

Joint Venture Things to Consider

Every Joint Venture must be individualized for the circumstances and for the parties. Here are some general topic headings and items to consider.

Note: This list is a guide only and should not be considered fully comprehensive. Additional factors may need to be considered and all parties should seek Independent Legal Advice.

Definitions

Start off by identifying the property and naming the parties to the agreement and defining the proportionate interests of each. Make it clear whether one party can sell out or mortgage her interest to a stranger without the consent of the other party.

Bank account

Open a bank account for the exclusive use of the venture, and decide in writing who will have signing authority. Can either party sign small cheques, or will only one party manage the property? Will two signatures be required for cheques larger than, say, \$200?

Bookkeeping

Make it clear who is responsible for bookkeeping and balancing the books, or face the possibility that no one will do them. To simplify life, use pre-authorized payments for mortgage, taxes, electricity, gas and insurance.

Form a Team

You will need the ongoing services of professionals - a real estate agent familiar with rental properties, an experienced real estate lawyer, and a chartered accountant to handle the taxes and financial statements. Write their names into the agreement and require mutual agreement to retain them.

Disclaimer

Make it clear that this agreement applies to one property only and is not a partnership or joint venture for any other purpose.

Management Who will manage the property? Decide whether both parties have to consent to do repairs, agree on a tenant, or any other day-to-day issue.

Repairs & Maintenance

If an apartment needs repairs beyond what is originally budgeted for repairs and maintenance, is the cost shared equally or the responsibility of one partner? Who performs the repairs? What is the policy for choosing a contractor or getting quotes?

Cash calls

This is an important part of the contract. A joint venture may run into the red for many reasons - including a vacant unit, major repairs, renovations, or a jump in the costs for the mortgage, taxes, insurance or utilities. How will a shortfall be accounted for?



Plan in Advance

Will there be a reserve or contingency fund? How will the partners solve an unexpected financial problem? (Hint: there are no magic answers for this section. Each situation will have, or possibly not have, its own solution.)

Refinancing or Sale

When a property comes up for refinancing or sale, how will profits be allocated between partners? Is it a 50/50 split or does the money partner get more until their initial investment is realized?

Termination and exit strategies

Unwinding the venture may be far more complicated than creating it. The time may come when one party wants to move on, or simply cannot get along with the other party, or needs to take a profit or cut their losses. Can either party trigger the sale of the property on the open market? Can one party force the other party to buy or sell her half-interest? What happens if the desire is present but the money isn't?

Unforeseen events

It's always hard to plan for death, serious but short-term illness, long-term disability or even a job transfer out of the city. Consider the possibility of life, disability, or mortgage insurance to protect against the unforeseen.

With all business agreements it is important to consider all aspects of the relationship and ensure all details are recorded in writing. Plan while you are still friends in the relationship to avoid disagreements in the future.