who needs to be protected at all costs. Nonetheless, they AFFECT you, in the sense that they may legally limit your SELLERS in what that can do, and require of you, in these arrangements.

The regulations in various places range from the form that a lease and option contract must take (a Cincinnati law requires them to be in at least 12 point type, because anything smaller…um…discriminates against people who wear reading glasses? Offends fat fonts?) to fairly severe potential penalties for collecting too high an option fee.

Make sure you're familiar not just with forms and contracts in your state and city, but also with any laws that limit them. You don't want to put a SELLER in the position of accidentally breaking the law, and dealing with whatever consequences your paternalistic and over-involved government cares to levy.

Examples of Master Leases & Master Lease Option Deals

Vena's Lease Option Deals. All of Them.

I've been on the owner/seller side of hundreds of lease/option deals, spanning a quarter decade. Since I 'got' the real value of the strategy fairly recently, I've made maybe a dozen lease/option offers. But I've only had 3 accepted. Or maybe it's excepted. Bill has me all confused on that one.

My Biggest Lease/Option Heartbreak

Sometimes sellers make absolutely the wrong decision. You can see that they're making the wrong decision; you can show them in detail why it's the wrong decision; and they do it anyway.

This seller was in her 70s when she realized that she was in trouble with this 40-unit apartment building.

Although it's in a high-demand, highly-trafficked area, it had 6 long-term vacancies, and a poor 5-year rent history. 3 of the units were unrentable because of a roof leak; the largest unit (a $1,200/mo. 3 bedroom) was occupied at no cost by a relative, who also served as a handyman for the building; one unit was used as storage, because the basement was full of 40 years' worth of miscellaneous building materials, tools, and long-discarded tenant possessions; tenants who moved in never stayed beyond their lease term because of the condition of the building and the lack of management.

Because she'd owned the property for more than 40 years, the building was long-since fully depreciated, and had only a small mortgage from a refinance 10 years earlier.

By the time I entered the story line, she'd gotten a cash offer on the building for $900,000—a fair offer given the recent income and expense statements and the condition.

When I heard this, though, I pulled out my still-shiny-from-the box lease/option knowledge and explained to her that after she recaptured the depreciation and paid the capital gains taxes, and paid off the mortgage, paid for the transfer taxes, and transferred the security deposits to the buyer (which she'd spent, of course), she'd only net around $500,000 from her $900,000 offer.

Then I made another offer:

- A 20 year lease with option to buy
- With a strike price of $1.1 million

- And a $30,000 option fee (to pay off the back taxes and 'transfer' the security deposits
- With monthly rent payments of $6,000 a month
- And "triple net" terms (I'd pay the taxes, insurance, and maintenance costs).

Even after making the payment on her mortgage (which had only about 7 years left to run), this represented a monthly income of more than she was netting from the building at the time.

I also promised not to exercise the option until both she and her husband died. This way, she'd just pay taxes on the monthly rent payment, netting around $57,000 a year in income with no expenditures, and leave her heirs $1.1 million almost tax-free with the stepped-up basis.

She initially agreed to this offer, and my plan was to use partner money to renovate the building, fill the vacancies, increase the rents to market price, making the value of the building $2 million. Then I'd collect income until she passed away, then refinance or sell the property at for whatever it was worth at the time.

I drafted the documents, sent them to her for review…and then heard after 2 weeks that the cash buyer had raised his offer to $1.2 million, and she'd accepted it.

She paid over a quarter of a million dollars in taxes on that sale, and after the other expenses—mortgage and tax payoff, transfer taxes, rent prorations, and so on—netted a little over $600,000.

6 years later, this seller is still alive and kicking, and now living on social security payments of around $1,750 a month, because all that cash is long gone. $57,000 a year would have been a life-changing supplement to that income, and a million-dollar inheritance would have been a nice gift to her kids.

Ah, well—as Pete Fortunato is fond of saying, "There are no impossible deals, but there are impossible people."

…And First Accepted Lease/Option Deal (and why I did it and how it ultimately failed)

THIS seller had an interesting backstory:

- He bought the house as his "last home" after retiring from a long career in academia
- It had been fully rehabbed from roof to basement before he bought it
- A year later, he got a job offer he couldn't refuse, which was in a city 2 hours away
- He was such a worrier that despite the fact that the house was in a nice little area, he was driving back and forth every weekend to 'check on it'
- He'd listed it for sale for $89,000, and for rent for $1,200 a month, and had no takers on either
- And all the time in the car was driving him nuts

When we got to the numbers, they looked like this:

- He paid $88,000 for the house, but put down $22,000, so he only owed a little under $66,000
- His payment was $640/mo. PITI
- His loan had 14 more years to pay off

So, after some back and forth, he agreed that he'd be very happy to sell it subject to that loan, no money down, and we wrote up a purchase agreement, and I was super-excited, because I knew I could rent it easily for $1,100 a month.

And then, in my due diligence in reviewing the mortgage, I discovered 2 things that made me sad:

1. His loan rate was 5%, but it was also an adjustable rate loan, which meant that it could, in theory get as high as 11%, which would make the payment $950/mo. PITI, which means negative cash flow if the rents didn't go up at the same rate as the payments
2. His loan was with one of those tiny, one-branch portfolio lenders that I mentioned that I don't like to take over loans from

So I went BACK to him and said, "So, let's do this differently so that neither of us gets in trouble" and proposed this:

- A 4 year lease with option to buy (it was a 5/1 ARM, so 4 years was the earliest date at which the payment could reset)

- With the option price being whatever you owe on the loan at that time
- And automatic one-year extensions at MY discretion, with my rent to you being whatever your payment to the bank is

This way, I mimicked the terms of the offer I made the first time, but without committing to making the higher payments if I chose not to.

He didn't like that, though, because he wanted to be rid of the house and never think about it again. So I made one final offer to entice him:

- A 4 year lease with option to buy (it was a 5/1 ARM, so 4 years was the earliest date at which the payment could reset)
- With an option price of $66,000 no matter when I buy
- And automatic one-year extensions at MY discretion, with my rent to you being whatever your payment to the bank is

Do you see what I changed here?

I gave him an opportunity to actually GET money from the sale of the house. Because with a 15-year amortization, in 4 years, my rent payments pay off $9,200 in loan balance, and (assuming that I exercised my option in 4 years), he'd pocket that. And the longer I extend the option, the more he pockets. He liked that a lot better—enough to overcome his fear of getting the property back, in fact.

Because of the new deal, I changed my exit strategy—I offered it as a lease with option to buy, with a price of $92,000, with an $8,000 option fee and $1,100/mo. rent.

I found a qualified, willing tenant/buyer, and signed the docs, and then it all went wrong…

…because before we finalized the deal, he got an insurance settlement he'd been waiting for for 7 years. When does that EVER happen? That NEVER happens. But it happened, and he paid me $90,000 cash for the house, instead, and I only made 1 payment to the seller before I had to call him and tell him that I was paying his loan off and needed him to sign a deed over to my buyer. Oh well. Maybe next time.

…My Latest, Weirdest Lease/Option Deal

Last summer, my acquisitions coordinator sent over a lead sheet on a triplex. Here, for your education, are some excerpts from it:

Rental? Do you live there?	Triplex, rental. Original structure was SFR with traditional A-rame roof. Addition was added to rear in the 1970's. Addition has flat roof and is only one story + basement. Property was converted to triplex prior to seller's purchase in 1999. See notes on SQF below. Unit 1: 1/1. Basement/garden style. Entry is a few stairs down into basement. Occupied, rented at $475, MTM, 3 year tenant. Unit 2: 1st floor of house. 2/2: Occupied long term, rented $900 currently. MTM. Unit 3: On 2nd and 3rd level. 3/1. Vacant for 4/5 months, since tenant moved out. Not rerented due to Covid. Was rented to long term tenants for 10+ years. Was rented to 3 female roommates at $975 a few years back. But 2 roommates left, so LL lowered rent to $675 for the individual tenant, as a favor. Rent upon move out was $675. 1st floor: Unit 1: 2/2: Occupied long term, rented $900 currently. MTM. He's an informal landlord. Was his house for 10 years, then moved to Pleasant Ridge. Moved out and rented this property. He's PM manager [redacted] LLC
Motivation - Why looking to sell?	Just doesn't have time, energy or give a damn to keep it up. He let maint. go a bit. Stresses out about being a landlord, etc. Kinda over it. Wants to sell and cash out, and pay doen his HELOC. (See mortgage info below)

So what have you already learned, without even talking to the seller?

1. He's stressed out by being a landlord
2. He's not very good at it: he dropped the rent on his largest unit by $300 a month because the tenant had a problem (her roommates moved out) and he made it HIS problem
3. He's got a total of $1,375 coming in, because 1 of his units is vacant and he won't re-rent it due to Covid

Roof - Age / Condition	Original since purchase in 1999. Missing a few shingles. needs replaced Flat roof above addition is flat rubber roof, resealed over the years. Had leak in early 2000's, patched and fixed. Needs maintained. Garage roof and gutters are original since purchase, needs repair/replace
Gutters - Age / Condition	Maintained but couldn't always reach gutters since buildings. Maybe a few downspouts need replaced. (Prob needs replaced throughout) Original since purchase in '1999
Plumbing - Age / Condition	Upgraded sporadicaly. Replaced stack for 2nd floor bath, 15 years ago. Some cast iron still there. Mostly copper. Functional throughout.
Electric - Age / Condition	Mostly original since purchase. lead from pole to house, right at meeting with house, down to service box: Insulation is eroded and needs replaced. Some issues on 2nd floor, where circuit breakers were being thrown. House has 100 amps, he thinks its underserviced. All breakers. Has some fuses. Overall: Electric needs upgraded

And NOW what do you know?

1. There are some maintenance issues with the property
2. He's very aware of them, but hasn't done anything about them

How long have you been trying to sell?	They've considered it over the years but never did anything. They negotiated with someone right before Covid, but it never panned out. Talked about 190k but never got under contract. Buyers just stopped communicating. He spoke with another company a few days ago, and they're gonna see it next Monday.
Listed with a real estate agent? Which one, and how much?	Not recently. They listed to sell hen they moved to pleasant ridge. Had it under contract but fell through.
When do you need us to close?	Flexible but willing to go quick
What happens if it doesn't sell by then?	Will Negotiate further (EG, go down in price). They do wanna get rid of it.
How much are you asking?	Asking 190k, but expects any offer to be at least 10% less than that (171,000)
How did you decide on that figure?	Comps, repair
If we can close fast and without a bunch of hassle, what's your bottom line?	He doesn't know, wants us to make the best offer. Wxpects offers to be 10% less than 190k asking price. Is open to all offers.

And now?

1. He's had offers before, but they haven't panned out
2. He has an ideal price, but also doesn't expect to get it

Is that pretty close to what you owe?	Upon purchase he wants to: Pay off mortgage Pay down HELOC on their residence by at least 40k Pay capital gains of approx 30k Make a bit of profit Balance on this property is right around 99k. He's concerned about capital gains tax when he sells. Says it'll be approx 30k in capital gains. Wants to pay off 40k+ off of home equity line of credit. Capital gains is gonna be close to 30k
Are your payments current?	Yes
How much are they?	1360, mostly escrow
Does that include tax and insurance?	Yes.
What's the interest rate?	maybe 4.5 approx
Is that fixed or adjustable?	fixed
When did you get the loan?	Refi'd 5/6 years ago
How many years was the loan for?	20 year

And this is the most important information of all:

1. He's got a mortgage payment that's only $15 less than the total he's currently collecting in rent each month—and since he also pays for water for the building, that means he's losing money every month
2. He's going to have a large capital gains bill when he sells
3. And he's based his ASKING PRICE off of calculation that says:
    a. I'll have to pay off my $99,000
    b. And I'll have to pay $30,000 in capital gains taxes
    c. And I want $40,000 to pay off PART of the home equity line of credit on my personal residence
    d. Therefore, I need $169,000 to reach my goals

I sent back a simple reply: "Ask him this: if I could show him how to get the $40,000 he wants to pay down that HELOC, and how to never deal with those tenants again, and how to NOT pay that capital gains bill, but involved taking payments from ME for awhile, would he be interested in hearing about it? If he says yes, set me up an appointment."

3 days later, I was sitting on the front porch of this property, talking with the seller and his wife. In the course of a nearly hour-long conversation, which I recorded and might play for you if you ask nicely, I found out all this:

1. He was REALLY bad at management, and he was very aware of that
2. He and his wife both had great jobs and great credit
3. They knew that if they fixed the property up, it would be worth in the $250,000 range
4. They also knew that 'fixing it up" meant at least another $35,000 in investment, and they absolutely didn't want to make that
5. They sorta wanted to invest in real estate again someday, only if someone else would manage the property
6. The reason it was someday, and not right now, is they have a kid in elementary school who takes up a lot of their time and energy
7. But in 7 years, when he's off to college, they'd definitely like to buy a 4 family or something

And I told them this:

- I can make you a cash offer, but you're not going to like it AND it's not going to reach any of your goals (when later pressed for the amount of that offer, it was $120,000)
- But what I think might work better for you is this:
    - I'll sign an agreement to buy your property for $180,000 sometime in the next 10 years
    - And a lease that says I'll pay you $1,500 a month every month during that time
    - As part of the lease agreement, I'll take care of the management and the utility costs, and you'll make the payment on your loan.
    - Because I'm just a tenant, not a buy, you'll have no capital gains tax to pay until I DO buy it
    - I'll agree NOT to exercise the option for the first 5 years, so that when I DO exercise it, you'll have the option of exchanging this property for one you like better without paying the capital gains taxes on this one first.

When that time comes, I'll help you find the new property and walk you through the exchange process

- This doesn't get you your $40,000, so here's how we'll fix that:
  - Before we do any of this, you'll go to your bank and refinance the property
  - You'll be able to borrow 80% of the current value, which means you should be able to get $144,000--$99,000 to pay off the current loan, and $45,000 to pay down your HELOC
  - Because interest rates have dropped a lot, your resulting payment should be about the same as it is right now
  - So instead of LOSING money every month, you'll MAKE a few hundred a month during this time
- I hear you loud and clear that you don't want to do these repairs. However, in most of these lease arrangements, the tenant/buyer pays for maintenance and turnover, but owner takes care of the capital expenses like the new roof and central air units, because it's still your property. Here's how we'll deal with that:
  - I'll pay for everything that won't last at least 10 years from the rents
  - I'll pay for everything that WILL last for more than 10 years, but I get a $1 reduction in the price for every $1 I spend on these items
- So worst-case scenario for you is I DON'T buy the property in 10 years, and you have a much more valuable property to sell
- I'm going to need you to sign some things in order to make this happen, including:
  - A recordable copy of my option to buy, which we'll record at the courthouse
  - A document that says that if you can't or won't sell the property to me when I'm ready to buy it, I can MAKE you do that
  - You understand, right? I need to protect myself if something should happen to you during this time

It took another 6 weeks for his attorney to object to every contract we sent, and to insist that the option was too long and that the rent should go up by 5% every 2 years, and for the seller to tell his attorney to go jump in a lake because he really wanted to do this deal, and for him to complete the refi on the property.

But it all came together—the documents are on the following pages—and now I have control a triplex in a great area that:

- I've spent $35,000 upgrading, and as a result have raised the rents to a total of $2,600 a month
- I can buy anytime between August of 2025 and the 12th of never (look at the option: I can do endless 1-year extensions at the same price) for $155,000 ($25,000 of the upgrading was in capital expenditures)
- Is now worth at least $225,000
- I pay $1500 a month+ utilities and maintenance to control, pretty much forever
- Will probably result in a deal after the deal, when the seller goes looking for a turnkey rental to buy, and I sell him one of mine and lease/option it back from him

Like every other creative deal structure, you can make the terms of lease/options "fit" the unique situation and needs of each seller and each deal.

MASTER LEASE AND OPTION TO PURCHASE

This Agreement is made by J------- and T----------, ("Owner") and P------- I, LTD, ("Investor"), on August 11, 2020. Owner hereby leases the premises located at 2214 W_____ Ave, Cincinnati, Ohio, further described below, with an associated option to purchase, to Investor on the following terms and conditions:

Legal Description
[redacted]

Parcel Number 6_____
LEASE

1. **TERM & OCCUPANCY.** The initial term of this Lease shall be for 120 months beginning on August 11, 2020 and ending on July 31, 2030. This Lease is entered in the anticipation that Investor will sublet the premises, and will be responsible for all management and maintenance. Both parties specifically agree that this lease is commercial in nature, that Investor is not using, and will not in future use, the premises as a residence.

3. **PAYMENTS.** Investor shall pay Owner as rent for the Leased premises during the term of this Master Lease, in advance, on the first day of each month commencing on September 1, 2020, the sum of One Thousand Five Hundred and 00/100 Dollars ($1,500.00) per month, and a prorated payment of $1000 for the partial month of August 2020, due at signing..

Investor shall pay said rent to Owner at 6_____, Cincinnati, Ohio 45213, or at such other address as Owner may designate, from time to time by written notice to Investor, without demand and without deduction, set-off or counterclaim. Time is of the essence of Investor's obligation to pay as herein set out. Should any rental installment not be paid promptly as required by the terms of this agreement and if such installment remains unpaid and delinquent beyond the tenth (10th) day of the month in which it was due and owing, then there shall be imposed a late penalty equal to five percent (5%) of the amount of said delinquent rental installment. Any penalty amount so imposed shall be due and payable with the delinquent rent installment which occasioned its imposition. If Owner shall at any time or times accept said rent after it becomes due and payable, such acceptance shall not excuse delay upon subsequent occasions, or constitute or be construed as a waiver of any or all of the Owner's rights hereunder.

In the event Investor shall violate any covenant made by it in this Master Lease Agreement, including but without limitation the covenant to pay rent, and shall fail to comply or commence compliance with said covenant within thirty (30) days after receiving notification of said violation by Owner, Owner may, at its option, terminate this Master Lease. In the event Owner elects to terminate this Master Lease, Owner may re-enter the demised premises and shall be entitled to the benefit of all provisions of the law respecting the speedy recovery of lands and tenements held over by Investor, or proceedings in forcible entry and detainer. Notwithstanding any such termination and re-entry resulting from Investor's violation of any covenant of this Agreement, Investor shall remain liable for any rent or damages which may be due or sustained prior thereto and in addition, Investor shall be further liable for further rents for the remaining term of this Master Lease, less such monies as are received by Owner as a result of the reletting of the demised premises. No mention in this Master Lease Agreement of any specific right or remedy shall preclude Owner from exercising any other right or from having any other remedy or from maintaining any action to which they may be otherwise

entitled, either by law or in equity, and the failure of Owner to insist in any one or more instances upon a strict compliance with and performance of any covenant of this Master Lease Agreement shall not be construed as a waiver or relinquishment in the future of such covenants or any other covenants. Should Investor perform all of the covenants by it to be performed, Investor shall have, during the term of this Master Lease Agreement, the quiet and peaceful possession of the demised premises.

3. **APPLICATION OF PAYMENTS.** There may, from time to time, be amounts owed by Investor in addition to the monthly lease fee.

All payments received by Owner will be applied as follows: First to any late fees owed, then to any other amounts owed, then to any past due Lease fee, and finally to the current Lease fee due. Partial payments will incur a late fee of 5% of the amount that the payment is short of the amount due.

4. **UTILITIES.** Investor shall pay for all water, waste removal, sewerage, gas and electric current which may be assessed or charged against said premises. Investor shall be responsible for having these utilities placed in the Investor's name no later than one business day after the date of this lease. Owner reserves the right to pay any such assessment and bill Investor for the amount paid, in such an event Investor shall include the full amount of the Utility assessment paid by Owner with the next month's rental payment.

5. **APPLIANCES**. The lease includes all appliances and fixtures presently on the premises. As it is a commercial lease Investor is responsible for all repairs and replacements.

6. **REPAIRS & MAINTENANCE.** Investor agrees to maintain the premises in good condition during the period of this agreement.

7. **RENEWAL.** This Lease and the associated Option may be renewed indefinitely in one year increments upon payment by Investor of a $1000.00 per year renewal fee. Which payments shall be credited toward the purchase price of the associated option upon exercise, but which shall not be refundable in any event.

9. **LIABILITY AND INSURANCE** Owner shall remain responsible for payment of Casualty Insurance and Taxes and shall name Investor as their respective interest shall appear on such policies. Investor shall maintain separate liability coverage satisfactory to Owner, and shall indemnify, and hold

10. **DEFAULT & NON-WAIVER.** In addition to the events of default listed in the preceding Sections, the following will constitute Default by the Investor:

a. Investor's interest therein is sold under execution or other legal process.
b. Investor makes an assignment for the benefit of creditors.
c. Any proceeding in bankruptcy or for a wage earner's plan, an arrangement or reorganization, or any other proceeding under any insolvency law is instituted by or against Investor
d. A receiver or trustee is appointed for the property of Investor.

In the event of any Default, whether under this Section or any other, it will be lawful for Owner to re-enter and repossess the premises. Said repossession shall not release the Investor from his obligation to make payments for the remaining term of this lease.

11. **PHONE.** Investor agrees notify Owner of any changes to the contact phone numbers.

12. **ASSIGNMENT AGREEMENT.** Investor may sublet the Property to an occupant Tenant without consulting Owner or obtaining any approval, Investor shall remain responsible under this Lease at all times. Owner will transfer to Investor any security deposits currently held by Owner, and will assign Owner's rights in any leases currently in effect and will otherwise cooperate with Investor in transferring responsibility for the Management of the Property to Investor. Owner agrees to honor future Lease agreements entered by Investor with tenants, and to cooperate as may be needed with any eviction proceeding that may become necessary in Investor's dealings with such Tenants. Owner may assign this lease, and associated Option, to a purchaser or mortgagee of the property so long as said assignee agrees to be bound hereby.

13. **QUIET ENJOYMENT**. Owner agrees that if Investor, pays the rents and keeps and performs the covenants of this lease on the part of Investor to be kept and performed, Investor will peaceably and quietly hold the premises during the term hereof without any hindrance, ejection or molestation by Owner or any person lawfully claiming under Owner.

14. **BINDING EFFECT**. This lease and the agreements of Owner and Investor contained herein shall be binding upon and inure to the benefit of heirs, executors, administrators, successors and assigns of the respective parties.

15. **SEVERABILITY OF PROVISIONS**. Investor agrees that each provision of this Agreement shall be deemed severable and if for any reason any provision or provisions hereof are found to be invalid, unenforceable, or contrary to any existing or future law, such invalidity shall not affect the applicability or validity of any other provision of this Agreement.

Option:

(1) PRICE AND TERMS: Owner hereby grants Investor the exclusive right to purchase said property for the sum of <u>One Hundred and Eighty Thousand</u> Dollars at any time between August 1, 2025 and July 31, 2030, This Option shall automatically be extended for 1 year periods as the Lease is extended by a payment, which payment shall be fully creditable against the purchase price, of $1000.00 per one year extension. The purchase price, less any amounts credited under this Lease and Option agreement, may be paid as follows:

Investor may at Investor's sole discretion elect to take the Property subject to Owner's new Mortgage, with Investor agreeing to make all future payments as and when due, but not to retire the debt early, and receiving credit for the balance outstanding at the time of exercise, with the

remainder to be paid in cash, certified check, cashier's check, or building and loan check at closing.

(2) OPTION FEE. No Option Fee is being charged at the inception of this Agreement Extensions of the lease and Option for additional years following the initial term will be at a fee of $1000.00 per year covering both the lease and Option, with such amounts fully credited toward the purchase price. This option fee shall be non-refundable in the event that the Investor elects not to exercise the Option to Purchase.

(3) ASSOCIATED LEASE. Simultaneously with the execution of this Option the parties have entered a Lease Agreement dated 08/01/2020. Full compliance with the terms of that lease is hereby made a condition of this Option and in the event that Investor shall fail to comply with those terms such failure shall constitute an event of default under this Option and the Option shall be void.

(4) INCLUDED IN THE PURCHASE: The property shall also include all land, together with all improvements thereon, all appurtenant rights, privileges, easements, buildings, fixtures, heating, electrical, air conditioning fixtures and facilities, window shades, Venetian blinds, awnings, curtain rods, screens, storm windows and doors, affixed mirrors, wall-to-wall carpeting, stair carpeting, built-in kitchen appliances, bathroom fixtures, radio and television aerials, landscaping and shrubbery, water softeners, garage door openers and operating devices, and all utility or storage buildings or sheds. The property shall also include the oven/range and refrigerator contained on the premises at the time of the execution of the attached lease; however, the condition of these appliances is not warranted.

(5) TITLE: The Owner shall convey marketable title to the property with the above-described inclusions, by good and sufficient General Warranty Deed in fee simple absolute, with release of dower, on or before closing; said title to be free, clear, and unencumbered, except for restrictions and easements of record. Title to be conveyed to the Investor and/or to his assigns or designees.

(6) CLOSING: The deed shall be delivered and the purchase money shall be paid at the lending institution or other location of the Investor's choice, no later than SIXTY (60) days after notification to the Owner of the Investor's exercise of the option.

(7) COSTS AND PRORATIONS: There shall be prorated between the Owner and the Investor, as of the date of closing, all real estate taxes and assessments, with Investor having responsibility for such items following closing. Investor shall be responsible for title search, deed preparation, loan costs, and all other costs associated with financing and closing.

(8) LEAD WARNING STATEMENT AND WAIVER. Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral

problems, and impaired memory. Lead poisoning also presents a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended before purchase.

Investor hereby waives the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

(9) ASSIGNMENT. This Option may be assigned. Additionally Investor may exercise this Option by selling the Property. Owner agrees that in such a case Owner will fully cooperate in such a sale, acting as principal in the transaction if necessary, and paying to Investor, at closing, any amounts in excess of the purchase price.

(10) MORTGAGE TO SECURE OPTION. Owner will execute, and permit Investor to record a Mortgage against the Property securing this Option. The amount of said Mortgage shall be the value of the Property less the purchase price of this Option.

Owner agrees not to further encumber the Property at any time during the period of this Option, and associated lease.

(11) 1031 EXCHANGE. Investor agrees to fully cooperate with Owner should Owner elect to perform a 1031 Exchange at the sale of the Property.

(12) REPAIRS AND CAPITAL IMPROVEMENTS. Investor shall be responsible for all repairs and maintenance of the Property during the period of this Option and the associated lease. Should Investor have to replace any capital item, or determine that a an upgrade is necessary or desirable to a capital item the amount paid for such item or items shall be credited toward the purchase price. In the event that the total amount creditable under this provision shall reach $20,000.00 Investor shall obtain Owner's written approval for any additional capital items replaced or added. Failure to do so shall render amounts in excess of $20,000.00 not creditable toward the purchase price. A capital item for the purposes of this section shall be any replacement or upgrade with an anticipated lifespan of more than 10 years.

IN WITNESS WHEREOF, the parties hereto have set their hands to this Lease and Option To Purchase agreement on this ___ day of _____ , 20___.
WITNESS:

Owner:

_____
J------

_____
T----------

State of _____, County of _____, ss:

The foregoing instrument was acknowledged before me this _____ day of _____, 2020 by J----- and T----------.

_____
Notary Public-State of Ohio
My Commission Expires:

Investor:

_____
P_____ by Vena Jones-Cox, Manager

State of _____, County of _____, ss:

The foregoing instrument was acknowledged before me this _____ day of _____, 2020 by Vena Jones-Cox, Manager P++++++++++ I, LTD.

Parcel No. [redacted]2

[redacted]2

MORTGAGE TO SECURE OPTION

[redacted] and T[redacted], husband and wife (hereinafter referred to as "Mortgagor" in the singular), whose address is 6[redacted], Cincinnati, Ohio 45213, for valuable consideration paid, grants with general mortgage covenants to [redacted] LTD., an Ohio limited liability company, whose address is 3707 Warsaw Avenue, Cincinnati, Ohio 45205 (hereinafter referred to as "Mortgagee"), all of their right, title and interest in and to the following described real estate, to-wit:

[redacted] Columbia Township, Hamilton County, Ohio, being part of that certain lot or parcel of ground known, numbered and designated as Lot No. Twenty-two (22) of [redacted], Hamilton County, Ohio Records and more particularly described as follows:

Beginning at a point on the north side o[redacted] said point being forty and 50/100 (40.50) feet west of the southeast corner of [redacted] thence northwardly and parallel to the east line of said [redacted] of said [redacted] Subdivision, one hundred eighty-seven and 95/100 (187.95) feet to a point, thence westwardly and along the north line of said Lot No. 22 of said subdivision forty (40) feet to a point, thence southwardly and parallel to the east line of said Lot No. 22, one-hundred ninety-three and 63/100 (193.63) feet to the north line of [redacted], thence with the north line of [redacted] orty and 26/100 feet to the place of beginning.

Subject to easements, restrictions and agreements of record.

Being the same premises conveyed to Mortgagor by a deed recorded in Official Record Volume [redacted], Page [redacted], Hamilton County, Ohio Records.

This Mortgage is given, upon the statutory condition, for the purpose of securing Mortgagee's option to purchase the subject property described above, which Mortgagee is the holder thereof and providing Mortgagee exclusive right to purchase the subject property at the price and on the terms set out in a certain Option contained in a Master Lease and Option to Purchase between Mortgagor and Mortgagee of even date herewith.

The amount secured by this Mortgage to Secure Option will not be otherwise quantified in monies' worth, except as may be agreed to between Mortgagor and Mortgagee or by a court of final jurisdiction in the event of a default by Mortgagor under the Master Lease and Option to Purchase. This Mortgage to Secure Option will be released upon the termination of that Master Lease and Option to Purchase.

"Statutory condition" is defined in Section 5302.14 of the Revised Code and provides generally that if the mortgagor pays the principal and interest secured by this Mortgage, performs the other obligations secured hereby and the conditions of any prior mortgage, pays all the taxes and assessments, maintains insurance against fire and other hazards, and does not commit or suffer waste, then this Mortgage shall be void.

If Mortgagor sells, conveys, transfers or assigns any interest in the within real estate without the written consent of Mortgagee, the Mortgage shall at the option of Mortgagee be immediately due and payable.

Executed by J[redacted] and T[redacted], husband and wife, on this 12 day of August, 2020.

MORTGAGOR:

Cox Farm

Cox Farm is an example of a Master Lease/Purchase Option Deal.

When I first met the owner of Cox Farm in 2013, he was a serious don't wanter. He hated the property and he hated tenants. He would've gladly chewed off his arm to be done with both!

In 2005, the property owner bought Cox Farm for his daughter. It was a 5-acre ranch. You see, his daughter L-O-V-E-D horses.

Because the owner's daughter could not qualify for a mortgage, her dad bought the property and got financing from an institutional lender (you know, a bank). He rented the property to his daughter.

Do you recall what the real estate market was like in 2005? It was red hot! This means the buyer paid a premium price for the property: $105,000. He got 100% financing from his lender – easy to do at the time. His monthly mortgage payment (PITI) was $900.

Fast forward to 2011. Remember what the real estate market was like? It had changed quite a bit since 2005, hadn't it? Cox Farm's fair market value had plummeted to $70,000.

Making matters worse, the owner's daughter had discovered horses and horse ranches required a lot of work…and money. Compounding the matter, guess who fell in love with a boy? Yep, the soon-to-be wayward daughter.

In 2011, she informed her dad she was in love, she no longer wanted the horse ranch, and vamoosed with "Mr. Right."

She left her dad holding the bag of horse crapola (literally). He was now financially and physically responsible for Cox Farm – a property he *didn't* want. The problem was, in 2011, he owed his lender $95,000, but the property was only worth $70,000. This meant he was $25,000 upside down on his mortgage. His mortgage payment was $900, but the property would only rent for $800. This meant the property had a $100 per month negative cash flow – without including little expenses like repairs, vacancies, maintenance, utilities, etc.

Because he couldn't sell the property without incurring a big financial loss, he decided to do what a lot of owners do in this situation. He'd rent the property to

a tenant and let their rent payments cover his mortgage payments.

This is a good idea…in theory. It's a good idea IF you know how to manage rental properties and tenants. Sadly, this property owner failed to realize a very important truth: Landlords are made, not born. He'd never taken David Tilney's landlording course. He'd never worked with tenants. (Can you see the train wreck that's about to happen?)

After his daughter moved out, the owner spent $8,000 making the property rent-ready. He found a tenant who agreed to pay $900 per month in rent. The owner soon learned another important lesson: *promising* to pay and *actually paying* are two different things.

His tenant's check for the security deposit and first month's rent bounced. Because this no-clue-what-to-do landlord didn't know what to do, it took him seven months to evict the deadbeat tenant. During that time, the tenant wrecked the property.

When the owner finally got the property back, he rehabbed the property again. It was another $8,000 expense. He put the home back on the market and found another tenant.

Guess who didn't pay rent? Ah, but our fearless property owner was learning quickly. This time it only took him three months to evict the tenant.

Another rehab was required - $6,000.

The owner was done. He never wanted to see another tenant again. He just wanted Cox Farm gone. He called four real estate investors. All four said that because he was $25,000 upside down, and the property would negatively cash flow as a rental, they didn't want the house even if he gave it to them.

Write this down: Sometimes "free" houses can be very expensive.

About this time, I got a call from the owner. The four investors, after they realized they couldn't help, told the owner to give me a call. They said I specialized in solving *impossible* real estate problems. (What a nice compliment! Jack, Pete and Dyches, thanks for all the great classes!)

If a property owner with these problems (upside down house that negatively cash flowed) called you, what would YOU do to solve the owner's real estate

problems? How would YOU construct the solution? Knowing it was upside down and negatively cash flowing, would you even take the time to meet with the owner?

Upon meeting with the owner, it took us about thirty minutes to agree to a win-win deal. How was this possible? The years of classes and the years of doing had provided me with the proper deal-structuring tools required to make this deal work.

Once again, here's the owner's situation:

- With expenses, and because the property was vacant, the owner was losing $1,100 per month.

- He owed $95,000 on a property only worth $70,000. It was $25,000 upside down.

- He couldn't sell the property because it was too far upside down.

- His mortgage payment was $900 per month. The property would rent for no more than $800 per month. It would have a *negative* monthly cash flow of $100 (not including expenses)

- He HATED tenants. Never wanted to deal with another one for as long as he lived.

- He refused to give the property back to the bank. He promised to pay, and by gosh he would keep his promise. (This is a good man!)

My solution:

- Because the property was so far upside down, I refused to buy his property even though he would have gladly agreed to a Subject-to Deal.

  Write this down: It's OK to help someone *OUT* of the quicksand, it's not OK to take their place *IN* the quicksand.

- I agreed to do a performance master lease. With this technique, I'd rent the property from him (I'd be his tenant), and I'd have the right to rent the property to a tenant who would occupy the property. NOTE: This is not the same thing as property management!

In addition, because it was a "performance" lease, I would pay him rent ONLY AFTER I collected rent from my tenant. This made this deal very safe for me.

- Because I was willing to take on the burdens the property and tenants would bring, he agreed to give me an option to buy Cox Farm anytime in the next seven years for the THEN balance of the mortgage. (This allowed me to capture the property's appreciation and amortization without owning the property!)

The Accord:

- I knew the property would rent for $800, therefore I agreed to pay him $600 rent. This would generate $200 in monthly mailbox money.

- He gave me a seven-year purchase option.

- He would seek a HARP (loan modification popular in 2013).

- He would shop his insurance.

- I would fight his property taxes for him.

The Results:

- The property was quickly rented to a good, on-time paying tenant at $800 per month.

- The lender agreed to a loan modification. This dropped his mortgage payments from $755 (principal and interest) to $450.

- The owner got a new insurance policy from my insurance agent. This lowered his yearly property insurance bill from $1,100 per year to $450.

- After successfully fighting his property taxes, his yearly property tax bill dropped from $700 to $351.

- Altogether, the owner of Cox Farm went from *losing* $1,100 per month when I met him three months before to *making* $70 per month. That was a HUGE financial swing for the owner!

Important Lessons

Our job as real estate investors is not to buy, sell and rent houses. Our job is to help people solve their real estate problems.

Want to be more successful? Find more people to help. Find more problems to solve.

Remember: Real estate investing is simple, but it's not easy. Simple and easy are two very different things!

Using master leases and purchase options allows you to get control of properties even if they are upside down and/or negatively cash flowing. These wonderful deal structuring tools work whether the market is, to quote David Tilney, going up, down or sideways!

Take David Tilney's (DavidTilney.com) landlording and master leasing class.

The following is the memorialization (paperwork) for the Cox Farm deal.

Master Lease Agreement – Page 1

MASTER LEASE

This Master Lease (hereinafter referred to as the "Lease" or "Agreement" or "Lease Agreement") is entered into this **6th** day of **June, 2013**, and is between **Bruce and Martha Steer** (hereinafter referred to as "Owner") and **The Cody Group, Inc.** (hereinafter referred to as "Master Tenant"). Owner rents to Master Tenant, and Master Tenant rents from Owner, the property (hereinafter referred to as the "Residence" or "Property") located at: **4216 Cox Farm Road, Acworth GA 30102**; the full legal description of which is the same as recorded with the Clerk of the Superior Court of **Bartow** County, and is made a part hereof by reference.

This Lease Begins on June 12, 2013. This Lease Ends on July 1, 2020.

Make Checks Payable To: Bruce Steer or Martha Steer

Mail Payments To: 3839 Princeton Oaks NW, Kennesaw GA 30144

A Security Deposit: No Security Deposit is payable under this Agreement.

TERMS OF THIS CONTRACT ARE:

1. **MASTER TENANT:** Master Tenant is permitted to sublease to one or more sub-tenants. The tenants who shall occupy the property shall hereafter be called the "OCCUPANT TENANTS".

2. **RENT:** The rent the Master Tenant pays to the Owner will be based on the following formula: Monthly rent payment received from Occupant Tenants - $200 = rent due Owner. The Master Tenant will send rent check to the Owner within 5 days after receiving Occupant Tenant's payment. If Master Tenant only receives a partial rent payment from Occupant Tenant, Master Tenant will forward the balance received from Occupant Tenant *after* subtracting $200 from the amount received.

   Example 1: Occupant Tenant's monthly rent is $850. On June 3, 2013, Master Tenant receives a monthly payment of $850 from the Occupant Tenant. The Master Tenant will send a check in the amount of $650 to the Owner ($850 - $200 = $650) by June 8, 2013.

   Example 2: Occupant Tenant's monthly rent is $850. On June 3, 2013, Master Tenant only receives a payment of $500 from the Occupant Tenant. The Master Tenant will send a check for $300 to the Owner ($500 - $200 = $300) by June 8, 2013.

   Example 3: Occupant Tenant's monthly rent is $850. The Master Tenant does not receive a payment from the Occupant Tenant. The Owner is not due payment until the Master Tenant is first paid by the Occupant Tenant.

3. **REPAIRS:** Master Tenant is responsible for paying the first $50 of each month's repair costs. All repair costs above $50 will be paid for by the Owner. Both the Owner and Master Tenant will see that repairs are made as soon as possible.

   Example 1: The Occupant Tenant informs the Master Tenant that the kitchen sink is leaking. After inspecting the problem, the Master Tenant concludes that the faucet needs to be replaced. The cost for this job is $38.50. The Master Tenant will pay for the entire cost of the repair.

   Example 2: The Occupant Tenant informs the Master Tenant that the HVAC system is not cooling the house. The cost of this repair is $475. The Master Tenant is responsible for paying $50 of the repair bill, and the Owner is responsible for pay the $425 balance of the repair bill.

4. **UTILITIES:** Owner will have all utilities turned on whenever the property is vacant and be responsible for paying these utility bills. Once an Occupant Tenant moves into the property, the Master Tenant will have the Owner's utilities cancelled within three business days after the tenant moves in.

5. **EARLY TERM:** Either party many cancel this Agreement at any time by giving the other party a written notice to that effect.

Master Lease Agreement – Page 2

6. **INSURANCE:** Owner shall maintain insurance on the subject property and pay all insurance premiums. Owner shall at all times carry a minimum of $300,000 in liability coverage. *"The Cody Group, Inc. and all others as their interest may appear"* shall be named as an *additional insured* under said policy.

7. **PROPERTY TAXES:** Master Tenant agrees to represent the Owner in any appeals of the Property's property tax bill.

8. **RENT PRE-PAYMENT:** Master Tenant may, after first receiving Owner's written permission, prepay ten months of rent and receive credit for paying twelve months of rent.

9. **NOTICE PROVISIONS:** Notice shall be in writing and sent via email or the U.S. Postal system.

10. **DEFAULT:** Should Master Tenant default on any payment required by this contract, all of the Master Tenants rights to occupancy and possession shall revert to the Owner and all moneys paid to the Owner will be retained as sole liquidated damages.

11. **SPECIAL PROVISIONS:** No agreements, unless incorporated herein, shall be binding upon the Master Tenant or the Owner.

X Bill Cook Property Mgr
Master Tenant's Signature

X
Owner's Signature

X
Owner's Signature

Secured Option Agreement – Page 1

04/11/2010 23:58 6785502155 NORTH GEORGIA HOMES PAGE 01/04

Return Recorded Document to:
The Cody Group, Inc.
P.O. Box 22
Adairsville, GA 30103

SECURITY DEED

OPTION CONTRACT

(Granting the Optionee the Right to Purchase Real Property)

STATE OF GEORGIA

COUNTY OF BARTOW

This Option Contract made this **12th day of June, 2013**, between **Bruce A. Steer and Martha A. Steer**, his/her/their/its heirs, successors, administrators and assigns, hereinafter called the Optionor, whose address and contact information is **3839 Princeton Oaks NW, Kennesaw GA 30144**, and **The Cody Group, Inc.**, his/her/their/its heirs, successors, administrators and assigns, hereinafter called the Optionee, whose address and contact information is **P.O. Box 22, Adairsville GA 30103; phone: 770-815-8727.**

OPTIONEE'S PHONE NUMBER: 770-815-8727

SUBJECT PROPERTY: The Property with the mailing address of **4216 Cox Farm Road, Acworth GA 30102**, and with the legal description of:

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION, ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

Whereas Optionor desires to grant an option to purchase and the Optionee desires to receive an option to purchase the above described property it is agreed as follows:

1. **CONSIDERATION**: The Optionor, in consideration for Optionee master leasing the property on 4216 Cox Farm Road, along with other good and valuable consideration, acknowledges that the Optionee has an exclusive right to buy the above described property.

2. **OPTION AGREEMENT DATES:** This Option Agreement begins on the **12th** day of **June** (month), **2013**. This Option Agreement expires on the **1st** day of **July** (month), **2020**. The Optionee may exercise the right to purchase the property at any time after **June 12, 2013** and on or before **July 1, 2020**. The Optionee must notify Optionor in writing of intent to purchase at least 14 days prior to purchasing. (Notice shall be deemed given if mailed by certified mail on the day following postmark on the certified mail receipt.)

3. **IF OPTION IS *NOT* EXERCISED:** Should Optionee, or his/her/their/its heirs, successors, administrators and assigns, not exercise this option to purchase the property prior to the option expiration date, the Optionor may retain all consideration as full liquidated damages and all obligations of each party shall terminate.

4. **IF OPTION *IS* EXERCISED:**

Secured Option Agreement – Page 2

a. The purchase price of the property will be the balance of the Optionor's mortgage(s) at the time the Optionee exercises his/her/their/its the right to purchase. Said mortgage(s) is any mortgage recorded in the Bartow County Courthouse *before* the date this Option Contract was signed by the Optionor.

EXAMPLE: On May 1, 2014, the Optionee exercises its option to purchase. The Optionor has a single mortgage recorded against the property. On the day of closing, the balance on that mortgage is $90,500. The purchase price for the property will be $90,500.

b. If the Optionee purchases the property from the Optionor, then if at some point in the future the Optionee sells the property, the Optionor will receive one quarter (25%) of the Net Sale Profit from the sale of the property. Net Sale Profit will be determined by the following formula: Sale price *minus* all closing costs and sale expenses paid by the Optionee if/when Optionee sells the property *minus* Optionee's purchase price *minus* all closing costs paid by Optionee at time of purchase *minus* all repair, maintenance, insurance and property tax costs paid by Optionee during the period Optionee owned the property *equals* Net Sale Profit

EXAMPLE: The Optionee purchases the property from the Optionor for $90,500. At closing, the Optionee pays $1,500 in closing costs. Over the course of four years, the Optionee incurs $5,000 in repair, maintenance, insurance and property tax expenses. The Optionee sells the property for $130,000 and pays $9,000 in closing costs and selling expenses. How much will Optionor make? ($130,0000 sale price - $9,000 closing cost and sale expenses to sell - $90,500 purchase price - $1,500 closing costs paid to buy the property - $5,000 repair, maintenance, insurance and property tax costs = $24,000 Net Sale Profit. The Optionor will make 25% of the Net Sale Profit which is $6,000 ($24,000 Net Sale Profit x 25% = $6,000)

c. Optionee will pay all closing costs if option is exercised and property is purchased.

d. The closing will take place at a location, date and time to be designated by the Optionee.

5. **CONVEYANCE:** If Optionee shall notify Optionor or closing attorney within the above time limit of the Optionee's intent to take legal title to the property, then, within 10 days of receipt of such notice, Optionor will deliver fee simple title to the Optionee, or Optionee's assigns, by Warranty Deed, free and clear of all liens or encumbrances, except those of record on this date, which Optionee may take title subject to. Optionor warrants that the existing mortgage(s) will be current in all payments of principal, interest and escrow amounts required by the Mortgagee when legal title transfers. This contract may be recorded at the Optionee's expense. Optionee will pay costs of recording and documentary stamps upon transfer. In the event of a foreclosure or bankruptcy of the Optionor, the Optionor's right of redemption shall transfer to the Optionee without further compensation and this contact shall serve as conveyance without further action.

6. **SHOULD OPTIONOR FAIL:** Should Optionor fail, for whatever reason, to deliver marketable title to Optionee, the Optionor shall pay the Optionee $**5,000.00**. This sum shall constitute liquidated damages in full settlement of all claims of Optionee. It is agreed to by the parties that such liquidated damages are not a penalty and are a good faith estimate of Optionee's actual damages, which are difficult to ascertain.

7. **RECORDABLE:** This Option Agreement may be recorded.

8. **GOVERNING LAW:** This Agreement, and all transactions contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the state of **Georgia**.

9. **TIME:** Time is of the essence for this Option Agreement.

Secured Option Agreement – Page 3

10. SEVERABILITY: In the event any part of this Option Agreement be construed as unenforceable, the remaining parts of this Agreement shall remain in full force and effect as though the unenforceable part or parts were not written into this Option Agreement.

11. ENTIRE AGREEMENT: This Agreement and any attached addendum constitutes the sole and entire Agreement between the parties, and no representation, promise, or inducement not included in this Agreement, oral or written, shall be binding upon any party hereto.

IN WITNESS WHEREOF, the parties have signed this Agreement the day and year first above written. If more than one party is shown as Optionor or Optionee, and should less than all sign, then the party or parties signing warrant they are acting as agent to sign for any party not signing this Agreement.

This option is granted by the Optionor to the Optionee on July 5, 2013.

Witness

Optionor

Optionor

Notary Public

Optionee

SHELDON MILNER NOTARY EXPIRES GEORGIA OCT. 17, 2016 PUBLIC BARTOW COUNTY

Part 5: Pure Options (and Pure Leases)

The Reason for My Uncharacteristic Silence During this Chapter

(BC: Folks, I love *the way Vena writes. Always have! This section is one of the best, funniest, most heart-felt, meaningful things she's ever written. Get a glass of wine, prop your feet up, and enjoy the ride – it will be a good one.)*

One of the profound things that it takes DECADES to learn is that *you're always a beginner*.

I've been a beginner—like a full-on, I-have-no-idea-what-I'm-doing—at least 6 different times since I started in real estate.

I was a beginner when I started buying properties. I was a beginner again when I started wholesaling properties. And again when I decided to buy apartment buildings. And again when I got sick of working 80 hour weeks and decided to hire a staff and create systems for my business. And again when I got serious about IRA investing. I'm, right this second, a beginner at AirBnB ownership.

My biggest mistake in 4 of the 6 beginnerhoods I just mentioned was the same: I let ego and overconfidence and introversion get in the way of my learning process.

There's a concept in Zen Buddhism called *Shoshin*, or "Beginner's Mind". It describes a state of openness, eagerness, and lack of preconception about the right way to approach a new idea or experience.

I definitely didn't have that.

Instead, I was VERY interested—embarrassingly interested, in retrospect—in letting the people around me know that I knew a LOT. That I was SMART. That I was SUCCESSFUL.

Yes, even before I'd done any deals on my own. And even during those stages where I was juggling bills waiting for the next deal to pop and put some money in the account. I wanted my colleagues' and peers' and teachers' and friends' (probably unearned) respect. I did NOT want anyone viewing me as a one of the swarms of needy, lost, ignorant, often-hopeless noobs

that came to a few REIA meetings and disappeared after a few months[71], only to be replaced by others.

So what did I do to convince myself, if not others, that I was a force to be reckoned with, rather than a beginner who needed hand-holding?

Lots of things. I talked more than I listened. I read everything I could get my hands on about real estate, and was quick to share my strong opinions about things I'd read about but never actually done. I spend endless hours figuring things out on my own, without asking advice from anyone other than a few trusted mentors and peers who, by accident or revelation, knew my real situation. I over-relied on my mind and my ever-growing arsenal of past experience to figure out how the next, new thing worked.

Over time, I built a self-identity, and a public identity, around being incredibly knowledgeable about an awful lot of real estate-related topics. Telling me I was wrong about something I 'knew" to be true was a dangerous game; at best, it would result in you getting an hour-long dissertation pulling apart the fabric of your logic thread by thread. At worst, which generally only happened if you insisted on challenging me in public, or continuing with your obviously-faulty thought process, I put you in a box in my mind reserved for people who were both "wrong" and "obstinate".

Looking back now, it feels like I picked up a metaphorical rock early on in my life, and that rock had a big sign on it that said, "I don't need your help, I already know, I'm smart", and I carried it around for decades in case I needed to beat people over the head with it or hold it up for protection against the slings and arrows of a world that, when it came right down to it, didn't think I was all that important.

But the problem with rocks is obvious: they're a heavy burden. They weigh you down. They make it impossible to fly, even if you manage to grow wings. They're good for building walls, but that's because they're impermeable. And God help you if you're already drowning, and you refuse to let the rock go.

A few years back, I dropped the rock, and something amazing happened: new things got a lot easier.

Instead of walking into a mastermind group full of successful real estate business owners and immediately trying to figure out what I wanted to TELL them, I walked in and wrote down what I wanted to LEARN from them.

Instead of trying to work out the (multitudinous, complicated, and often counter-intuitive to an introvert) details of how to start and run an AirBnB by researching it and listening to lectures on it and then diving in headfirst and all on my own, I found someone who'd been doing

[71] You may be wondering if you're one of those. If you have enough awareness ask yourself that question, you're not. You've seen them, though: they watched a YouTube video that convinced them they could get rich quick, and they're not only clueless about what it takes to do deals, *they're clueless that they're clueless*.

it successfully and said, "I don't know anything about this. Explain it to me, and let me pay you money to take care of all the details."

Instead of always trying to be the smartest person in the room, I started intentionally seeking out rooms where I was the DUMBEST, even if I had to pay a lot of money to be in that room.

"Okay", you're thinking, "What in the world is all of this about?"

It's a ~~2~~ 3 page long way of saying, "I'm still a beginner at pure options".

I know enough to know that what I thought I knew (which used to be that options are just a way of controlling a property long enough to complete due diligence on it and flip it, or to make a long-term bet that a piece of farmland far beyond the current city limits will someday be worth $100,000 an acre to a developer) is wrong, or rather that it's the crudest and most tip-of-the-iceberg understanding possible.

I know enough to make offers, and enough to know that before I do that, I need to call Bill (or, if I don't have time to be on the phone for 90 minutes talking about RVs, Pete) and talk through the details before I finalize those offers.

And, more broadly, I now know to keep a beginner's mind *even as I THINK I'm mastering the concept and the practice*, and not EVER fall prey to that old habit of thinking that wants to tell me that I know everything about a strategy that I now suspect has a depth that I may never fully plumb, no matter how long I study and practice it.

By the way, we all, often unconsciously, carry these rocks around with us.

Yours may be a rock made of ego, and desire for significance, like mine was.

Or it may be the opposite: a rock made of "I'm too dumb, I'll never get this, everyone here is smarter than me" that you cling to so that you have a convenient defense when you're pushed to get out there and try putting what you know into action.

Or it may be some other rock you picked up so long ago you don't even remember why you did it, or even realize it's weighing you down. "I'm a procrastinator." "I have ADD." "I'm too old to start doing new things." "I don't like talking to people." "I have way too much going on in my life to add this to it."

They all serve the same function: they let you batter people who "don't understand your limitations" and push you to do new things, and they let you have something to hide behind when you get uncomfortable.

Drop your rock. It's just an accretion of things that might have been true yesterday but don't have to be true today, anyway. Let your beginner's mind out to play. Be open and eager to

absorb this, and let go of the pre-conceived notions you have about how it works, or whether it's useful or do-able in the real world or applies to YOUR business.

Drop your rock, and you'll become permeable to ideas and successes that you can't even see right now, because that stupid rock is completely blocking your view.

Drop. Your. Rock.[72]

Vena Jones-Cox

What is a Pure Option?

In the last chapter, we learned about Lease Option Deals. We learned most investors *wrongly* believe options are always combined with leases. Most don't realize that there are *two* very *separate* documents that make up a Lease-Option Deal:

1. A Lease: This grants use of the property to the tenant.

2. The Option: This grants the right (not obligation) of purchase to the tenant/optionee.

While these two contracts are often used together, that doesn't mean they have to be.

A Pure Option is an option that *doesn't* include a lease in the deal structure.

And a Pure Lease, which we'll discuss very briefly at the end of this chapter, can ALSO be used as its own, stand-alone deal structure, without an option.

When you hear *Pure Option* and *Option*, they are one and the same. The phrase *Pure Option* simply denotes a lease is not included in the deal structure.

All options are a right, not an obligation. They are *unilateral*[73] contracts, not a *bilateral* contracts.

The **optionor** is the one who gives the option. Think "givOR."

The **optionee** is the one who gets the option. Think "takEE."

[72] And yes, that's my version of "uncharacteristic silence".
[73] "A contract in which only one party makes an express promise, or undertakes performance without first securing a reciprocal agreement from the other party"—FreeDictionary.com. In an option, the seller/optionor makes an express promise to sell the property at an agreed-upon price for an agreed-upon period, but the buyer/optionee doesn't make a promise to BUY.

With an option, the optionor, in exchange for some consideration (which can be cash, but doesn't have to be cash), sells to the optionee the right to buy some or all interest in a property within a specified period of time.

An option fee is not a loan. It's purchase money for an asset when/if the option is exercised. The asset is not a property, it's a right—the right to buy a property at a future date for pre-determined price and terms.

Don't let options scare you. You use them every day. They are an *if-then* agreement. You find a house you like. You make a written offer to buy and give an earnest money check to the realtor. In the purchase offer, you state your offer is contingent on an acceptable inspection, or you being approved for a loan, or the property appraising at a certain price, etc. At this stage, what you have is ***not*** a purchase contract, it's an option. You can buy, but unless the above stipulations meet your satisfaction, no one can force you to buy.

Options can be a safer way to get money than borrowing it, and a safer way to give someone money than lending it to them. Options allow you to leverage properties without the risk of taking on debt. Leverage magnifies results…whether the results are good or bad. Think of leverage as a sword…and swords can cut ***both*** ways.

Benefits of Options

Some of the best things about options…what can make options so much better for someone who wants to remain living in the home…is it's not a loan!!! With a HELOC (a Home Equity Line of Credit), the debt against the property increases, the monthly payments increase. This makes the house more dangerous, especially during downturns. The loan is owed…interest is due, so are balloons.

With an option, debt is not increased. There are no interest payments, or any payments for that matter. For homeowners, often giving an Option is safer than borrowing money and giving a secured note.

Counting on the appreciation of a property is a bet. It's risky. No one owns a working crystal ball. However, capturing amortization (the pay down of the mortgage) is mathematical. You can know your purchase price any given month.

Options Have Two Weak Points

Options have two weak points:

1) Many options are subject to an underlying mortgage. You need to be able to verify that those mortgage payments are being paid.

   If the mortgage payments are not being paid, you need to be able to exercise your option immediately, subject to the underlying mortgage.

2) The optionor can get cold feet. They can get amnesia. They can forget that you were their knight in shining armor. Be sure to get all the necessary documents signed and in escrow. Get the optionor on video explaining the deal structure before any money changes hands.

I Really Didn't Mean to Do This, but I HAVE to Interrupt Again…

Does it seem to you like Bill writes as if we were all living in his head, and could see the foundations that he doesn't state, but upon which the things that he puts on the page, are built? 'Cause I have to say, it often seems that way to me.

I think that Bill subconsciously looks at manuals as a supplement to the REAL teaching, which happens from the 'stage'. I, on the other hand, have no patience for repeatedly listening to audios or attending the same class over and over. I want the manual to be all I need to learn, or review, the concepts.

If you LISTEN to the class, all will be clarified for you, but some of you are like me, an you just won't do that.

So despite my relative lack of experience in actually DOING options, I'm going to go ahead and jump in here and give you a more basic version of what Bill just said about the benefits and risks of options *as he uses them*.

1. They're a way to get money to a property owner who needs it, but who doesn't actually want to sell the property, and to get something you want (the right to, some day and at some price, buy the property).

This is a particularly useful thing when then property owner is also an owner-occupant, because LENDING money to homeowners is a legally complex thing requiring licenses, familiarity with federal consumer credit laws, a deep understanding of your state's laws regarding usury and so on.

A homeowner who needs $10,000 to catch up back payments so he can keep his house, or to put a roof on his house so he can continue to live in it without being dripped upon, isn't a particularly good target for a LOAN. In addition to the specialized knowledge mentioned above, you'd have to consider the fact that there's probably a reason that he's behind on his mortgage note, or that he doesn't have a credit card with which to pay for that roof, and that reason probably also makes it unlikely that any loan you might make would be paid back.

Paying someone an option fee isn't the same as making a loan. The owner never has to pay back any part of the option fee. There are no Dodd-Frank, or licensing, requirements to do this, because IT'S NOT A LOAN.

What you get in return for GIVING him, not loaning him, the $10,000 he needs, is the right to buy his house, for a long time, at some price that you're happy with. THAT'S how you get paid back: you have a right in the property that will, someday, if you made the right bet, turn into more money than you put out. There are a number of forms that payoff might take, and Bill does a pretty good job of explaining them later on.

2. They're also a way for you to GET money, without borrowing it, on a property you own and don't want to sell.

THIS is especially useful when that property can't afford any more debt than it already has, or when you're one of those people who's allergic to debt.

Let's say it's YOUR rental that needs the $10,000 that you don't have—it must be in Florida, 'cause here in Ohio that roof doesn't have to be hurricane-rated and only costs $5,000—and it's already leveraged to a higher percentage of value than you're comfortable with.

So sell me a 5-year option to buy your $400,000 property for $300,000, and I'll happily give you $10,000 for that right. And no, I won't end up with a spectacular deal on your rental that you didn't want to sell in the first place; I'll give you the right to buy BACK my option at any time within the 5 years for a mere…$25,000. That's negotiable. Let's talk.

But when you do that, you're not 'paying me back', because I never loaned you any money. Your exercising YOUR option to <u>buy back</u> MY option.

3. And there's a benefit to options that I know that Bill knows, but which he only hints at sideways in this section: OPTIONS CAN BE USED AS CURRENCY.

Let's say that it wasn't me that gave you $10,000 to fix your roof, and got an option to buy your Florida house at a $100,000 discount over market; it was YOU who gave BILL that money.

And let's say that I now have a house that YOU want to buy, and I'm willing to sell it to you for $20,000 down. if you offer me that option agreement you have as down payment instead of, you know, that dirty government-sponsored money, I'll probably definitely take it. Even though you only paid $10,000 to get it. Even if you offered Bill the right to buy it back for $25,000.

You can turn your $10,000 investment in a maybe-someday future profit into a $20,000 equity position in a property you like NOW just by asking Go ahead, ask me. Anytime.

4. The biggest problem with the option strategy, as with all other creative strategies, is the people, not the forms or the contracts or the strategy itself.

What seems expedient and positive to people when they're in need often morphs into a bad deal, in their minds, when that time of need is over. People make—and really mean—promises when they're in distress that they can't, or decide that they don't want to, keep.

The other guy in an option arrangement, whether he's the optionee or optionor, can make all kinds of trouble later on, and feel perfectly justified in doing so.

He can scream 'rip off!!', maybe even to a judge, when you try to do *exactly what you both agreed you had the absolute right to do* 10 years ago: exercise your right to buy his property for last decades' price. He liked the deal when you did what you had to do—have him ten grand—but he doesn't like it when he has to do what HE agreed to do, which is sell you his house.

As the optionee, I can also feel cheated because I gave you $10,000 for the right to buy your $400,000 house for $300,000 and now it's 5 years later and I don't have the money to do that, and I can insist/demand/sue you to try to get that money back. But that's not what we agreed to. Option fees aren't loans. I'm not guaranteed to get my option fee back, in any form.

Or, the other guy can do other things that make your planned profit evaporate, like not pay his mortgage payment, or his real estate taxes, or keep his property insured…and while most people probably WON'T, you have to plan and document the deal as if they definitely will.

In summary: Options good. People not so much. Options solve immediate problem and create long-term profit opportunities. People create immediate opportunities and, potentially, long-term problems. Embrace the options, but guard yourself against the people.

Who Will Give You a Pure Option?

Pure Options are bought from people who want to use (not get rid of) their property.

List of Folks Who Might Benefit from Giving You a Pure Option:

- A property owner who needs cash, but doesn't want to sell his property
- A property owner who needs maintenance done to their house, but can't afford to pay for it, or doesn't have a reliable contractor to do the work.
- An investor who needs your technical expertise to make a deal happen, and is willing to give you an option in return for your technical expertise
- An investor who wants the deal that you found and structured, and is willing to give you an option to buy it from him in return for getting the deal now.
- A property owner who is facing a money problem that may make them sell their house when, in fact, they want to keep their house.

- A property owner who wants to buy a property they can't possibly afford to buy, and is willing to give you an option to buy it FROM them if you'll buy it FOR them. This is someone who will gladly give up appreciation and maybe amortization in order to live in the house of their dreams.

- A landlord who can't rent the property due to repair issues he can't afford to fix.

- A property owner who DOES want to sell, but can't easily do that because their home needs repairs, or is cluttered, or has some other issue that, due to their inability, or a lack of funds, the seller can't resolve, and is willing to give you an option to buy it at a lower price than what it will sell for when they DO fix the problems, in return for the money to fix the problems.

Types of Options

- **Strategic Options:** Are given by property owners who want to continue living in and/or owning their property.

  You have the right to buy the property over a period of years…often ten years or longer. Investors (long-term hold people) are drawn to these types of options.

- **Tactical Options:** Are given by property owners who no longer want their property.

  You, the "investor," are a businessman or businesswoman. It's a short-term option. You plan on making something happen with the option in less than one year.

- **Magic Options:** You make a HUGE profit in a very short period of time. Think of a flip. ***Don't*** do Magic Options in a retirement account with the thought of quickly building tax-free wealth while avoiding paying the tax man. If you don't follow my advice, consider how you'll look in an orange jumpsuit. Don't even think John Hyre can save you – and John's the best there is!

- **Buy Back Options:** When you sell a property to a buyer, and in granting the buyer the right to buy the property from you, you get the right to buy the property back from the buyer at a future date.

- **Right of First Refusal Options**: If a property owner, note holder, option holder, etc., decides to sell, ***before*** agreeing to accept the buyer's offer, the owner must first come to you and give you the option of stepping into the shoes of their buyer at the same price/terms agreed to by the seller and buyer.

- **Extension Options:** Gives you the right to extend the option, note, etc.

- **Asset Protection Options:** An investor sells an option for each of his properties to a financial friend. The option is secured to the property by way of a mortgage or trust

deed. This puts the option in senior position over any future (unwanted) liens. Any lawsuit or lien threat, if successful, would be junior to the option.

Once a slip-and-fall attorney realizes there will be no easy money from a possibly successful contingency lawsuit, chances are good the slime-ball attorney will not pursue the case.

- **Simple Interest Options:** You sell a house to a buyer. You receive a buy back option from the buyer. Your buy-back price is the strike price plus 8% simple interest. The optionor (the person giving the option) will get a guaranteed rate of return IF you exercise your buy back option.

Ways to Protect Your Option

If you record *just* the option, or you record a memorandum of option, the chances are good that if the property owner sells or refinances his property and a title search is done, your option can be ignored. This doesn't make the option go away; it just means that in order to retroactively enforce it, you'll need to get involved in an expensive legal battle in which you'd rather not be.

Remember that an option is an obligation on the part of the seller/optionor to sell.

But it can become a *secured* obligation that the seller/optionor, or a buyer interested in purchasing the seller's property, can't ignore. Early in this course, Vena wrote a great piece about mortgages and deeds of trust; how they secure promises to properties. Be sure to go back and read this.

An important lesson I learned from Jack Miller is this: The better your option is secured, the more valuable your option becomes.

Important Things to Know About Options

Option Consideration Doesn't Need to be Cash

Many investors believe that to get an option you must pay (cash) for an option. Not true. Cash is a conduit, but it's certainly not the only conduit. Consideration can be cash, but it doesn't have to be cash. The consideration must be something both parties find of value.

We've often found that relieving the seller from the stress of their situation, solving their uncomfortable circumstance, is the only "consideration" they require.

Options and Taxation

If you give a property owner $3,000 for the right to buy their house at some point in the future, and the $3,000 consideration fee will **NOT** be applied to purchase price, the $3,000 is considered income to the property owner in the year he received it. Taxes are owed.

If the $3,000 option consideration fee **WILL BE** applied to purchase price, then it's part of their capital gain (if any) if/when you exercise option. No taxes are owed.

Abandoning an Option

You can abandon an option with no adverse consequences other than the loss of the option fee. You're going in knowing the total amount you have at risk in the deal. You can't say that about most real estate investing transactions.

Use Options to Escape Drudgery

You can use options to capture the benefits you want most, but you can also structure options to escape the drudgeries of property ownership you hate most.

Case in point: You love the upside and cash flow received when owning investment real estate, but you hate management and maybe you don't need the tax benefits. Sell your investment property to an investor who possesses great management skills. In return, you take back an option that allows you to capture part of the property's upside and monthly cash flow.

The 2 Sides of the "Bet"

With an option, the owner of the property is betting you won't exercise the option, or if he has a buyback agreement, that he'll be able to exercise that when it comes time. The best outcome for him is that he gets your option fee, and doesn't have to sell you the property later because you've abandoned the option, or he's been able to buy it back from you.

You're betting that the market and your financial circumstances will make it possible for you to exercise the option, when the time comes, and you'll make a profit when you do, or that you'll make a profit because the seller will buy back your option at a profit.

Only time will tell who wins the bet…or whether, as often happens, you BOTH do.

A common outcome in long-term options is that the owner/optionor decides he no longer wants the house BEFORE you're ready or required to buy. Then a whole new negotiation takes place: You have a right to buy the formerly $400,000 house, which is now a $500,000 house, for $300,000, so you agree with the seller that he can sell it for $500,000, give you $100,000, and keep the other $100,000 for himself.

How to Get Profit Without Risk in Uncertain Times

As real estate investors, we seek profit, but in seeking profit, we incur risk. How can we be sure the property will increase in value? What if a virus hits the country, or suddenly banks quit lending and go under once again?

Learn to use deal-structuring tools that reduce risk while maximizing profit. No tool does this as well and safely as options. Yet few investors use options. They don't understand their power or how they work. They just know it as the single word *leaseoptions*.

During the coronavirus pandemic, house prices may fall or rise. Maybe the music stops, maybe it doesn't…either way, be prepared. Be safe.

During these uncertain times, you can buy a house now, borrow the purchase money, sign an IOU, which puts you on the hook no matter what.

Instead, might you acquire an option and a lease on a nice home that you like? Wouldn't this be safer than being on the hook in uncertain times while still allowing you to capture many of the benefits of ownership?

The Hair on the Back of Your Neck

When working with someone, in whatever capacity, if they raise the hair on the back of your neck, don't do the deal with them. Get gone!

The Goal is More Profit and Less Risk

The goal of investors is to make a profit. In trying to make a profit, you incur risk. You should focus on reducing this risk. This makes for safer investments. Options are a great risk-reducing tool.

Why Options are Safer Than Borrowing

When you borrow money to buy a property, you make a promise to repay. When you buy an option from a property owner, there is no promise to repay. You have the right to buy the property, but you're not obligated to buy the property. It is a very safe creative deal structuring tool that should be used when the situation warrants.

Know Before Pulling the Trigger

Your goal as optionee is to gain control of a property for as long as possible. This allows you to see what the property does, how the area does, before pulling the trigger.

What is the Property Owner Getting and Giving Up

For a homeowner, the difference between a pure option and borrowing money from the bank is:

- With the option, there won't be any debt against the property, no monthly payments owed, no interest charged, no principal to pay back.

- They can keep the consideration fee if you fail to exercise the option.

- The option fee, if it will be applied to the purchase price of the property, is not taxed until the option is either exercised or the option expires.

What is the property owner giving up in return for what he's getting?

- If the investor exercises his option and buys the property, the seller gets to keep all the equity (if structured this way) that he had in the house on the day the investor purchased the option.

- Any equity above the strike price goes to the investor, or if negotiated, can be split between the seller (optionor) and the investor (optionee).

State Laws Control Options

An option is a creature of the state. Your state's laws control options in your state. Each state's laws are different when it comes to options. Hire good legal counsel. Be aware of your state's laws. You are 100% responsible for every deal you do! Any documents you get from me probably will ***NOT*** work in your state!

Leverage Without Debt

As Kim and I have grown older, we're now in our 60s, we're more focused on safety than on yield. When we started, it was the other way around. When we were building the empire, yield through debt financing was extremely important to us. It allowed us to magnify growth. That said, we were mindful of debt leverage because it's a double-edged sword. Yes, it can magnify growth, but it can also magnify loss.

The safety we seek is to avoid bad decisions that can allow our empire to be stolen from us. Options allow us to accomplish this goal because they are a tool that allows leverage without debt financing.

Remember:

- Debt financing is a claim on future ***earnings***

- Equity financing is a claim on future ***growth***

The big difference between debt financing and equity financing is that debt financing is dangerous while equity financing is not.

With debt financing, if the *property* doesn't pay the debt, then *you're* responsible for paying the debt. In the case of equity financing, participants share gains and losses, but it doesn't come from their savings.

So why do most flippers, wholesalers and landlords strictly rely on debt financing? Because they don't know any better. They never learned about the power of options. It's a crying shame!

A Great Jack Miller Lesson

I took Jack Miller's option courses a number of times. He was the king of options! There's nobody better at teaching options than Jack Miller. I sure miss this great man. He did so much for Kim and me!!!

The following Jack lesson is what caused me to drink the options Kool-Aide back in the late 1990's.

> "Not only are options a *great tool* to use in every conceivable real estate transaction, it is often the *best tool* to use in every conceivable real estate transaction. Now for icing on the cake: almost nobody has a clue about the full potential of options – including your competitors!"

Parts of an Option

Time

With an option, you want the option to be as long as possible. To quote Pete Fortunato, "You want to throw that football as far down the field as possible."

In addition, build into each option language that allows you to do an option extension if needed.

Here's an example of what happened to Kim and me when we failed to add extension language into one of our options.

In 2006, we received an option on a property. We traded a new central air conditioning system ($3,000) for the right to buy the property anytime in the next three years. We *knew* the property's value would continue skyrocketing. The market was H-O-T! What could possibly go wrong?

We did not *see* 2007 coming. Our option was only a three-year option because we were overconfident. Our strike price (purchase price) was a fixed price based on the property's fair market value in 2006. In addition to not making the option long enough, we also failed (because the property owner said no) to capture the property's amortization (mortgage paydown) benefit.

Because property appreciation stopped in 2006, and values started falling in 2007, and plummeting in 2008, by the time our option was due to expire, the property was worth well below our strike price.

Our option expired. We were out $3,000. The property owner is still enjoying "our" air conditioning system to this day.

If only we had built option-extension language into our option. We learned a lot from this deal.

Consideration

Option consideration is a powerful and unique thing. It is NOT a loan. It can be tax-free money up until the time the option is or is not exercised. The optionor does NOT owe the money back. No payment will be paid. No interest will be charged.

Strike Price

This is the agreed-to purchase price of the property. It can be a predetermined amount. It can also be determined by a pre-agreed-to formula. Example: The THEN balance of the mortgage when the option is exercised.

Examples of Pure Options

Boyd Mountain Road

During this workshop, we've looked at the Boyd Mountain Road property (our horse ranch) numerous times.

This time, let's focus on the Pure Option the buyer gave me at closing. This option gave Kim and me the right to buy the property back at any time during the next 30 years for $300,000.

On the following pages you'll see the full option agreement that the buyer/optionor gave me a closing. In addition, you'll see the recorded security instrument that was used to secure the option to the property.

Following the recorded option, you'll see the recorded document that canceled my 30-year option.

Finally, you'll see the one-year buyback option I gave the buyer at closing. This one-year option gave the buyer the right to purchase my option anytime in the next 12 months per $197,900.

Here are some interesting sections in this 30-year purchase option agreement:

- In the CONSIDERATION paragraph, noticed that the option consideration was not money.

- In the OPTION AGREEMENT DATES paragraph, notice that I agreed not to exercise my option for the first year.

- In the IF THE OPTION IS EXERCISED paragraph, notice the use of examples.

- In the REPAIRS paragraph, notice that for every dollar of repair cost I'm forced to pay, three times that amount will be deducted from my strike price.

- In the PENDING FORECLOSURE paragraph, notice that I have the right to immediately exercise my option and by the property subject to the property owner's mortgage.

- In the CONVEYANCE paragraph, noticed that when/if I exercise my option, I have the right to buy the property subject to the property owner's mortgage.

- In the OPTION EXTENSION paragraph, notice that if I pay the optionor $5000, it will apply to the strike price, plus he must extend the option an additional 10 years. That makes this a 40-year, not 30-year option!

Security Instrument – Page 1

(a)

DOC# 011409
FILED IN OFFICE
9/6/2018 10:14 AM
BK:3032 PG:86-94
MELBA SCOGGINS
CLERK OF SUPERIOR COURT
BARTOW COUNTY

RECEIVED
Clerk of Superior Court - Bartow Co. Ga
09/06/2018 09:00 AM

Return To:
Bill and Kim Cook
P.O. Box 22
Adairsville, GA 30103

STATE OF **GEORGIA**
COUNTY OF **BARTOW**

SECURITY INSTRUMENT

THIS INDENTURE, made the 31st day of **August, 2018**, is between **Jocobus P. Botha and Carla I. Botha** of the County of **Bartow**, and State of **Georgia**, as party or parties of the first part, hereinafter called Grantor, and **Bill Cook and Kim Cook,** his/her/their/its heirs, successors and administrators and assigns, whose address is **P.O. Box 22, Adairsville, Georgia 30103**, party of the second part, hereinafter called Grantee:

OPTIONEE'S PHONE NUMBER: **770-815-8727**

OPTIONEE'S ADDRESS: **P.O. Box 22, Adairsville, Geogia 30103**

WITNESSETH, that Grantor, for and in consideration of **the Optionee selling the Optionor the Subject Property for $300,000 that's acknowledged to be well below market value based on the $505,000 appraisal dated August 20, 2018 and prepared by John David Hale,** in option consideration given at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, alienated, conveyed and confirmed, and by these presents does grant, sell, alien, convey and confirm unto said Grantee, successors and assigns, the following described property, to wit:

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION, ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

(Property also known by the street address: 141 Boyd Mountain Road, Adairsville GA 30103)

SEE EXHIBIT "B" FOR OPTION AGREEMENT, ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

TO HAVE AND TO HOLD the said bargained premises with all and singular the rights, members and appurtenances thereto appertaining, to the only proper use, benefit and behoof of Grantee, successors and assigns, in fee simple; and Grantor, the said bargained premises, unto Grantee, successors and assigns, against Grantor, and the heirs, executors and administrators of Grantor, and against all and every other person or persons (except as may be otherwise expressly stated herein) shall and will WARRANT AND FOREVER DEFEND.

This conveyance is made to secure the performance of an option of even date entered into by the parties to the agreement, and upon exercise of said option hereby secured or on expiration of option, this Security Instrument shall be cancelled and surrendered pursuant thereto, the option hereby secured being

1

Security Instrument – Page 2

one option agreement of even date, for which an option consideration of the Optionee selling the Optionor the Subject Property for $300,000 that's acknowledged to be well below market value based on the $505,000 appraisal dated August 20, 2018 and prepared by John David Hale as given and the final date on which option may be exercised is August 31, 2048, after which said option shall be null and void, unless such final exercise date is extended by agreement of the parties.

Any conveyance of the within described property (except a conveyance by operation of law or for the sole purpose of securing a debt) without the prior written consent of the Grantee herein, its successors and assigns, shall constitute a default under the terms of this Security Instrument and option secured hereby.

Any default under any prior or subordinate liens, Security Instrument or other matters having priority over or subordinate to this Security Instrument shall constitute a default under the terms of this Security Instrument.

And the said Grantor hereby covenants, for the term of the option, to keep the said premises in as good condition as they now are; to pay all taxes and assessments that may be liens upon said premises, as they become due; and to keep the improvements on said premises insured in company or companies acceptable to said Grantee against loss or damage by fire and lightning, and extended coverage, in an amount sufficient to cover any losses; with loss, if any, payable to said Grantee, and shall deliver the policies of insurance to the said Grantee; and that any tax, assessment, payment on any prior lien, or premium of insurance, not paid when due by Grantor, may be paid by the Grantee, and any sum so paid shall be added to the amount of said option consideration as part thereof, and shall be covered by the security of this Security Instrument .

Should the said Grantee be due any money for damages covered by insurance and at such time Grantee chooses to cancel his option, Grantee shall be paid $197,900.00 as full liquidated damages and upon such payment, said option shall be cancelled and of no force and effect; or, Grantee may choose for all insurance monies to be paid over, either whole or in part, to said Grantor to enable said Grantor to repair or replace improvements, or for any other purpose, without affecting the lien of this Security Instrument for the option secured hereby before such damage or such payment took place.

If Grantor fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Grantee's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations), then Grantee may do and pay for whatever is necessary to protect the value of the Property and Grantee's rights in the Property. Grantee's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorney's fees and entering on the Property to make repairs. Although Grantee may take action under this paragraph, Grantee does not have to do so.

Three times the amount of any disbursement by Grantee under this agreement shall become debt of Grantor also secured by this Security Instrument. Unless Grantor and Grantee agree to other terms of payment, these amounts shall bear interest from the date of disbursement at fifteen percent per annum, compounded monthly, and shall be payable, with interest, upon notice from Grantee to Grantor requesting payment. In addition, an administrative fee of 10% of amounts advanced, fifty dollars minimum, shall be assessed; however, such fee will only be assessed once for each default and shall not accrue interest. Grantor shall make immediate payment of such monies advanced including administrative fees. Failure of Grantee to demand immediate payment does not waive Grantee's right to collect such monies.

And Grantor further covenants and agrees that the possession of said premises, during the existence of said indebtedness, by Grantor, or any persons claiming under Grantor, shall be that of tenant under Grantee, or assigns, during the due performance of all the obligations aforesaid, and that in case of a sale as hereinafter provided, Grantor, or any person in possession under Grantor, shall then become and be tenants holding over or tenants at sufferance and shall forthwith deliver possession to the purchaser at such sale, or be summarily dispossessed, in accordance with the provisions of law applicable to tenants holding over.

Time being of the essence of this contract, in the event of default in the Option hereby secured, either in due course or by acceleration as herein provided, or in the event of default in the performance of any of the obligations required of the Grantor by the terms of this Security Instrument, the Grantee shall be entitled to have a receiver appointed for the property herein described, in connection with or as a part of any proceeding to foreclose this Security Instrument or to enforce any of its terms or the collection of all or any part of said debt and Grantor agrees to the appointment of such receiver without proof of insolvency or other equitable grounds and hereby appoints the Grantee as attorney in fact with authority to consent for the Grantor to the appointment of such receiver.

In the case the Grantor fails to transfer title to the Property within ten days of notice of exercise of said Option hereby secured, or by reason of a default as herein provided, Grantor hereby grants to Grantee and assigns, the following irrevocable power of attorney: To sell the said property at auction, at the usual place for conducting sales at the Court House in the county where the land or any part thereof lies, in said State, to the highest bidder for cash, after advertising the time, terms and place of such sale once a week for

Security Instrument – Page 3

BK:3032 PG:88

four weeks immediately preceding such sale (but without regard to the number of days) in the newspaper published in the county where the land lies, or in the paper in which the Sheriff's advertisements for such county are published and after giving any notice as may be required by Code § 44-14-162.2, all other notice being hereby waived by Grantor, and Grantee or any person on behalf of Grantee, or assigns, may bid and purchase at such sale and thereupon execute and deliver to the purchaser or purchasers at such sale a sufficient conveyance of said premises in fee simple, which conveyance shall contain recitals as to the happening of the default upon which the execution of the power of sale herein granted depends, and the Grantor hereby constitutes and appoints Grantee and assigns, the agent and attorney in fact of Grantor to make such recitals, and hereby covenants and agrees the recitals so to be made by Grantee, or assigns, shall be binding and conclusive upon Grantor, and the heirs, executors, administrators, and assigns of Grantor, and that the conveyance to be made by Grantee or assigns, shall be effectual to bar all equity of redemption of Grantor or the successors in interest of Grantor, in and to said premises, and Grantee or assigns, shall collect the proceeds of such sale, and after reserving therefrom the entire amount of option consideration, together with the amount of any taxes, assessments and premiums of insurance or other payments theretofore paid by Grantee, with accrued interest as specified from date of payment, together with all costs and expenses of collection and sale and 15% of the aggregate amount due for attorney fees, Grantor, or the heirs or assigns of the grantor, gets up to $300,000 including any underlying debt as provided by law.

The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

This Security Instrument and the option hereby secured shall be deemed and construed to be contracts executed and to be performed in Georgia; and the invalidation of any portion shall not invalidate the remainder.

IN WITNESS WHEREOF, Grantor has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered
in the presence of:

(SEAL)
WITNESS

Jocobus P. Botha - Grantor

(SEAL)
NOTARY PUBLIC

Carla I. Botha - Grantor

L. LEE PERKINS
NOTARY PUBLIC
APRIL 22 2020

3

Option Agreement – Page 1

BK:3032 PG:91

EXHIBIT "B"

OPTION AGREEMENT

STATE OF GEORGIA

COUNTY OF BARTOW

This Option Contract made this **31st day of August, 2018**, between **Jocobus P. Botha and Carla I. Botha**, his/her/their/its heirs, successors, administrators and assigns, hereinafter called the Optionor, whose address and contact information is **141 Boyd Mountain Road, Adairsville, Georgia 30103**, and **Bill Cook and Kim Cook**, his/her/their/its heirs, successors, administrators and assigns, hereinafter called the Optionee, whose address and contact information is **P.O. Box 22, Adairsville, Georgia 30103.**

OPTIONEE'S PHONE NUMBER: **770-815-8727 or 770-815-8728**

OPTIONEE'S ADDRESS: **P.O. Box 22, Adairsville, Georgia 30103**

SUBJECT PROPERTY: The Property with the mailing address of **141 Boyd Mountain Road, Adairsville, Georgia 30103**, and with the legal description of:

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION, ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

Whereas Optionor desires to grant an option to purchase and the Optionee desires to receive an option to purchase the Subject Property described above, the Optionor and Optionee agreed to the following:

1. **CONSIDERATION**: The Optionor, in consideration for receiving an Option Consideration of **the Optionee selling the Optionor the Subject Property for $300,000 that the Optionor acknowledges is well below market value based on the $505,000 appraisal dated August 20, 2018 and prepared by John David Hale,** along with other good and valuable consideration, the receipt whereof is hereby acknowledged, acknowledges that the Optionee has an *exclusive right* to buy the above described property (Subject Property).

1

Option Agreement – page 2

BK:3032 PG:92

2. **OPTION AGREEMENT DATES:** This Option Agreement begins on the **31st** day of **August** (month), **2018**. This Option Agreement expires on the **31st** day of **August**, **2048**. The Optionee may exercise his/her/their/its right to purchase the property at any time after **August 31, 2019** and on or before **August 31, 2048**. The Optionee must notify Optionor in writing of intent to purchase at least 30 days prior to purchasing. (Notice shall be deemed given if mailed by certified mail on the day following postmark on the certified mail receipt.)

3. **IF OPTION IS *NOT* EXERCISED:** Should Optionee, or his/her/their/its heirs, successors, administrators and assigns, not exercise this option to purchase the property prior to the option expiration date, the Optionor may retain all consideration as full liquidated damages and all obligations of each party shall terminate.

4. **IF OPTION *IS* EXERCISED:**

    a. The Total Purchase Price of the property will be **Three Hundred Thousand Dollars and 00/XX ($300,000.00).**

    EXAMPLE: The Total Purchase Price for the property is $300,000. If the Optionee exercises his/her/their/its option to purchase the Subject Property, the total amount owed to the Optionor at the time of purchase will be $300,000.

    b. Closing Costs: Closing costs to purchase Subject Property will be paid by the Optionee

    c. The closing shall take place at a location, date, time, and with an attorney designated by the Optionee.

5. **REPAIRS:**

    a. If, at any time during the term of this option, Optionee believes repairs need to be made to the Subject Property, the Optionee will inform the Optionor. The Optionor promises to make the needed repairs within 7 days. If the Optionor, for whatever reason, fails to make the needed repairs within 7 days, then the Optionee can have the needed repairs made, and then three times the cost of the repairs will be deducted from the Optionee's Total Purchase Price of $300,000.

    EXAMPLE: The Optionee informs the Optionor that the Subject Property needs the roof repaired and the repair will cost $4,000. The Optionor contracts and pays to have the roof repaired.

    However, if Optionor does not, for whatever reason, repair the roof, then Optionee, to protect the property and Optionee's interest in the property, contracts and pays for the roof repair. The roof repair costs the Optionee $4,000. The Optionor will then deduct $12,000 from the Optionee's Total Purchase Price making the new Total Purchase Price $288,000 ($4,000 repair cost x 3 = $12,000. Then $300,000 - $12,000 = $288,000 Total Purchase Price).

2

Option Agreement – page 3

BK:3032 PG:93

6. **PENDING FORECLOSURE:** At any time and for any reason, if Subject Property is advertised for foreclosure in the county paper of record, at the Optionee's request, the Optionor agrees to immediately transfer title of the Subject Property to the Optionee subject to existing incumbrancers.

7. **CONVEYANCE:** If Optionee notifies Optionor or Escrow Agent within the above time limit of the Optionee's intent to take legal title to the Subject Property, then, within 14 days of receipt of such notice, Optionor will deliver fee simple title to the Optionee, or Optionee's heirs or assigns, by Warranty Deed, free and clear of all liens or encumbrances, except those of record on this date, which Optionee may take title subject to. Optionor warrants that the existing mortgage(s) will be current in all payments of principal, interest and escrow amounts required by the Mortgagee when legal title transfers. Optionor will not further encumber the Subject Property after the date of this Option Agreement. This contract may be recorded at the Optionee's expense. Optionee will pay costs of recording and documentary stamps upon transfer. In the event of a foreclosure or bankruptcy of the Optionor, the Optionor's right of redemption (if any) shall transfer to the Optionee without further compensation and this contract shall serve as conveyance without further action.

8. **SHOULD OPTIONOR FAIL:** Should Optionor fail, for whatever reason, to deliver marketable title to Optionee, the Optionor shall immediately pay the Optionee **$400,000.00**. This sum shall constitute liquidated damages in full settlement of all claims of Optionee. It is agreed to by the parties that such liquidated damages are not a penalty and are a good faith estimate of Optionee's actual damages, which are difficult to ascertain.

9. **OPTION EXTENSION:** At any time during this Option Agreement, Optionee may extend this Option Agreement by an additional **10 years** by paying Optionor an Option Extension Fee of **$5,000.00**. The entire amount of the Option Extension Fee will be subtracted from the Total Purchase Price.

10. **RECORDABLE:** This Option Agreement may be recorded.

11. **GOVERNING LAW:** This Agreement, and all transactions contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the state of **Georgia**.

12. **TIME:** Time is of the essence for this Option Agreement.

13. **SEVERABILITY:** In the event any part of this Option Agreement be construed as unenforceable, the remaining parts of this Agreement shall remain in full force and effect as though the unenforceable part or parts were not written into this Option Agreement.

14. **ENTIRE AGREEMENT:** This Agreement and any attached addendum constitutes the sole and entire Agreement between the parties, and no representation, promise, or inducement not included in this Agreement, oral or written, shall be binding upon any party hereto.

IN WITNESS WHEREOF, the parties have signed this Agreement the day and year first above written. If more than one party is shown as Optionor or Optionee, and should less than all sign,

3

Cancellation of Security Instrument

DOC# 011113
FILED IN OFFICE
9/4/2019 01:10 PM
BK:3117 PG:447-448
MELBA SCOGGINS
CLERK OF SUPERIOR COURT
BARTOW COUNTY

RECEIVED
Clerk of Superior Court - Bartow Co. Ga
09/04/2019 01:06 PM

When recorded return to:
K. Anderson as Trustee
P.O. Box 22
Adairsville GA 30103

CANCELLATION OF SECURITY INSTRUMENT

STATE OF **GEORGIA**
COUNTY OF **BARTOW**

The indebtedness referred to in that certain Security Instrument from **Jocobus P. Botha and Carla I. Botha** to **Bill Cook and Kim Cook**, dated **August 31, 2018**, and filed of record on **September 6, 2018** in Deed Book **3032**, Page **86 - 94**, in the office of the Clerk of the Superior Court of **Bartow** County, Georgia, having been paid in full and cancelled by the undersigned being the present record holder and owner of such deed; or the undersigned being the present owner of such secured interest by virtue of being the original grantee or the heir, devisee, executer, administrator, successor, transferee or assignee, or the servicing agent to whom indebtedness was paid on behalf of or by grantor, Clerk of such Superior Court is authorized and directed to cancel that deed of record, as provided in Code Section 44-14-4 of the O.C.G.A. for other secured cancellations.

Property address: 141 Boyd Mountain Road, Adairsville GA 30103

In witness whereof, the undersigned has set hand and seal, this **4th** day of **September, 2019.**

By: **Bill Cook**

By: **Kim Cook**

Witness: **David Hissem**

Notary

TERRAH WHITLOCK
NOTARY PUBLIC
BARTOW CO., GEORGIA
MY COMMISSION EXPIRES
OCT. 2 2019

1

Buyer's One Year Buy Back Option – page 1

BUYER'S BUY-BACK OPTION AGREEMENT

STATE OF GEORGIA

COUNTY OF BARTOW

Date: This Option Agreement is made on **August 31, 2018**.

Between: **Bill Cook and Kim Cook** and his/her/their/its heirs, successors, administrators and assigns, hereinafter called the Optionor (the one ***selling*** this option), and **Jocobus P. Botha and Carla I. Botha** and his/her/their/its heirs, successors, administrators and assigns, hereinafter called the Optionee (the one ***buying*** this option).

Subject Option: The option made on the **31st day of August, 2018**, between **Jocobus P. Botha and Carla I. Botha**, his/her/their/its heirs, successors, administrators and assigns, hereinafter called the Optionor, whose address and contact information is **141 Boyd Mountain Road, Adairsville, Georgia 30103**, and **Bill Cook and Kim Cook**, his/her/their/its heirs, successors, administrators and assigns, hereinafter called the Optionee, whose address and contact information is **P.O. Box 22, Adairsville, Georgia 30103. (See Exhibit "A")**

Whereas Optionor desires to grant an option to purchase and the Optionee desires to receive an option to purchase the above described Subject Option, it is agreed as follows:

1. **CONSIDERATION**: The Optionor, in consideration for being paid a **Non-Refundable Option Consideration Fee** of **$1.00** along with other good and valuable consideration, acknowledges that the Optionee has an exclusive right to purchase the above described Subject Option.

2. **OPTION AGREEMENT DATES:** This Option Agreement begins on the **31st** day of **August, 2018**. This Option Agreement expires on the **31st** day of **August 2019**.

3. **IF OPTION IS *NOT* EXERCISED:** Should Optionee, or his/her/their/its heirs, successors, administrators and assigns, not exercise this option to purchase the Subject Option prior to the option expiration date, the Optionor may retain all consideration as full liquidated damages and all obligations of each party shall terminate.

4. **IF OPTION *IS* EXERCISED:**

    a. The purchase price of the Subject Option will be **One Hundred and Ninety-seven Thousand Nine Hundred and 00/XX Dollars ($197,900.00)**. This $197,900.00 will be the net to the Optionor.

    b. The option to purchase will take place at Lee Perkins' law office, or another place agreed to by both the Optionor and Optionee.

Optionee Initials _____ Optionee Initials _____ 1

Buyer's One Year Buy Back Option – page 2

5. **NON-ASSIGNABLE:** The Optionee cannot assign this Option Agreement to a third party without the Optionor first agreeing to the assignment ***in writing***.

6. **NON-RECORDABLE:** This Option Agreement shall NOT be recorded.

7. **GOVERNING LAW:** This Agreement, and all transactions contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the state of **Georgia**.

8. **TIME:** Time is of the essence for this Option Agreement.

9. **SEVERABILITY:** In the event any part of this Option Agreement be construed as unenforceable, the remaining parts of this Agreement shall remain in full force and effect as though the unenforceable part or parts were not written into this Option Agreement.

10. **ENTIRE AGREEMENT:** This Agreement and any attached addendum constitutes the sole and entire Agreement between the parties, and no representation, promise, or inducement not included in this Agreement, oral or written, shall be binding upon any party hereto.

IN WITNESS WHEREOF, the parties have signed this Agreement the day and year first above written. If more than one party is shown as Optionor or Optionee, and should less than all sign, then the party or parties signing warrant they are acting as agent to sign for any party not signing this Agreement.

I/We have read and understand this Option Agreement. I/We have been advised that if we have any questions, that we should seek legal council before signing. I/We have received a copy the Option Agreement prior to signing. I/We understand that no oral statements made by the Optionor and/or the Optionor's representatives shall be binding and that the written and printed material contained herein is the sole agreement between the parties.

This Option Agreement was signed on August 31, 2018.

_____ (sign)
Optionor (Print) _____

_____ (sign)
Optionor (Print) _____

_____ (sign)
Optionee (Print)_____

_____(sign)
Optionee (Print)_____

Optionee Initials _____ Optionee Initials _____ 2

Winston Drive

The Winston Drive option is an example of how a purchase option can be used when a homeowner, who doesn't want to sell nor move, and needs repair work done to their home, but can't afford to pay for it.

It is much safer for the homeowner to sell you an option than it is for him to go to a bank, get a loan, incur new debt, and face an increase in monthly debt payments.

This is known as a strategic option. With all of our strategic options, we secure them to the property using a mortgage/trust deed.

Option Agreement – page 1

OPTION AGREEMENT

(Granting the Optionee the Exclusive Irrevocable Right and Option to Purchase Real Property)

STATE OF GEORGIA

COUNTY OF BARTOW

This Option Contract made this **14th day of May, 2020**, between **Tom Smuthers**, whose address and contact information is **12 Winston Drive, Cartersville GA 30121**, and his successors, hereinafter called the Optionor, and **Bill Cook**, whose address and contact information is **P.O. Box 22, Adairsville GA 30103**, and his successors and assigns, hereinafter called the Optionee.

OPTIONEE'S PHONE NUMBER: 770-815-8727

OPTIONEE'S ADDRESS: P.O. Box 22, Adairsville GA 30103

SUBJECT PROPERTY: The Property with the mailing address of **12 Winston Drive, Cartersville GA 30121**, and with the legal description of:

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION, ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

SEE EXHIBIT "C" FOR LIST OF MORTGAGES AND LEINS ATTACHED TO SUBJECT PROPERTY AT TIME THIS OPITON AGREEMENT WAS SIGNED BY OPTIONOR AND OPTIONEE

Whereas Optionor desires to grant an option to purchase and the Optionee desires to receive an option to purchase the Subject Property described above, the Optionor and Optionee agreed as follows:

1. **CONSIDERATION**: The Optionor, in consideration for receiving an Option Consideration Fee of having a new roof (roof decking & shingles) and new gutters**,** along with other good and valuable consideration, the receipt whereof is hereby acknowledged, acknowledges that the Optionee has an *exclusive irrevocable right* to buy the above described property (Subject Property).

2. **OPTION AGREEMENT DATES:** This Option Agreement begins on the **14th** day of **May** (month), **2020**. This Option Agreement expires on the **1st** day of **May** (month), **2035**. The Optionor grants to Optionee the right to purchase the Subject Property. The Optionee may exercise right to purchase the Subject Property at any time after **May 14, 2020** and on or before **May 1, 2035**. The Optionee must notify Optionor in writing of intent to purchase at least 14 days prior to purchasing. Notice shall be deemed given if mailed to Optionor's last known address and mailed by certified mail with return receipt requested on the day following postmark on the certified mail receipt.

Option Agreement – page 2

3. **IF OPTION IS *NOT* EXERCISED:** Should Optionee not exercise this option to purchase the property prior to the option expiration date, the Optionor may retain all consideration as full liquidated damages and all obligations of each party shall terminate.

4. **IF OPTION *IS* EXERCISED:**

    a. The Total Purchase Price of the Subject Property will be **One Hundred and Twenty-five Thousand Dollars ($125,000.00).** *All* of the Optionee's Option Consideration Fee will apply to the property's Total Purchase Price. The cost of the roof and gutters totals $9,300.

    EXAMPLE: The Total Purchase Price for the property is $250,000. The Option Consideration Fee paid by the Optionee is $1,000. In the event the Optionee exercises this option to purchase the Subject Property, the total amount owed to the Optionor at the time of purchase will be $249,000. ($250,000 Total Purchase Price - $1,000 Option Consideration Fee = $249,000 to the Optionor)

5. **REPAIRS:** If Optionee believes repairs need to be made to the Subject Property, the Optionee will inform the Optionor in writing sent by U.S. mail. The Optionor agrees to make the needed repairs within 7 days. If the Optionor, for whatever reason, fails to make the repairs within 7 days, then the Optionee may have the needed repairs made, and then three times the cost of the repairs made will be credited to the Optionee's Option Consideration Fee. *All* of the Optionee's Option Consideration Fee will be credited to the cash owed to the Optionor in the event the Optionee exercises this Option and purchases Subject Property.

    EXAMPLE: The Optionee informs the Optionor that the Subject Property needs the roof replaced and the repair will cost $8,000. The Optionor contracts and pays to have the roof repaired. The matter of the repair has been agreeably handled.

    On the other hand, if Optionor fails, for whatever reason, to replace the roof, the Optionee, to protect the property and the Optionee's interest in the property, pays $8,000 to have the roof replaced. The Optionee will then be credited $24,000 toward the Optionee's Option Consideration Fee ($8,000 repair cost x 3 = $24,000. All of the Optionee's Option Consideration Fee will apply to the Total Purchase Price in the event the Optionee exercises this Option.*)*

6. **OPTION EXTENSION:** Optionee may extend this Option Agreement to **May 1, 2040** by paying Optionor an Option Extension Fee of $**1,000.00** on or before the date this Option Agreement expires. The entire amount of the Option Extension Fee will apply to the Option Consideration Fee. *All* of the Optionee's Option Consideration Fee will be credited to the cash owed (if any) to the Optionor when legal title transfers.

7. **CONVEYANCE:** If Optionee shall notify Optionor of Optionee's intent to take legal title to the Subject Property before this Option terminates, then within 14 days of receipt of such

Option Agreement – page 3

notice, Optionor will deliver fee simple title to the Optionee, or Optionee's heirs or assigns, by Warranty Deed, free and clear of all liens or encumbrances, except those of record on this date.

Optionor warrants that the existing mortgage(s) will be current in all payments of principal, interest and escrow amounts required by the Mortgagee when legal title transfers, and that there will be no outstanding property taxes or governmental assessments.

Optionor will not further encumber the Subject Property after the date of this contract, and this contract may be recorded at the Optionee's expense. *The recording of this contract puts the Public on notice that all liens and encumbrances filed subsequent to this contract will automatically extinguish upon the exercise of this contract.*

In the event of a foreclosure, or bankruptcy of the Optionor, the Optionor's rights of redemption shall transfer to the Optionee without further compensation and this contract shall serve as conveyance without further action.

8. **SPECIAL PROVISIONS:** No agreements, unless incorporated herein, shall be binding upon the Optionee or the Optionor. Prorations and adjustments upon transfer of title will be based upon date of transfer.

9. **OPTIONEE PROTECTIVE CLAUSE:** In the event the Optionor defaults on any mortgage(s) secured to the Subject Property, including non-payment of mortgage, not paying property taxes, not keeping the property insured for at least the cost of replacement, or if a lien or other encumbrance is placed against the property, or if the property is not maintained which causes a reduction in the Subject Property's fair market value, then Title to this property shall immediately pass to the Optionee without further compensation from the Optionor, as partial compensating damages. Optionor agrees Optionee can take title subject-to existing mortgage(s).

10. **RECORDABILITY:** This Option Agreement may be recorded.

11. **ASSIGNABILITY:** The Optionor is not permitted to assign this Agreement. The Optionee is allowed to assign this Agreement.

12. **GRAMERICAL ADJUSTMENTS:** The covenants here contained shall bind and the benefits and advantages shall inure to the successors and assigns of the parties hereto. Whenever used, the singular number shall include the plural and/or the singular; the use of any gender shall include both genders; the use of the word mortgage shall include mortgage and/or deed of trust.

13. **GOVERNING LAW:** This Agreement, and all transactions contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the state of **Georgia**.

14. **TIME:** Time is of the essence for this Option Agreement.

Option Agreement – page 4

15. SEVERABILITY: In the event any part of this Option Agreement be construed as unenforceable, the remaining parts of this Agreement shall remain in full force and effect as though the unenforceable part or parts were not written into this Option Agreement.

IN WITNESS WHEREOF, the parties have signed this Agreement the day and year first above written. If more than one party is shown as Optionor or Optionee, and should less than all sign, then the party or parties signing warrant they are acting as agent to sign for any party not signing this Agreement.

Receipt is hereby acknowledged by Optionor of the sum of **$9,300.00** which will apply to Total Sale Price.

This option is granted by the Optionor to the Optionee on **May 14, 2020**.

_____ _____

Optionor: Optionee:

_____

Witness:

_____

Notary Public

All My Option Offers, by Vena

Prior to 13 months ago, when I realized that I had options all wrong, I had done 2 in my entire life, and they were both for the same reason:

I had a wholesale seller who was in huge trouble, and who I didn't think I'd actually be able to help (since I didn't want either of the totally-wrecked properties myself, and, given the condition and ARV of the properties, didn't think I'd be able to find an intelligent buyer who'd pay even the small sums that were required to stop the tax sale, in one case, or the $3500 for a vacant building license, in the other, to buy them).

While I usually use a purchase agreement to 'tie up' wholesale deals, in these 2 cases I wanted to be absolutely transparent with the sellers that I was in no way guaranteeing that their property would be sold, and that they should in fact continue to try to sell them themselves while I tried to do the same.

A plain-English option is the cleanest way of doing that, so that's what I used. It's on the next page.

Since the day when I finally 'got' the real uses of options—to get future rights to what might be a great deal, or to retain rights in properties I actually did like, but sold anyway, I've made 3 option offers, none of which have panned out:

Offer 1: You don't really want to move, so let me help you not do that.

I talked to a 60-year-old woman who was married to an 80-year-old man and who lived with him in a house that he grew up in.

She called to sell the house, which is in a super-hot area and probably worth $250,000 fixed up, because she'd gotten behind in the payments last winter because her furnace was malfunctioning and creating $900 a month heating bills for a few months. For whatever reason, she chose to pay those instead of her mortgage payments, and she was 7 months—about $5,000—behind and facing an imminent foreclosure.

She could afford the payments on her fixed income; she just couldn't afford to catch up, and the bank wouldn't give her a loan modification, and wouldn't take partial payments to catch up.

She was OK with moving, but was worried about her husband, who really, really wasn't. But the other problem was that the house was long since past the point of being what most of us would consider 'livable'. It needed $25,000 or so in just sheer stabilization work: new windows, roof, gutters, HVAC, and some plumbing work to boot.

So I made her this offer:

- You're offering to sell for $38,000, because that's what you owe + enough money to pay rent on an apartment for a year
- But you don't really want to tell your ailing husband that he has to move out of his childhood home,
- And you also can't really stay there because it's not safe or comfortable for you.
- What I can do is:
    - Catch up your back payments
    - Replace your roof, gutters, windows, furnace and central air, and fix your plumbing
    - And let you live there until he dies
    - In return for the RIGHT to buy it when he does, whenever that is, for $40,000
    - You never have to pay back the $30,000 or so I'll be spending, you just have to sell me the house when you move
- What you'll need to do is keep paying for your taxes, insurance, mortgage, and utilities while you live there, because it's STILL YOUR HOUSE.
- But before you do any of this, I think you should call an eldercare attorney and get them to advocate for you with the bank, because I think if they understood the story, they'd give you a loan modification

She chose option b, got her loan modified, and still lives there.

Offer #2: I'm Really Sorry I Sold You That House

Last spring, I got a house under contract in one of the hottest areas in Cincinnati, for the cheapest price anyone has paid there in at least 2 years.

Because the house needed a lot of work, and I don't do that, I wholesaled it to one of my favorite buyers for a $10,000 fee…and instantly regretted that.

See, this house is a terrible retail deal—on a busy street, on a hill, with limited off-street parking—but a great rental. Like a rental I'd like to own when I die.

So I called said favorite buyer and said, "I'd like to give you back your $10,000 in return for an option to buy HALF the interest in that house sometime in the next 10 years for HALF what I said it would be worth when you fixed it, subject to the loan you have on it now."

I had a whole spreadsheet made up to back up my argument.

- He paid a total of $145 for the house
- He borrowed $180 to buy and fix it
- The ARV was about $240
- I was offering to give him $10,000 to later give him ½ of the difference between $240,000 and whatever he still owed on that loan, and assume ½ the loan
- Which, if I did it tomorrow, would be $240,000-$180,000=$60,000/2=$30,000 – the $10,000 I'd already paid, for a total of $20,000 MORE money

But he didn't even ask. He just said, "Yeah, I could use the $10,000 because I've decided to turn it into an AirBnB and I didn't borrow enough to furnish it."

But that option never closed, because the next week I found out that one of my lease/optioned houses was actually selling, and I was going to have to replace $30,000 in cash and $90,000 in debt in order to avoid paying $25,000 in taxes, so I exchanged into half the ownership of his property, instead.

Offer #3: I'd Like to Make a Bet that You NEVER Get Around to Fixing that House…

This one is still in process, so we'll see if it's my first successful option offer:

A few weeks back, a woman called me and, in a 2 hour long, meandering phone conversation, ALSO told me this story:

- She has a great house near a lake in Indiana
- She moved out a year ago, and has no plan to move back in
- Her agent told her that it would sell for $425,000 if she put $25,000 worth of work into it
- She really wants to do that, and thinks she has the skills and connections to do it, but she doesn't have $25,000
- She really doesn't want to sell it as-is, but thinks she might have to because the payments are becoming a strain

Her life is kind of a mess: there's a divorce going on, and some health problems, and her kids all moved back in with her during Covid, but what's REALLY bothering her is the idea of some other rehabber making a bunch of money on this deal.

So I made her this offer:

- I'll give you the $25,000 to spend on the rehab
- In return for the right to buy the house for $325,000 (which is what I actually want to pay) in 1 year
- If you fix and sell the house in that year, you can just give me back $30,000 and sell away

She hasn't accepted, but my real estate spidey-senses tell me that if she does, I'll own this house a year from now. She hasn't gotten around to so much as cleaning it out in the LAST 12 months; she won't get around to fixing it in the next 12. But she needs to feel like she has the CHANCE to do that, or she just won't sell at all.

Option To Purchase

This Option to Purchase granted this ____ Day of _____, 20_____ By the Optionor, (seller name here) , whose address is _____ (Hereinafter called "You") to the Optionee your name here, whose address is
(Hereinafter called "Us, We, or Our")

You grant to Us the exclusive right to purchase the property which has the address of _____, ___city___, ___state, zip____ for the price of _____, which shall be paid upon closing of said property, during the period of time beginning and ending _____.

The property shall include all land, together with all improvements thereon, all appurtenant rights, privileges, easements, buildings, fixtures, heating, electrical, air conditioning fixtures and facilities, window shades, Venetian blinds, awnings, curtain rods, screens, storm windows and doors, affixed mirrors, wall-to-wall carpeting, stair carpeting, built-in kitchen appliances, bathroom fixtures, radio and television aerials, landscaping and shrubbery, water softeners, garage door openers and operating devices, and all utility or storage buildings or sheds, oven/ranges, refrigerators, washers, dryers and window air-conditioners included on the premises at the time of execution of this Option to Purchase.

You agree to give Us complete unrestricted access to the property to show it to potential buyers, inspectors, lenders, contractors and anyone else we feel needs to enter the property

Upon exercise of this Option to Purchase by the Us, You will sign a General Warranty deed that gives Us marketable title to the property in fee simple absolute, with release of dower, at closing. The title will be conveyed either to Us or to the person or entity to whom we assign this option.

The title will be title to be free, clear, and unencumbered, except for restrictions and easements of record.

The deed shall be delivered and the purchase money shall be paid to You at the closing location of Our choice, no later than FIVE (5) days after notification to the You of the Our exercise of the option.

There shall be prorated between the You and Us, as of the date of closing, all real estate taxes and assessments, with Us having responsibility for such items following closing, and any rents or security deposits. You will shall be responsible for paying for title search, deed preparation, loan costs, and all other costs associated with closing.

During the term of this option, You will not sell or agree to sell this property to any other party, and will not mortgage the property.

You understand that:

1. We intend to sell this option for a price higher than the price offered here

2. If for any reason We cannot find a buyer at a price exceeding $3,000, We will not purchase the property.

You agree that We may list this property in the Multiple Listing Service of Greater Cincinnati and other real estate listing sites for the purpose of selling this Option to Buy.

IN WITNESS WHEREOF, the parties hereto have set their hands to this Option To Purchase agreement on this ___ day of _____ , 20___.

WITNESS:

witness Optionor

witness Optionor

witness Optionee

Pure Leases

Just as options can be used without leases, leases can be used alone as a deal-structuring technique.

They're useful in a single situation: when a seller has a property he doesn't want to sell (or you, for some reason, don't want to buy), but which would produce enough cash flow as a rental to make you happy.

In other words, it's a pure cash flow strategy: you lease from the owner at a set price, and lease TO a tenant at a much higher price. You don't build equity, you don't get to take depreciation, you don't capture appreciation.

Neither Bill nor I have used this strategy, so we're not going to attempt to teach it, but it's something to keep in mind—and learn more about—if you run across one of these situations:

1. You're a really good property manager, and you have excess capacity—in other words, you could easily and effectively manage more properties than you have. By master leasing other people's properties INSTEAD OF the usual "I'll manage your rental for 10% of gross rent" arrangement, you open up the opportunity to get much MORE cash flow over time by increasing the rents, and keeping the difference. And even if you don't "make more" than a regular property manager, you KEEP more, because your income in a master lease arrangement is in the form of (lower taxed) rent rather than (highly-taxed) self-employment income. You'll be a true patriot, starving the government of money.

2. You meet one of those "sellers" who really hates management, but also lives in terror of ever paying capital gains taxes, and can't make the decision to actually sell, or even option the property, to you. Master leasing it from him—thus taking away both the management he can't/won't do and his fear of being unpatriotic by feeding the government money—also gives you an "in" when he, or his heirs, do finally decide to sell. In fact, you can even add a "First Right of Refusal" to your master lease that says that if he decides to sell, you'll get the first chance to buy.

If you're interested in learning more (and you should be, if you're EITHER a great property manager OR a bad one who should be master leasing your properties to people who are, there's only one place to go from here, and that's DavidTilney.com. David is best at this in the whole country at this, and everyone knows it, and most of the people who make a lot of money doing master leases do it because of his complete, awesome course on the topic.

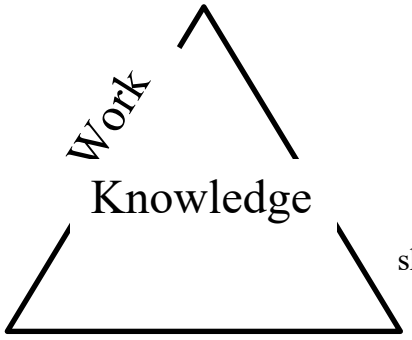
Part 6: Creative Third Party Money: Private Lenders and Partners

Before we launch into what you WANT to hear (Which is, I'm guessing, "Where do I get this money whereof you speak?" let's start where we should ALWAYS start: with the people.

There are a lot of people out there with that money you want.

In fact, there are a lot more of them than there are people like you, who know how to profitably, 'safely'[74] deploy that money into real estate deals—and who are willing to do the work to make those deals happen, and keep them performing.

If we were to draw a picture of the 3 resources that have gone into EVERY real estate deal in the history of real estate deals, it would look like this:



Where:

- **Knowledge** is the skill, training, and/or experience that allows the deal to be located put together in the first place
- **Work** is the actual hours put in on everything from marketing to managing the end result
- **Money** is, well, money. It's the currency that's exchanged for the asset, and that is exchanged for things that need to be done to stabilize and 'perform' the asset, like repairs (work), management (work), paying for expenses while the asset is BEING stabilized, and so on.

There's a very important, very basic concept built in to that simple picture, and it's that each of these 3 "legs" can be, and probably should be, provided by different people.

Which Leg of the Triangle Will You Claim?

The whole theme of this course thus far has been that others—sellers, seller's banks, and now private money people—can occupy, or at least co-occupy, the "money leg". But why should someone who's not you also provide the work leg or the knowledge leg?

Because chances are, you LIKE one of those two legs, or you're BETTER at one of those two legs, than you are at the other.

[74] A word you NEVER want to use when talking to money people, for legal reasons we'll get into later.

If you're a new investor, and you have no money, and you have limited knowledge, then you'd better be willing and able to do the WORK, because you HAVE to provide one of the three, or you bring no value to the deal.

As a new investor it's been suggested to you over and over in this manual that you find ANOTHER person who has the knowledge to take the work you've done and turn it into a profit for them and for you.

But once you're NOT new anymore, you have to ask yourself, and keep asking yourself, an important question: "Do I want to continue to do the WORK?"

By even asking the question, you've taken a big step away from the typical 'solopreneur' mindset of the typical 'real estate investor' (who believes that she must do, or should do, or gets the most benefits from doing, all 3 of these things) and toward the freedom of being a real estate business owner, who understands that there are LOTS of people who are willing to provide money for deals, LOTS of people who are willing to trade their hours for dollars to do the work, and a TINY number of people who have to knowledge to get paid not to put a lot of money or work into deals.

Given that money and work are non-unique—there are a lot of people who can and will provide it, driving its value to the market down—it's the knowledge leg, being the rarest, that's the most valuable to the deal 'marketplace'.

If you believe that (and you should, because it's true), you have to ask yourself whether you get enough joy and satisfaction out of the work of real estate deals—the rehab oversight (or, God forbid, swinging a paintbrush yourself), the tenant management, even the talking of those first calls from seller, most of whom don't have a deal to sell you—to take time away from the really valuable thing you know how to do, which is use you knowledge to structure more deals.

You can get paid, or get pieces of deals, not because you brought money to that deal, and not because you did the physical or ongoing work required to make the deal happen, but because you did the KNOWLEDGE work.

For instance, when Bill puts together a creative deal on a house that he doesn't want, and passes it on to a financial friend as a rental, and takes back an option to buy the property at 90% of its current value, what did he do to 'deserve' the potential 5-figure profit he might reap 2 decades from now?

He didn't provide money—the seller did, and if there was any down payment or rehab money needed, the friend brought it. He won't do any work to manage the rental for the next 20 years—the friend will, or perhaps the friend will pay a property manager to do it.

He provided ONLY the knowledge: about how to do the deal, memorialize the deal in a way that 'secured' it, about how to evaluate the numbers in such a way that they'd be attractive to the friend, and about how to talk to the seller about all of this. Yes, he did a little work up front on this deal, in finding it and sitting at the seller's kitchen table for hours, mostly blabbering about how brilliant and beautiful his friend Vena is but also putting the deal together, and he definitely put in a lot of hours DEVELOPING the knowledge, but other than that, ALL the investment of time and money lies in the court of the friend who buys the deal.

When I wholesale a property, the process actually looks like this:

- Someone else—an outside service—sends out a massive mailing of letters and postcard that I wrote (work)
- A week later, calls start coming in, and my Acquisitions Coordinator—a 1099'd independent contractor—takes those call and interviews the seller (work)
- He runs comps and does some other due diligence per a system I gave him (work)

- He sends the whole package over to me, and I review it and make a decision about what a soft offer should look like (knowledge). If the deal needs to be creative, rather than cash, I often call the seller back myself to explain it (knowledge); otherwise, he calls the seller back to relay the cash offer
- If the seller is open to one of these offers, my partner goes out to inspect it and estimate repair costs (work)
- And sends the results to me for a hard offer (knowledge)
- The acquisitions person writes up and delivers the offer, orders the title search etc.
- If the property is to be wholesaled, my partner finds the buyer (work) and coordinates the closing (work)
- And I get half of the after-expenses check

The total TIME that goes into each successful deal is, on average, 10 hours. If you add in the work that goes into the UNSUCCESSFUL deals (talking to sellers who don't really want to sell, sending out mail to the 97 of every 100 sellers who never respond to it) and divide by the number of successful deals, it's closer to 20. Only one of those 20 hours is spent by me, and yet I get ½ of the profit.

I didn't set my life up this way because I don't know how to do all that work—I did every bit of it as a newbie wholesaler—or because I'm lazy or greedy.

I set it up that way because I'm GOOD at the knowledge work, and because I'm much better at and happier doing the big picture things like deal structuring and understanding what features and conditions of a property are going to make it more or less attractive to a buyer, and at feeling out the market and when it's time to modify our strategy in it than I am when I'm in the weeds of checking to see whether a house has 100 amp or 200 amp service.

It might seem like I'm getting an outsized reward for the little bit of time I put into these deals, but I'm not; the reality of the market is that:

- LOTS of people can be trained to do the work that my marketing assistant and acquisitions coordinator do, so there's more supply of those people than there is demand. So even though they put in more hours than either me or my partner do, they get paid a small fraction of what we do
- The work my partner does—primarily inspection of properties, sales, and managing the staff—requires a much higher level of skill, and is quite a bit harder to find in the general population. Therefore, if you broke down his hours spent to dollars earned, his "pay rate" is probably 10x that of the employees
- The work I do takes years of training and dedication, and if I were to take a wild guess, I'd say that there aren't 50 people in my city of a million who could even do it. It's rare in the marketplace, and therefore commands a very high "rate of pay"[75]

[75] There's been something in the culture of the real estate investing world for as long as I've been privy to it that says, "The best way to get rich is to work really hard, and for really long hours, for a lot of years, and then you get to enjoy all that hard work by moving to Florida and working less hard by turning everything you've built into cash, or notes, and live off the interest, or by managing your properties, or your property managers, from afar".
I'd argue that that's A truth, rather than THE truth. Another truth is that if you're willing to find the leg of the triangle that makes you happiest, and best takes advantage of your particular talents and genius, and occupy only

In light of this "Value in the Marketplace" view of work vs. money vs. knowledge, where do the money people fall, do you think?

Well, there are lots of them. In fact, one of the biggest challenges in the economy right now is around deploying money at a rate that exceeds inflation and in a way that doesn't seem to also be way into bubble territory, and therefore risky.

Their money all has the same value in the transaction: $100,000 buys a $100,000 house no matter where it comes from.

So why treat their money like it's the rarest and most valuable thing in the deal? Why pay them as if it was their money, and not your knowledge, that was unique?[76]

You do that—overvalue other people's money—because you haven't yet grasped how much of it there is, and how easy it is to get when you have the deal, and the knowledge to make the deal make money.

Once you're able to use your deal-structuring knowledge, and your knowledge about exit strategies, to make other people money, you won't have any trouble finding people who want to do that with you.

What Makes Money People Tick

The more I talk to Bill and his posse, the more I realize that they approach the whole idea of "money people" in a very different way than I do.

They throw around numbers like "12% interest" and "80% of the deal" when they talk about how much they offered a lender, or a partner, and for years, I thought thoughts like, "Why in the WORLD would they pay that much for money? Don't they know that there's endless money available at 6% or 8%, and that partners are often happy to put 100% of the money into a deal and only get 25% ownership?"

And then I realized what was really going on:

They don't have private lenders and partners. They have financial friends.

From what I've been able to suss out, financial friends aren't just people you do business with regularly; they're people that you have a long enough and deep enough relationship with that you WANT to do business with them. You WANT their kids' CESAs to be as big as possible, and for them to get most of the ownership of a deal that's exactly the kind of deal they love.

And they want the same for you, so you pay them 12% on this deal, and they pay you 12% when they need your money. It's not about any individual deal; it's sort of an informal, collective effort to make sure everyone prospers over a very long period of time.

It is, for this crowd, a sort of voluntary socialism, a word that's mostly uttered with dripping contempt or depressed resignation by this particular group of people. Or maybe it's just a higher form of capitalism, based on shared values and enlightened self-interest.

I don't know, I just know that my approaches to money people have largely been more transactional: people come to me with money they don't want, and I try to find out if the lowest amount of they'll take for that money also works for me.

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that leg, and pay other people (whether they're employees or partners) to hold up the other two legs for you, you can get the thing that ender

[76]

And when people come to ME for money, I tell them what I want for it, which is MUCH more than I'd want to pay if I was the one asking for it, and if they don't want to pay it, I keep it for my own deals.

This rationale, which has been successful in the sense that I have more people wanting to give me money than I can deploy, is based on this logic:

- I can get money cheaply, and that means that my deals make me more money, which is good for me.
- I have plenty of opportunities to put my money into my own deals, so in order to put them into other people's, I'd need to see that money yielding the same or more than I'd get by just buying a house or a note or whatever.
- I've never been comfortable with expectation on either side that because I did something for you, you now have to do something for me, or vice versa; my (up until now subconscious) approach has been "This transaction stands on its own; if we decide to do another one together, it will be because THAT ONE makes sense, not because I owe you or you owe me."

In other words, because I grew up steeped in the waters of "Money is money, and relationships are relationships, and one shouldn't affect the other"[77], I've historically kept the 2 very separate, and that's why it might seem that what I have to say about private money people and how to find them and talk to them is very different than what Bill has to say about them.

Here's What I Have to Say:

Just as sellers do creative deals with you because they have their own (rational or irrational) motives, money people do creative deals with you not because YOU need it (unless the lender or partner is a family member who just loves you and wants to help you out), but because THEY see the value in it for themselves.

And like sellers in creative deals, **money people in creative deals can have a wide range of motivations for investing in a deal**:

- They have cash that's not doing anything except deflating in value, and they're scared of the stock market roller-coaster, and they just want to put the cash someplace where it will generate a reasonable rate of return

[77] When I say "grew up steeped', I mean literally that. My father loaned me the money to buy my first property, just as his mother had loaned him the money to buy his first. My father would loan money to ANYONE at 14% interest. He loaned me money at 14% interest. And made me sign a note and mortgage. No "darling daughter discount". No "amazing employee who for $18,000 a year in salary grew my net worth by $2 million" reduction.

The greatest day of my life occurred about 3 years after I stopped working for him to pursue wholesaling—a strategy he DEEPLY disapproved of, because he thought it was a waste of equity, appreciation, taxes, passive income etc.—and he called ME looking for money. A (big, expensive) boiler in one of his apartment buildings had finally given up the ghost, after years of being nursed along with patches made Pepsi cans and coat hangers—2 days AFTER he paid his 6-figure property tax bills and 10 days BEFORE the first of the month, when rents would refill the bank account. He needed $12,000 to replace it, and wondered if I had that much that I could loan him for a couple of weeks. I said "Sure!", then waited a beat, then said "At 14% interest, of course."

- They have cash, but no knowledge, and they invest with you so that they can see how you do the deal, so they can do it themselves next time

- They have cash AND knowledge, but no deals of their own to invest it in at the moment

- They have less cash, but great credit, and want to leverage that CREDIT as an asset to make money

- They have no cash, but know people who do, and also know how to wrap other people's money for a profit, and there's enough profit in your deal to bother

- You're interested in giving away, and they're interested in getting, some long-term benefit in the property that ISN'T a direct cash-on-cash return, such as an option to buy it later, or the tax benefits, or something else.

- They're 'enders' who are no longer interested in doing any of the day-to-day work in rehabbing or managing properties, but need to keep their money invested with people who WILL do that work in order to maintain their lifestyles

- They're 'financial friends' who put their spare money into your deal today, understanding that you'll do the same for them tomorrow, when they're short on cash and you have some to spare

- They're experienced, bored investors who are interested in creating a 'story'[78]

The point is, there's no such thing as a 'typical' money person. As with sellers, every single one you work with will have a different story—and knowing that story will help you a LOT in structuring deals that meets that person's needs.

Now, Some Definitions—

People call their money people all kinds of different things in casual conversation—money people, money partners, private lenders, financial friends, and all sorts of other imprecise, non-descriptive terms.

I don't care what you call them in your world, but for the purposes of this discussion, let's define some terms and use this language:

- A **private lender** is someone who makes loans for the purchase, rehab, or refinance of real estate, and who is willing to negotiate the terms on a deal-by-deal basis.

[78] Don't laugh: I once made a $35,000 loan on a piece of vacant, industrial land in a city 100 miles away ONLY because of the bigger 'story', which involved a rescued rehab, a title issue, and the problem that I didn't actually have $35,000. Oh, and an incredible rate of return.

- A **hard money lender** is someone who makes short-term loans for the purchase and rehab of properties, *and who sets non-negotiable terms* for these loans. While many hard money lenders are private individuals, they behave like institutional lenders in that they believe in the Golden Rule: "He who has the gold, makes the rules". Because there is little chance to be creative with this kind of lender, and because they're not difficult to "find" (unlike private lenders, they generally advertise the availability of their money in multiple venues), they're not really a topic of this section

- A **cash partner** doesn't loan money; they invest in the deal in return for some of the benefits of OWNERSHIP. Lenders have liens; partners own part of your deal

- A **credit partner** is similar to a cash partner, but instead of putting all the cash into a deal that the deal needs, he uses his qualifications BORROW most or all of the cash a deal needs, often from an institutional lender.

Yes, the same person can act as a private lender in some deals, a cash partner in others, a credit partner in yet others…but for the most part, money people WANT to be in one position or another, because they either want the more-or-less guaranteed[79] income and returns of a loan, or they want something that only being a part owner can provide, and are willing to risk LOSING money to get that.

Private Loans

How Private Loans Work

Private loans are simply mortgage loans that are originated by individuals rather than institutions. Private lenders are people who use their own funds to do exactly what banks do: invest in loans secured by real estate in return for a satisfactory rate of return.

In execution, private loans work a lot like any other mortgage, only without the lengthy approval and underwriting processes and without the junk fees charged by most institutional lenders.

In general, the process of closing a deal using deal using a private mortgage works like this:

1. You locate potential private lenders and QUALIFY them. This is an oft-overlooked step that both the law and your ongoing sanity requires; because most private lenders are purely making an investment of money—they aren't 'active participants in the deal—these transactions are regulated by federal and state securities laws.

   So before you 'make an offer'—that is, start talking rates and terms—with an individual lender, it's safest to qualify them first. Which means making sure that they:

   a. Are either "Accredited Investors" (no one accredits them; it just means that they have a net worth, excluding their personal residence, over $1,000,000 or have had an income of over $200,000 a year—or $300,000, if married—for the last 2 years with

[79] Another word not to use when talking to money people

the expectation of meeting that this year, instead), or are "Sophisticated Investors" (meaning that they don't meet the definition of accredited, but do have the education/experience to fully evaluate the investment and its risks) or have professional help that's not you to advise them on the investment and its risks and

b. That they can afford to lose the investment. No one wants to lose their investment. No one intends to lose someone else's money. But if you take the entire life savings of an 87 year old grandmother and lose it, good luck avoiding jail time.
c. That the investment you're offering meets their general needs and goals—in other words, that they're not making a 10 year loan with money they'll need to send their triplets to college in 5 years[80]
d. That the lender is someone that you can actually stand to get into a medium- to long-term relationship with. Trust me when I say that if you get so much as a whiff of crazy—like the lender seems like someone who's going to drive you nuts worrying about a deal that's going fine, or is going to show up at the property and demand that you paint the door black instead of red, or that the lender is going to flake out and try to call the loan due 5 years before the end of the term—you're better off NOT borrowing their money, no matter how desperate they are to lend it or you are to get it.

2. Only then should you 'negotiate' the general terms, You should never talk specific rates or terms with lenders until you've done the above. In fact, a common practice in real estate groups—going to the front of the room and saying, "I have a deal at 123 Easy street, and I'm looking for a private loan at 8% interest for 3 years"—is, according to every securities lawyer I've ever talked to, probably an illegal offering in and of itself. When you're in agreement on what those might look like, only THEN do you:

3. Locate and negotiate a deal on a property that will work for you under the terms you've negotiated with your private lender, write the offer etc.

4. When a deal is close to being finalized, approach the lender about the specific deal you have in mind, and get his agreement to loan you the money you need. You have your attorney draft the paperwork for the lender's review.

5. You complete your usual due diligence (inspections, title search, etc.)

6. At closing, the private lender provides the money for you to buy the property from the seller; the title company or closing attorney prepares the deed, holds the closing, records the deed and mortgage or other security documents, issues the lender's policy of title insurance (which you're going to get on behalf of the lender) that are necessary to protect the deal into the future

[80] There's an argument to be made the these general SEC rules don't apply to investments backed by a mortgage or deed of trust, but a) I have yet to see proof of that and b) after working with dozens of private lenders, these seem like really good practices to me.

The Pros and Cons of Using Private Lenders

Let's start with a little dose of reality: private lenders are sometimes talked about as if they were the holy grail of real estate finance. And there's no question that they're useful, but as compared with other creative finance strategies, they have some downsides:

- Any individual private lender is going to run out of money long before you run out of deals on which to use that money, which means that you'll always be in search of the next lender if you do a lot of business.

- Private lenders vary widely in the length of time that they feel comfortable making loans, but in general, most prefer shorter terms vs. longer terms. Especially at the beginning of your relationship, your private lenders might be nervous enough about you, or the deal, or whether interest rates are heading up, to want to limit their loan terms to 6 months, or a year. This means that unless you plan to sell the property within that timeframe, you'll be back on the hunt for permanent money pretty quickly.

- Private lenders are interested in making loans to you so that they can make money with their money. You'll never negotiate a zero interest private loan with a private lender, as you often can with sellers.

- When you sell a property that has a private mortgage loan against it, you must pay off the loan[81]. This is a problem because once you lose control of a lender's money, you can't be guaranteed that you'll get it back. I hate nothing more than having this conversation with a private lender: "Hey, Joe I found another deal to put your money into." Joe: "Gee, I'm sorry, but I loaned that money to your scumbag competitor, who offered me sixteen percent interest because she's burned every other private lender in town and can't get money at eight percent anymore. Of course, I don't actually know that last part, because I didn't check her out because I'm used to these things going perfectly thanks to the fact that you've always treated me great, and in six months I'm going to come crying to you about how I haven't gotten a payment in five months and I just found out that she lied about the property's value, so I'm going to lose my money and never be able to lend to you again. But anyway, I don't have the money right now".

- As much as you'd like to, you can't legally 'pool' $100,000 from private lender A, $100,000 from lender B, and $250,000 from lender C to make a single $450,000 mortgage[82]. You CAN give A a first mortgage, B a second, and C a third, but it becomes cumbersome to use small amounts of money in this strategy.

- Securities laws strictly limit who your private lenders can be, how they can be

[81] That's not me saying that—it's regulators. Secured loans, backed by mortgages or deeds of trust are completely different from a regulatory standpoint than unsecured loans, which is what a private mortgage becomes when you sell the security and have the mortgage released, but don't pay off the note. You probably CAN keep the money, with the lender's permission, by immediately securing it against another property, with enough equity to make the lender happy, but don't leave it sitting in your bank account for weeks without doing that. I, and a lot of other people in Ohio, know someone who went to prison for 10 years for doing exactly that.

[82] Your LENDERS can pool their money in, say, an LLC that they own and manage, and the LLC can then lend you money, but you can't 'help' them do that without a private offering or other specific securities filing/exemption with the SEC, which is complicated, expensive, and way too cumbersome unless you're trying to raise millions of dollars.

approached, where they can live, how many you can have, how much you can borrow total and over what period of time. The rules vary widely from state to state, but in general, you'll find that:

- Your state wants you to file some kind of exemption to the state securities law, which will require you to fill out a bunch of paperwork, pay a (sometimes sizable) fee, and possibly permit them crawl through your files to make sure you're a good person.

- Once you've done this, you're still generally limited to borrowing a certain maximum amount of money per year, or a certain maximum amount of money at one time, or having a certain number of investors, or all of the above.

- It's also generally the case that you can't, even with a state exemption, borrow money from people who live in other states, or from people in your state against properties that are in other states (unless you also formally file for the appropriate exemptions in the other states involved).

- Your private lenders must be people you know—you can't legally do any kind of "general solicitation" to strangers, including ads on Craigslist, status posts on Facebook, publicly-accessible websites, or getting up in front of your Real Estate Investors Association and asking for money. The latter is likely to fly under the radar, but states' securities commissions watch the others pretty closely, and will be all over you like white on rice if you do it.

Geez, this all sounds awful.
So why is this the number one way that investors 'creatively' finance properties?
Because even in the face of the cons, there are a lot of pros to using private lenders, too:

- They're MUCH easier to work with (and much faster) than institutional lenders
- They're generally willing to loan money for repair costs (as long as the overall loan to value ratio is under 70-80%)
- Unlike hard money and institutional lenders, private lenders are often willing to be in second position behind, say, a loan you took over 'subject to', as long as there's enough equity to protect BOTH loans in case of your default
- As a group, they're usually willing to be pretty flexible about terms that you negotiate up-front like:
    - Letting you make interest-only payments
    - Letting you defer payments for a few months while you're putting the property 'in service' at the beginning of a rental deal, or even for the entire duration of a short-term rehab loan (you'll still be charged interest each month on the full unpaid balance of the loan—you're not asking the lender to not get paid interest on his money, you're asking that it accrue without payments for a short period of time)

    - Trading a lower interest rate and payments now for part of the profit the of a deal later (called a participation or performance note)

- There's a TON—and I'm talking TRILLIONS of dollars—worth of potential private money sitting around in individuals' IRAs, 401K, and savings accounts, and other places that could be used more effectively to fund real estate deals and
- It's a way of spreading the benefits of the deal out among HUMAN BEINGS instead of institutions

Where to Find Private Lenders

Please don't ask me, or anyone else at your real estate association, if I know any private lenders.

The answer is, "Yes I do."

But it's also, "No, I'm not going to give you their names and phone numbers."

I'm not being mean, or greedy—it's just that most private lenders lend as much based on the relationship they have, or feel they have, with their borrowers as they do based on any given deal, or the profit they see coming from it.

For that reason, most of the private lenders I know would either 1) be angry at me for 'outing' them to someone that they didn't know, and putting them in the awkward position of having to say no to the stranger who just asked them for money or 2) assume that because I referred someone looking for money to them, I was giving the borrower some implicit stamp of approval, and since I don't know you, either, I'm not going to do that.

Private lenders who already know that they're private lenders don't typically advertise that they're private lenders. They tell people when they hear about a deal that they like the sound of, or meet someone they like.

The first private lender that I ever KNEW I met (I'm sure I met a lot before this, but since they never told me that they were lenders, I wouldn't have known) was at a Cincinnati REIA meeting around 1995. He was, in fact, a guy I'd known for several year, talked to quite a bit…and had no idea even HAD any money, much less lent it out.

I spent the first year or so I was in REIA getting up in front of the room at every meeting when they asked "who did a deal this month?" and describing my latest whatever; then, I was asked to serve on the board, and thought, "Why not, that way the more experienced investors there will HAVE to talk to me!"

It was at the meeting where the new board was introduced that this guy—Tom—sidled up to me and said, "I've been pretty impressed with you over the last year, and if you ever need any money for a deal…"

So my #1 piece of advice to you in looking for private lenders is, BUILD RELATIONSHIPS. Help out other investors. Talk to them. Find out what they need, and refer them to sources of those things. Be visible within your group—not as a swaggering, "look how successful I am" bigshot-wannabe, but as someone who contributes where you can. You don't even have to be loud about it. Heck, volunteer at check-in, and you'll suddenly raise your visibility 1000%, even if you know NOTHING about real estate.

And know this: most of the private lenders I've worked with over the years weren't Tom—they didn't KNOW that they were private lenders at all. They were people with money who know anything about private lending before I educated them on what it was and why it might work for them.

This 'turning people who don't know what private lending is into private lenders' thing is a huge responsibility, because you'll pretty quickly discover that:

1) There's actually a lot more private money out there than you could EVER deploy into profitable deals that you could actually manage efficiently

2) People aren't nearly as careful with their own money, or about their own protection, or even about asking the right questions, as they should be

These 2 facts are the reason that so many lenders get scammed by unscrupulous 'investors' who over-borrow on properties, straight-up take money and never even record the mortgage, or, who, if we're looking in a gentler light, end up losing lender's money because they, the borrower, didn't know enough to do the deal right and the lender didn't know enough to appropriately protect their investment.

So in my opinion, it's your job not just to 'convince' them to put money into your deals, but also to talk about the risks that you'll be doing everything you can to protect the lender from. If you don't bring it up, they won't know to, and while YOU might be an awesome borrower, the next guy might not be.

So where do you find people to educate and recruit?

First, look within your circle of influence. Although it may seem crass to you at first, one of the best ways to find private money is among your friends, family, and colleagues.

The best way to let the people you love (or at least the people whose money you want) know that there's an investment opportunity available is to simply to talk about it at every opportunity. Unfortunately, if you're greeting your cousins with "Hey, have you thought about that investment we talked about?" at every family reunion, your welcome will quickly wear out.

A better strategy is to answer the question "So, what's been going on?" with "I just sold a house I'd fixed up and made ten grand. But the neatest thing about it was that the old lady who lent me the money to buy it didn't want me to give it back when I sold the house . . . she just can't get enough of that eight percent interest!" You get the picture, and so will they.

By the way, your 'circle of influence' includes people within your real estate group, if you're actually around enough know anyone. REIA groups are absolutely crawling with people who have money, but are afraid to pull the trigger on buying a deal themselves; by getting into a (good) deal with you, they can both get educated about how deals happen AND make some money.

Educate first, and then close. For most people, it's a big decision to hand tens of thousands of dollars over to you. So it's not easy to take a prospective lender from kinda interested to writing a check in a handful of conversations, or even over a long dinner.

Once you've got someone in your circle of influence interested in the idea of private lending, don't just try to explain everything they need to know. Explain the process, the protections, and the rewards. Don't rush into asking for money—yes, I know, this means grooming private lenders in advance, before you actually need a loan—because when you do, you may come off as desperate, which is not confidence-inspiring.

Beyond that, I'd say that the biggest mistake that a lot of investors make when contemplating who to approach is that they think first about their rich uncle or the local manufacturing bigwig.

The problem with this strategy is that truly wealthy people are approached literally daily with 'great investment opportunities'. The chances that you will be heard in the din of scam artists, start-up companies, and swamp land salesmen are slim to none. You stand your best chance with folks of more modest means who have $25,000-$500,000 to invest.

Other Advice for Working with Private Lenders

Don't worry too much about your perceived lack of experience. Private lenders invest with you for two reasons: they trust you, and they looooooooove the idea of getting the fixed rate returns their offering.

It's this idea of 'trust' that trips a lot of new-ish investors up. They're afraid to approach potential lenders because they've only done two deals, or ten deals, or they've done fewer deals that other people, or whatever—and they're afraid that they won't have the credibility or experience they need to recruit private money.

I can tell you from years of watching this market that this just isn't the case. While YOU might only feel comfortable entrusting your retirement account to someone who's done over seven hundred deals over twenty years, most private lenders don't actually feel that way. In fact, if you're the only educated investor they know, you're the only option they have for getting eight percent on their money, whether you've done zero deals or hundreds.

I've seen endless new investors buy their first property with private money—almost always from a friend, colleague, or family member. I can tell you for certain that the 'trust' here comes not from the credibility of the borrower, but from the lender's feeling that the borrower knows what he's talking about and has the lender's best interests at heart.

On the flip side, DO make sure that you have your education and mentoring in place before you put a private lender's money at risk in a deal. Make sure that you have the skills to evaluate the property correctly, that you know how to execute the exit strategy, that you have a back up plan, and that you have help to make sure it all goes well.

And remember, there are private lenders out there who have both money AND knowledge to help you through those first few deals. They're not out there lending money AND occupying the knowledge leg of the triangle for 6% interest, thought. They'll probably take a bigger chunk of your deal than I've been talking about here—but they'll also provide you with both education and a safety net that keeps you from messing up the deal that their money is in.

Don't be a beggar. One thing that WILL ruin your chances of getting private money is coming to lenders with an attitude that implies that THEY'RE doing YOU a favor by investing with you. Remember, what's really happening is that YOU are doing THEM a favor by inviting them to share in the profits of your deal. And if you haven't internalized that yet, fake it until you do.

Don't offer too much. Ironically, a lot of people who don't have a lot of private lenders (or a lot of experience) try to overcome this by offering higher interest rates on loans. This has three very bad side effects: first, once you've paid a particular lender twelve percent, you'll never be able to get him to accept six percent. Second, the higher rate may, ironically, be more risky for the lender, simply because it's more likely that the property WON'T cash flow or

WON'T sell for enough to cover all the accrued interest and you'll have a hard time paying him. And finally, in this post-Madoff world, there's a strong tendency among inexperienced private lenders to believe that higher returns—especially once you reach double digits—are too good to be true, and that there must be something wrong or risky about the deal. You'll actually get MORE private money at six percent or eight percent than you will at ten plus.

When mentioning the rates you'll pay to a potential private investor, always name a range with your goal rate at the TOP. For instance, if you want to pay eight percent, say you pay six to eight percent. Then when the lender gets eight, he feels good about being at the top of the range. If you say eight to ten percent, then offer eight, he'll feel cheated.

The most common objection that your private lenders will have will surprise you. It's not, "How do I know you'll pay me?"; it's "Why do you need my money in the first place?".

Even today, there's a gross misconception amongst non-real estate people that it's easy to get financing from a bank IF . . . you're successful, experienced, have a down payment in hand, etc. They don't realize that you also have to have a job, and less than four properties, to get conventional loans at all.

Some private lenders might not verbalize this, but trust me—they're thinking it. You overcome this objection simply by explaining the facts of your business:

- Banks are too slow to allow you to buy deals in distressed situations that need to close fast, like foreclosure, divorce, estates, etc.
- Banks won't give you more than four loans, and there are approximately ten bazillion profitable deals you'd like to buy
- Banks make you put twenty percent down on every deal, no matter how good it is, and that doesn't leave you with money to improve the property
- Banks won't lend money to your entity, and your asset protection attorney told you that since the entity owns the property, the entity should get the loan
- And so on…

The second most common objection is exactly what you think it is: how do I know you'll pay me? Use the same explanation about how unprofitable having properties taken from you is, and about the lender protection trust, that you would with a seller who was carrying financing. Remember, though, you cannot protect two separate private lenders in the same deal with a lender protection trust.

In today's market, there's another objection that we didn't used to have to deal with, and that's, "What happens if the value of the property drops?" Answer this by explaining that you're buying at a fraction of CURRENT market value—in other words, that values would have to decline ANOTHER thirty percent or more before the property that's serving as security for your lender's investment would be worth less than that investment.

Other than the term of the loan, which you can't push too much, feel free to ask for what you need. Most private lenders seem to have a tolerance for loan term that, once you find it, is hard to move. There seem to be one year lenders, two year lenders, five year lenders, and, very rarely, ten or twenty year lenders.

But beyond this, there's some flexibility in what most lenders are willing to do. No payment for the first few months is acceptable to many lenders, especially since interest will continue to accrue on those payments, raising his overall return. Quarterly payments are often OK with them, though for the sake of your own budgeting I wouldn't recommend paying less often than that if the loan is more than six months. Interest-only is almost never an issue for a private lender[83]. The day of the month you make the payment probably doesn't matter at all to your lender.

Even the interest rate has some 'give' across various lenders. Some are happy with as little as five to six percent, while others—especially if you or one of your competitors have already 'spoiled' them—won't take less than eight to nine percent.

Caveats About Using Private Lenders

Do not pool investors' money. You will often run across potential lenders who have $10,000-$30,000 to loan just when you find a deal that you need $50,000 to close.

The obvious solution is to borrow $20K from one lender and $30K from another and write a first mortgage that includes both lenders.

The problem with this solution is that when you back two investors' investments with the same first mortgage on the same property, you have effectively issued a fractionalized note which is a form of security.

And unfortunately, issuing securities without a license is a federal offense punishable by several years in a prison that, though country-club-like, is probably still not a place you'd want to visit.

If your investors want to pool their own money on their own by forming a limited partnership, LLC, or some such BEFORE having their entity make loans to you, that's perfectly legal. And it's also OK to have two lenders who have a first and second mortgage against the same property. Just remember, ONE first mortgage, ONE individual or entity.

Don't agree to terms you can't honor. I once knew an investor who was so desperate to get a deal closed within forty-eight hours that she agreed to pay a private lender $5,000 to borrow $36,000 for ninety days (that's an annualized interest rate of fifty-five percent, in case you were wondering). After ninety days, she agreed to pay a three percent penalty per month (36% per year) or give the house to the lender. Now, the reason she'd gotten to within two days of the closing date in the first place was because her credit was shaky. At the end of ninety days, the property was nowhere close to salable, and by the time she finally found an institutional lender to close the deal, it had cost her nearly $50,000.

This was a case of an experience lender taking advantage of a new investor–his whole plan was to end up owning that property. The more common scenario happens when the borrower is more sophisticated than the lender and creates a deal where the lender is at enormous risk. I've seen borrowers write up notes that did not actually require any payments ever,

[83] Although, it may make a difference to you psychologically. An interest-only payment results in higher monthly cash flow, but I much prefer the little thrill I get from paying off an amortizing loan and seeing that I'm getting a thousand or two more than I thought I was, thanks to mortgage pay down.

mortgages that allowed the borrower to assign his responsibilities under the agreement to anyone he chose without permission of the lender, and other such nonsense. I've said it before and I'll say it again: don't take advantage of people, and don't make promises you can't–or don't intend to–keep.

Do NOT succumb to the temptation to borrow your profit out of a deal up front. I am absolutely convinced that all of our businesses are going to be deeply wounded by certain high-profile borrowers who, once they figure out that they can convince their lenders to trust them, play it fast and loose with their business practices. At least one such investor that I know is in the habit of borrowing her profits out of deals up front—and at twelve to fifteen percent interest, I might add. In other words, if she buys a property for $40,000 and thinks she can sell it for $50,000, she tries to borrow the whole $50K from a private lender.

The problem with this strategy is twofold: first, it's dishonest to tell a lender that they are fully secured when THEY have really paid you your profit. Second, it quickly becomes a pyramid scheme, when the predicted $50,000 sale price ends up being $45,000, so to pay off the lender you have to go do another deal and over-borrow, which means that the next lender is unsecured . . . and so on, and so on, and so on.

And finally, do not EVER borrow 'operating expenses' from a private lender. In recent years, I've seen a number of cases where otherwise-savvy real estate entrepreneurs have gotten themselves into HUGE trouble by over-encumbering properties with private loans. In each situation, the reason has been that the entrepreneur has been in cash flow trouble—in other words, he didn't have the money to pay his own bills and/or make payments on other properties—and, assuming that it was temporary, tried to borrow his way out of it using private lender money.

No matter how good your intentions, borrowing against your properties to pay your bills (as opposed to borrowing to buy or borrowing to improve) is just another way of paying your immediate expenses with someone else's money, and that it puts your private lenders at extreme risk. When you borrow out the equity that's protecting your private lender's investment, you're putting him in a situation that is exactly the opposite of what he trusted you to do—use his money to make money so that he can get paid.

It's so important to remember that private lenders, unlike institutional lenders, can be hurt in a life-altering way by losing the money they've invested with you. There's no bail-out program for private lenders, and if you put their retirement money or savings at more risk than is absolutely necessary, you could end up unintentionally causing another human being to have to work a decade longer in order to retire, or cause him to have to retire at a much lower level of lifestyle than he would have otherwise, or cause him to have to send his kids to state college instead of the Ivy League, or cause him to have to move in with his children in his old age rather then live independently.

I'm not exaggerating here. If you have to go hungry this week because your deal won't sell until next week, do it: don't make your financial woes (or lack of patience!) your lender's problem.

Cash Partners

Deals done with cash partners are just about the simplest deals there are. Unless you are combining the use of a cash partner with another strategy, such as buying a property subject to the existing loan and bringing in a cash partner to make the down payment and/or pay for the

repairs, you don't even need to use your financial calculator to figure out the details of the deal—there's no loan involved, and thus no amortization, compound interest, or complex payment schedule.

The biggest difference between a cash partner and a private lender is in the name; a cash partner doesn't have a lien against your property; he brings that cash to do all or part of a property that you will then co-own.[84] The benefits of that property—the income, appreciation, tax benefits, and equity—will be split in any way that satisfies both of you.

The Pros and Cons of Using Cash Partners

Other than the simplicity, the biggest benefit of using cash partners is that that it increases the cashflow of the property enormously, because, typically, there's no debt service to be dealt with.

This can be an advantage in a lot of situations, but there are some deals that almost won't work without a cash partner involved. Most commonly, a cash partner is necessary when buying properties where the ARV is so high and the rent so low, relative to the service on any debt, that the property will have negative cash flow without a partner.

For instance, look at the numbers in this deal, which has numbers that are accurate for many move-up homes in the Midwest and bread-and-butter homes in more expensive areas.

- Single-Family Home, with four bedrooms and two and half baths
- ARV: $300,000
- Repair costs: $20,000
- Purchase price: $200,000
- Amount owed by seller: $200,000
- Monthly payment on seller's five-percent fixed rate loan: $1,176
- Monthly rent: $2,500
- Monthly taxes: $400
- Monthly insurance: $150
- Monthly operating expenses (maintenance, vacancy, turnover, reserves): $500

Your first thought will be to take over the seller's existing loan, and your second thought will be to use a private lender for the repair costs or the purchase price or both. But look what happens when you do:

	'Subject To' + private loan at	Private loan at 8% for	Subject to + Cash partner	Cash partner for purchase

[84] Or, to be more exact, will bring the money to fund an entity that you co-own, and the entity will own the property. More on that later . . .

	8% for repair costs	purchase AND repair	for repair costs	and repair costs
Gross rent	$2,500	$2,500	$2,500	$2,500
T&I	-$550	-$550	-$550	-$550
Maintenance/vacancy/reserve	-$500	-$500	-$500	-$500
1st loan pmt	-$1,176	-$1,604	-$1,176	n/a
2nd loan pmt (repair loan)	-$146	n/a	n/a	n/a
Cash flow	$128	-$154	$274	$1,450

If there's any chance you'll end up holding the property, the best way to do it, at least from a cash flow perspective, is to involve a cash partner. Look at the cash flow in column 3: it's more than twice what it is in column 1, so even if you gave away ½ of the deal, you'd STILL make more money than if you borrowed the money from a private lender. Now, you'd also be giving up $50,000 in equity with a 50/50 split, plus half the loan paydown and appreciation—but, if as Bill asserts, it's 'all about the cash flow', the scenarios in column 3 and 4 are best for you.

On the other hand, if you were certain that you would sell within a year, you might decide that the 'Subject To' plus private loan strategy was most beneficial to you. Because, assuming a straight 'fifty-fifty' partnership, here's how a sale after one year would work out for each of you:

	'Subject To' plus Private loan (for repair and holding costs)	Cash Partner
Sale price	$300,000	$300,000
Loan/investment repayment	$246,544*	$230,680
Sale costs	$30,000	$30,000
Profit at sale to you	$43,456	$29,660
Profit at sale to partner	n/a	$29.660

*assumes you rolled entire holding & repair cost into private loan at 8%

Note that, when you use a cash partner, the profit available to SPLIT is higher by about $16,000, because you make no payments and pay no interest on his money. The net difference to you is just under $14,000, not half of the $43,000 you get in scenario one.

If it seems extreme to you to give up $29,000 in profit to a partner, think about this: the actual yearly income for the property represents just a 12.6% return on his cash—about what you'd pay a hard money lender.

This particular example is a bit unusual for the type of long-term hold deal we'd usually do. In most cases, the cash partners can achieve cash-on-cash returns approaching that of private lenders, PLUS equity and, most importantly, tax benefits.

But the biggest downside of using cash partners is definitely the amount of the deal you give up to him—although, again, in some cases, there's absolutely no other way for you to do the deal. Most cash partners are completely passive and don't get involved in day-to-day operations and decision making; when you arrange things otherwise, partners can make your life truly miserable—active partnerships, in my experience, almost always end up splitting up, and with the partners ultimately never speaking to each other again.

Another disadvantage is that, once you've tied up all of a cash partner's funds in long-term investments, you are in the position of grooming another cash partner to do future deals. When you use private lenders, you can recycle them by selling or refinancing a property, then borrowing their same money again.

One other issue that you should be aware of involves using multiple cash partners in a single deal. This is commonly called syndication, and, depending on how many partners, their financial status and how much money is involved, may require filing an exemption with your state's securities regulators and/or the federal SEC (Securities and Exchange Commission).

When to Use Cash Partners

Cash partners are usually seen as an option in deals where the other choice would be to use a private lender. As with private lenders, the cash partner can bring the money for the entire deal or for just part of it, if there's the chance of getting owner financing for part or getting a property subject to the existing loan.

In general, the cash partner is actually the better choice when:

- It's desirable to have no payments for some period of time, like when the property needs major, lengthy turnover and will not generate cash flow for months or years
- The property is of a nature that it's unlikely to cash flow as long as there's any traditional debt service to be paid, as in the example above
- You intend to hold the property indefinitely, and therefore need a source of money with no balloon payment
- The cash partner is someone for whom tax benefits are crucial—he gets those (as long as he qualifies for them under IRS income and passive loss rules) as a partner, but not as a private lender

Understanding Who These Cash Partners Are

Cash partners, like private lenders, are generally passive investors with no interest in the day to day management of real estate. However, they differ from private lenders in three important ways:

1. **Tax benefits are important to them**. This means that they're nearly always investing their own funds, rather than funds from retirement accounts, as most private lenders do. Since IRAs and similar retirement funds aren't taxpayers, they also don't get to take advantage of tax benefits, so the tax advantages are wasted on an investment via an IRA.
2. **They are willing to take more risk to get more reward**. Private lenders are very much of the 'I just want a stable rate of return' school of investing; partners are willing to risk that a particular deal doesn't make as much money as projected, or needs more money invested than projected, in order to get the return from cashflow plus the potential higher payout of the equity and back-end profits.

3. **They are willing to invest their funds for a longer—perhaps indefinite—period of time**. Private lenders are usually hesitant to tie up their money at a particular rate of interest for more than a few years. People with the cash partner mentality, though, are often amenable to a more-or-less permanent arrangement, and here's why: their returns are NOT fixed, and do rise with inflation.

When inflation carries rents and property values higher (it does, trust me), the private lender does not get to take advantage of this, because he agreed to interest rate X. In a deal funded by a private lender, YOU get all the benefits of increasing income and appreciation—your payment stays the same, your loan balance stays the same or even decreases, but the property securing it becomes more valuable and produces higher rents.
A cash partner, by virtue of both being a partial owner of the property and staying involved in the deal for a longer period of time, benefits from increases in the property's profitability in relationship to his percentage of ownership. Of course, he also risks taking decreases in these things in a market downturn.

Where to Find Cash Partners

I refer you back to the private lender for information about both how to find and how to negotiate with cash partners; they are often the same people, and whether they become one or the other often depends partly on which role you need them to play, and therefore on which you sell them on.

There are a few differences, though:

- **Although the tax benefits are a big attraction to potential cash partners, you should NOT try to predict the tax effect of his ownership for him.** Whether or not a cash partner will be able

to take advantage of some or all of the tax benefits of a deal depend on a lot of interlocking, complicated IRS rules regarding the type of property, the income of the owners, how the property is held, and so on. Always have your potential partner consult with a real estate tax expert to determine the benefits to him in his situation.[85]

- **One common misunderstanding that will kill your deals if you don't overcome it is this:** For whatever reason, potential cash partners often don't intuit that the equity or back-end profit from a deal is what's left AFTER his initial investment is repaid. I've had many potential cash partners calculate their return as a LOSS when it would actually be a gain.

The math in his head, unless you explain up front that he'll be paid back before any split, often goes like this:
I (the cash partner) invest $220,000 in the deal
The deal sells for $300,000
I get half, or $150,000

[85] I strongly recommend that you refer all tax questions that a potential seller, private lender, or partner may have to John Hyre, a tax attorney at RealEstateTaxLaw.com. I've found that when cash partners who are not already invested in real estate consult their own accountants/CPAs/attorneys, they are often given incorrect information that queers the deal, simply because their tax professional is not intimately familiar with IRS guidelines involving real estate.

Thus, I lose $70,000 and she makes $150,000

In reality, of course, you would divide the actual PROFIT from the deal, which is $80,000.

How Cash Partner Deals Work

In one sense, deals involving cash partners are much simpler than deals involving loans of any kind. In another sense, they're also more complex, because you have a LOT of options about how to divide the benefits. Every cash partner deal will follow this general process:

1. YOU find and evaluate the deal
2. You present the deal to the potential partner, showing him the profit potential and how you'd like to divide it
3. When he agrees to make the investment, you have 2 options, depending on what makes most sense for you and the partner. You can either co-own the property with your entity and his both being on title according the percentage of interest. What I've often done is set up a new entity—usually an LLC (limited liability company) or an LP (limited partnership), depending on the situation[86]—is set up. The shares or membership units of the entity are divided between you and your cash partner in a way that reflects your agreement about percentage of ownership in the property. Needless to say[87], you'll need a separate entity for each partner and perhaps a separate one for each deal with a given partner, if your ownership percentages change from deal to deal.
4. If you've formed a new entity, and operating agreement for the entity is drawn up, reflecting the voting rights of the members, who has the final say in decisions (you), how the assets of the entity will be divided or dealt with on the death of one of the partners, who is to contribute any additional money needed to the deal, how accounting will be done and reported, how much of the income will be held in reserve for operations, the proposed lifespan of the entity (and therefore the deal) and so on. For the protection of both you and the partner, this operating agreement MUST include a Buy/Sell Agreement that outlines what is to happen if one or the other of you wants out of the investment before the agreed-upon sale date, if there is one. <u>The operating agreement is incredibly crucial to the future success of your partnership, so DON'T buy one online or try to write it yourself</u>.[88] If you don't have an entity, a joint venture agreement covering the same issues takes its place.

[86] Since the type of entity affects both the tax benefits and the relative liability protection provided to you and your partner, I again recommend John Hyre at RealEstateTaxLaw.com to consult with on the choice of entity on each individual cash partner deal you do.

[87] Why do people say, "Needless to say", then say it anyway? Obviously, it is needful to say, or I wouldn't have said it!

[88] See John Hyre again...

5. Prior to the closing, the cash partner funds the entity—that is, places the money in it to close the deal and cover any repair or holding costs in an operating account opened just for this entity.

6. If necessary, you'll assign the purchase contract on the property to the entity, which will then be the buyer at closing.

Having said this, there are tons of variations to the cash partner deal that are used depending on what's important to him and what's important to you. Although the ownership of the entity will be fixed by the distribution of shares or membership units, the benefits DON'T have to be divided in the same way. In general, and depending on the individual deal, you'll need to consider the possibility of the following:

Unequal distribution of the income: If the partner is not especially interested in additional current income—which is often the case when the partner has a high 'W-2' (earned) income and is therefore in a high tax bracket—you can create an income split that doesn't reflect the percentage of the ownership of the shares. The most common way in which this is done is by having the entity pay you a management fee of some percentage of the gross rent BEFORE any remaining income is split. Be aware that this portion of the income you receive will be reported on a 1099 (unless you set up a payroll system and report it as W-2 income), and you'll pay ordinary income taxes on it.

On the flip side, if there's some reason to give the partner a higher percentage of the income for some period of time—for instance, to compensate him for the fact that he'll need to go a year without any return on his investment because you're stabilizing a large apartment building—this is often done by issuing 2 classes of shares or membership units. One class—owned by the cash partner—carries a "preferred dividend", and the other—owned by you—doesn't. In this way, you can give the cash partner a return of, say five percent on his money BEFORE any other income is distributed. This can go on for the life of the partnership or for a defined period of time.

Unequal distribution of the equity or back-end profits: Again, this can be accomplished in several ways: an unequal percentage of ownership (the 40% owner gets 40% of the equity) or through the operating agreement (any back-end profits will be divided 'fifty-fifty' after you are paid a $10,000 finder's bonus or the like) or through some of the creative deal structures we'e already talked about, like the partnerSHIP giving one of the partners an option to buy the property at a $10,000 discount over the sales price, which is of course bought out at the closing instead of being exercised.

Unequal distribution of the appreciation and/or mortgage pay down: This is more unusual, especially in inflationary environments wherein the cash partners are investing partly so that inflation doesn't erode the spending power of their cash. However, there might be circumstances in which something else—perhaps income or tax benefits—would be so much more important to the partner that he'd give up part of his share of the future appreciation of the property in return for them.

This would be accomplished by locking in a partner share of future gains in the operating agreement. You might agree together that the current equity is $80,000, and that he'll receive no more than $50,000 in sale profit altogether, no matter what the ultimate net profit. This could also apply to mortgage pay down on a loan taken 'subject to' or a seller-held note on the property.

Credit Partners

Both the private lender concept and the cash partner concept depend on the fact that there are people with cash enough to cover the purchase and repair of a property, and that there are certain benefits that the property can provide to these people that are attractive enough to entice them to invest their cash in them.

The credit partner concept works on the same set of facts, as well as the small practical detail that there are a lot MORE people who have enough cash to make a 20% downpayment on a property than there are who have 100% of that you'll need for the purchase and renovation of a property.

Oh yeah, and we might want to think about this too: any individual with x dollars has x dollars—and that x dollars can either fund a deal that costs a total of x, or can fund four leveraged properties that will each require x/4 down.

What a Credit Partner Does

A credit partner is an individual who can bring permanent, fixed-rate financing to your deals by qualifying for conventional financing, buying the properties, then in some way passing the control of the property partly or wholly back to you. By having multiple credit partners, you can effectively control as many conventionally-financed properties as you like.

And what's more, a credit partner can effectively allow you to do a cash-out refinance of a property—an almost unheard-of feat in today's market.

Here's one variation of how a credit partner deal can work:

You own a rental property that is subject to a $62,000 private loan. The property is fully updated and worth $110,000, and has a monthly gross rent of $995.

In the current situation, you have:
$38,000 equity
A $455 monthly payment on your 8% private loan
Monthly taxes and insurance of about $117
Monthly reserves of $200
Net positive cash flow of approximately $224 per month

You sell the property to a credit partner for nearly full price--$100,000. The credit partner pays 20% down, $20,000 in this case, plus loan costs, closing costs, and financing costs that will be in the range of $5,000. He gets a 5.5% fixed interest rate amortized over 30 years, with a payment of $436 per month. Note that this payment is lower than your payment on the lower-balance private loan with the higher interest rate.

After the sale, you have somewhere in the range of $36,000 cash ($100,000-$70,000 loan

payoff-seller closing costs), and the credit partner has a property that's worth $110,000 in which he has invested $25,000 cash and against which he has an $80,000 loan.

If we ended the example here, you would have simply sold a turn-key rental. But in a credit partner deal, the assumption is that you want to own or at least control this property, so from here you can do several things:

1. After the closing, move the property into an LLC or other entity owned 50% by you, 50% by partner. By doing this, you and the partner will split:
    a. **Cash flow of $244 per month**. The $122/month that the partner receives represents a 5.85% cash on cash return on his $25,000 investment
    b. **Depreciation of $2,909**. The partner's half of this, assuming he qualifies to take it, will save him $407 in taxes each year—an additional, non-cash return of 1.6%
    c. **Mortgage pay down**—in other words, added equity—of $730 in year 1. The partner's half of this adds about 1.46% to the partner's return in year 1, and increasing amounts in each subsequent year
    d. **Any appreciation**. Assuming that over the long haul, the property appreciates at 2% per year (the average from 1930-2007 was actually closer to 6%), the partner will get another $1,100 per year in added equity, or 4.4% of his cash investment
    e. **Equity**. In the example above, there is $30,000 in apparent equity—the value of the property is $110,000, and the loan is only $80,000. However, there is only $10,000 ACTUAL equity on day one, because the credit partner has an additional $20,000 (or $25,000, if you're giving him credit for his closing costs) in cash invested in the property. The credit partner's cash investment will usually be dealt with in the operating agreement, which will say that his cash will be paid back at the end of the deal before any profits are split, or by placing a mortgage against the property in question where credit partner is mortgagee and the LLC the mortgagor, but the note has no interest and no payments until the property is sold.

The net result is that LLC owned by you and the partner buys "your" property back subject to the new, low, fixed rate loan. The partner gets somewhere in the range of 13.31% including all the benefits, and you continue to receive cash flow, depreciation, appreciation, and pay down, although at about ½ the level you did before.

2. Option 2: Lease the property back from the new owner with an option to buy under the following terms:
    a. Option price of $110,000 (the current value)
    b. Monthly rent that is the new owner's PITI payment ($552 per month) plus $126 per month, an amount that represents a 6% return on the credit partner's invested cash
    c. You agree to manage and maintain the property
    d. The option term will be 10 years with automatic renewals, at your option, every year after that

When the dust settles, the partner gets a flat 6% return on his cash invested, plus ALL of the mortgage pay down and all of the tax benefits, plus a $10,000 fixed profit at the end, but none of the future appreciation.

You walk away with $36,000 cash, all of the future appreciation, no mortgage pay down (but you can now deduct your entire monthly payment from YOUR taxes, because it's rent rather than a partial principal payment) and net cash flow of $118.

Want to raise your cash flow? You can do this by paying the credit partner a $10,000 option fee when you lease the property back. Because the rent is based in part on a 6% return on the partner's cash investment, reducing his investment (by increasing yours—and remember, you have $36,000 in cash after the sale to play with) also reduces the amount of your monthly rent.

And, as with cash partner deals, you can do any variation of these deals, including unequally dividing the benefits according to the needs of the partners.

When Credit Partners are Useful

In theory, a credit partner could invest in any deal from day one. However, they are best used on:

1. Properties that you intend to hold indefinitely
2. Properties that are in after-repaired condition, since a) it's difficult to get conventional financing on ugly properties, even if you're hyper-qualified and b) having a credit partner finance the purchase of a property that needs work still begs the question, "Where shall we get the repair money?" For this reason, credit partners are great to use to take out more-expensive private lenders once a property is renovated and rented.

In short, although you could use credit partners to do the initial purchase money financing for any given deal, perhaps the best use of a credit partners is to "refinance" properties you already own, that are already stabilized, to get permanent, low-rate, long-term financing.

An Important Aside About Conventional Financing

It's important to understand that this entire strategy is based on the idea that there are people who can, in fact, jump through the hoops that banks set up to qualify for their loans. Effectively, you are having your credit partner buying a property with a loan, then buying the property subject to that loan.

Like a more standard sub to deal, you only want to buy these properties subject to favorable loans. Unlike a standard subject to deal, you are in control of this loan from the beginning, in the sense that if the terms don't work, you simply don't have the credit partner originate it. It's also important to remember that, in this case, the finance costs DO matter, because your partner will be paying for them.

What you're looking for in an underlying loan is a fixed rate loan with minimal points and closing costs. You can get the former from either a true "conventional" lender (one that sells its loans to the secondary market) or, occasionally, from a portfolio lender. You can get the latter by dealing directly with the lender, rather than through a mortgage broker, which adds fees to the usual costs.

This has to be weighed, though, against speed and convenience. I direct almost all of my credit partners to the same mortgage broker[89], even though it costs the partner about $1200 more than going straight to a bank. Why? Because if the partner won't qualify, I know it within 48 hours, and the loans close in an amazing 3 weeks or so.

You truly want to control this process, NOT let your partner go out and get the loan of his choice. Absolutely do NOT allow your partner to get a loan that is:

- Adjustable rate
- Subject to a balloon
- Subject to a pre-payment penalty
- In the form of a line of credit

In my opinion, it's best to escrow taxes and insurance with these loan payments, if only for the reason that it evens out the cash flow by paying these operating expenses monthly rather than yearly or semi-annually.

Qualifying Credit Partners

In order to become a credit partner, an individual must be able to qualify for a fixed-rate, conventional loan. In general, this means:

- The partner must have a job with a w-2 income
- The partner must have 20% down in cash on hand. You can't provide this to him, and it can't come from his IRA, which cannot borrow money from a conventional lender
- The partner must have at least part of the approximately 5% in financing and closing costs
- The partner must have a high credit score. In the past few years, the actual score necessary has ranged between 680 and 740
- The partner must have fewer than 4 institutional mortgage notes, including the one on his own home

The Pros and Cons of Using Credit Partners

The advantages of using credit partners include:

- It allows you to have favorable, fully amortizing loans created on your "keeper"

[89] Shawn Huss, www.ShawnHuss.com. He even has a FNMA app online for pre-approval.

properties
- It allows a person with good credit and cash to leverage that cash over multiple properties

The disadvantages are:
- As when you use a cash partner, you will always give up some of the benefits to the partner to entice him to invest with you
- In theory, the lender could call the loan do when and if the property is transferred to the LLC you create—even though the borrower is a member of that LLC.

Where to Find Credit Partners

Most often, potential credit partners are the same people as potential cash partners and private lenders, so you find them in the same places (see Private Lender discussion)

How Credit Partner Deals Work

As we've already seen, credit partner deals have many different frameworks in terms of how you end up controlling the property and splitting the benefits. This, however, is a general outline of the process

1. You locate a potential credit partner AND GET HIM PREQUALIFIED BY a knowledgeable conventional mortgage officer or broker

2. YOU find and evaluate the deal

3. You present the deal to the potential partner, showing him the profit potential and how you'd like to divide it

4. If you plan to ultimately co-own the property with the partner (as opposed to controlling it via a lease/option or similar), set up an entity per the advice of your asset protection attorney, and draw up an operating agreement—refer to the chapter on cash partners for more information

5. The credit partner will buy the property <u>in his name</u>. The lender will choose the title company and control the closing.

6. Following the closing, you and the credit partner will follow the plan you agreed upon in advance for the ongoing ownership and management of the property

Bill Says:

Give to Get

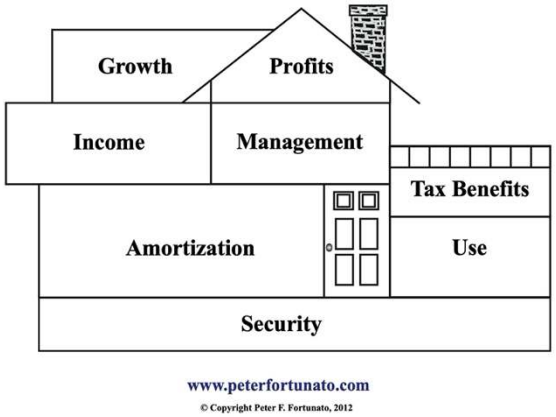
Too many real estate investors believe real estate investing is a do-it-by-yourself thing. They couldn't be more wrong!

Do you know what makes real estate investing fun? Having friends participate in your deals. Our most fun, and often the most profitable deals are ones in which our investor friends participate.

The reason so many investors continually attempt to invest by themselves is due to their thinking, and they're thinking is flawed. They focus on what they're giving up. Instead, they should focus on what they're getting.

All too often we've seen investors forced to pass on a deal because they refused to bring in help. So instead of making part of something, they make all of nothing. Is this stinkin' thinkin' or what? It's flat on American!

Earlier in this course, you saw a picture Pete Fortunato's benefits house. Let's look at it again.



When structuring a deal, if you believe you can't do the deal alone, what harm is there in bringing other creative dealmakers into your deal? Bringing in others helps you turn a there's-no-way-to-do-this deal into a profitable, we-did-it-together deal!

If you don't have the funds, why not attract the funds by giving away some of the growth and profits?

If you don't want to manage the property, why not give away some of the income, growth, and amortization to a been-there-and-done-that property manager?

If the property is far away and you don't want ownership, why not give away the tax benefits, along with some of the growth, income, and amortization?

Gary Johnston, an excellent real estate investing teacher, said it best: *Real estate investing is a team sport.*

Poplar Springs Road Deal

The best way to show you why lone-wolf investing may not be the best way to go is to let you see the Poplar Springs Road deal.

In 2008, because of the number of phone calls we were getting, Kim and I determined that there was a terrific need for affordable housing. Without going into the why, we decided the best way to do affordable housing was with Lonnie Deals.

Lonnie Deals were invented by Lonnie Scruggs. It's when you buy a used mobile home in a mobile home park for cash, and then sell it on terms. With Lonnie Deals, you're not in the landlording business, you're in the note (paper) business.

Three big problems: First, we had no experience buying mobile homes. Second, we knew close to nothing about Lonnie Deals. Third, we had no money.

Other than having no experience, no know-how, and no funds, we were gung-ho on Lonnie Deals. Yep, Kim couldn't wait to become a trailer park queen!

Our journey began by letting all of our real estate investor friends know that we wanted to buy a mobile home in a mobile home park.

Within days, we received a call from Kermit Hopper. (This is his real name.) (Yes, his parents did love him.) (He's German, his parents are German, his name is German.) (It gets worse, his full name is Kermit R Hopper **III**.) (And here you are thinking it couldn't possibly get worse.) (Oh, least I forget, I can only guess that his middle initial stands for *Ribbit*.) (Yes, I do find myself to be extremely funny!)

Kermit told me about his friend who was trying to sell a mobile home in Adairsville, Georgia, my hometown.

During my meeting with the seller, he told me he needed to sell his trailer fast. He wanted $11,400. I wasn't willing to pay more than $5000. In other words, he wanted to get twice as much as I wanted to give. Have you ever had this happen to you?

I made the seller a Teeter-totter Offer. (Do you remember Teeter-totter offers from earlier in this course?) I told him I'd gladly pay him $11,400 provided he'd let me give him $3,000 down and make him payments of $100 per month. I also offered to pay all cash, but I could pay no more than $5,000.

The seller accepted my terms offer: $11,400 sale price. $3,000 down. Monthly payments of $100.

Knowing I knew nothing about Lonnie Deals, I called my friend Dyches Boddiford. Not only had Dyches done hundreds of Lonnie Deals, he had owned mobile home parks, plus had written several great courses about trailer and trailer-park deals. (To get Dyches' courses, go to **Assets101.com**)

Here was my offer to Dyches: If you put up the $3000, help me with the paperwork, and look over my shoulder to make sure I don't make any mistakes, I'll do all the work and give you half of all of the deal's net profits.

Dyches excepted my proposition.

Dyches put up the $3,000 needed to purchase the trailer. In return, I gave him a performance note. With the performance note, Dyches isn't charging me interest, rather he's receiving half of all the net profits.

What if I hadn't called Dyches? More than likely, due to my inexperience, I would have mucked up this deal and it would've fallen apart. Said simply: I wouldn't have gotten the deal.

Instead of offering to give Dyches a performance note, what if I had given him a simple-interest note? I would've paid Dykes $200 per month at 10% interest, and 16 months later he would have been out of this deal.

Pay close attention to the following words, they are very important: If I had paid off Dyches after 16 months, I'd no longer have to pay him $200 per month. That said, with him would go all of his knowledge, experience, know-how and advice. What do you think is more valuable in this situation, putting an extra $200 in our bank account each month, or keeping Dykes, and all that he brings to the table, in this deal?

List of the things Dyches gets:

- He makes $150 of the $300 that comes in each month.
- He's part of a small deal that has been providing us mailbox money for coming up on 13 years.
- He's never had to worry about this property's toilets or repairs.
- He didn't have to go out and beat the bushes to find this deal.

List of the things that Kim and I get:

- The $3000 we needed to purchase the trailer.
- The documents we needed to memorialize the accord we reached with the seller.
- Dyches steered me clear of a number of mistakes I was on my way to making.

- His directions allowed me to do a deal that I surely would have failed to accomplish otherwise.
- We receive half of the $300 that comes in each month.
- We learned how to do Lonnie Deals. With this knowledge, we did a total of 54 Lonnie Deals, plus we bought a small mobile home park to boot.
- Over the years, because Dyches and I worked well together, we've done a number of other profitable deals. And moving forward, we're sure there will be many more to come.

Who has received *more* benefits from Poplar Springs, Dyches or Kim and me?

Just think of all the benefits I *wouldn't* have received if we had done this deal *without* Dyches! It would've been a tragedy!

Folks, I hope the Prater Drive story has opened your eyes to all the benefits you can receive by bringing investor friends into your deals. I promise, with the right people, you will always get better than you give.

To repeat: Don't worry about what you aren't getting. Keep focused on all the things you ARE getting.

Part 7: The Best Thing You've Heard So Far: How to Remove the Biggest Objection Sellers and Private Lenders Have to Your Deals.

That Seller/Lender Objection…

Let's say you've found a seller, or a lender, for whom letting you take over payments/make payments is a better solution than cash[90].

Many of them—not all, but many—will then state an objection (or worse yet, not state it, which doesn't give you the chance to overcome it) that sounds something like, "What if you don't make my payments?"

Hey, it's a reasonable objection.

You'd have it.

And here's how most creative deal structurers HAVE to respond:

"Well, I'm not going to do that, but if I did, you'd just foreclose on me and get the house back, so you wouldn't lose anything"

Here's the problem with that 'answer':

1. **It's not true**. Foreclosure isn't, as we often say, "taking a property back". Instead, it's a process that, *in order to protect the borrower*, requires that the security be publicly advertised for sale and auctioned to the highest bidder. Yes, sometimes the highest bidder is the lender (who will typically 'credit bid' up to the loan amount, since he loses nothing by doing so), which is how we get 'bank-owned' properties. But it's not as if the seller/lender just walks into the courthouse, files foreclosure, and gets the property back.

2. **It's ESPECIALLY not true in the case of subject to deals**. The seller in a subject to deal *has no standing to foreclose.* He's not the mortgagee. The mortgagee is his bank, which absolutely will foreclose if you don't make payments, and the seller's credit will be ruined, and the only thing he can do to stop it is to make payments on a property he no longer owns or controls

3. **It's not a guarantee that the seller/lender will be made whole**. If the market has

[90] This whole section applies only to deals involving mortgages; in deals where you don't have title, such as lease/options, "getting rid of you" is a matter of simple eviction.

tanked, or if the seller or lender is in second position behind a first mortgage, it's entirely possible that the property won't sell at the foreclosure sale for enough money to 'pay back' what you owe them

4. **It's not exactly comforting**. A typical seller or private lender doesn't understand how foreclosure works, doesn't know a foreclosure attorney, and CERTAINLY doesn't want to be in the position of having to foreclose on someone.

All in all, it's just a bad answer.

So What's the RIGHT Answer?

It sounds something like this:

"Mr. [Seller/Lender], that's not the first time I've heard that question, and I get it—we haven't done business together yet, so you don't know that I'm a woman of my word, and unless I get hit by a bus, your payment is going to come in every month, on time or early, like clockwork.

That's why I'm going to set up this deal so that if I get behind in payments, all you have to do is write a letter, wait 10 days, and if it turns out I DID get hit by a bus and can't make it right, you just get back the house.

I know you don't WANT the house back, but remember, in that unlikely event, you'll get it back with any improvements I've made, all the paydown I've already made, and any appreciation that's happened, so if you want, you can just turn around and sell it to someone else.

I'll explain how it works when we meet, and if it sounds good to you, I'll have my attorney send the paperwork to you or your attorney so you can look it over and see that if I don't do what I say I'm going to do, I just lose the house and you get it back. That's how sure I am that I'm going to make those payments.

Would that convince you of how serious I am about making your payments? So should we meet and talk about it more?

No, I'm Not Talking About a "Deed In Escrow"

You may have heard that a good way to make sellers comfortable with the idea of carrying a mortgage, or of allowing you to buy subject to their existing mortgage, is to **"escrow" a quit[91]-claim deed** at the closing.

In other words, or so the thinking goes, the seller gives you the deed to the house, or the lender wires money to the closing, and at the same time, you sign a deed transferring title back to

[91] Quit. Not quick, quit.

the seller or to the lender, and place that deed with a third-party escrow agent (or, in the crudest version of this strategy, the seller or lender goes home from the closing with it, and puts it in a file, and you just trust that he won't file it because he feels like getting his house back one day).

The escrow agent has instructions that say that if you don't make payments to the seller or the seller's lender, the agent is to release the deed to the seller, allowing him to regain possession of the property without a legal action.

While this does, in fact, make sellers more comfortable, it doesn't necessarily do what you and the seller think it will. I'll explain why in a minute; but it's for these reasons that I prefer the second foreclosure alternative, discussed later in this section. But since this one is so common, let's talk about what it looks like.

While escrowing a deed to the seller seems simple, and relatively easy to explain to an inexperienced lender, and has the advantage of being very simple to execute, it also has some serious drawbacks that you should be aware of:

1. **If enough time passes between the execution and recording of the deed, your local courthouse may refuse to record it**. In theory, any properly executed document is recordable, but, in reality, some court recorders simply won't take a years-old document. Unless your seller/lender can find a way to force the recorder to do what he's supposed to do, he's back to foreclosure as his only alternative (unless you are willing, and alive, to give him a 'fresh' quit-claim deed).

2. **If other liens have accrued against the property in the meantime, recording the quit-claim deed means that your seller/lender has taken the deed subject to those additional liens**. For example, if you borrowed an extra $20,000 against the property for rehab as a second from another party, the seller/lender gets the deed but still has to pay off that second. Getting rid of any other liens without the seller/lender paying them off in some manner will require—you guessed it—foreclosure.

3. **You can't protect more than one mortgagee this way**. Since I started hearing about this technique back in the 90's, I've also started hearing about borrowers who give BOTH their first and second mortgagees escrowed quit-claim deeds. This is both dumb and dishonest. If you get behind on the payments to your second mortgagee and he gets the deed you escrowed and records it, what do you think happens when the first mortgagee goes to the courthouse to record HIS quit-claim deed from you?

So this technique is far from fool-proof, but it is simple and easy for the seller to understand, and can actually be effective in some situations.

The BETTER Way: The seller/lender protection trust

Land trusts are a common way of holding title to real estate.

Their primary use is in your asset protection plan, as they provide some privacy benefits—but that's a discussion for another course. They are also very commonly (and, in my opinion, incorrectly) used to 'hide' the transfer of a property subject to the existing loan from the lender, thus avoiding (but **not** defeating, as you may have been taught) the due-on-sale clause.

But our main interest in the land trust for the purposes of this discussion is that, by its nature, it separates the person who's entitled to sign documents (the trustee) from the person who is the 'real' owner (the beneficiary).

In a land trust, the trustee is the legal owner, meaning that the deed is in his name and that he is vested with some of the bundle of rights described in Chapter 1. The trustee is legally empowered (in fact, is the only party legally empowered) to pledge the property as security for a loan, transfer the property to another person or entity via a deed, and do many of the other things that any owner could.

However, the trustee is restricted by the terms of the trust agreement to only do those things which the beneficiary has told him to do.

So, although the trustee can sell the property, he can only do so legally at the behest of the beneficiary. He is also required to do everything that the beneficiary requests in regards to the property owned by the trust (as long as it's legal, of course).

So how does this help protect your seller or lender in a creative deal?

Easy—you make it a term of the land trust that, should you become delinquent in your payments, the trustee is required to create a new deed and sign it over to the seller/lender.

Just as in the case of the escrow agreement, this agreement is made up front, at the time of the closing of the loan or seller-carryback sale.

And just as in that case, you'll want to make sure the language of the trust protects you against the seller/lender simply appearing before the trustee and insisting that you're behind in payments when you're not, with language like this:

Lender's Protection. (would be changed to grantor's protection, in the case of a subject to deal) *As a direct and material inducement to make the loan evidenced by the note appended as Addendum A to this document, The Beneficiaries of this Trust offered as their own suggestion, with no request by the Lender, to forego the delays associated with foreclosure by law in the event of the Beneficiaries' failure to make payments due under the said note.*

Accordingly the Trustee is instructed, and agrees to:

Upon written notice to the Trustee, from the Lender ***(grantor, in the case of a subject to deal****), that the Beneficiaries have fallen 30 days in arrears in their*

payments, the Trustee shall notify the Beneficiary that they have 15 days to cure such arrearage or prove that it does not exist.

In the event that Beneficiary shall not cure the arrearage within that 15 days, nor prove that such arrearage does not exist, the Trustee shall prepare and deliver a deed transferring the subject Property to Lender within 5 days of the expiration of the 15 day period. All time periods referenced herein shall be computed in ordinary calendar days.

In the event that the Beneficiary shall request that the Trustee borrow against the Subject Property, the Trustee shall confirm that the Lender knows of and approves such borrowing before proceeding.

In the event that the Property shall be sold the Trustee shall receive proof that all sums due under Addendum A have been paid before releasing proceeds to the Beneficiary.

This can't be defeated by firing the trustee and getting a new one; every trustee is bound by the duties laid out in the land trust. There will be no problem with recording the new deed, because it will be a fresh, not a stale, document.

And what about you defeating the whole thing by taking the property OUT of the trust? Beneficiaries can typically do that simply by instructing the trustee, in writing, to create a new deed moving the property from his name as trustee to yours, or your entity's. That can be overcome by inserting language into the trust agreement that bars the trustee from doing this:

Termination. This trust may be terminated at any time by the Beneficiaries, except while a balance is due on the attached note [note to Bank of America or it's successors and assigns dated March 1, 2014, or similar languate in the the case of a subject to deal], in which case the trust may only be terminated **with the written consent of Lender (or grantor, in a subject to deal)**, and with thirty (30) days written notice of termination delivered to the Trustee, the Trustee shall execute any and all documents necessary to vest fee simple marketable title to any and all Trust Property in Beneficiaries.

Boom: the trustee can't let you move the title out of the trust without paying off the private lender or seller, or the loan you bought the property subject to, unless the lender or seller agrees to it.

This solves some of the main problems with the escrowed deed:

- The trustee creates a NEW deed to the lender or seller, which will be easy to record
- It keeps you, or your successor beneficiaries, from getting additional financing on the property without the written permission of the lender—so if there's going to be a second

mortgage on the property when he takes it back, he'll already know it and have approved it

But that doesn't mean that there are NO problems with this strategy:

1. If you happen to have accrued involuntary liens, like tax liens or contractor liens, the seller/lender will have to deal with those if he takes the property back

2. Again, it can't protect more than one lender. The trustee cannot agree to give two different lenders deed in lieu of foreclosure!

3. The trust itself creates challenges in certain states. In most areas, land trusts are not subject to taxes or fees, but in certain states, they can cost up to $500 per year to maintain. If $500 is the difference between your deal being profitable or not, you probably shouldn't have done it in the first place—but you can certainly save the money by using the escrow method instead.

Important note: These foreclosure alternatives are ones that you offer, as a BUYER/BORROWER, to sellers and private lenders.

They should NOT be used when you are selling to homeowners, because homeowners cannot, even voluntarily, surrender their right to be foreclosed on via whatever process your state requires. If you attempt to remove a home buyers' right to foreclose, it won't work and it will look really bad for you.

Also, the documents required to implement these are legally dense and should never, ever be used without really competent legal help.

Why Go Through All of This?

So if the Seller/Lender Protection Trust isn't a perfect way of protecting sellers against your potential default, and if it ties your hands in borrowing additional money against the property, why bother?

After all, I'm sure that you're sure that if you couldn't make the payments on your loan, you'd simply sign the property over to the seller in what's called a "deed in lieu of foreclosure" anyay—in other words, you'd give them the property back rather than force them to take the time and incur the expense of foreclosing on you, so it's the same thing without all the complication, right?

In fact, I'm sure that's exactly what every borrower who couldn't make payments because of personal issues, health issues, downturns in the economy, problems with the property, and so on, said to themselves when they agreed to pay the mortgage in the first place.

So, instead of depending upon your cooperation off in the future, when you may feel less optimistic and generous (or, perhaps, alive) than you do today, why NOT up the transfer of the property deed to the seller upon your default in advance?

The best reason I can give you is this: it has absolutely 'closed' at least a dozen sellers I can name who were going to let this objection of theirs stop them from doing a deal that was better than anything anyone else was offering them.

And I'm not sure that it was the documents or the concept itself that did it; I think it was more that it convinced them how serious I was about making payments.

Before We Part, Let's Talk About Ethics.

I think I speak for Bill when I say, you do NOT have our permission or blessing to use anything we've taught you in this workshop if YOU aren't going to use it with integrity.

Good people out there getting good advice and making good deals with other people is a good thing for the world; but in the hands of BAD people, this information can do a lot of damage.

And that damage doesn't just affect the people YOU work with. It affects our WHOLE INDUSTRY.

When one guy in one city steals money from one grandma by "borrowing" it for a deal (that he neglects to tell her is actually the 5th mortgage on a property not even worth the balance on the first), and that story makes the papers (or maybe American Greed), and some politician says, "There should be a LAW!!", as politicians do, we're all hurt by that law, the good along with the bad.

It's your responsibility—to yourself, to the sellers and lenders that you work with, and to the rest of us, to do only good deals, to keep your promises, and to get advice when you're not sure what you're doing.

And even if you do all that, it's very likely that, at some point in your investing career, you'll find yourself in the position of being unable to perform on some promise you've made.

Whether it's due to a serious real estate downturn, or an unexpected issue with the property, or personal health or financial crises, or because you flat out made a mistake in how you negotiated the deal to start with, there will be some period of your life when you're up nights wondering how you're going to make the next payment.

Obviously, your #1 mission is to figure out how to fix it so that the seller/lender/whomever is made whole.

One of the best ways to "figure it out" is to bring the problem to a trusted, and experienced, mentor or colleague who can give you a perspective that you don't have. Seriously, two creative minds can often come up with solutions that one can't, no matter how smart it is. Because the situation leading to your potential default is probably already stressful, and because you'll probably consider borrowing your way out of the problem using OTHER private lenders/deals/sellers etc., and because you're afraid that if you admit you're having problems, it will get around, and keep you from doing this already-stupid thing, you won't want to. But do.

But your other job is to not mislead the other party about what's going on, and to not bury your head or "go dark" and just refuse to respond to communications from your worried seller/lender etc.

Most sellers, and private lenders for that matter, would rather KNOW what's really happening than be in the dark; in fact, most of the deals that turn ugly in a default and end in lawsuits, ruined reputations, and so on, do so not because of the monetary loss, but because the borrower angered the lender by lying, or ceasing communication.

When you keep the lines open, and are 100% honest about what's happening and what the alternatives are, all kinds of interesting things happen: sellers agree to let you make lower payments for a while; lenders agree to lower interest rates or extend balloons; people part ways satisfied with what happened and with good things to say about each other.

So (wo)man up and communicate when things start to go sideways.

With the right education, the right documents, the right legal advice, and the right mentors used in the right ways, you should be able to do a lot of good deals, and a lot of good, in the world.

It's ALL of that: doing good and doing well, being good and being well, that we wish for you.

Part 8: The End…*And The Beginning*

Just Words on Paper

Ultimate Creative Deal Structuring Workshop has come to an end. However, you are just beginning. What happens next is up to you.

Over the past three days, Vena and I have worked very hard to describe and share the best lessons we've learned over our combined 60-plus years of helping people solve their real estate problems.

That said, what's here are just words on paper. These words will only become effective when you do.

Know this: Real estate investing is simple, but it's not easy. It's simple because the goal is to go out every day and find people to help and problems to solve. For this exact same reason, it's not easy. Going out every day and finding people to help and problems to solve is work. Hard work. A lot of hard work!

Set your goals. What does "done" look like to you? How much mailbox money do you seek?

Write down all the things required to achieve your goal. Now you have your to-do list. Get busy and stay at it.

Be mindful of your thoughts. Remember this: *You are what you think about. Your thoughts determine your life, and you determine your thoughts!*

Finally, allow me to share with you the most important business and life lesson I ever learned. This comes from Zig Ziglar. His book See You at the Top. I was 19 years old at the time.

You will get everything in life you want IF you just help enough other people get what they want.

Remember, it's about them, not you!

Love y'all,

Vena and Bill