

NORTH ATLAS

COMMERCIAL REAL ESTATE

Maximizing Value in Distressed Commercial Real Estate: *A Guide for Manitoba's Insolvency Trustees*

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Distressed commercial real estate assets present unique challenges and opportunities for licensed insolvency trustees (LITs) in Manitoba. Effectively managing and selling these properties requires a specialized approach that considers the complexities of the insolvency process under the Bankruptcy and Insolvency Act (BIA) and Companies' Creditors Arrangement Act (CCAA), market dynamics, and other applicable legislation. Successfully selling distressed assets not only involves maximizing value for creditors and stakeholders but also offers LITs the opportunity to enhance their professional reputation by demonstrating expertise in navigating complex insolvency situations and achieving positive outcomes.

This guide offers a step-by-step approach for LITs to follow when handling the sale of distressed commercial real estate assets, with the goal of helping trustees navigate the complexities of the distressed asset landscape more effectively and ultimately achieving the best possible outcome for all parties involved. By following this process, LITs can showcase their ability to effectively manage distressed assets, bolster their professional reputation, and attract new clients and opportunities.

Please note that the content of this guide is for informational purposes only and should not be construed as legal advice. It is important to consult with legal counsel and other relevant professionals to ensure compliance with all applicable laws and regulations when managing distressed commercial real estate assets.

1

Assess the Property and Develop a Strategy

To begin the process of unlocking value in a distressed commercial real estate asset, it is crucial to assess the property and develop a strategy tailored to its unique circumstances.

A. Review the Property's Financial and Operational Situation:

Analyze the financial and operational performance of the property to determine its current value and identify areas of potential improvement. This analysis should include, when applicable, a review of the property's income, expenses, occupancy rates, and other key performance indicators.

B. Evaluate the Property's Market Position:

Examine the property's position within its local market, considering factors such as competition, demand, and local economic conditions. This evaluation should help to identify the property's strengths and weaknesses, as well as any opportunities for value enhancement.



C. Identify and Assess Risks:

Determine the risks associated with the distressed property, including any potential environmental, legal, or financial issues that may impact its value. This assessment should also consider the risks associated with the insolvency process, such as any potential claims from creditors or other stakeholders.

D. Develop a Strategy:

Based on the information gathered, develop a strategy to maximize the value of the distressed asset. This strategy should consider the property's unique circumstances, the interests of creditors and other stakeholders, and the requirements of the applicable insolvency legislation.

A commercial real estate brokerage firm can play a crucial role in this assessment and strategy development process by providing expert market insights and guidance on best practices for managing distressed assets. By partnering with a knowledgeable commercial real estate brokerage firm, licensed insolvency trustees can ensure they are well-equipped to navigate the complex landscape of distressed commercial real estate.

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Conduct Comprehensive Due Diligence

Thorough due diligence is essential for understanding the distressed property's current situation and identifying any potential issues that may impact its value or the insolvency process. This due diligence should include a comprehensive review of the property's physical condition, financial records, legal documentation, and other pertinent information.

A. Inspect the Property:

Conduct a detailed physical inspection of the distressed property to assess its condition and identify any necessary repairs, maintenance, or improvements. This inspection should also evaluate the property's compliance with applicable building codes, zoning regulations, and environmental laws.

B. Review Financial Records:

Examine the property's financial records, including income statements, balance sheets, and cash flow statements, to gain a thorough understanding of its financial performance and identify any areas of concern.

C. Investigate Legal Documentation:

Review all legal documentation related to the property, such as title records, leases, contracts, and any outstanding litigation, to ensure compliance with the applicable laws and regulations. This investigation should also take into account any obligations and restrictions under the BIA, CCAA, and The Judgments Act that may affect the property or the insolvency process.

D. Assess Market Conditions:

Research the local commercial real estate market to gain insight into prevailing market conditions, competition, and trends. This information will help to inform the marketing strategy for the distressed asset and identify potential buyers.



E. Identify Potential Liabilities:

Investigate any potential liabilities associated with the property, such as environmental issues, outstanding tax obligations, or claims from creditors. This assessment should include a review of the licensed insolvency trustee's duties and obligations under the relevant legislation and professional standards.

By working with a commercial real estate brokerage firm, licensed insolvency trustees can access specialized expertise and resources to support the due diligence process. This partnership can help to identify and address any potential issues early in the process, ensuring a more efficient and successful outcome.

3

Prepare Marketing Materials and Engage Potential Buyers

Once the property assessment and due diligence processes are complete, it is time to prepare marketing materials and engage potential buyers. This stage involves developing a targeted marketing strategy to showcase the distressed property's value and attract the right buyers.

A. Create High-Quality Marketing Materials:

Develop professional marketing materials, including property brochures, photographs, and virtual tours, that highlight the property's features and potential. These materials should present the property in its best light while also providing accurate and transparent information to potential buyers.

B. Develop a Targeted Marketing Strategy:

Based on the property's unique circumstances and market conditions, develop a marketing strategy to target specific buyer segments, such as local investors, developers, or owner-occupiers. This strategy should include a mix of online and offline marketing channels, such as property listings, email campaigns, and targeted advertising.



C. Engage Potential Buyers:

Leverage a commercial real estate brokerage firm's network and resources to engage potential buyers and generate interest in the distressed property. This may include reaching out to existing contacts, attending industry events, and utilizing social media platforms to raise awareness of the property.

D. Coordinate Property Tours and Showings:

Schedule and manage property tours and showings for interested buyers, ensuring they have all the necessary information to make an informed decision.

Working with a commercial real estate brokerage firm can greatly enhance the marketing efforts for a distressed property, helping to attract more potential buyers and improve the chances of a successful sale.

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Facilitate Due Diligence for Potential Buyers

As potential buyers express interest in the distressed property, it is essential to facilitate their due diligence process by providing access to necessary information and documentation.

A. Provide Access to Property Information:

Make available all relevant property information and documentation, such as financial records, legal documents, and property inspection reports, to interested buyers. This transparency will help to build trust and encourage more informed decision-making.

B. Respond to Buyer Inquiries:

Be prepared to respond to any questions or requests for additional information from potential buyers in a timely and professional manner. This responsiveness can help to maintain buyer interest and demonstrate a commitment to a smooth transaction.



C. Coordinate Buyer Inspections and Site Visits:

Work with potential buyers to schedule and manage any necessary site visits, inspections, or meetings with property stakeholders. This coordination will help to ensure a seamless due diligence process and maintain momentum toward a successful sale.

D. Facilitate Third-Party Reports:

If required, assist potential buyers in obtaining third-party reports, such as environmental assessments, property condition reports, or appraisals. In certain instances, the buyer may be responsible for obtaining these reports, but the commercial real estate brokerage firm can provide guidance and support throughout the process.

A commercial real estate brokerage firm can play a vital role in facilitating the due diligence process for potential buyers. Their expertise and resources can help to streamline the process and ensure that all necessary information is provided, contributing to a more efficient and successful transaction.

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Negotiate the Sale and Structure the Deal

As interest in the distressed property grows, it is essential to carefully navigate the negotiation process to maximize value and achieve a successful outcome for all parties involved. This stage requires a clear understanding of the property's value, the interests of creditors and stakeholders, and the applicable insolvency legislation.

A. Evaluate Offers:

Review and evaluate any offers received from potential buyers, taking into account factors such as price, terms, contingencies, and the buyer's ability to close the transaction. This evaluation should also consider the interests of creditors and other stakeholders, as well as the requirements of the applicable insolvency legislation.

B. Negotiate Terms:

Engage in negotiations with potential buyers to agree on the terms of the sale, including price, closing timeline, contingencies, and any other relevant conditions. This negotiation process should be guided by a clear understanding of the distressed property's value and the goals of the insolvency process.

C. Structure the Deal:

Work with legal counsel and other professionals to structure the deal in a manner that complies with the applicable insolvency legislation and addresses the needs of all parties involved. This may include addressing any issues related to the distribution of proceeds, the treatment of outstanding claims, or the transfer of property ownership.

D. Obtain Necessary Approvals:

Ensure that any necessary approvals are obtained from relevant parties, such as creditors, the court, or regulatory authorities, as required by the applicable insolvency legislation.



By partnering with a commercial real estate brokerage firm, licensed insolvency trustees can access expert guidance and support throughout the negotiation and deal structuring process, helping to achieve a successful outcome that maximizes value for all parties involved.

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Manage Closing and Transition

The final step in unlocking value in distressed commercial real estate assets is managing the closing and transition process. This stage involves ensuring that all necessary documentation is in place, any outstanding issues are resolved, and the property is successfully transferred to the new owner.

A. Prepare Closing Documentation:

Work with legal counsel to prepare and review all necessary closing documentation, including the transfer of land document and any other required legal documents. This preparation should ensure compliance with the applicable laws and regulations, as well as the terms of the negotiated deal.

B. Resolve Outstanding Issues:

Address any outstanding issues or contingencies identified during the due diligence process or negotiations, such as completing any necessary repairs, obtaining required permits, or satisfying any outstanding claims.

C. Coordinate Closing Activities:

Work with the buyer, legal counsel, and other professionals to coordinate the closing activities, such as finalizing financing, executing closing documents, and transferring funds.

D. Manage Property Transition:

Assist with the transition of the property to the new owner, ensuring a smooth handover of property management, tenant relationships, and any other relevant responsibilities.



Conclusion

Successfully unlocking value in distressed commercial real estate assets requires a deep understanding of the insolvency process, market dynamics, and applicable legislation. By following the step-by-step approach outlined in this guide, licensed insolvency trustees in Manitoba can navigate the complex landscape of distressed assets with confidence and achieve the best possible outcome for all parties involved.

Partnering with a commercial real estate brokerage firm, such as North Atlas Commercial Real Estate, can provide invaluable support and expertise throughout this process. With extensive industry knowledge and a commitment to client success, North Atlas is well-equipped to assist licensed insolvency trustees in maximizing value and achieving successful outcomes in the management and disposition of distressed commercial real estate assets.



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