

540.982.2444
pcf@poeandcronk.com

Dennis R. Cronk, CCIM, CIPS, CRE
Thomas M. Hubbard, CCIM
Peter A. Ostaseski, CCIM
Matt Huff, CCIM
Richard Wellford, CCIM
Bryan Musselwhite, CCIM
Adam Hardy, CCIM



SEPTEMBER 2023

Contents

- Physical Inspection Of Investment Property
- The Commercial Condominium
- Property Values Around A New Hospital

- The Protection Of Confidential Information
- Searching For Commercial Tenants
- Are These Items In Your Leases
- Help With Investment Real Estate

Physical Inspection Of Investment Property

When a buyer makes an offer on an investment property, it is usually only after a thorough inspection of all of the data that is available on the financial records of the building. The physical inspection of the property could be as important or more important than the rents and expenses.

Some investors pay more attention to the data than the structure. With a physical inspection on the potential investment property, a buyer may be able to:

- Work out a better price.
- Get ready for any upgrading or maintenance expenses.
- Avoid catastrophic repair bills for detectable problems.
- When actually purchased, get a higher return on the investment.

Where to Start

First, the investor needs to know what experts to call. He needs to know what needs to be inspected and how to do it. The property must be verified as physically sound and is a worthwhile investment.

There are some broad categories of problems that investment properties are subject to, and the type of expert that is needed for the inspection.

- **Soil Conditions.** When a property is located on certain types of land, a professional soil engineer or geologist should be called. Property could be low lying or reclaimed land; a former landfill or dump area; on hilly or mountainous terrain; located at lakeside or seaside; has structures or piers, pilings, stilts, or other unusual foundation conditions. Is the actual foundation of the building dry and clean with no holes or cracks.
- **Drainage.** If the property is located within a flood plain area, it should be carefully examined by a civil engineer. The buyer can check basements and interior walls for signs of water damage. Also an inspection of the plumbing system for any signs of leaks or signs of old leaks.
- **Elevators.** If the property has an elevator, has it had the proper inspections in recent months? Elevators and electric systems should be inspected by professionals in those fields.
- **Fire Suppression System.** Is the fire system inspection up to date?

- **HVAC.** Representatives of the companies that manufactured or installed the heating, ventilating, and air-conditioning systems.
- **Roofing.** A roofing consultant or structural engineer should be called to determine age, condition, ability to withstand loads, etc.
- **Pests.** Pest control companies are able to check for termites and other damage-causing pests.
- **Environmental Inspection.** Check for contaminants on or near the property.

Government Records

Check the local building department and see what permits were issued and when. Some records may also show when fire inspections or health and safety inspections were made. Any violations will be on record.

The plans and specifications of the building may also be on file. These may contain the names of the original architect, engineer, contractor and developer. The investor may wish to contact one or more of these if any questions need an answer. □

The Commercial Condominium

Statistics show business and professional firms are buying offices rather than leasing. While buying or constructing an entire building is an option for major corporations or for smaller firms outside metropolitan areas, owning commercial space generally means being part of a condominium structure.

Small office buildings are the most common type of commercial condominiums. The strongest demand for this type of space is from lawyers, doctors, advertising firms and other professional and service companies, as well as small private corporations.

From a financial point of view, the basic appeal of commercial condos space is that over the long run, owning can be considerably less expensive than leasing. While rents may be affordable in the current market, renewals over the years are likely to mean rent increases. In addition, well-located and well-maintained space can appreciate significantly over the period of ownership.

Tax considerations are less favorable for owners as compared to tenants. A tenant can deduct 100 percent of rent payments as a business expense. A condominium owner can deduct only the interest on a mortgage loan, as well as depreciation (using a 39-year life). While the tax benefit of leasing may be slightly better than those from owning, the likelihood of appreciation of value should more than offset the difference.

A further advantage of condo ownership is that it eliminates undesirable provisions that may be in a lease. For example, a landlord may have the right to relocate the tenant if a major tenant requires more space. Using an office at night or on weekends may require the tenant to pay for utilities and services. In general, small tenants have little negotiating power when negotiating a commercial lease.

Management Concerns

Like a residential property, a commercial condominium is managed by a board of directors made up of unit owners. Certain matters may require approval of a majority of owners, thus assuring each owner a say in any decisions affecting the building. Often the condominium charter gives the board a right of first refusal when a unit is offered for sale. In this way, control over the type of building occupants can be maintained. This arrangement frequently prevails when all occupants of the building are in the same or a related business or profession.

Changing Space Requirements

A frequent concern of small business or professional owners is that space requirements may change at some time in the future. In a rental building, where turnover is likely to exceed that in a condominium, a tenant is more likely to be able to adjust its space requirements. In the case of a condominium, an owner anticipating a future need for more space can buy a larger space initially and lease it short-term until required (assuming leasing is permitted). However, it may be more difficult to obtain additional space if needed.

Cooperative Office Buildings

Cooperative office buildings became feasible only after a 1986 tax law permitted business corporations to qualify as “tenant-stockholders” eligible to deduct taxes and interest payments.

One major difference between a cooperative and a condominium is that a co-op board of directors has the right to disapprove a proposed buyer, whereas a condo board only has a right of first refusal. Thus, cooperative ownership gives greater assurance that tenants will occupy a building in a similar business or in related lines of business, if that is the intention of the owners. □

Property Values Around A New Hospital

What happens to nearby property values when a new hospital is built? Usually the surrounding area feels a ripple effect. No matter how old the buildings that surround a new hospital complex are, land values increase. Developers are quick to provide new space for offices and stores. The biggest profits are realized by the investors who get involved early (during the planning stages) before or while the hospital is being built.

As a new hospital is being built, the surrounding area around it will begin to improve by demolishing older buildings and revamping existing buildings to create ancillary businesses. Among the new activities that create an abnormal demand on land located near the hospital are:

- Physicians offices.
- Walk-in clinics.
- Medical supply companies.

- Residential apartments for hospital employees.
- Physical Therapy center.
- Day Care centers.
- Long-term care facility

A few decades ago when doctors regularly made house calls, hospitals were isolated structures and viewed as “places to rest”. Now, however, doctors prefer to locate their offices near the hospital. The whole area begins to boom with ancillary services that are both directly and indirectly related to health.

There is often a need to expand the medical facilities at existing hospitals to handle a growing population and larger numbers of senior citizens. Land prices can soar when the hospital decides to buy nearby land for expansion. Watch for it, the alert investor can again have an opportunity for profits. □

The Protection Of Confidential Information

Typically, a landlord has access to leased premises at all times for purposes of making repairs and inspections. But in today's information age, many tenants have valuable trade secrets, confidential information, and unique documentation in tapes, CDs, DVDs, listings, and other intellectual property that should not be accessible to the landlord.

A software company tenant, for example, should try to obtain the right in the lease to maintain locked documentation rooms where even the landlord's janitorial and maintenance people have no access and the landlord is given no copies of keys, pass cards, or cipher lock combinations to the additional locks installed by the tenant on the documentation room door.

Lease Provisions

One legal expert suggested the possibility of lease provisions that software companies can use to protect against any access to trade secrets and confidential information. The following lease provisions might be negotiated:

Locked Documentation Rooms

Notwithstanding any other provisions of this lease to the contrary, Tenant shall be permitted to designate certain portions of the Premises as safe or confidential areas, to be known as Locked Documentation Rooms, to which Landlord shall have no access,

unless accompanied by Tenant's authorized representatives. Landlord, when so accompanied by Tenant's representative shall have the right to inspect any Locked Documentation Rooms during the Tenant's normal business hours after giving Tenant reasonable prior notice requesting such an inspection. Landlord shall not be responsible for providing Janitorial services with respect to any Locked Documentation Room. Landlord shall not receive copies of keys, pass cards or cipher lock combinations to Locked Documentation Rooms.

Cipher Locks and Security System

Tenant shall be permitted to install (and substitute any existing locks) on interior premises doors with combination or cipher locks. Tenant shall also be permitted to install electronic security systems in the premises, including, but not limited to, pass card door lock systems and camera surveillance systems, subject to compliance with all applicable building and fire codes.

Landlord's Nondisclosure

The tenant should also insert in the lease a confidentiality/nondisclosure provision which prohibits the landlord from disclosing confidential information and/or trade secrets of the tenant to which the landlord may have gained access when exercising its rights under the lease. □

Searching For Commercial Tenants

At all times, good or bad, we must aggressively search for replacement tenants. A month's rent from a vacant unit can never be recovered. Just running expensive advertising for this space can be nonproductive. A better way might be to have a professional management company that keeps all local brokers who specialize in leasing informed of the advantages and amenities of the building.

Here are some other ideas:

- Make sure the management company you choose is experienced and professional. They must know the building intimately and be able to communicate and show the benefits and amenities to potential tenants with enthusiasm. A truly professional company will manage the building as exclusively as if this building was the only property they manage.
- Don't scare away potential tenants with marketing gimmicks like free rent. This kind of offer can give

the tenant a negative impression and start him/her looking for the things that must be wrong with the building. The professional approach is to stress the positive features of a building and work with potential tenants to match the criteria the tenant feels are most important to him.

- First impressions are most important. The outside of the building and landscaping must be perfect. Don't make the mistake of many owners who cut the landscaping budget to save money. This is the worst place to save.
- A good management company will look over your property for any deferred maintenance, and advise you about problems that need to be corrected. They will advertise and publicize vacant space through the proper media and in cooperation with other brokers. We are here to help enhance your property and its value. Please give us a call. □

Are These Items In Your Leases

The following is a useful list of items that should be clarified between the parties in the lease of a commercial building:

1. What is the amount of usable space? Since the rent may be based on a square foot rate, the rate may be quoted on a rentable or a usable area. Rentable space means the actual office area, plus a proportionate share of facilities and corridors that service the floor on which the office is located. This concept is used in most buildings. Usable space is the actual space located within the walls of the office and excludes any part of the service facilities.

2. Who pays the broker's commission? Maybe the broker has been working for the tenant, but the fee is usually paid by the lessor. Often the lessor has hired the broker to represent him in the negotiation. The lease should reflect the obligation and who will pay it.

3. On what basis is electric current or other utilities paid? The tenant usually will pay for his own utilities. However, it can be computed in two different ways. It could be a flat rate added to the rent. Sometimes, each office is provided with its own meter and charged only for the actual consumption of the utilities.

4. What services will be provided? There are a number of services in a building. There may be elevator service, air conditioning, restroom maintenance, parking that is available to tenants or will be rented. The tenant's right to use these services and the limitations should be spelled out.

5. Is there a "most-favored tenant" clause? If a tenant moves into a new building that is only partially filled, he may demand a clause in the lease that will give him the benefits of any rental concessions that the landlord may subsequently make in order to obtain tenants. □

Help With Investment Real Estate

When you have searched for new real estate investment opportunities, with values that have been changing, you know that finding and evaluating them is becoming more sophisticated and complex. More investors are turning to real estate consultants as a means of providing a sounding board for their ideas as well as expertise in the planning and construction stages for their projects.

Today's investor in real estate must have a grasp of market conditions and potential that is usually beyond their own available time to attain. Investors need assurance about the true condition of the market. With increased competition, the market place is becoming more complicated.

Feasibility studies are essential for commercial office, industrial, resort and hotel investors. With this kind of

information, planning is better and there is less chance for error.

Real estate investing is not just looking for the structure and the land. It is investing in the type of property that you want at the price and terms that suit you at the time you want to make the purchase.

Our office is open and ready to assist you. We have been experts in property values in this area for a long time. We can help you with enough information so that you can make your own decisions on the value of property either in listing your present property for sale or in purchase of another. If you wish to consider structuring a tax-deferred exchange into that next property, we can guide and aid you with that transaction.

Let us guide you in your investments. □



540.982.2444
pcfirm@poecronk.com

Dennis R. Cronk, CCIM, CIPS, CRE
Thomas M. Hubard, CCIM
Peter A. Ostaseski, CCIM
Matt Huff, CCIM
Richard Wellford, CCIM
Bryan Musselwhite, CCIM
Adam Hardy, CCIM



A CCIM is a professional real estate practitioner with proven technical expertise in commercial property. A CCIM is a person truly committed to the fundamentals of effective commercial-investment brokerage. The CCIM has completed a full schedule of Post Graduate Level Courses in investments, taxation, development and marketing all types of commercial-investment properties. The designation of Certified Commercial-Investment Member is unquestionably the highest degree awarded in the commercial-investment real estate practice.