

# Breaking Ground

## COMMERCIAL REAL ESTATE TRENDS

### The Anatomy of A Typical Development

You see new developments happening all the time. Drive down any major thoroughfare and the sight of bulldozers preparing a site peaks interest and creates excitement. But many people don't know about the process that took place prior to the actual construction process commencing. The following scenario describes a "typical" development process.

A typical developer finds a site suitable for a store location and negotiates a 90-120 day option to purchase from the land owner. He measures the supply of retail space in the trade area, estimates the demand and identifies a gap - uncaptured retail sales for a particular line of trade at this location.

He approaches all the competing retailers within that trade until he finds one interested in his site. He then preliminarily engages an architect, engineer and contractor to estimate the cost of developing the site and building the store. He then negotiates a rental rate and letter of intent to lease with the retailer. A month later his attorney completes negotiation of the lease.

Now that he has an lease with a credible retailer in hand, the developer goes to a bank to secure construction financing. Based on the lease from a credit-worthy retail tenant the bank agrees to process the developer's loan application. The lending officer and/or the bank's attorney object to a few provisions in the lease so the developer must go back to the retailer and renegotiate the lease to incorporate the revisions required by the bank. The bank's loan committee is nervous about the Internet and retailing so the loan commitment requires that the developer post additional collateral or secure a "take-out" for the construction loan.

The developer, while still juggling the land seller, the engineer, the architect, the contractor and the retailer, now lists the deal with an investment sales broker to find a "take-out" buyer. When a "take-out" buyer is located, the buyer wants a few more revisions to the lease, so the developer must go back to the retailer for the second time and renegotiate the lease to incorporate the changes required by the "take-out" buyer.

Months have passed since the retailer originally, approved the site. The "take-out" buyer seeks to secure a permanent loan. The permanent lender's loan officer and/or attorney object to a few provisions in the lease so the "take-out" buyer tells the developer, who must now go back to the retailer for the third time, and renegotiate the lease to incorporate the provisions required by the permanent lender.

Now that the developer has secured construction loan financing and a "take-out" buyer with permanent financing, he is ready to proceed with the build to suit development. He converts the option into a contract, completes the due diligence on the land, including the environmental evaluations, applies for zoning, driveway and/or sign variances and has the engineer and architect complete the working drawings. Once he has secured the retailer's approval of the construction drawings, his attorney completes negotiating any open contract issues with the land owner's attorney and the developer is ready to apply for a building permit.

When he is ready to pick up the building permit, he closes the construction loan - the closing is attended by himself, his attorney, the land owner, the land owner's attorney, the bank, the bank's attorney, the "take-out" buyer, his attorney, and the documents are approved by the permanent lender and the permanent lender's attorney.

Now that he has closed the construction loan, he breaks ground, builds the store and turns it over to the retailer for fixturing. Finally, after what seems like years later, the retailer can open for business.

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