BARRY MCGUIRE

PRESENTS:

CREATIVE QUICK-TURN INVESTING STRATEGIES

RENT TO OWN (LEASE-OPTIONS)
AGREEMENTS FOR SALE
ASSIGNMENTS

NOTE TO READERS

DEAR READER (AND POTENTIAL RCP STAR)

I'm pretty sure you know this but I have to say it anyway. This document is for information purposes ONLY. It is NOT legal advice. Okay, got that out of the way, let's get onto the interesting stuff

WELCOME TO THE WORLD OF CREATIVE REAL ESTATE!

This booklet is all about expanding your real estate toolkit. Most of us follow the classic, time tested, buy & hold strategy. We just like, understand and appreciate the rock solid, fundamental aspects of buy & hold. I have been investing in real estate now for over 45 years. I bought my first property in 1972. Over that time, 90% of my purchases have been buy & hold, and my sweetie pie Donna and I still own 24 doors. We love buy & hold.

So, let's be really clear. We think that buy & hold underpins any long-term real estate investment plan. There's just no substitute for solid properties in great areas filled with amazing tenants that treat our properties well, make our mortgage payments and pay us positive cash flow every month. We think everyone's long-term real estate success is well served with the buy & hold strategy.

However, the last few years have been increasingly tough on buy-and-hold investors. Lenders always had rules about how many mortgages you could qualify for. Increasingly after the economic downturn in 2008 driven by the subprime mortgage crisis in the US, regulators got more and more edgy. Led by the Canadian federal government in conjunction with the Bank of Canada and the Office of the Superintendent of Financial Institutions (OSFI), mortgage qualification rules have been tightened on many occasions ostensibly to cool down Canada's hot real estate market. Unfortunately these regulations are really aimed at Toronto and the Golden horseshoe in Ontario as well as Vancouver and the lower mainland in British Columbia. But, the regulations apply across the country and make it way more difficult for investors to qualify for mortgages.

The latest round of tightening is coming into effect January 1, 2018. Borrowers obtaining conventional mortgages - that is, those mortgages not insured by an insurance company like the Canada Mortgage and Housing Corporation, will now be required to qualify for their mortgage at two percentage points higher than the interest rate that they pick. So, for example, if you are getting a five year mortgage at 3.19% you have to qualify for that mortgage at 5.19%. This roughly amounts to needing 20% more income than you needed on December 31, 2017.

Without reviewing the numerous changes in mortgage rules since 2008, a good summary would say that the rules are much tougher. Generally, investors will find it much harder to qualify for mortgages, which means purchasing fewer buy and hold fewer properties.

These numerous mortgage qualification changes emphasize and increase the value of our creative strategies. These are strategies that don't rely on increasingly difficult new mortgage financing, that are shorter term rather than long-term and that can produce amazing cash flow.

And that cash is generated now or in a much shorter time than traditional buy & hold. Put in the time and effort to educate yourself. Guaranteed, you will learn to recognize creative real estate opportunities. Once you have the detailed knowledge you can choose one of two approaches:

a. First approach we call, 'Watch and Wait'. You keep a close eye on the creative opportunities that will inevitably show up. Analyze and take advantage when a solid opportunity presents itself.

b. Second approach we call 'Target Marketing'. Instead of waiting for an opportunity to show up, pick a creative strategy or strategies and then create a plan to find, analyze and close creative deals. Remember - you don't have to and we don't recommend - that you abandon buy and hold. Our most successful students 'bolt on' one or more of these creative strategies to their existing buy and hold strategy.

Here's the back story on where we are today. Five years ago we did a presentation called 'Deal-Ready Documents', the third in our series of Focus Workshops. The Workshop grew out of Creative Real Estate seminar given by US real estate guru, Ron LeGrand.

At his seminar, my job was to keep a rope around Ron and make sure his teaching fit for Alberta. After his seminar, I had a lot of requests to prepare documentation specific for Alberta. So, that's what I did, and those documents were the foundation for my first Creative Strategies Workshop. That Workshop was Deal-Ready Documents or D-RD.

What was D-RD all about? Well, the title is self-explanatory. This amazing workshop highlighted three, specific creative strategies. Those strategies were Lease-Options, often described as Rent To Own, Agreements For Sale, and Joint Ventures. The aspects highlighted were a discussion and description of the three strategies and, as the Focus Workshop title would indicate, the legal documentation surrounding the three strategies.

Man, those Workshops were a ton of fun! We learned about the strategies, did some exercises on how to write deals, had some of our experts speak on financing, answered every question that came up and finished with a great panel discussion.

I really do love presenting our Focus Workshops. What I love even more is hearing success stories from grads /attendees. One grad drove from Calgary to Edmonton at night on secondary roads in a blizzard so bad that Highway 2 was closed. Post Workshop he did five Agreements For Sale over the next three months!

Another grad took control of a property with a Lease-Option and assigned his interest in the Lease-Option very quickly for $30,000. A third grad added enough properties to his portfolio using a combination of Lease-Options and Agreements For Sale that he was able to quit his day job and enjoy a nice living from positive cash flow.

Now, that is what I wanted to hear! Motivated people attending our Focus Workshop and immediately taking action. It's no good if the binder goes on the shelf. I measure the worth and success of our Focus Workshops by how many people take action. Folks, it's a very decent percentage because the strategies work and the learning is strong.

That was 'Deal Ready Documents'. Over the last few years, interest increased dramatically in creative strategies. I like to think we led the way in rehabilitating Lease-Options from its often sleazy, scammer reputation to a point where there is considerable discussion and great interest, not only in Alberta but across Canada. A number of educational groups and other real estate organizations are now preaching the benefits of Lease-Options. Agreements For Sale, or AFS we often refer to them, have been plucked from the scrap heap of abandoned strategies and refurbished for modern-day use. Workshop grads have forged new creative paths with great success. Gradually, more of my law practice turned to working on and consulting about creative strategies.

And, a new and very important question was coming up. "Great that your Creative Real Estate Strategies work in Alberta. What about the rest of Canada?" The answer is that all our strategies work all across Canada, in every province. Of course, there are always local rules and approaches but, overall, you can profit anywhere in Canada with Creative Real Estate Strategies.

Fairly quickly I was getting more and more questions about other aspects of Lease-Options, Agreements For Sale and the creative side of Joint Ventures other than the straight legal documentation questions. “We want more than documents”, went the cry followed by questions surrounding the issues of marketing, how do we actually find deals or clients? Once you find them, how to pitch the deal quickly in plain English anyone can understand?

What about due diligence on your potential tenant buyer or JV Partner, how do you analyze or qualify them? What about team, you can't do all this on your own, can you? What about keeping those deals and clients on the straight and narrow as you work your way through some of these shorter-term creative strategies?

And, what about other creative strategies such as Fix and Flip or Assignments, sometimes referred to as wholesaling?

Financing is important in many deals. What do lenders think about creative strategies and is it possible to access take out financing? And, how to close deals where you aren’t the titleholder. With lenders and title insurance companies being edgy about mortgage fraud and money laundering, how do you deal with title issues?

As well, over the past five years, documentation has changed. With more interest in creative strategies creating more deals, diversity of client and situation has led to numerous improvements to our supporting documentation. But to sum up, the last few years have brought a huge number of multipronged questions, not only on creative strategies generally, but on the numerous technical aspects of how to successfully implement those strategies.

Thinking about this over the last few months my first response was, "time to do another Deal-Ready Documents Focus Workshop". We quickly determined that same Focus Workshop wouldn't do the trick. As valuable as it was and still is in its home study format, based on questions, requests and my observations over the last few years, we needed to do something else. But, what?

Remembering that we created D-RD because of demand for solid, Canadian documentation supporting creative real estate strategies, maybe the thing to do is give everyone a chance to review and get an overview of strategies with more focus on the subtext of each individual strategy. The last few years have shown us that it's not just about documentation , it’s also about understanding the strategy, marketing, pitching the deal, qualifying those clients, creating a successful system and actually closing the deal.

BUT, BARRY, HOW CAN YOU DO ALL THAT IN ONE DAY?

The short answer is, we can't. There is way too much material. So, we created a brand-new Focus Workshop called the 'Rapid Cash Program' (RCP). RCP is two full days with a hugely valuable **6 month coaching program** after the RCP Workshop (included in your registration fee). Two full days and the six month coaching program let us do a real good overview of strategies, listen to some experts, have basic discussions on the marketing, pitching, qualifying, managing and other aspects and have some great panel discussions on how successful real estate entrepreneurs are taking advantage of opportunities and creating quick cash.

Two jam-packed days will give you an excellent understanding of the strategies, the sub aspects of each strategy and basic documentation. More specifically, we go through the seven essential 'Building Blocks' that reveal the details and subtleties for each strategy.

The Seven Essential Steps To Building A Creative Investing Business

1. Education
2. Marketing / Lead Generation
3. Analysis
4. Negotiation
5. Papering The Deal
6. Managing The Deal
7. Exit Strategies

But first you need a solid, general overview of Creative Quick-Turn Strategies. Our RCP Focus Workshop teaches five strategies. We're going to give you overviews of three in this booklet. Please note, there are as many nuances to these strategies as there are investors. As you read this booklet, really, your job is to decide whether or not you want to go further. OK, let's get a start on how we think about Creative Real Estate Strategies.

BEGIN WITH THE END IN MIND!

Create a picture (vision) in your mind for your business. By knowing where you're going you can now begin to define and build the foundation to support your business. You will need your foundation to provide *stability, longevity,* be *sustainable* and have the capacity to support your vision. Know where you're going so you know what to build.

Start here, by asking and answering these very key questions;

- **What is your *vision* for your business of investing in real estate?**
- **What is your *plan* to achieve that vision?**
- Will you be purchasing 'buy and hold' positive cash flow properties? Or maybe you want to purchase multi-family, or renovate and flip? Or could it be your strategy is foreclosures? There are many strategies for your business, **what is yours?**
- How many properties do you intend to purchase?
- What province, city neighborhood will you invest in, based on the economic fundamentals that you will be considering?
- Where is the money coming from?

NOTES

LEASE-OPTIONS (RENT-TO-OWN)

Rent-to-Own (often interchangeably called Lease-Options) is a two-part strategy. You start with a lease (the 'Rent' part) and add an option to purchase (the 'Own' part). In a Rent-to-Own scenario, the renter is, for some reason, unable to finance at the moment - for example, bad credit, not enough down payment, or perhaps is self-employed. Yet, they want to make the transition toward homeownership immediately, usually for personal or emotional reasons.

Typically, the tenants are looking to stop renting and finally move into a place they can call their own. They don't want to continue bouncing from rental to rental, and are looking to settle down once and for all.

Rent-to-Own is a great Win-Win strategy; you're helping renters become homeowners. These deals can be extremely profitable, while helping everyone involved in a truly powerful way.

WHY CHOOSE A RENT-TO-OWN STRATEGY?

Whenever the real estate market takes off, stores are flooded with books, CD's and courses promising to make you rich. During times of economic crisis, so-called investing gurus tote foreclosures as the guaranteed path to real estate riches. Very few find great financial success using these concepts. Most are not so lucky. Many pay tens of thousands of dollars and fail miserably. One unhappy investor told me she had no money to invest in real estate so she needed creative strategies. I gently asked her why she had no money and she sadly told me that she had spent almost $80,000 taking US courses none of which helped her.

That WON'T happen when you take a Barry McGuire Focus Workshop. There are no expensive coaching programs for sale at the back of the room. We won't ask you to 'call your credit card company right now to raise your credit limit'. None of that BS. You pay only once, a very reasonable fixed dollar cost to take our Focus Workshops and that's it! No hidden agenda or extra fees. And our workshops are guaranteed! If you attend the course and decide you didn't get appropriate value, we will give you your money back.

OK, finished with my rant, had to get it out. Now, back to the strategies.

We will show you how Rent-To-Own is a proven real estate investment strategy that will allow you to gain positive monthly cash flow in any market. You will enjoy an appreciation gain at the end of the investment, while having a clearly mapped exit strategy right from the start. These three aspects alone (positive monthly cash flow, appreciation and an exit strategy) will ensure success when using the Rent-to-Own strategy.

RENT-TO-OWN STRATEGIES

TENANT-FIRST STRATEGY

The Tenant-First strategy is pretty straightforward and our preference. First you find and qualify a tenant. Then with your help, (actually with your team realtors help), they find their own Rent-To-Own home. This strategy ensures they are emotionally invested in the property because they have chosen it. You also know right off the bat there is a great chance that you have reliable and loyal tenants who will maintain the house and keep the payments coming without fail.

How do you know? Because you're giving them the opportunity to own their dream home. With a committed Rent-To-Own tenant in place, there's no need to worry about a property being unoccupied, leaving you with no monthly cash flow. It's a logical progression. Find the tenant, find the property, buy the property, help with credit issues, you exit when the tenant qualifies for the mortgage. Repeat. Save yourself carrying costs, uncertainty and a lot of unnecessary stress and hassle.

SANDWICH LEASE

You lease a property from the current owner with an option to buy it. Then you turn around and rent the property out to someone else granting them an option to buy. Their rent and purchase price are both higher than yours.

A sandwich lease may seem a bit complicated at first. However, when it does work, it's a great way to invest in real estate without much cash. It works best where your lease is for less than market rent and your tenant buyer pays market rent or more. This is not our first choice of strategies, simply because when you have this many parties involved, the chance of things going sideways is greater.

PROPERTY FIRST

The ‘Property-First’ strategy is simply where you Lease-Option a property you have owned for some time to a Tenant Buyer, or you purchase a property with the intent to lease-option. This is a good strategy to use when the market is soft and you are having trouble selling.

This strategy is more challenging because already owned or newly purchased, the tenant buyer has only your home to choose from instead of the whole MLS market.

RENT TO OWN (LEASE-OPTION) PROS & CONS

RTO PROS

There are a number of benefits to a Rent-to-Own strategy. Compared to a straightforward rental, there is far less landlording responsibility. Rent-to-Own details your exit strategy as part of setting up your deal. You know exactly when and how you're going to leave your investment - before you even begin!

Finally, the return on your investment can be far superior to traditional rental property investing, trumping the returns on most other real estate investments. If you are using joint venture capital to get started, Rent-to-Own is much easier to sell to prospective investors. This means you can get started sooner, and partners are far more enthusiastic about opening their wallets.

Let’s talk some details.

PRO – MORE COMMITTED TENANTS

The first advantage of a Rent-to-Own investment strategy is, simply put, your tenant. A tenant buyer has more of an ownership stake in the property. They almost always treat it with more care than if they were just renting.

PRO – FEWER MANAGEMENT ISSUES

Rent-To-Own could reduce property management problems, not just for seasoned investors, but also for those new to real estate. In a traditional rental situation, you, as landlord, are responsible for all maintenance and upkeep. An ongoing concern for landlords is how much care tenants will extend to the physical state of their property.

Typically, a landlord is responsible for duties such as mowing the lawn, shoveling sidewalks and a wide array of repairs. With Rent-to-Own, the tenant is responsible for all maintenance. Because the tenant will ultimately own the property, they generally maintain at a much higher standard than the average tenant.

Rent-to-Own frees you from much of the responsibility of repairs, maintenance and other time-consuming duties associated with being a landlord.

PRO – HUGE DEMAND

As we will discuss a little later, there are many good people who do not qualify for a conventional mortgage. You can fill the void that the big banks will not service. Ever tightening CMHC financing is increasing the pool of potential Rent-To-Own customers.

PRO – APPEAL TO A LARGER MARKET OF BUYERS

If you have a property you would like to sell and don't want to go the traditional 'listing on MLS' route, you can exit your property via the Rent-To-Own method.

Investors have found that Rent-To-Own can also be a successful strategy when they are having trouble selling an already owned property.

PRO – HIGHER CASH FLOW

Sophisticated real estate investors are combining the simple one option payment scenario with monthly Option payments that are converted to down payment monies when the tenant buyer actually purchases the property. Investors have reported at least $200 - $500 more each month in additional monthly option payments. This money goes directly to your bank account in the form of bottom line cash flow.

PRO – CERTAINTY

Creating a successful Rent-To-Own arrangement eliminates much of the guess work right from the beginning. You already have a good idea what your profits are at the start of the deal. You know what your starting cost is and what your sale price will be. You know what your monthly expenses are, as well as your monthly income. You can easily project your profits with certainty

PRO – EVERYONE CAN WIN

With Rent-to-Own, everyone can benefit; it really is a win-win situation. Instead of the tenants simply paying money each month to a landlord, they move into their dream home while still renting! Their Initial Option Money and monthly option payments, if any, accumulate as automatic savings (also considered forced savings and sometimes referred to as Option Credits).

As long as they exercise their option and actually buy the home, these credits will ultimately go towards their down payment of the home at the end of the rental period. This is way better than paying rent to a landlord that does nothing to help you buy a home.

You can give people a hand up, helping people realize the dream of home ownership sooner than they could on their own. Nothing beats handing the keys over to a Rent-To-Own buyer knowing you have helped them buy their dream home when no one else would help. Talk about win-win!

RTO CONS

There are a few downside challenges that you may encounter using the Rent-To-Own strategy. Don't discount these! Consider them as seriously as you consider the potential for quick cash in your pocket.

CON - SHORT-TERM STRATEGY

Holding properties for the long-term has proven to be one of the most successful methods of creating wealth in real estate. RTO is a short term strategy. Just when you starting making significant headway with operational efficiencies and mortgage pay down, you have to sell the property.

CON - CONTINUOUS REPLENISHING YOUR INVENTORY OF PROPERTIES

This challenge is an extension from the first point above. Rent-To-Own is essentially a selling strategy. You are entering into a legal agreement to sell a property to your tenant buyers. Once the tenant successfully exercises their Option agreement, you will have to sell the property and be on the hunt again to find another great tenant to fit your Rent-To-Own model.

CON - POTENTIAL TAX CONSEQUENCES ACTIVE BUSINESS TAX, NOT CAPITAL GAINS

Seek professional tax advice before you dive head first your into your Rent-To-Own strategy. Technically speaking, when you declare you are offering a property for sale via Rent-To-Own you are creating an 'inventory item' and will be subject to an active business tax vs a capital gains tax. This can make an impact on your tax planning, so again, consult your tax professional.

CON - THE POTENTIAL DISPUTES CAN BE MORE COMPLEX

Your tenant may always be a tenant. If they default on the lease, now what? The eviction process can be simple and straight forward for a traditional rental property. Once you add the option to purchase into the arrangement, it always adds more complexity and open the door to potential legal disputes, especially if set up incorrectly.

The upside potential for Rent-To-Own deals can outweigh the potential challenges if you have properly structured your deals from the beginning. Documentation is very important.

CON - BAD REPUTATION

Let face it, Rent-To-Own had, and maybe in some circles, still has the reputation of being a 'scam' used by nasty landlords to take advantage of poor unsuspecting tenants. Why?

Well, because there were a number of unscrupulous investors who took advantage of tenants. They set the deals up so that it was inevitable the tenant would default.

That's not what we do! Remember, it's win-win! No taking advantage. If a tenant buyer just doesn't have a chance, tell them, don't take their money. If your analysis tells you that the tenant buyer could actually qualify with a mainstream lender, point them in that direction. Don't put them into a Rent-to-Own if they can get their own mortgage and buy on their own. If your deal is going bad, you can be firm but try to make things work, small defaults are not the same as big defaults. You get the idea, be a decent human being and don't take advantage; always make it a win-win!

LEASE-OPTION NUGGETS

Some issues to learn about, and to watch out for, are:

- ✓ Get as much option money up front as you can from your tenant. The statistics say the bigger the option money, the more chance your tenant will actually exercise the option and buy from you.

- ✓ An option by you or your tenant/buyer can be protected by filing a 'caveat' or other form of 'notice' at the Land Titles Office or Land Registry Office in your province.

- ✓ Combined lease-option or separate lease and separate option? We favour the separate lease and separate option. There is a tendency in residential tribunals or lower courts to not want to hear a dispute if they hear it's an RTO deal. In court you are always better off if the lease doesn't mention the option. This applies when you are in court to evict a tenant who has defaulted under his lease. In this case you want him to be just a tenant. Separate leases and options are also important if your tenant has gone to court because he isn't able to exercise the option and is frantically trying to save the $100,000 equity he thinks he has built up. You want the judge to see a straight option agreement that has simply not been exercised.

  NOTE, it is just a fact that courts are sympathetic to and favour the tenant. No matter how good your documentation is, there is always a chance the court will find in your tenant's favour.

- ✓ In a dispute, you know the courts favor the tenant. Don't let arguments or disagreements deteriorate so that there is no way to solve a problem except by going to court. Remember the concept of win-win. You can extend options, work out ways to cure the defaults, get further option monies or refund portions of option monies. Find a way to make it work because that is almost always better than going to court.

- ✓ While the lease should not mention the option, the option should say that default under the lease is default under the option.

- ✓ Keep it simple. As mentioned above, we believe that one large payment of option money is the best indicator that your tenant will exercise the option and actually buy the property from you. We don't like leases or options mainly rely on taking a portion of monthly rent and characterize those monthly payments as further option monies.

The buyer always wants these extra monies to be included as part of their deposit when they go to see their lender. Lenders don't like this unless they can see that the portion going for rent is actually the market rent. Extra payments are also more difficult to administer and keep track of. On the other hand, many tenants need to accumulate what will turn into purchase deposit through monthly Option payments. Do this if your deal requires it. Keep great records. Be precise.

In a sandwich-lease:

✓ Make sure you have enough of a ‘spread’ between the price you can lease-option for from the current owner and, in turn the price you can lease-option to your buyer for. You need a solid spread on both the price and the rent.

✓ When negotiating your lease-option with the current owner, you may find that the owner wants to continue to sell or perhaps list the property. You can work with a seller if that’s what they want.

✓ Remember, full disclosure in a sandwich lease with a motivated seller is your best key to success. Your seller has to know upfront that you plan to lease and hope to sell the property to a third party. You need the seller to cooperate by doing an increasingly rare simultaneous close with your tenant using one Transfer of Land or the more common signing a Real Estate Purchase Contract with your tenant buyer.

✓ Even though mortgages are now assumed much less frequently, if the seller wants you to assume his existing mortgage, then your buyer / tenant should also be contractually obliged to assume the mortgage. If your buyer /tenant decides to get new financing, the seller will most likely have a payout penalty because they would have to discharge their existing mortgage. Take this into account in your negotiations.

✓ How long, (length of time), should the option be? You would like a lengthy option or the right to renew the option for a number of terms. Probably, the seller wants a shorter option period. It is very important to have a fixed price for the purchase. In a rising market, sellers will not want to commit to a fixed price for a lengthy option period although you might want that. They will clearly understand that agreeing on a price now for an option that lasts five years could have them selling their property for way less than what it would be worth in five years.

On the other hand, if you negotiated your option price at the height of the boom, you as buyer are not too happy paying boom prices two years after the boom has collapsed. Along with the term of the Option, think carefully about your pricing mechanism, whether it’s fixed price or by appraisal.

AGREEMENTS FOR SALE ('AFS')

WHY AN AFS AND WHAT THE HECK IS IT?

An Agreement for Sale (AFS) is a way to purchase/sell a property with seller financing. Overall, you could describe it as a seller financing strategy. And, in these days of much tightened mortgage rules, having a seller be your bank is a huge advantage.

In a nutshell, the buyer and seller negotiate a price and a down payment (which could be zero, $10,000, $20,000, or whatever is appropriate for the situation). The seller is the "bank" (seller financing) for the rest of the purchase price (seller financing equals purchase price less the deposit & down payment).

An AFS is both a concept and a document. The *concept* is a transaction with seller financing where title stays in the seller's name. The *document* is called an Agreement for Sale which looks a lot like a mortgage and contains all of the terms of your agreement.

Legal title remains in the seller's name. Buyer now owns a **100% beneficial interest** in the property. An AFS can be used when the seller has clear title, a small mortgage or, in a depressed economy, a large mortgage equal to or very close to the complete purchase price.

NOTE: if the seller has a mortgage, THE SELLER'S MORTGAGE IS **NOT** BEING ASSUMED! This is an extremely important concept because mortgages are now virtually impossible to assume in Alberta without first qualifying for the mortgage. Alberta now is in sync with the rest of Canada on the non-assumeability of mortgages unless you apply to the lender and go through the qualification process just like you would do with the new mortgage.

An AFS is a way to sell a property with seller financing, leaving a seller's mortgage in place the buyer has not assumed. If he hasn't assumed, he need not qualify, making it easier for the buyer to purchase your property.

The seller continues to be ultimately responsible for timely payment of his own underlying mortgage, but keeping title in the seller's name provides the seller with security in the rare instance a buyer defaults.

THE AGREEMENT FOR SALE CONTRACT:

A real estate purchase contract (often called the 'offer' or 'offer to purchase') is submitted to the other party and the offer clearly says that the transaction is proceeding, 'by way of agreement for sale'. Most often, the buyer pays a certain amount of the purchase price by cash and the balance is owed to the seller under a financing structure known as an 'UNPAID SELLERS EQUITY' or the 'BALANCE OWING' . In flat to negative markets, a buyer's cash can be minimal or the seller might even pay the buyer if the seller has negative equity.

For example, if you were selling a home for $350,000, and the Buyer had a deposit of $20,000, then the numbers would look like this:

Purchase Price		$350,000
Deposit	$ 20,000	
By way of Unpaid Seller's Equity at 5% interest	$330,000	
	$350,000	$350,000

Remember, this agreement does not absolve the seller from making the usual mortgage payments. The buyer makes payments to the seller under the Agreement For Sale. If the seller has an existing mortgage of, for example, $125,000 at 3% interest, you must continue to make payments to your lender.

When selling or buying you can create your own custom real estate purchase contract, or;

a. use a contract like the current Multiple Listing Service contract in use in your area along with an AFS Financing Schedule, or;

b. use the same contract from a. above and a financing schedule that fits who you are in the deal. Issues and concerns are different for buyers and sellers so important to use a financing schedule that protects your interest as buyer or seller.

c. your job is to create the contract and financing schedule. Your lawyer creates the AFS document.

Remember, any real estate purchase contract must say that the sale is **'by way of Agreement For Sale'**. Write these words in the terms section of your contract.

You were the seller in our example. Your best profit in the deal comes from:

a. Charging a premium to the Fair Market Value (FMV) on the sale price and;
b. From an interest rate spread.

In our example above, you are charging $350,000 for a house. If FMV was $325,000, that is a $25,000 profit margin on the sale. Why might you be able to charge the premium over the FMV? Because the buyer needs you. Buyer wants to be a homeowner now but can't get a mortgage on his own and that is worth something. And you are charging 5% on your $330,000 Unpaid Sellers Equity, but only paying 3% on your existing $125,000 conventional mortgage with a lender.

What about if you were the buyer? And, practically speaking, most AFS deals are driven by investor buyers. In today's market, there are deals where the value of the property is close to the balance on the mortgage. When the seller can't charge you a premium and using the FMV of $325,000, if the underlying mortgage is $320,000, your deposit is $5,000 and the seller is your bank for $320,000. You make a payment to the seller that is exactly his mortgage payment, he takes your payment and makes his mortgage payment. It sounds like you are assuming his mortgage but you are not.

CLOSING AN AFS DEAL:

AFS deals have two parts:

1. Part one is governed by your real estate purchase contract. Diligence is part of any real estate transaction and an AFS is no different. You should ensure that you accomplish all the diligence items necessary for you to say you have done your, "due diligence" and thus be able to make a buying decision. You have a possession date, there are adjustments for taxes and other normal adjustable items. On possession day you would get keys to the property and be responsible for all the things any buyer is responsible for including your payment to your bank (the seller), taxes, insurance and other standard closing items. As much as these items are usually your responsibility, you often work with the seller in making sure there is agreement on how these various items get paid.

2. Part two comes sometime in the future when your AFS matures and it is time to pay out the seller. At that time you might decide to sell the property to someone else or assign your interest in the AFS to a different purchaser or you might apply for your own new financing to pay out the seller financing and add the property to your portfolio. You will have two legal accounts for these two separate aspects of any AFS deal.

As a buyer, you absolutely want to control the transaction. AFS deals are not that common and so it is to your benefit to control the contract, the financing schedule and the AFS document itself. Our RCP program provides a ton of documentation all specifically aimed at supporting and improving your position as a buyer in an AFS deal.

We make sure:

- The term of the AFS matches the term of the existing mortgage, important for renewals
- We always add a clause that allows for and leaves you in control of a renewal of the AFS that is tied to a renewal of the existing mortgage.
- Your contract and financing schedule say that the buyer's lawyer will prepare the paperwork, much better for you.

WHY AN AFS IS DIFFERENT:

I can hear the wheels turning. "What's the big deal? Isn't this just like an assumption of a mortgage?" Here is the KEY to understanding the AFS. Title remains in the seller's name!! The seller is the buyer's bank whether he has a mortgage or not. The seller continues to make his mortgage payments, if any, to his bank. Their records don't change.

PROTECTING THE BUYER:

If title isn't in the buyer's name, how does he protect himself? The buyer or buyer's lawyer has the right (but not the obligation) to register a 'caveat' or 'notice' against the title at the Land Titles Office/Land Registry Office for the province where your deal is located.

In our experience, use of the AFS does not trigger an existing mortgage 'due on sale' clause and does not seem to bother any existing lender. This could be because the new land title created after filing of the caveat goes only to the registered owner and not to any other encumbrancers like a lender. Of course, if a lender does take issue with an AFS/caveat and if the lender wants to fight, you don't. Think about your exit strategy in these circumstances.

Another powerful buyer's tool is a Power of Attorney (P of A). We always recommend that the buyer attempt to obtain an irrevocable P of A as part of every AFS transaction. Sellers with lots of equity understandably do not want to give up control of their property. However, where a seller has little or no equity, the P of A gives you as buyer complete authority over the property. And, the P of A can be registered at the land titles office which then officially removes the seller's ability to deal with this property which is an improvement over the caveat which only shows notice of the buyer's interest in the property.

WHY AN AFS IS ATTRACTIVE TO THE INVESTOR BUYER:

Many investor buyers used to assume mortgages without having to qualify. Lots of sellers didn't mind if buyers assumed their mortgages. Often they didn't mind even if as seller they had a CMHC mortgage where after selling, they were still responsible on the personal covenant in the mortgage if their buyer defaulted. They still let buyers assume in many cases. Now mortgage assumptions are, for all practical purposes, off the table. That still leaves sellers with mortgages who want to sell.

Let's look at some examples:

a. The seller has negative equity. They bought at the height of the boom. Prices have fallen. Their high ratio mortgage now has a principal balance larger than the fair market value of the home. They can't sell it with a realtor because real estate fees will take up $10,000 plus dollars that they don't have. Remember this is negative equity. Even if they do sell chances are their mortgage is closed and paying it out would trigger a large payout penalty. Think of the negotiating possibilities for you as investor buyer under this scenario.

b. The seller has positive equity but not too much. His real estate commission and pay out penalties could easily chew up $20,000. Sellers are most likely happy to hear how you can save them money. These first two scenarios are the most common in the AFS world.

c. The seller has positive equity but he doesn't need his money. Let's be realistic. Most sellers need the money from their sale but some don't. You can show the seller how to potentially save thousands of dollars in real estate commission and payout penalties, earn a better return on his equity than he could in the bank and, if the seller is also an investor, to defer profit on his taxable gain.

d. Buyer (YOU) now controls the property. This is powerful! With a properly negotiated and drafted real estate purchase contract and AFS you can:

    i. assign your interest in the AFS, in other words sell your contract, or;

    ii. lease-option the property to a tenant buyer, or;

    iii. sell an option without a lease, or;

    iv. make a straightforward sale at a profit to another buyer, or;

    v. sell to another buyer where you get some money now and some secured by way of a second subordinated agreement for sale or perhaps secured by a promissory note that charges your buyer's beneficial interest in the property. BIG WARNING!! I haven't ever been involved in or even seen this last scenario but if you have an interest in a property, as long as you are not contractually prohibited from doing so, you can usually sell your interest and find a way to secure it.

An AFS can work well for the above examples. When you control the property, there are lots of positives. Plus, sellers usually LOVE that title remains in their name.

AFS Has Lots of Positives. What about Negatives, Risks, Issues?

1. RISK: Due on Sale

The most serious potential negative relates to mortgages generally being, 'Due on Sale'. If the AFS you are contemplating has an underlying mortgage on the seller's side, you have to think carefully about what is known as the, 'Due on Sale' clause. Almost every mortgage has a version of this clause which says if the mortgagor (seller) sells or otherwise disposes of an interest in the property; the lender has the right (but typically not the obligation) to demand repayment of the mortgage. Therefore, the most conservative approach by an AFS buyer or seller would be to contact the lender and get approval for any AFS transaction.

Anecdotally, clients advise that when they have approached a lender with a request for approval of an AFS transaction, the lender reaction is to say, "If you are telling us that title will remain in the seller's name and the seller is still going to make his mortgage payments, then we really don't care what you do". This lender reaction has led to most AFS buyers and sellers deciding not to ask lender permission.

That reaction at the branch level might be the result of lender personnel not understanding an AFS. Or they might understand and they don't care. For absolute certainty, a buyer or seller must insist that AFS approval inquiries at a local level be sent on up the lender chain. Get it in the hands of the lender's underwriters and get a top level, official approval or rejection of the proposed AFS transaction. Such an approval would eliminate any concern about the 'Due on Sale' clause.

To date, no AFS transactions we have been involved in have had a lender demand repayment of the underlying mortgage. Just because none of our clients have experienced such a demand *doesn't* mean it couldn't happen. We think the risk is low. But, it's you that has to understand this risk and plan accordingly. That means you need a 'Plan B'.

If the lender demands an underlying mortgage be repaid, can you do that? Can you qualify for a new mortgage and do you have the extra cash that you might need? Maybe you have a line of credit that you can just write a cheque or you have access to joint venture money or a hard money lender. Doesn't matter how you do it but if the lender calls the mortgage, can you pay?

2. RISK: Seller doesn't hold up his end of the deal

One buyer client could not refinance as quick as he wanted and so paid the seller money to extend the AFS. The seller was supposed to apply those payments to his existing mortgage which originally was the same principal amount as the AFS. But the seller put the money in his pocket. Now the AFS is smaller than the underlying mortgage and the seller has no money over and above the AFS amount. Next time our buyer client would make those payments himself or be more careful about it.

3. ISSUE: Administration

Overall, an AFS is, compared to a standard buy and hold property, more administratively complicated to set up, make payments, monitor, organize insurance and close out the AFS.

4. ISSUE: Seller must remain cooperative

If you as buyer under an AFS want to sell to an ultimate third party you generally need the cooperation of the seller in drafting an offer. Why? Because lenders and title insurance companies want the seller's name in a contract to be the same name as on the title. Now one way to lessen the need for seller co-operation and maybe ever eliminate it, a power of attorney. We always recommend that buyers obtain an irrevocable power of attorney as part of any AFS transaction in order to give any buyer the ability to act on the seller's behalf.

We like to see buyers register the power of attorney against the title which leaves the buyer in full control the property. The buyer can therefore control any sale to a third party. Of course, sellers are reticent to provide powers of attorney revocable or irrevocable and the more equity the seller has in a property, the less likely they are to agree to provide the buyer with a power of attorney and rightly so from the seller's point of view. Every circumstance is different and it takes analysis and negotiation to figure out which approach is best for you.

5. ISSUE: Lenders aren't familiar with AFS

When you are a buyer and your AFS matures and you are discussing a new mortgage to pay off the AFS, your lender like lots of lenders might have trouble understanding your AFS purchase. Some of our clients have had to use private lenders to get the title in their own name for a period of time and then refinance with a mainline lender. *Tip*: allow yourself twice as much time for any financing related to an AFS.

6. RISK: Seller may quietly re-finance

Today's mortgages are often not the plain-vanilla style of years gone by. A loan to a seller might start with a loan agreement or line of credit agreement as the primary security. All lenders will then take a mortgage from the seller as collateral security. Some of the security packages have credit cards attached where the mortgage is security for the credit card debt. Some mortgages are registered at the original purchase price of a property and only advanced at the time of purchase to, for example, 80% of the original purchase price. The lender theory is that as equity in the property increases the seller has room to extract that equity by further advances on the mortgage. Some mortgages are, having been paid down, re-advanceable. These are only some examples; there are undoubtedly more and different versions of mortgage financing will undoubtedly be created in the future.

Any AFS buyer must thoroughly investigate a sellers underlying mortgage and determine its characteristics. If there is any ability for a seller to re-advance a mortgage or use the balance of a home equity line of credit (HELOC) or continue to use a credit card, then a buyer must take such a situation into account.

Will you take the risk that a seller might do any of these things even if prohibited by your AFS? Will you work hard at understanding the underlying financing and do your best to eliminate the seller accessing and increasing the underlying financing? If you don't want the risk or won't do the work, then you shouldn't do an AFS transaction.

7. RISK: Realtor doesn't explain

We are seeing Realtors take a growing interest in the AFS strategy. It is absolutely essential that any realtor thoroughly understand the strategy and explain it to their client. Failure to do this in the face of an AFS gone bad or gone sideways might result in your client suing you or launching a RECA complaint.

Please note, this is certainly not an exhaustive list of risks and issues. Consult your own legal counsel, get a thorough review of what you plan to do and ask lots of questions.

COMMENTS ON POTENTIAL TAX TREATMENT:

If you make a profit on your AFS, there will be some tax to pay. Your profit might be taxed as income or as a capital gain. Everyone's situation is different; make sure you maximize your tax position. Interest paid is usually assessable in the tax year the interest is received. Profit may be set up as a reserve and taken into account over a number of years. We believe the CRA will say it is similar to the way they tax the profit contained in a VTB. We are not tax experts. Always get professional tax advice, preferably from a tax specialist CA.

SUMMARY:

Agreements For Sale are a valid investment strategy which, when properly implemented, can be very profitable. There are more things to discuss including a more complete discussion of downside issues but those issues are solvable and should be discussed in detail with your legal counsel before entering into any AFS whether you are buyer or seller.

As always, your best result can be expected by thoroughly educating yourself, comprehensive due diligence and finding a motivated, financially responsible buyer.

ASSIGNMENTS

WHAT IS AN ASSIGNMENT?

An Assignment is an agreement that transfers your contractual rights to a third party.

A ‘Contract of Assignment', usually just called an 'assignment', is useful in any real estate market. Here's how they work. You write a real estate purchase contract offering to purchase a piece of property and the seller accepts your offer. This gives you control of that piece of property. You can then sell your interest in the property by way of an assignment before or after you go unconditional on the purchase contract. The assignment contract itself is usually just a page or two but it's important. It sets out the parties, timing, assignment monies and other details in writing.

Assignments are useful and popular, especially in a rising market or where this is a large gap between purchase price and ARV (After Repair Value).

CAUTION: Assignments are a sophisticated investor strategy. Don't dive into these without some initial real estate experience.

WHY USE AN ASSIGNMENT?

There are three basic scenarios:

SCENARIO I

Let’s call this scenario the ‘Big Gap’ scenario; you just want to tie up a property because you believe the property is worth more than you agreed to pay. Typically, this is an ‘ugly property’ where the cost of repairs adds double the repair cost to the ARV (After Repair Value). If you could find a buyer that wants the property and agrees it is worth more money, then you can `assign' them the contract.

How much you can ‘assign’ for, or in other words, **sell** the contract for, is a function of hidden value in the property, market psychology, and simply how much your ultimate buyer is willing to pay. Once you have established that number, your ideal scenario is that you prepare your Assignment, both of you sign it, you staple it to a real estate purchase contract, and your buyer gives you the Assignment price along with any deposit you have already paid. Your part of the original real estate purchase contract is now finished. You walk away and your Assignee closes the deal.

SCENARIO II

Let's call this scenario 'Rising Market'. When prices rise dramatically, the number of listings drops and there is heavy competition for properties. I saw a news clip where a veteran Calgary realtor was noting that during the last boom, there were 5,000 licensed realtors, and only 1,500 properties listed for sale. A newspaper story said that buyers were lining up to make offers on condemned houses used for marijuana grow-ops. The idea was to get control of a property in a hot market. Try for a longer closing to give a little more time for the market to rise. Then, sell your interest by way of assignment before closing on the property. You (the 'assignor') get your deposit back and whatever your 'assignee'(new buyer) will pay you for taking over your position in the original contract. Of course, if the market drops you may not be able to assign.

SCENARIO III

This scenario involves members who are looking to do Joint Ventures ("JV"). They are the `Finders' of property who have real estate expertise but may have run out of money. They have a JV relationship with the `Investor' or `money person' and have agreed that the Joint Venture wants to buy property. The Finder goes out and ties up a property with an offer to purchase. Then, if the Finder and Investor agree that it is an appropriate property, the Finder assigns all or part of his interest to the Investor. The Investor then applies for financing, either on his own or in conjunction with the Finder.

IS THIS A WORTHWHILE STRATEGY?

You be the judge. I recently closed a transaction where my client got a property under contract. Then, he assigned his interest for $65,000 plus to an ultimate buyer. The ultimate buyer had full knowledge of what my client paid and he was fine paying $65,000 more. Not many assignments are this lucrative but they are out there. You just have to dig for them.

POINTS TO REMEMBER:

1. Assignments can be tricky to write up and the documentation part of our assignment strategy will deal with:
   -the words to put in your original contract in order to assign your interest
   -disclosure words that assist you in explaining the assignment and avoid having the seller accuse you of taking advantage.

2. Lenders finance on the lower of the offer price or appraised value and you need to know how to work that into your assignment strategy.

3. Depending on your ultimate buyer and their lender's requirements, we show you how to continue to get the seller's cooperation if a contract has to be rewritten

Let's talk about some of the issues surrounding Assignments.

PAY ME THE $$!

An assignment is a sale of a contractual right, not a real estate transaction.

Don't release the assignment document to the ultimate buyer until you have all assignment monies and return of deposit in your hands. Then your part of the Assignment is finished.

TIMING

Watch your timing. In a busy market, everyone in the real estate chain is busy. Realtors, lenders, surveyors, house inspectors and lawyers all take longer to do their job than it takes in a quiet market.

While it might be clear to you what is going on, it isn't usually clear to your realtor, lender, your Assignee, or the lawyers for buyers and sellers. The assignment needs to be explained to all the players, new instructions need to be given, files need to be revised, and everyone in the chain needs to know what is going on.

LIABILITY

What happens if the ultimate buyer (Assignee) does not close on the property? Who does the seller look to when his sale collapses?

Whether you are Scenario I 'Big Gap' (selling) or Scenario II 'Rising Market' or Scenario III (JV'ing), the seller will look to the Assignor. Why? Because the seller signed the original contract with the Assignor (first buyer). The seller has no contract with the Assignee (the ultimate buyer). When sellers learn of an Assignment, they usually cooperate in dealing with the Assignee, but that doesn't mean there is a contract between the seller and the assignee.

Therefore, before you remove conditions on a contract, either hoping to assign the contract or even with an Assignee already lined up, you better be ready to close on the deal yourself.

DUE DILIGENCE

You must be incredibly careful to make sure your Assignee knows what you have done about due diligence. It's fine, but not recommended, not to do any diligence or even some diligence, but your Assignee must understand. Assignees are often less experienced buyers and they usually, without even saying it, are relying on you to tell them this is a 'good' property. As always, early written disclosure is best and provides you some measure of protection from an Assignee who later says you misrepresented the property.

SUMMARY:

1. Assignments take a good chunk of the time available for closing. They often turn 'normal' deals into 'rush' deals.

2. As an Assignor, you continue to remain liable even after you have assigned.

3. Make sure your Assignee acknowledges 'in writing' what you have told them about the diligence you have done.

4. Give your lawyer, lender and realtor lots of detail as early as you can.

5. The Assignment concept is deceptively simple. There are lots of other issues. Always get legal advice before you start using Assignments, including the form of Assignment you will use.

What specific things can you do?

a) Finalize your Assignment BEFORE the deal goes unconditional. If you are using a realtor, make sure they know. If it's a private sale, make sure the seller knows.

b) Amend the contract, in writing, to show that there is a new buyer. You can use various forms; an Amendment, an Addendum, or a Schedule, they all will accomplish the same thing. What words do you use? In three recent assignment situations, I have seen the following words used in the amendment:

    i) "this contract is amended to delete John Jones as buyer and replace with William Smith"

    ii) "the buyer John Jones has been replaced by the buyer William Smith

    iii) "John Jones as buyer hereby gives notice that he has assigned his interest in the contract to William Smith"

c) Call your lawyer early on and discuss your plans IN DETAIL.

“What Can I Create (Starting Now) By Implementing These Powerful Investing Strategies”?

Perfect for Agreement For Sale Investing Strategies

Just bringing these ideas to your awareness has already opened doors. For instance, we know of a seller who was tired of being a landlord, and was looking to exit the business. They recently pulled all their equity out of the property and they are having trouble selling the property for what they want. Because they do not have any equity in the properties their options may be limited.

Perfect for Lease Options Investing Strategies

Plus, I have had some great conversations with potential investment partners getting close to retirement age who are looking for a return on their money, but do not want to tie up their capital for the longer term. There are looking for shorter-term investment opportunities of 1 to 2 year terms.

Couple all of this with the recent mortgage rule changes, and right now is the perfect time to “shoot the puck.” Many of the investors I have talked to who use these insider secrets have told me that the more mortgage rules change, the more lucrative it is for them… just think some people complain about the changes, others find a new strategy and prosper.

This is why I’m excited about the upcoming Rapid Cash Program, in Red Deer, Alberta (It’s a 6-month coaching program, kicking off with a live 2-day event on Saturday and Sunday, April 7&8, 2018, starting at 8:30 AM).

Whether you are just starting out, have a few properties under your belt or you are a seasoned investor, this event has something for you. If you are looking for an increase in cash flow, help to buy your first property or coming up with a solution to help you overcome the financing wall, attendance at this workshop is a must.

I Hope I Have Convinced You Now To Click Here To Register
http://bit.ly/RCPApril18

If You Got This Far And Have Not Yet Registered, I Need To Tell You About Hands-On Training That Eliminates All The Guesswork

At the Rapid Cash Focus Workshop, we'll take you step-by-step and moment-by-moment through the process of finding, structuring and negotiating actual deals.

This isn't a full day of boring lectures, or even high-energy pep talks. Instead, this event contains behind-the-scenes secrets you'll uncover <u>by getting fully involved in the process</u>.

What EXACTLY Will You Learn At This Two Day Live Kickoff Event?

1. **Rent to Own (Lease Options)**- At our Rapid Cash Program, you'll discover how to do lease-option deals quickly, consistently, legally, and safely. Including…
   a. Lead generation techniques that bring willing buyers and sellers out of the woodwork.
   b. How to qualify your tenant buyer so that there's NO drama, NO headache, and massively reduced risk.
   c. How to write win-win deals with proven templates that are legal and binding, including detailed checklists.

2. **Joint Ventures**- Raising Other People's Money. Next, you'll unlock the secrets of attracting Other People's Money to fund your real estate investments. Including…
   a. How to pitch your deal. You will be walked through a hands-on exercise that will show you how to calculate the numbers and hit all the investor 'hot buttons'.
   b. An expert panel with Canadian real estate investors who have used JVs to create millions of dollars in wealth—so that you can get all your questions answered.
   c. Joint Venture agreement checklists that will help you write an agreement that protects all parties in the transaction.

3. **Wholesaling & Assignment Secrets**- This is a fantastic strategy to generate cash with little capital or credit. Including…

    a. How to write a real estate purchase contract and once you have an accepted offer you can then sell your interest via Assignment in the property. Making money without actually owning the property.

    b. How to protect yourself in the transaction, reducing your risk.

    c. How to ensure you get paid for assigning (selling) your agreement.

4. **Mastering Agreements for Sale**- Finally, we'll teach you how to execute Agreements for Sale deals—a sophisticated strategy that lets you get into properties with little to no money down. You'll learn…

    a. The essential components of an Agreement for Sale contract.

    b. Scripts to explain this transaction to potential sellers. This alone is worth the price for attendance.

    c. How to buy properties with little or no money down, and no mortgage qualification.

And Much More…

When You Attend, You'll Learn From our Focus Team Experts Like…

Barry McGuire:
With over 40 years under his belt, Barry knows real estate law. Barry has years of experience in Quick-Turn real estate strategies and has been the closing lawyer on over 1,000 real estate transactions involving a variety of quick-turn deals.

Andrea Warkentin:
Over a 5-year period, Andrea has done 50 AFS (Agreements for Sale) and 30 RTO's (Rent To Own), 8 all-cash deals, with a property value of $8 Million and a profit of $20,000-$40,000 per deal.

Sherilynn Milsom:
With a $7M property value, Sherilynn is currently closing her 12th RTO deal. Lots of people "start" RTO deals, Sherilynn is closing them and making serious profits.

Plus:
Experts in Joint Ventures and the strategies of Assignments.

No matter what stage you are at in your Real Estate Investing, these strategies will be of benefit for you but you MUST get the necessary training to make it successful.

After all… haven't we already paid the cost of tuition many times over in lost opportunities?

Well, that's it. I think you have plenty of reasons to Register today. Here's that link again…
http://bit.ly/RCPApril18

PS… For some of you attending, this event could be a time and financial investment…I can appreciate this. Just a friendly heads-up due to the highly interactive and hands-on nature of this workshop, parts of this event cannot be recorded. This event is for everyone interested in Real Estate investing and to receive the biggest benefit from these strategies you need to be in attendance. Just think, one deal could bring you $60K. Attendance at this event could be one of the best investments you make.

Register Today!
http://bit.ly/RCPApril18