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What Are the Most Common Legal Mistakes First-Time Chicago Multifamily Real Estate Buyers Make (and How to Avoid Them)?



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Real Estate

First-time multifamily buyers in Chicago often focus on price, neighborhood and cap rate but miss legal and compliance issues that silently add cost, delay closing or create post-closing liability. Below are the most common legal mistakes I see first-time multifamily buyers make (and how to avoid them):

Using a Poorly Customized Contract (or Even the Wrong Form)

Form contracts are a great starting point but fail to fully address:

- Due diligence scope and timing
- Title/survey objections and cure requirements
- Tenant documentation and rent roll accuracy
- Cost allocations and prorations
- Environmental risk allocation
- Seller representations, remedies and post-closing liability

Avoid this mistake by using experienced counsel to modify your purchase agreement to meet your transaction and your needs. A well-drafted purchase agreement will address these items in advance, so all parties enter the transaction with a mutual understanding. Unnecessary friction frequently arises between parties when buyers rely on attorney modification periods or amendments modify a poorly customized contract.

Letting Your Lender Dictate Your Due Diligence

Lenders protect their loan, not your investment. Lender checklists frequently overlook buyer-specific risks regarding:

- Operating history
- Existing lease compliance
- Property condition
- Permits
- Rent collections

Avoid this mistake by building a robust due diligence checklist with your advisors early and be prepared to execute it. A well-thought-out due diligence checklist will cover your lender's diligence requests and potentially reveal investment risks before your money is at risk.

Overlooking Title and Survey Matters

Closing dates are frequently missed due to title issues. Title issues come in a variety of formats, but most of them are avoidable.

Avoid this mistake by reviewing the title commitment early and timely objecting to unpermitted exceptions. Experienced counsel should review your title commitment early and identify issues during your diligence period.

Skipping Environmental Diligence

Environmental liability can be catastrophic. Underground storage tanks, historical uses or off-site migration issues frequently go unnoticed (until they are identified). Once identified, unprepared buyers can see their investment wiped out by environmental remediation costs.

Avoid this mistake by ordering a Phase I Environmental Site Assessment at the beginning of your diligence period. Phase I reports frequently take two or three weeks to prepare, depending on the size of the asset.

Failing to Diligence Leases

Chicago multifamily leases must comply with a myriad of local requirements that are frequently overlooked or ignored altogether. Buyers often assume that the seller's lease form is compliant. A non-compliant lease adds cost (and potentially penalties) when a buyer needs to enforce the seller's lease.

Avoid this mistake by:

- Reviewing all leases documents, not just summaries
- Reconciling security deposits, arrearages, concessions and prepaid rent
- Verifying documentation and practices that affect enforceability and collections
- Confirming that tenant files support the story the rent roll is telling

Assuming the Current Use Is Legal

Multifamily properties frequently operate with legal nonconforming conditions or under special uses or variances. Any number of nonconforming conditions, special uses restrictions or variances can prohibit or constrict your ability to operate an asset.

Avoid this mistake by verifying zoning classification, special use requirements and nonconforming rights before due diligence expires.

Choosing the Wrong Entity Structure

Buying personally or using the wrong entity structuring is a recipe for problems down the road. Entity structuring affects liability, tax planning, investor rights and lender requirements. Your structure should be tailored to meet your goals. No single entity structure works for everyone.

Avoid this mistake by communicating your objectives to your counsel. Key considerations include:

- A desire for simplicity
- Scaling with outside capital

- Control over company decisions
- Privacy on public records

Misvalue Property Taxes

Property tax reassessments can materially impact net operating income (NOI) and valuation. Cook County properties are reassessed once every three years (triennially) on a rotating schedule by township. In other counties, properties are generally revalued once every four years.

Avoid this mistake by understanding how and when your property can be reassessed, review recent tax bills and assessment history, budget for possible changes and evaluate appeal options with a tax professional.

Missing Lender-Driven Requirements until the Last Minute

An overlooked lender condition can delay a closing and put your earnest money at risk.

Avoid this mistake by aligning contract deadlines with loan underwriting. Communicate frequently with your lender to avoid last-minute requirements.

Weak Protections for Representations, Defaults and Post-Closing Liability

Many new buyers are tempted to accept minimal seller representations, short survival periods and limited remedies just to “win the deal.” If a problem emerges after closing, weak remedies can leave the buyer with no practical recourse.

Avoid this mistake by negotiating targeted seller representations, survival periods, caps/baskets and escrows. Experienced counsel can identify risks and propose practical solutions that win you the deal and protect your bottom line.

Practical Takeaways for First-Time Commercial Buyers

1. Treat the contract as a risk-allocation document, not a formality.
2. Start title, survey, environmental and lease review early.
3. Build diligence around your business plan, not your lender’s checklist.
4. Align closing timelines with underwriting realities.
5. Use experienced Illinois commercial counsel to prevent avoidable delays and exposure.

FAQ

- What is the most important diligence item? Title/survey, lease compliance and property condition are typically the biggest risk drivers.
- How long does commercial due diligence take? Often 30 to 60 days, depending on asset type and occupancy.
- Should I rely on the rent roll for underwriting? No. A rent roll is a summary and can be inaccurate or incomplete. Legal risk often lies in the lease documents, amendments, side agreements, security deposit records and tenant files.

[Aaron Whyte](#) is a Chicago multifamily real estate attorney focused on helping first-time and growing investors buy apartment buildings and small-to-mid-size multifamily assets across the City of Chicago and Cook County. He advises buyers on purchase agreements, due diligence, leasing risk, title/survey, zoning and closing execution to help deals close smoothly and avoid post-closing surprises. Contact Aaron at awhyte@gouldratner.com.