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Maximize investment opps. w/ improvement exchanges

The Problem: We are often asked: Can I exchange into property of lesser value and spend the extra exchange funds on improvements or repairs? Unfortunately, the standard delayed exchange is not a solution, since, once the replacement property is deeded to the Exchanger, the exchange is complete. Any additional improvements or repairs would be considered an exchange of "real estate for services" and would not qualify as like-kind property for tax deferred treatment.

The Solution: The improvement exchange uses a Qualified Intermediary to first acquire the replacement property. During the 180 day period, the Qualified Intermediary pays for improvements and/or repairs, and then deeds the improved property to the Exchanger to complete the exchange.

The Opportunity: In

a hot real estate market, such as we're experiencing in many parts of New England, good replacement properties are difficult to find. Properties are bought up as soon as they hit the market and are frequently bargained for more than their asking price. The ability to repair a run-down property, or build a new structure on bare land, may provide the ideal solution for the Exchanger who must locate suitable replacement property meeting their specific investment requirements.

The Procedure: The Exchanger and Qualified Intermediary enter into a Property Acquisition Agreement which enables the Qualified Intermediary to purchase the replacement prop-



erty by assigning the Purchase and Sales agreement. In addition, a Construction Management Agreement, which allows the Exchanger to manage the construction project during the exchange period is signed [Note: Often an Environmental Report and additional fire and casualty insurance may be required by the Qualified Intermediary]. Upon completion of the improvements or the 180th day, whichever comes first, the replacement property is deeded from the Qualified Intermediary to the Exchanger.

The Challenges: An obstacle to this type of §1031 exchange can occur when the transaction requires outside financing. Because the Qualified Intermediary is holding title to the property throughout the improvement process, lenders may require the Exchanger to cross-collater-

alize their loan with another property for additional security.

Any investor desiring the benefits of an improvement exchange should use a Qualified Intermediary with improvement transaction experience. It is helpful to consider these questions: (1) Does the Qualified Intermediary have the necessary entities in place to properly hold title to the replacement property while improvements are being built? (2) Are the funds held safely on behalf of the Exchanger? And (3) does the Qualified Intermediary have a proven procedure to efficiently and professionally handle the improvement exchange?

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