



Corporate Real Estate

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Who is Corporate Real Estate (CRE)?

- Formerly known as Corporate Land & Title and is part of the Legal Department.
- CRE oversees all of EDFR's and its affiliates' compliances activities and policies related to acquisition, disposition, and leases.
- CRE coordinates real estate and title activities that go into a financing or DBS (Develop-Build-Sell) transaction.
- CRE manages all of EDFR's leased office space in the US and Canada.
- CRE prepares documentation and supports negotiations on various real estate matters (before and after COD).
- CRE manages the storage of contracts for EDFR's real estate portfolio.



1. Start title curatives as soon as possible.
2. Create and maintain a landowner database (including valid phone numbers and addresses) early.
3. Carefully review real estate documents to identify specific nuances, requirements, or issues (ex: setback requirements, notice provisions, time sensitive obligations).
4. Obtain a separate lease or easement for each landowner parcel if a landowner owns multiple large parcels within a project and terminate any parcels that will not be part of the project as soon as you determine they are not needed.
5. Avoid entering a financing transaction or DBS transaction with disgruntled landowners.
6. Identify what the title company requires for mineral rights coverage early in the process and have the title company provide those requirements in writing.
7. Avoid recording title documents online without the title company's involvement.
8. Avoid uploading Word or draft documents to the financing/DBS data room.
9. Always keep in mind that the title company does not have the same motivations as EDFR.
10. Remember that this is a collaborative and team effort. We are all on the same team, working on achieving the same goal.

Top Ten Dos and Don'ts for a Successful Financing or DBS Transaction



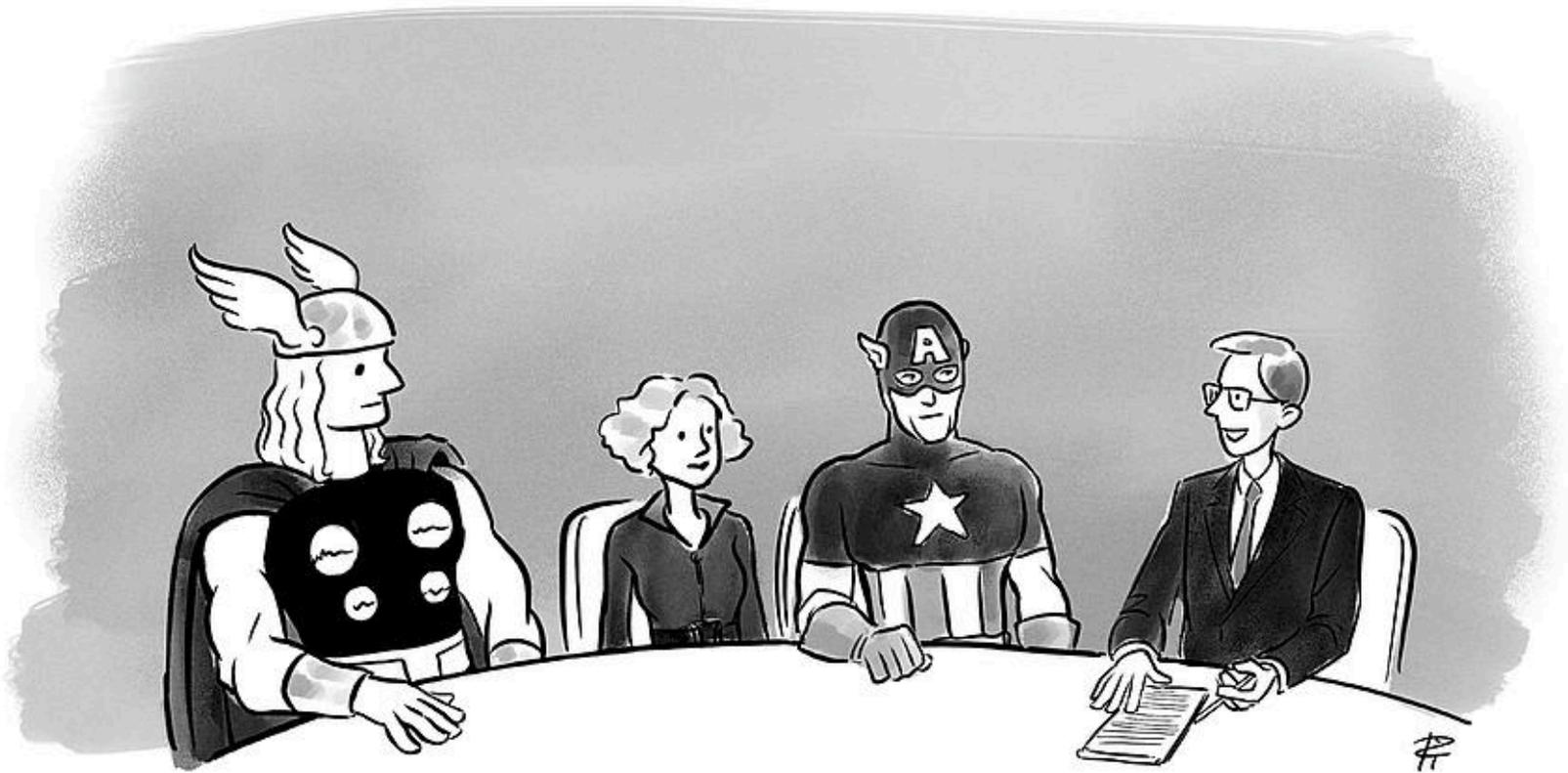


“Fine, I’ll get up and feed you! No need to get the lawyers involved.”

Top Ten Fee Purchase Transaction Do's and Don'ts



1. Do ensure that the purchase price is clearly represented along with its method of calculation.
2. Do ensure that if there is a prior agreement (like an option), that the terms from that agreement are consistent with the purchase agreement for calculating the purchase price (unless the parties agree otherwise).
3. Do ensure that there is sufficient time to pay the deposit into escrow after signature.
4. Do ensure that there is sufficient access and a license to enter the property prior to closing for EDFR to perform full diligence (including environmental studies and survey work).
5. Do ensure that all vested owners sign the purchase agreement (ex: if a party is married, both spouses should sign).
6. Do ensure that there is access to the property from a public road and that the property is not land-locked. If not, ensure that an easement is part of the transaction to provide access.
7. Don't allow the landowner to grant leases or other possessory rights to the property which cannot be terminated prior to or upon closing.
8. Do ensure that the purchase agreement includes a confidentiality provision.
9. Do ensure that there are not burdensome restrictions on EDFR's ability to assign its interest in the purchase agreement (particularly to an affiliate).
10. Do ensure that a memorandum for an option to purchase is prepared in accordance with local requirements and timely filed in the county records.



“Well, I was bitten by a radioactive lawyer and ended up with the power of attorney.”

1. Ensure that leases are terminable by the tenant/lessee (this is unique compared to traditional commercial real estate or residential leases).
2. Beware of significant up-front payments and have a title report for the property prepared to verify that there are no “fatal flaws” on title.
3. Confirm that the lease is signed by the person or entity that actually owns the property by reviewing the vesting deed.
4. Avoid offering the landowner specific approval rights on site construction and facility placement.
5. Review landowner proposed site rules with appropriate subject matter experts (asset optimization, construction, implementation, program management, legal, etc.).
6. Beware of “most favored nations” style provisions (particularly poorly drafted and overly broad MFNs) – it will limit future flexibility for resolving project challenges and signing landowners.
7. Avoid restrictive assignment provisions that can limit future project development matters, sales or financing transactions.
8. Beware of provisions that require tenant/lessee to release land after COD.
9. Record a memo of the lease and any subsequent amendment. The terms of the memo should be consistent with the lease itself.
10. Collect Form W-9s from the landowner(s) at the time of lease signing. Push for the first payment to be made at least 30 days after full execution.

Top Ten Lease Transaction Dos and Don'ts





**"Can we, just for a moment, Your Honor,
ignore the facts?"**