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Cell Tower Lease Buyouts, Good or Bad?

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Many property owners with cell towers on their property are getting proposals to buy out their interest in the lease for the tower, or similar proposals for leases for cell antennas on the roof or side of a building. Usually the offer includes granting the buyer exclusive leasing rights for 30, 40, 50 years or in perpetuity.

We are often asked about buyouts and believe property owners should keep three things in mind:

First, is the buyout price a good deal financially? The answer is almost always "No" at the price initially offered. That first offer is a low ball offer and can be increased substantially by hard negotiating or by getting a bidding war going (soliciting competing bids). But there is a bigger issue: Financially property owners can almost always do better on their own simply because the buyout companies take such a large slice (30% to 50%) of the gross revenues from the site.

Realistically, this assumes the property owner has some degree of business knowledge and is willing to hire knowledgeable lawyers or consultants for assistance. Cell tower leases are sufficiently different from standard real estate transactions that someone specializing in them is needed. The hourly charges for this assistance are small compared to the share a buyout company would take. These charges can be reimbursed, as mentioned below.

We see situations where either the property owner does not have - - or their children or business associates don't have - - the business knowledge or energy to delve into this specialized area of cell tower leases. Or the lease and buyout are just too much of a distraction from the main businesses of the people involved. In these situations, selling off the lease and getting a large chunk of cash to invest makes sense.

The second thing to keep in mind is that from a property owner's perspective the buyout documents they're offered are - - in a word - - "terrible." One-sided does not begin to describe them. In fact, we recommend that BEFORE making a "sales" decision in principle, a property owner should ask for copies of the documents they will be asked to sign. And then they should have a lawyer review them so they can see all the downsides involved. The downsides typically are many and steep - - for example, severe restrictions on the property owner's right to use its remaining lands, reductions in the sales price of the property owner's remaining property by 20% due to grants of rights of first refusal to the buyout company, grossly inadequate insurance provisions, and so on.

Obviously, some of these provisions can be negotiated, but seeing their nature and extent up front is often a sobering wakeup call.

The third point is that if there is a buyout, the property owner's legal fees can be reimbursed. The property owner has to ask for it, and buyout companies are hungry enough for these projects that they will agree. So if property owners decide to proceed with a buyout, they should have a knowledgeable real estate lawyer or cell tower lawyer represent them. The lawyer will negotiate the numerous revisions needed to the forms offered by buyout companies, often increasing the sales price and getting legal fees reimbursed. This will make the documents more fair, reasonable, and protective of the property owner, essentially without charge.

If you are approached about a cell tower lease buyout, keep the preceding three points in mind.

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