

Commercial real estate: The contract is king

If you are buying commercial real estate, a well-crafted contract is worth its weight in gold. Every buyer's contract should have a risk-free period (generally 30 to 60 days) within which to conduct "due diligence." This is the "study period" in which the buyer hires engineers, architects, surveyors and other professionals to make sure the property can be used for the buyer's intended purpose. It is during this time that the buyer also makes sure he has the cash of the financing in place to make the deal. If he decided the deal is not good for him, he can cancel and get his deposit refunded.

Every buyer's contract should contain a laundry list of seller's warranties and representations, which provide protection for the buyer. The seller warrants that he has good title, that there is no pending or threatened litigation, that the seller is not in bankruptcy and has the right to sell the property, that there are no tenants, that there are no liens on the property (or if there are, that the seller will pay them off), that the property complies with the environmental laws and that the seller has all the necessary licenses and permits for the property and will assign them to the buyer at closing. The more "reps and warranties" the better for the buyer.

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By former Principal, Arthur Blitz

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