

TALES FROM THE TRENCHES™

BY BARRY C. MCGUIRE

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UNPREDICTABLE SELLER MOTIVATION AND AGREEMENT FOR SALE MAGIC

An investor recently showed up in my [Edmonton law office](#) with this absolutely marvellous Tale about a unique property seller in Alberta and the magic of having the right real estate investing strategy for the job.

An acquaintance had introduced the investor as a real estate expert to a gentleman who had a real estate problem. The problem was that the gentleman owned a 4-suite apartment building, but wanted to leave town. He had worked hard his whole life in Alberta, was recently retired, and planned to move to Eastern Canada. His well located apartment building was mortgaged for about \$700,000 with about 3.5 years left on the mortgage term and all suites rented, albeit at about \$200 per suite per month less than what those same suites would have rented out a couple of years ago. Overall the apartment was break-even cash flow with mortgage pay down of \$12,000 per year.

The gentleman, who was a knowledgeable investor himself and had worked in various aspects of the real estate industry over his whole career, had purchased the property with his daughter. The daughter was very busy with her own life and wanted nothing to do with the property. The investor was familiar with the building location and thought that a conservative valuation would be \$850,000-\$900,000.

A bit of head scratching goes on and our investor finally says to the gentleman, “why don’t you just sell the property? You seem to have a fair amount of equity and even with payout penalties, a sale would put a good chunk of change in your pocket.” “I don’t want to do that,” said the gentleman. “I have to move pretty quickly and I just do not want to go through the trouble of listing the property, dealing with realtors and potential buyers, providing all of that material you always have to provide, only to have offers fall by the wayside. Even though I’ve been in real estate my whole life, I’ve always hated this part of the process. I just want to get rid of the property and protect my daughter. For myself, I don’t care; it’s protecting my daughter and getting rid of the stress. Plus, I don’t think there is that much equity, it’s not enough for me to chase.”

Our investor then suggests keeping the property and turning it over to a solid property manager. Although the market is down now, in a couple of years rents and values will be back up and the mortgage will be paid down. That would preserve equity and be a nice part of retirement. Or, what about a joint venture with a knowledgeable real estate investor who could take over the property and manage it in a trouble-free way, again, giving the gentleman a chance to share in the property upside.

The answers were, “no” and “no.” Property management costs too much and the gentleman had never liked joint ventures. Plus, wasn’t our investor listening? The gentleman wanted to get rid of the property, period.

Our investor was out of ideas. The gentleman said... wait for it... “I can tell by our conversation that I can trust you and you have a lot of real estate experience. You could buy this property by way of Agreement for Sale (AFS).” Flabbergasted and dumbfounded are the words to describe our investor’s reaction. But, inclined to keep going, he asked, “how much do you want?”

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The gentleman responded that he wanted protection for his daughter but no cash, but also no adjustments. If our member would take over responsibility for the security deposits and not ask for a rent adjustment in a proposed midmonth closing, the gentleman would take a zero down deal and throw in the insurance and tax adjustments. Our member continues to be flabbergasted and dumbfounded, but he agrees and further says that he will have his wife purchase the property and he will personally guarantee the AFS. The guarantee will assist on the daughter protection side of things. Payments under the AFS will be exactly the same as the payment under the underlying mortgage.

This is the classic low/no equity AFS deal. The most amazing thing is that the gentleman made the offer. No one even knew he wanted to get rid of the property. Essentially, the gentleman took our classic AFS question and turned it around on our investor. Basically he said, “are you interested in buying my apartment building for no money down but you have to take over my mortgage payments, taxes, insurance, and all repairs and maintenance?”

Now, as a sideline we always talk about not taking advantage in a deal. Our investor told the gentleman that he was incredibly grateful for this amazing chance to pick up an apartment building for no money down. But he still felt the gentleman should consider taking any of the three steps described above or any other step that would actually get him some money in his pocket. In that regard, our member told the gentleman that if he changed his mind or came up with a better deal from somebody else any time up until closing, our member would simply walk away. “No way”, said the gentleman. “I like you, I trust you, I like the deal—especially you adding your personal guarantee—and I’m going to close with you. When would you like to go and meet the tenants?”

LESSONS LEARNED:

1. AFS continues to be an amazing strategy in any part of the real estate cycle.
2. AFS is especially applicable in today’s Alberta real estate market.
3. Deals are where you find them. Don’t assume what a seller’s motivation might be; find out what it is!

**FOR ALL YOUR ALBERTA REAL ESTATE LEGAL NEEDS,
CONTACT BARRY MCGUIRE TODAY!**

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