

The Ten Legal Commandments of Real Estate Investment

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#10 – “Thou Shalt Not Own Property in Thou’s Own Name”

- Single member limited liability companies (LLCs) are excellent ownership structure for real estate investors
- Personal assets shielded
- Liabilities compartmentalized within each LLC
- Simplified tax structure (“disregarded entity”)

#9 – “Thou Shalt Not Make Usurious Loans”

- Minn. Stat. § 334.01, Subd. 1: No person shall directly or indirectly take or receive in money, goods, or things in action, or in any other way, any greater sum, or any greater value, for the loan or forbearance of money, goods, or things in action, than \$8 on \$100 for one year.
- (NOTE: many exceptions allow for higher rates of interest to be charged, including loans over \$100,000.00)

#8 – “Thou Shalt Not Make Mortgage Loans Without Proper License”

- Minn. Stat. § 58.04, Subd. 1(a): No person shall act as a residential mortgage originator, or make residential mortgage loans without first obtaining a license from the commissioner according to the licensing procedures provided in this chapter.

#7 – “If Thou Are Not So Licensed, Thou Shalt Not Make Mortgage Loans Without Proper Exemption”

- Minn. Stat. § 58.04, Subd. 1(c) The following persons are exempt from the residential mortgage originator licensing requirements: (1) a person who is not in the business of making residential mortgage loans and who makes no more than three such loans, with its own funds, during any 12-month period...
- Minn. Stat. § 58.05, Subd. 3: A person must obtain a certificate of exemption from the commissioner to qualify as an exempt person under section 58.04, subdivision 1, paragraph (c)....

#6 - Thou Shalt Not Make “Sham” Mortgage Loans to Redeem Property in Foreclosure

- Minn. Stat. § 58.13, Subd. 1(a)(13): No person acting as a residential mortgage originator or servicer, including a person required to be licensed under this chapter, and no person exempt from the licensing requirements of this chapter under section 58.04... shall: make or assist in making any residential mortgage loan with the intent that the loan will not be repaid and that the residential mortgage originator will obtain title to the property through foreclosure....

#5 - (When Applicable) Honor the FHA Seasoning Requirement

- 24 CFR 203.37a(b)(2)
- *Time restrictions on re-sales—(1) General.* The eligibility of a property for a mortgage insured by FHA is dependent on the time that has elapsed between the date the seller acquired the property (based upon the date of settlement) and the date of execution of the sales contract that will result in the FHA mortgage insurance (the re-sale date). The mortgagee shall obtain documentation verifying compliance with the time restrictions described in this paragraph and must submit this documentation to HUD as part of the application for mortgage insurance, in accordance with §203.255(b).
- *(2) Re-sales occurring 90 days or less following acquisition.* If the re-sale date is 90 days or less following the date of acquisition by the seller, the property is not eligible for a mortgage to be insured by FHA.
- (NOTE: temporary suspended for sales to first time home buyers only)

#4 - When Using Self-Directed Retirement Funds, Thou Shalt Not Engage in Prohibited Acts

- No performing work on property owned through IRA
- No personally guaranteeing loan where IRA funds are also used
- No engaging in self-dealing transactions
- Engaging in prohibited acts triggers taxes and penalties

#3 - Thou Shalt Not Convert a House in Minneapolis to Rental Property...Without Paying...Big Time

- City of Minneapolis charges a \$1,000.00 "Rental Dwelling Conversion Fee" when you convert a homestead property to non-homestead property

#2 - Thou Shalt Not Obtain a Certificate of Title for Torrens Property Without a Proceeding Subsequent to Initial Registration

- Minn. Stat. Ch. 508 – the Torrens statutes
- Separate recording system from the traditional “abstract” system; in theory, interests not memorialized on Certificate of Title are not recognized
- Certificate of Title issued for each Torrens property
- Post-Foreclosure – new owner must obtain a new certificate through a “proceeding subsequent to initial registration”

#1 - Thou Shalt ALWAYS Hire a Good Real Estate Attorney

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