

Ontario Humber Real Estate - Course 4 Notes

COURSE 4

Course 4 – Commercial Real Estate

Module 1

Lesson 1

- Commercial real estate: Any property used exclusively for business purposes
- Specialization in the planned area of practice is an asset (ex. In the office market with a financial market background, or in the industrial market with knowledge of industrial processes)
- Commercial real estate works during business hours; not all the time like residential (8am-6pm)

Employee vs independent contractor status

- **Employee:** Contract of service exists, employer controls and supervises
- **Independent contractor:** contract for service; lengthier docs, full payment of Canada pension plan; no employer health benefits
- Hiring **independent contractors** saves on taxes (Ex. Employment, health insurance costs)
- **Independent contractors** can write off personal expenses
- **Employees** who are complete commission-based get similar tax write-offs for business expenses
- New salesperson will begin as a trainee
- *Larger commercial brokerages are more likely to hire a new salesperson as an employee than an independent contractor
- Higher remuneration with commercial real estate, but take longer because of lengthier conditional and closing periods
- A boutique will involve a salesperson with selling different types of properties and more parts of the transactions, but offer less support and less extensive formal in-house training than large commercial brokerages

Seller Representation Agreement

- Relationship, property specifics, negotiations and offers, services

Differences:

- **Clause 1:** Definitions and Interpretations
 - o Expands definition of a purchase to include an option to purchase, exercising a First Right of Refusal, and the selling or transferring of shares or assets
- **Clause 2:** Commission
 - o Added provision: If a deposit is forfeited, awarded, directed, or release by the seller, the listing brokerage is authorized by the seller to retain 50% of the deposit for services rendered (not exceeding remuneration that would have been payable if sale was completed)
- **Clause 7:** Indemnification and Insurance
 - o Includes liability, claim, loss, cost, damage, or injury resulting from contaminants or environmental problems
 - o The seller warrants the property is insured, including personal liability insurance against any claims or lawsuits resulting from bodily injury or property damage to others

Buyer Representation Agreement

- Relationship, duties and responsibilities, remuneration

Differences:

- **Clause 1:** Definitions and Interpretations
 - o Expands definitions of purchase (same as seller rep agreement)
- **Clause 2:** Services provided by the Brokerage
 - o Added provision: space is provided for other services as agreed between the parties (including possibility of a separate schedule)
- **Clause 3:** Responsibilities of the Buyer
 - o Sets out specific duties owed by the buyer to the brokerage during the currency of the agreement

Terms of Agreement

- Order: Commencement date, expiry date, seller or buyer initials to form to acknowledge length of the agreement if term is to exceed six months, (the duration of a rep agreement can be from 30 days to a year, or more upon negotiation)

*Longer period, more people involved, internal listing perhaps to keep confidentiality, international buyers, qualifying buyers and sellers, businesses and corporations may be buyers

Due diligence:

- Scope of analysis: Examine all docs closely, thorough inspection of property, full knowledge of relevant facts relating to purchase, etc.
- Time period: 30 days or more with option to buyer to walk away if they're not satisfied (no standard clause)
- Financial/Operational: analysis of financial and operational health (like ACTG for businesses – inventory, balance sheets, etc.)
- Legal: Title, mortgages, encumbrances, surveys, licenses, contracts, permits, zoning compliance
- Structural (Building condition report)
- Environmental: ESA – environmental site assessment

Lesson 2

Commercial Tenancies Act:

- No standard, government-issued lease
- Commercial tenancy: any lease involving a commercial property

Landlords:

- Must notify tenants of breach of lease and give time to comply
- Right to terminate when tenant fails to fulfill obligations outlined on lease
- Right to apply to superior court of justice to seek damages or loss of rental income from tenant

Tenant:

- Must notify landlords of breach of lease and give time to comply
- Cannot hold back rent bc landlord failed to fulfill obligations
- Must fulfill obligations

Dispute resolution:

- Option 1: Small claims court
 - o Ask for compensation for losses
- Option 2: Superior Court of Justice
 - o To obtain a court order to require landlord or tenant to abide by conditions and terms + seek compensation

Lesson 3

- Building permit steps:
 - o Application (plans, property survey, application fee)
 - o Review
 - o Permit (Granted to start construction, plan and permit kept on site)
 - o Inspections (24 hours before work proceeds beyond stages set out in permit)
- Ontario Building code covers even fire protection in new buildings while fire code covers existing buildings
- Ontario Building Code applies to all properties
- Ontario Ministry of Municipal Affairs and Housing reviews and amends the Ontario Building Code every 5 years
- Municipal zoning bylaws:
 - o Dealing with advertising, signs
 - o Flood control
 - o Noise, vibration, dust, illumination control
 - o Fences
 - o Energy conservation programs
 - o Authority to enter private lands to inspect discharge of waste into municipal sewage system
 - o Implementation of interim control bylaws that freeze development for a period of time
- Municipal responsibilities:
 - o Non-conforming use and zoning amendments
 - o Site plan control
 - o Amendment, preparation, adoption of official plan
- Development of a property in a site plan control area requires obtaining a site plan approval from municipality and an agreement between owner and municipality
- Purpose of site plan: Exert a municipality's influence over building design and site amenities over and above the requirements set out in zoning bylaws and the Ontario Building Code

Lesson 4

Types of Commercial Properties:

- Office, Retail, Industrial, Multi-residential, Farm, Recreational, Institutional, Hospitality, Vacant land

Office Building Classification:

- **Class A:** Prestige location, premium office space, high tech, high-quality finishes (in downtown locations)
- **Class A+:** Highly desirable sub-market, designed by a recognized architect, high-end furnishings, modern efficient systems (among the highest rents and occupied by more than 80% of the market's premier tenants) – investors
- **Class B:** good location, average materials, adequate internal systems, less than 20 yrs old, well-managed and maintained
- **Class C:** Less desirable area, 20 yrs older or more, lacking up-to-date tech, requires extensive reno, low rent is attractive
- Factors resulting in growth of office sub-markets: Proximity to attractive housing, shopping, government offices, high tech needs, proximity to university

Retail Properties:

- House businesses offering retail goods over the counter without a prior appointment
- Retail Classification:
 - o Big box stores
 - o Power centres
 - o Shopping centres
 - o Lifestyle centres
 - o Downtown shopping malls
 - o Outlet malls
 - o Main street retail

Industrial Properties:

- Property used for processing and manufacturing of goods

Multi-residential Properties:

- Any residential structure that has more than one dwelling unit
- 0-4 units = single family residential; 5+ = commercial transaction

Farm Properties:

- Agriculture (production of goods through farming)
- Factors affecting property value: Location, land, buildings, other assets

Recreational, Hospitality, and Institutional Properties

- Recreational: Lodges, mixed-use resort properties
 - o Businesses: Wilderness camps, bed and breakfast accommodations, ski chalets, hotel, motels, lodges, resorts, trailer parks, theme parks, marinas, campgrounds

- Hospitality:
 - o Hotels, motels, boutique hotels, lodges, resorts
- Institutional:
 - o Banks, schools, universities, insurance companies, religious or charitable organizations, municipal and government buildings

Vacant land:

- Focused on planning, application, and development processes of unused property
- Focused on revitalization of property
- Brownfield and Greenfield Land:
 - o Legislation that encourages clean-up and revitalization of abandoned, under-utilized, or contaminated lands
 - o Brownfields legislation: Set out specific rules limiting future environmental liability for redeveloped properties and ensuring environmental standards in clean-up process
 - o Greenfield land: Undeveloped land in a city or rural area used for agriculture or landscape design, or left to evolve naturally (usually considered for urban development)

Commercial-Residential-Retail Properties

- Mixed-use developments with two or more revenue-producing uses (office, residential, entertainment, cultural, retail)
- Aligns with smart growth incentives along with revitalizing existing neighbourhoods
- Live-work property: unit zoned for combination of workspace and living quarters

Ownership types (Lesson 4: slide 14 for benefits and liabilities):

- Sole proprietorship:
- Partnership
- Limited partnership
- Corporation: Taxed on profits (shareholders taxed on income)
- Trust: gives another person property or assets to manage
- Joint venture: investors

Benefits of investing in commercial:

- Personal control
- Capital growth during inflationary periods
- Physical presence
- Potential to recover capital through refinancing
- Tax benefits
- Home for capital inflight

Challenges/Risks:

- Lack of liquidity
- Ongoing maintenance costs or management costs
- Large capital investment
- Changes in govt regulation

Lesson 5: Third-party professionals

Lesson 6: Commercial Financing

- Financing requirements:
 - o Financial capability, needs, and sources of funding, for/of buyer
- Mortgage Process:
 - o Pre-approval (optional)
 - o Mortgage application prepared
 - o Lender review of application
 - o Commitment letter prepared and forwarded
 - o Lender's conditions waived, commitment letter signed
 - o Mortgage docs prepared
 - o Mortgage transaction complete

Commercial Lending Practices

- **Leverage ratio:** assess ability of a company to meet financial obligations (how much capital comes in form of debt)
- **Loan-to-value ratio:** Institutional investors restricted to a max of 80% of the appraised lending value unless insured through mortgage insurance program
- **Debt service coverage ratio:** net operating income/total debt service (1.2 or higher)
 - o Whether a business is capable of handling payments
- **Safety margin:** based on net operating income (between debt payment and income)
- **Risk and capitalization rate:**
 - o Cap rate: ratio between net operation income and original capital cost (an increase lowers value for lending purposes)

Commercial Financing:

- **Letter of commitment** (or Mortgage commitment): written commitment by lender setting out terms of mortgage
- **Letter of credit:** Document issued by a lending institution authorizing withdrawal of certain amount of money with prearranged terms and conditions
- **Letter of guarantee:** Used for development projects involving municipal body; this assures existence of funds and a promise from lending institution to complete development with their own resources if necessary
- **Letter of intent:** General understanding of provisions, covenants, terms, etc. - not a contract

Commercial Loans:

- **Bridge loan:** interim form of financing; used when a buyer has to close one sale prior to receiving funds from another sale
- **Development loan:** Loan advanced for servicing and improving land prior to building construction, normally 1-3 yrs
- **Gap loan:** Interim financing providing funding between construction advances and placement of permanent financing

- **Interim financing:** Temporary financing to address immediate needs as distinguished from long-term debt structure
- **Line of credit:** highly-flexible form of interim financing based on past performance strength of personal or corporate covenants

Commercial Loans:

- **Standby loan:** pre-construction loan commitment between developer and a lender for preliminary financing with expectation of permanent, long-term mortgaging (rate charged is 2-4 points higher + upfront fee)
- **Wraparound mortgage:** New mortgage that wraps around existing financing
- **Blanket mortgage:** Single mortgage on two or more properties forming security for a loan
- **Participation funding:** Special purpose financing involving lender in direct participation with the borrower in some profit or ownership
 - o **Income participation**
 - o **Equity participation**

Lesson 7

- **Capital gain:** gain from disposition of capital property; added to taxable income
- **Capital cost allowance (CCA):** the amount of amortization expense that the government will allow a company to deduct from its income for tax reporting purposes; the max rate a taxpayer can claim for depreciation (50%)
- **Capital cost allowance classes:** the rate of CCA; only the amount of CCA claimed is deducted from the balance of the class and the remaining balance is carried forward and available for future CCA claims
- **Adjusted cost base:** the acquisition price of a property with adjustments for tax
- **Soft costs:** Includes construction-related inspection fees, utility hook-up charges, engineering fees, municipal fees, legal/accounting fees, and mortgage fees. Capitalization limited to construction phase (pre and post construction costs may be deductible if produced for income; amortization of certain things)
- *Seller does not have to collect buyer's HST, considering everything else is complied
- Capital gain is 50% of the amount

Non-resident Sellers

- Must remit, before selling the property, a **calculated amount** to obtain a certificate from the Minister of National Revenue or remitted to the buyer on seller's behalf within 10 days following sale completion
- **Calculated amount:** amount by which the sale proceeds exceeds the property's adjusted cost base
 - o Credited to the buyer by the seller
- Mixed-use buildings: no HST for the exempted use

Course 4 – Module 2: Understanding Commercial Construction

Lesson 1: Construction Practices and Methodologies

- Office properties:

- Range from a one to two storey in suburbs to a high-rise building in downtown core
- Materials vary: could be wood, concrete, brick, block, steel, glass, and asphalt for roofing
- Focus on structural strength, fire resistance, acoustic separation, means of egress, sanitation, materials to prevent moisture, heat loss, water intrusion
- Concrete block walls may be used with wood framing in larger structures to more effectively separate units
- Retail properties:
 - Multi-floor complex with variety of tenants or a stand-alone structure with one tenant
 - Can range from 10k to 45k square feet (smaller ones like a coffee shop range from 500 to 8k square feet)
 - Focus on visual appearance and design flexibility
 - Load-bearing masonry walls, concrete tilt-up panels, steel buildings, or pre-built modular steel buildings
 - Can be constructed with concrete block, poured concrete, steel, or a combination
- Industrial properties:
 - Warehouses from 25k to 100k square feet to a 7500-acre oil refinery
 - Purpose built: general purpose, special purpose, single purpose
 - Concrete block, poured concrete, steel, or a combination
 - Block buildings are favourable but steel is most prominent
- Other commercial properties:
 - Multi-residential, multi-use, farm
 - Specific lifestyle or community
 - Steel, concrete, masonry
 - Wood most popular since its cost-effective, code-compliant, sustainable
 - Farms may have to comply with Ontario building code AND the National farm building code

Construction methods

- Smaller commercial properties:
 - Masonry walls (energy efficient)
 - Wood framing (economical)
- Commercial properties:
 - Concrete
 - Concrete tilt-up is more cost effective for larger structures
- ICF (Insulated Concrete Form)
 - Thermal mass, high insulation values, low energy costs
- Steel
 - Popular, require extra fire-resistant material
- Pre-fabricated modular steel
 - Combination of materials with steel

Structural components

- HVAC tech: unit producing, heat, ventilation, air condition

- Sprinklers
- Floor loads (max weight a floor can hold)
- Etc.

Factors impacting commercial construction:

- Economic issues
- Land availability
- Favourable municipal zoning
- Cost
- Availability of resources

Lesson 2

Site Plan Requirements

- On-site building location + design (interior, exterior, dimensions, material, colours)
- Traffic control interference, effect on traffic in neighbouring streets
- Size and layout of parking lot
- Internal considerations (ex. Garbage collection, storage facilities, loading areas)

Builder Warranty

- # of yrs of structural warranty
- Protection + preventative care
- Coverage of workmanship and materials (HVAC, elevators, electrical)
- How repairs will be made
- Removal of debris and professional maintenance fees
- Protection against legal claims arising out of construction deficiencies
- Business interruption and loss of income due to builder's issues

*Electrical Safety Code, the Fire Code, Occupational Health and Safety Act

The Conservation Authority:

- Preserves wildlife, shorelines, valley lands, wetlands
- Protect neighbourhoods from flooding, protect greenspace
- Protect air, water quality, resources

Life Safety Systems – Fire Code

- Emergency lighting
- Exit signs
- Access control devices
- Fire suppression
- Monitoring devices

Fire – Fire Code

- Means of egress
- Fire protection systems

Security – Fire Code

- CCTV
- Intruder Alarms

LEED (Leadership in Energy and Environmental Design)

- Ensures eco-friendly workplaces by serving as a green building rating system
 - o Certification = 40-49 points
 - o Silver certification = 50-59 points
 - o Gold certification = 60-79 points
 - o Platinum certification = 80+
- Benefits:
 - o Better financing (more likely to receive financing)
 - o More tenants (lower utility costs)
 - o Saves energy
 - o Good reputation
 - o Working environment

Lesson 3

Building Restrictions

- Zoning setbacks
- Daylighting (Corner lots, to avoid obstructing view of areas surrounding the building)
- Lot coverage (50%; ex. 4000 sqft can only cover 2000 sqft. of the property)
- Overall building size and height (determined by FAR – floor area ratio, bylaw setbacks, height, area, lot coverage)
- Building height restrictions (distance between grade and highest building point)
 - o Exceptions:
 - Antennae
 - Flagpoles
 - Satellite dishes
 - Equipment to help operate building
- Obtaining reports (HVAC, Roof, Environmental)
- Shadow impact studies (used to show location and height of a proposed building will not cast a shadow over building facades, private, public outdoor amenities, open spaces, public parks, sidewalks, etc.
 - o Too much shadow on neighbouring properties may cause reduced building height restrictions
- Parking (ex. Total area = 144,000; parking required = $144,000/1000 = 144$ parking spaces OR if 1 parking space is allotted 200 sqft, then 144×200 means 28,800 sqft must be used for parking area in total)
- Greenspace allocation (ex. 10%)

Lesson 4

- Curtain walls: Exterior building component, energy-efficient, minimizes glare, reflects long-wave radiation
- **Smaller office buildings:**
 - Siding:
 - Stucco, concrete, brick veneer (not steel)
 - Use wood framing
 - Use curtain walls for insulation
 - Building Cores:
 - Stairwells located at end of halls
- **Large building** = Larger than 600 sq. metres (6,460 sqft) and more than 3 storeys tall
 - High sqft by increasing number of floors:
 - Use steel beams with concrete floors, concrete floor plates only
 - Building cores:
 - Central hub including washrooms, elevators, janitor closets, utilities, etc.
 - **Side-core designs**(larger open space), **Centre-core designs**
 - Floor plate: Total sqft. of each floor in a multi-level building
 - Exterior finishes:
 - Curtain walls
 - Poured concrete walls
 - Painted/dyed concrete walls
 - Concrete with plastic wall coating
 - Stucco
 - BOMA Measurement standards (ensure consistency and a standard for buildings)
 - Building Owners and Managers Association
 - Ensures standard and consistent measurement of floors, and rentable, usable space

Lesson 5

- Store (Centre) types:
 - Super regional centres
 - 3+ anchor stores; 800,000 sqft + of leasable area
 - Regional shopping centre
 - 2+ anchor stores, 400,000 – 800,000 sqft of space, 40-80 merchandisers
 - Community shopping centre
 - 125,000 – 400,000 sqft, 2 anchors, 15-40 tenants
 - Neighbourhood shopping centre
 - 30,000 – 125,000 sqft, 1 anchor, max. 20 tenants
- Retail structures:
 - Freestanding buildings
 - Main street retail – mix of old and new shops
 - Downtown shopping malls
 - Outlet malls – outside of large urban centres to reduce costs
 - Big box stores – most variety of retail merchandise
 - Power and regional power centres (clusters like Bramalea City Centre)

- Lifestyle centres (village-like)
- Restrictions:

Lesson 6

- Retail construction materials:
 - Steel: fast construction, easily altered internal layout, internal design creativity
 - Wood: beneficial for smaller building under 6 storeys
 - Masonry walls
 - Durable (fire-resistant; more strength when combined with concrete)
 - Termite free
 - Sound proof
 - Easy maintenance
 - Energy efficient
 - Cons
 - Efflorescence – Needs ‘re-pointing’ (labour intensive, costly)
 - Concrete
 - Tilt-up wall panels:
 - Uses large wall panels, poured on-site, raised into position by a crane
 - Effective for larger structures
 - Weather must be considered
 - Pre-cast wall panels:
 - Formed off site, lifted onto the building support structure, no delays for bad weather
 - Modular structures:
 - Complete with all framing elements and pre-poured floor, steel framing, easy customization
 - Avoids delays from bad weather, quick on-site assembly, less opportunity for theft of building products
 - ICF (Insulated concrete forms):
 - Thermal mass, high insulation values, reduces energy cost
- Synergism: Similar exterior layouts, like streetscapes, winding walkways, landscaped boulevards, promenades, waterways; creates sense of community

- **Insulated Concrete Form (ICF) structures:** ICF structures are built using synthetic materials that are assembled to shape exterior walls in commercial buildings. These hollow forms are assembled to form the walls and then filled with concrete.
- **Steel structures:** Lighter weight all-steel buildings are an alternative for retail commercial construction. Steel can also be used in conjunction with concrete walls to gain greater flexibility, particularly when looking to expand a building.
- **Wood structures:** Wood structures can be used in buildings, provided that the structure is under six storeys. Larger construction projects will need a stronger building material such as steel and concrete.
- **Masonry wall structures:** Masonry walls add durability to the building, among other benefits, which include easy maintenance.
- **Concrete tilt-up and cast in place structures:** Tilt-up construction uses large wall panels that are poured on-site and raised into position by a crane. Pre-cast wall panels are formed off-site, usually in a factory, and transported to the site.
- **Modular structures:** Modular structures consists of two or more factory-produced units, complete with all framing elements and a pre-poured floor.
- **Synergism:** Synergism is established by creating a sense of community by ensuring all buildings in the area share similar exterior design elements.

Lesson 7

- Types of industrial buildings:
 - o General purpose
 - o Special purpose (ex. distribution centre)
 - o Single purpose
 - o Multi-use
- Zoning restrictions:
 - o Light industrial use:
 - Manufacturing, fabrication, assembling, processing, packaging of products
 - Electrical & mechanical contractors, computer data services, repair shops, lumber yard, etc.
 - o Heavy industrial use (larger space, isolated to minimize environmental effects):
 - Production of metals & petroleum products
 - Brick, tile, clay production
 - Blending tar or petroleum
 - Tanneries
 - Rendering plants
 - Heavy equipment manufacturing
 - Meat packing, bulk storage of chemicals
 - Fuel oils, etc.

Industrial buildings usually have:

- A single floor, poured concrete, steel frame roof, built-up roof with stone ballast, steel strip windows, metal doors, office area, gas fired heating, HID (high-intensity discharge) fixtures for the building's exterior

Industrial parks serve as a buffer between heavy industrial activities and business/residential districts

Lesson 8

Design for Industrial properties:

- Pre-engineered steel buildings (lower cost, durable)
- Exterior finishes
- Clear span (floor area), clear height
- Bay depth (bay is an unfinished area within the building located between a row of columns and the bearing wall)
 - o Bay depth: distance between columns (clear space, column spacing)
 - o Bay width: distance from one side of the bay to the other
- Column spacing: Distance between posts or vertical supporting beams
- High cube/high bay: a relative term that refers to industrial buildings with an abundance of clear height or vertical cubic space
- Truck-turning radius: tightest turn a truck can make
- Truss height: distance from floor to the bottom edge of a truss
- Loading docks

- Floor load limitations
- Roof systems (four-inch rise of slope/12 ft of run, BUR (built-up roofs), 4-ply roofs: last 15-20 yrs)
- Mezzanines (storage or office area above floor surface)
- Utility supply
- Transportation access

HVAC:

- Air handler: blower or series of fans to move heated air or A/C through structure
- Condensing unit: coolant for A/C
- Ductwork: distribute air
- Rooftop HVAC: large HVAC unit on roof to provide cooling and heating
- Suspended Unit heater: Large interior, roof-hung units to ventilate
- Zone control: Redirect air to certain areas
- UFAD (underfloor air distribution)
- Radiant: heating and cooling systems

Sprinkler systems:

- Wet pipe system (melts a plug to let water through; most popular)
- Dry pipe system (melts a plug as well)
- Pre-action system (may not be under pressure)
- Deluge system (fire hazards, lots of water for large areas)
- Combined dry pipe and pre-action system (release CO2)

Cranes:

- Bridge cranes (horizontal rails, column-free areas needed to function)
- Gantry cranes (portable bridge cranes on wheels)
- Jib cranes (arm attached to it)

Lesson 9

Mixed use:

- May have residential units or not, can attract outside people
- Can have retail stores on any level

Compatible design:

- Compatible uses (ex. Medical office and pharmacy)

Lesson 10 – Parking

Parking types:

- Structured parking (above-grade, ramp, open-air, stand-alone structure for vehicle parking)
- Gated parking (protects the parking, charges users)
- Mixed use buildings parking (may have special zoning requirements)
- Parking garages (commercial usually, short-span structure meaning more columns to fit more cars)
- Minimum percentage of space for parking (greenspace-to-parking ratio)

- Retail has connected parking (ramp); office will have garages, underground parking

Lesson 11

MR12 = Multi-residential, 12 storeys

Restrictive provisions:

- Minimum lot area, frontage, floor area, landscaping
- Units per hectare
- Max lot coverage, overall height
- Setbacks for front, side, and rear yard
- Parking allocation per unit
- Buildings over 4 storeys require an elevator
- Large multi-residential buildings use similar materials to large office buildings (ex. Concrete)

Lesson 12

Agricultural use:

- Cultivation of soil
- Growing and harvesting crops
- Dairy operations
- Breeding, grazing, boarding, training livestock
- Ontario building code and national farm building code
- Farm building permits issued by the building department of the applicable municipality

Zoning bylaws:

- Minimum distance separation I (MDS I): between a new development and existing barns, storage, digesters
- Minimum distance separation II (MDS II): between new, expanding, remodeled things and existing or approved development (residential)
- MDS calculations based on:
 - o Types of livestock
 - o Max number of livestock based on barn capacity or lot size
 - o % increase in size of operation
 - o Type of manure system and storage
 - o Type of land use affected by the agricultural property

*The Ontario Building Code allows farm building to be regulated by the National Farm Building Code

Lesson 13

- Innovation in Construction:
 - o 3D building information modeling (BIM): software for commercial buyers to gain insight on the development of their building
 - o 5D Macro BIM: computerized models to illustrate how changes to design affect appearance and cost, schedule
 - o Recycled Materials: save energy and cost

- Green Energy:
 - o Energy-efficient building systems: SROI (Sustainable return on investment)
 - o Smart buildings: Remote access, track lighting, heating, cooling
 - o Energy audit overview
 - o Green building

Module 3 – Identifying Requirements for Office and Retail Properties

Lesson 1

- Assessing office market:
 - o Available office spaces
 - o Inflow of new office spaces
 - o Absorption rate (occupation rate; preferably net absorption rate)
 - o Vacancy rate (there is a natural equilibrium vacancy rate)
 - o Rent rate
- Market position: Image generated in the consumer's eyes
- Retail Demand and Factors:
 - o Range: Max distance a consumer will travel to acquire a product or service
 - o Clustering: Groupings of retailers
 - o Threshold:
 - Demographic: Population size necessary to support a specific business
 - Economic: household income, expenditures
 - o Competition

Lesson 2

Range of Documents for Sale of Office/Retail (in addition to the APS agreement):

- Details of equipment leases
- Details of all tenants leases or renewals
- Deed of ownership and transfer (including existing mortgages)
- Environmental Site Assessment (ESA)
- Commercial Building Inspection Report
- Current or up-to-date survey and zoning compliance
- Transfer and disclosure forms
- Private mortgage forms
- Copies of any appraisals completed
- Income verification documents
- Selected tax return information relating to the property

Records required:

- Financial statements
- Legal
- Building reports

- Environmental

Defects:

- Patent: Visible
- Latent: not that easy to see
- Material latent: Serious defect, dangerous.

APS:

- Chattels included and fixtures excluded

Lesson 3

Economic Development Office:

- Tells you:
 - The most recent economic development strategy of the region where this business is located
 - Demographics about the population growth and age distribution of the region where this business is located
 - Info about business involved in partnerships and collaborated efforts towards economic development of the region where the business is located
- Commercial user and investor needs:
 - Investor or user objectives
 - Physical requirements
 - Financial requirements
- Site specific factor (office/retail):
 - Zoning
 - Site details/location
 - Soil conditions/topography
 - Services
 - Transportation
- Location preferences:
 - Access
 - Appearance, facilities
 - Parking
 - Transit
- Factors buyers consider when analyzing commercial neighbourhoods:
 - Extent, population, incomes, demand of trading area
 - Traffic, accessibility
 - Easy to find, affordable parking
 - Competition
 - Comparability
 - Whether located in a developing area with potential growth
 - Vacancy factors, available development sites
- Retail properties location/accessibility factors:

- Traffic counts
- Demographics
- Surrounding uses

Module 4

Lesson 1

- Due diligence for commercial:
 - Ensure all tenants are complying with zoning restrictions
 - Financial and operational due diligence
 - Rentable vs usable area (may only have a 3000 sqft. Property, but will have to pay on 5000 sqft bc of their share of common area)
 - Ex.
 - Obtain up-to-date copy of floor plan of a unit and outline it in red
 - Ask owner if any tenants are in default of their lease
 - Recommend hiring a measuring company when seller has no supporting documents
 - Insurance company reports
 - Source documents
 - DO NOT accept a recent tax statement as proof of corporation identity

Lesson 2

- Can ask for occupancy permits to ensure there are no open building permits which could delay closing
- TSSA: Technical Standards and safety authority; - Regulate Ontario's elevators (Elevating Devices Safety Program – under the *Technical Standards and Safety Act*)
- Investors are focused on how easily they can convert a space for another tenant
- Group pylon signs (like a plaza listing the stores), make a group of tenants responsible for the costs
- Essentially, obtain all recent reports on anything you can
- Verify condition of:
 - Exterior features of building
 - Entry areas + security system
 - Balconies, roof-top terraces
 - Cell phone towers, roof-mounted systems
 - Exterior signage (pylon signs)
 - Ask about permits, whether all tenants assume the costs, ask about owner signage policies
- Factors when listing:
 - Lot size, shape, topographical features
 - Parking, entry/exit facilities
 - Services available on site

- Public: cable, septic, telephone
 - Private: snow removal, maintain grass and flower beds, maintenance repairs
- Access to public transport
- Environmental assessment

Lesson 3

- Rental equipment and conditional sales contract (obtain all contract copies)
- Chattels included
- Fixtures excluded
- Trade fixtures (Those installed by tenant who has right to remove as stated in contract. If not stated the owner then owns them)
- Alarms and security systems
- Inventory control systems (RFID)

Creating a Marketing Info Package:

- Purpose:
 - Create a summary document, unique selling points
- Contents:
 - Fact sheet, HD images, street map, zoning designation, permitted uses, area description, market data (demographic, economic base analysis)
- Creation:
 - Small brokerage – you'll have to DIY
 - Large brokerage – research and marketing teams will assist

*Employ discretion with a For Sale sign, could deter current customers. Instead use the marketing package, and print/digital media

Lesson 4

- About easements, insurance, restrictive covenants, encroachment
- Restrictive covenants can extend to operating hours, what the stores can sell
 - Or non-competition clauses, that protect competitive advantages
 - Ex. A coffee shop may lease with the condition that no other tenant can do so, so another tenant who is a restaurant may only sell coffee as part of a meal
- Insurance:
 - Typically inspect property

Leasing Arrangements:

- Stability and durability of income stream
 - Long-term leases are favourable for buyers
 - Durability: credit worthiness/credibility of tenants
 - These both create desirability for the property
- Financial analysis of rental income and impact of expiring leases on income:
 - Check terms, duration, review revenue components, estimate revenue potential of each tenant

- An ending lease may cause the tenant to renegotiate terms or they may leave
- Termination dates of leases and timing
 - Timing of expiration of leases
- Impact of leases not renewing
 - Vacancy period will impact revenue

*Government agency tenants are favourable and stable; Tenants asking for more space = More \$\$\$

Key considerations for physical components:

- Mechanical – heating, cooling, electric, HVAC
- Water
- Exterior cladding
- Roof system
- Windows and display areas

+ Energy Efficiency

*Roof repairs may not add value to property

Lesson 5

Detrimental conditions:

- Asbestos
- Old light fixtures – Ballasts (PCBs)
 - Uses an oily hazardous liquid
 - Latent defect
 - Prohibited
- Poor indoor air quality
 - Could cause Sick building syndrome (SBS)
- Water leaks, mold, dampness
- Soil, water contamination

Detrimental conditions - Related to fire and security:

- Must have fire protection and suppression equipment inspected periodically
- Building and fire code compliance should be verified – material fact
- Inadequate building security systems are dangerous

More detrimental conditions:

- Exterior damage
- Risk of fire and flood damage
 - Verify all pumps, drains, sewage is in good working order
- Infestations, contaminations

Prevent trespassing:

- Boarding up windows
- Using enhanced locking mechanisms on the doors

- Constructing a fence
- Security system (CCTV)
- Periodic inspections by security companies

*Municipalities inspect vacant/abandoned buildings often to ensure compliance

Lesson 6

- Usable space: space occupied by tenants
- Rentable space: proportionate share of common areas
- R/U factor Formula
 - o Rentable Area/Usable Area = R/U Factor
 - o When the R/U factor is applied to a tenant's usable space, that space is converted to rentable space
 - o High R/U factor means excess common area or secondary spaces in the building
- Significant Structures: Buildings producing income or with capability to house businesses associated with the owner-user's business
- Accessory buildings (ex. Parking) – part of rentable space

Measurements

- Measurements: MPAC (municipal property assessment corporation)
- BOMA Standard measurements (building owners and managers association):
 - o Gross building area:
 - Gross floor area of a building based on external measurements, excluding unenclosed area (2% variation allowed)
 - o Gross leasable area:
 - Measurement of the total floor area designed for occupancy and exclusive use of tenants in a commercial enterprise
 - o Rentable area:
 - Usable area of the tenanted space + allocation of floor common areas
 - o Usable area:
 - Area within walls of the tenant space (actual space occupied by tenant)
 - Loss factor: Sqft difference between rentable and usable space
 - o R/U factor
 - o Common area:
 - All areas used by two or more tenants and/or third parties
- IPMS (International Property Measurement Standard) addresses inconsistencies in property measurements
 - o Mainly used for valuation and not leasing purposes

Measuring tools:

- Tape measure
- Laser distance measurer (not good outside, requires hard surface at the other end)
- Measuring wheel: Long distances (not good on bumpy terrain)

*Talked about improving value through reno and upgrades

Lesson 7

Appraiser:

- CRA: for residential only
- AACI, P: For any property

When to appraise:

- Refinancing
- Sale of property
- Family transfer/trigger of a share sale (for taxation purposes especially)
- Corporate transfer
- Estate planning
- Severing off lands and pro-rated discharge requirement by lender
- Second mortgage

*2-3 weeks for appraisal

Appraisal techniques:

- Cost approach
 - o Market price – assumes buyer will pay no more than the price of acquiring a vacant site of equal utility
 - o Reliable when appraiser has estimates for land value and improvements, for newer constructions, or those with little income
- Income approach:
 - o Based on income generated by property
 - o Relies on rental income; cash flow
 - o Cannot predict fluctuations in the market
- Direct comparison:
 - o Similar properties (sale price adjusted for differences)

Appraisal factors:

- Population, income levels
- Pedestrian traffic
- Major traffic routes
- Adequacy of parking
- Neighbourhood and area trends
- Visibility and street exposure
- Lot size and layout

Lesson 8 - REVIEW

To get a realistic listing price:

- Currently listed similar properties
- Recently sold
- Recently expired (identify why they didn't sell)

Capitalization and income multipliers

- *Cap rate*: rate of return expected
- *Net operating income* = gross operating income – operating expenses
- *Net operating income/value of property = cap rate*
 - o Higher selling price in relation to income = lower cap rate
 - o Lower selling price in relation to income = higher cap rate
- Income multipliers:
 - o *Gross operating income multiplier* =
 - Estimated market value or selling price/annual gross operating income (excluding utilities, taxes, maintenance, vacancies)
 - o Lower ratio is better for a buyer/investor as they would recover their money faster
- *Sale-to-list ratio* =
 - o Selling price of comparable property/Listing price x 100
 - o Estimated selling price/sale-to-list ratio = *Recommended list price*
 - o Higher sale-to-list ratio = More buyers are negotiating (to sell) and sellers are settling for less

Steps:

1. R/U Factor
2. Conversion
3. Base rent: Tenant rentable space x Rent = Annual rent
4. Additional rent = (rentable space/total rentable space of building) x total charges for property
5. Total rent = annual rent + additional rent
6. Rent/sqft = Total rent/tenant rentable space

CORRECT

Calculation:

R/U Factor: $126,500 \text{ sq. ft. rentable} \div 111,200 \text{ sq. ft. usable} = 1.13759$

Conversion: $1,615 \text{ sq. ft. usable} \times 1.13759 = 1,837 \text{ sq. ft. rentable}$

Base Rent: $1,837 \times 15.50 = \$28,473.50$ Annual Rent

Additional Rent: $(1,837 \div 126,500) \times \$1,065,217 = \$15,468.80$ Annual Rent

Total Rent: $\$28,473.50 + \$15,468.80 = \$43,942.30$

Answer: $\$43,942.30 \div 1,837 = \23.92 per sq. ft. annually

Module 5 – Preparing to sell Commercial Condominiums

Lesson 1 – Commercial Condominium Governance - REVIEW

New condo building:

- Developer registers a declaration and description at land registry office
 - o He may now work with third-party contractors to develop the land or sell it
- Corporation without share capital is automatically created
- Declarant must appoint at least 3 members to the newly formed board of directors
- Developer ceases to be a majority shareholder as units sell
 - o Within 21 days of this, developer must call a turnover meeting to give control to a newly elected board of directors
- After this, the developer is no longer involved with the condo
 - o If turnover is delayed, developer may be involved with the condo longer
- Even after turnover, the developer often owns unsold units and can still be elected to the board and participate in management of the corporation

Board of directors:

- Initial board – appointed within 10 days by declarant after registration
 - o Board must call meeting before the later of:
 - 30th day after declarant transfers 20% of the units
 - 90th day after first unit is transferred
 - o This meeting gives owners chance to elect 2 directors
 - o The first board must have a turnover meeting to elect a new board within 21 days after declarant ceases to be a majority shareholder

- Board typically appointed for 3 years
- Directors cease to be directors if they:
 - o Become bankrupt
 - o Become mentally incompetent
 - o Do not obtain a discharge for a lien within 90 days of its registration
- Board must provide owners with a copy of the rules, effective date, and notice that they may requisition a meeting
 - o Rules not effective until approved by owners at a requisitioned meeting within 30 days

Condo managers:

- Condominium Management Regulatory Authority of Ontario (CMRAO)

Bylaws: Documented standard procedures and requirements regarding a condo's internal operations involving regulatory matters

- Board can make bylaws, amend, remove, etc.

Rules: directives, regulations to promote safety, security, welfare of owners, property, and assets of the corporation

New Owner Information Certificate (NOIC): A must-send to the new owner of a condo unit

- Provides owners with the most recent Periodic Info Certificate (PIC)
- Must be given within 30 days of purchase

Status certificate includes:

- Corporation's address, directors names and addresses
- Statement of common expenses
- Amount payable by the unit for common expenses
- Statement concerning any assessments relating to the reserve fund
- Info relating to amendments to the declaration
- Legal actions
- Rules, bylaws
- Reserve fund study
- Insurance policies certificate
- Location, square footage, points of access
- Etc.

Lesson 2 – Commercial Condominium Uses

Uses:

- Office:
 - o May need expansion space, or may have a shared reception
- Retail:
 - o Looks for synergies with businesses nearby, loading zones

- Industrial:
 - o Not suitable for heavy industrial applications
 - o Maintenance fees can be higher than residential condo's
 - o Site plan control (need space)
 - o Compatibility with other industrial businesses
 - o Parking
- Mixed-use
- Shared facilities

Shell and Turnkey Units:

- Turnkey operation: developer works with buyer to customize unit to be business ready
- Shell space: buyer wishes to finish space themselves or through a contractor. Typically to be approved by board

Lesson 3 – Considerations for Condo's

Key issues:

- Municipally specified levies: Charged to developer for services incurred by municipality
- Tarion warranty: Commercial condo's DO NOT have one
- Site plan agreements
- Timing of occupancy and registration (pre-registration occupancy period can be lengthy)
- Potential business conflicts

Lesson 4 – Obligations of salespersons (easy)

Lesson 5 – Gathering Key info (easy)

New condo's

- Consult with developer
- Research covenants and restrictions
- Have lawyer review docs
- Review the APS
- Obtain zoning compliance letter from municipality
- Review floor plans/measure unit

Resale condo's

- Review up-to-date status certificate
- Review declaration and description
- Have lawyer review both
- Review APS for info about first right of refusal
- Review floor plans/measure unit

Lesson 6 – detrimental conditions (Easy)

Lesson 7 – Listing a commercial condo

Calculating area:

- BOMA, IPS
- Complete description of floor area
- Allocation of common expenses based on Schedule D

Lesson 8 – Valuating a commercial condo

Factors affecting value:

- Permitted uses
- Maintenance fees
- Reserve funds and special assessments
- Rules and regs
- Parking availability
- Signage
- Impact of surrounding properties
- Environmental Site Assessments

*Monthly maintenance fees comparable to similar properties – Could increase value

Providing Opinions on Price:

- Direct Comparison Approach (DCA)
- Comparisons outside the condo corporation
- Salesperson knowledge and experience
- Sources to verify info

*Review DCA, always advise to look at status certificate, get third party for things out of your scope

Module 6 – Requirements for Industrial Properties

Lesson 1

- Buildable percentage or Buildable area
 - o Part of a lot where any improvements must be located
 - o Determined by applying setbacks described in the appropriate zoning bylaw
- Lots often valued on basis of a dollar value per sqft of buildable area
- *Buildable area/total area of the lot x 100 = Buildable Percentage*

Factors impacting buildable %:

- Parking
 - o Municipality stipulate how many spots must exist depending on size and use of building
 - o Common ratio for industrial buildings
 - Parking spots per 1000 sqft of floor area
- If a portion of lot is devoted to storage, then that can further reduce the amount of surface area available for development

Buildable % on a Lot = % of the lot that may be covered by buildings or improvements (referred to as lot coverage, or land to building ratio)

Adaptive Reuse

- Redeveloping older industrial properties
- Must be rezoned according to light or heavy industrial use
 - o Must meet with municipality's planning department
- Can be converted into incubator buildings with small, low-rent units for new industrial tenants

Planning Act

- Rules about proximity of buildings to each other, parks, wildlife

Sensitive land priorities:

- Healthy, livable, safe communities
- Land use compatibility
- Airports, rail, and marine facilities
- Protection of airports from incompatible land uses
- Residential land use is considered a sensitive land use if in close proximity to an industrial facility

Examples:

- City of Waterloo Zoning Bylaw (14 buildings)
- City of Thorold Comprehensive Zoning Bylaw (defines it as residential zones, institutional zones, parks owned by city of Thorold)

Market considerations for industrial properties:

- Investor, user perspective and interplay
- Interest rates
- Govt policies
- Transportation
- Demographics
- Local workforce
- Supply and demand

Lesson 2

Value-added opportunities:

- Create a mezzanine
- Increase electrical capacity
- Increase parking spaces
- Internal or external upgrades

Record of site condition report

Building condition report:

- Visual inspection
- Relevant docs and interviews if necessary
- Identification of physical deficiencies
- Photo documentation
- Detailed summary report

Sale/Leaseback Agreement:

- Sale of a property by an owner with the leaseback of the property to that original owner
- Seller liquidates their equity in the land and building to use for other purposes and retains the location under a long-term lease arrangement
- The buyer, as an investor, is assured of a long-term cash flow and the seller may have an option to repurchase the property following expiration of the lease

Design build arrangements:

- Arrangement involving owner of land agreeing to build a structure of a size, quality of construction, and overall appearance in accordance with requirements of a specific tenant
- Associated with a seller's market when demand for land is high and existing space is limited
- Reduced in markets where ample lease space exists at competitive rates

*Build Strategy may include analysis of lease versus own options

Design Build Options:

- Stage 1: Tenant qualification
- Stage 2: Preliminary proposal
- Stage 3: Developer meeting
- Stage 4: Detailed proposal
- Stage 5: Presentation/acceptance
- Stage 6: Follow-up

Lesson 3

Community profiles and sourcing of industrial info:

- Sourcing properties
 - o Ontario investment service
 - o Ontario investment and trade centre
 - o Ontario real estate association
- Networking and other sourcing resources
 - o Industry Canada
- Site selection
 - o Evaluating location, labour supply, costs, community statistics
- Economic development offices
 - o Give info on demographic, transportation, financial and tax info, quality of life, real estate

Capital expenditure: Money spent acquiring or maintaining fixed assets, such as land, building, equipment

Zoning restrictions/Buyer needs:

- Use restrictions (heavy/light)
- Access restrictions (access to property by a provincial highway or a municipal road)
- Lot size
- Building size
- Ceiling height
- Office-to-plant ratio (15-20% of total industrial area)
- Parking
- Outside storage, truck/trailer parking
- Signage

Brownfield property:

- Vacant or underused site where past commercial or industrial activities may have left the soil or water contaminated
- Brownfield Statue law Amendment – reduces liability for developers and lenders for these lands
- Remediation of brownfield sites:
 - o *Environmental Protection Act* (site assessment, standards, record of site conditions)
 - o *Municipal Act*
 - Tax assistance for:
 - Community improvement project (CIP)
 - Municipal bylaw
 - Application form
 - Matching education property tax assistance based on the % value of tax assistance offered by the municipality
 - Buyer cannot be held responsible for condition site left by a previous owner
- Requirements
 - o Zoning, transportation, etc.
 - o Community profiling
 - o Unique requirements

Industrial building categories:

- Clear height (floor to ceiling distance unobstructed)
- Clear span (floor area free from interference)
- Truck turning and shipping doors
- Office components
- Outside storage
- Floor loads
- Water, gas, and electrical supply
- Sprinkler type and density
- Cranes
- Bay size (unfinished area between a row of columns and the bearing wall)

- HVAC and types of heating
- Logistical challenges of land topography
- Fencing and other security measures

Types of doors:

- Overhead
- Roller
- Dock-high (loading and unloading; 4 feet above ground)
- Drive-in
- Rail (side-loading)
- Ramp

Module 7 – Preparations to Sell Industrial Properties

Lesson 1

- Redevelopment
 - o Smaller industrial buildings converted to incubators
 - o Larger urban ones converted to power centres (groupings of big box retailers)

Lesson 2 - REVIEW

- Actual age: Real age of building
- Effective age: Age based on care and attention received (renovation, etc.)

Functionality and Layout:

- Industrial area must have a:
 - o Clear height from 4.88m – 9.75 m or higher if required
 - o Poured concrete slab-on-grade floor of 15.24 cm or greater thickness
 - o A steel frame roof using open web steel joists (OWSJ)
 - o Built-up roof with stone ballast
 - o Steel strip windows
 - o Metal doors
 - o Overhead doors for loading docks
 - o Office area of 15-20% of total building area

Redevelopment:

- Potential for expansion of existing building, demolition and decommissioning for redevelopment

Lesson 3

Hydro services:

- Transformer: Electrical device that changes voltage
 - o Three types:
 - Pole transformer service (resembling a large pot) located on a pole near the street, for smaller services (under 600 amps)

- Mat transformer: larger cabinet style unit located on the ground, adjacent to building typically
 - Pad transformer: several mat transformers located on a pad
- Hydrogeological report describing surface water features, evaluate source groundwater quality, water contamination, condition of on-site wells
- Everything was repeated mostly

Commercial Loading Docks

- Shelters
 - Flexible, enclosed canopies to reduce wind drafts between trucks and interior areas
- Levelers
 - Adjustable platform between trucks and permanent docking areas
- Wells service
 - Inclined dock areas for structures built at grade level
- Dock high loading
 - Direct loading
- Grade level loading
 - For areas surrounding parking

*If you don't have source docs, contact third-party

Lesson 4 – redeveloping an industrial property

- Redevelop to get the highest and best use (the most likely to produce the greatest net return)
 - Based on its current value, and potential for other uses
 - Based on:
 - Property is undeveloped (possible uses, demand, financial)
 - Property is an improved site (conforming?, add value?)
- Ensure the highest and best use conforms to restrictions and advise seller to have third-party check it out
- Buyer to determine if it fits with their intended use

Lesson 5 – Potentially Devastating Conditions

Lesson 6 – Preparing to list an industrial property

- Refer to lesson 8, module 1 for terminology

Benefits of making property improvements:

- Potential for reduced marketing time
- Identification of potential change of use
- Identification of potentially detrimental factors

Lesson 7 – Valuating an Industrial Property

- Only lawyer can provide opinion on title as to whether property is conforming or not
- Appraiser identifies the zoning

Appraiser views neighbourhoods in terms of:

- Physical: Location in relation to services, amenities
- Economic: stability of uses, property values, vacancies, and sale price trends
- Political: legislative impact, such as taxation, local improvements, and official plan restrictions
- Social: Population growth or decline, crime rates, and age groupings

Economic-free zones: companies are given tax incentives or infrastructure assistance to locate in these zones

*The sale should be on or as close as possible to the date of valuation. The older the sale, the less reliable it will likely be

- Appraising, Direct Cost Approach, Valuating properties with adjustment

Module 8 – Showing Office, Retail, or Industrial Properties and Advising on Properties of Interest

Lesson 1

Due diligence in finding buyers needs

- Can get financing through
 - o Venture capitalists
- Including business plans have the following effects:
 - o Demonstrate buyer's commitment to a structured plan
 - o Force buyer to realistically analyze business opportunities
 - o Provide an ongoing, reference document for management guidance
 - o Create a positive impression for those seeking info regarding business
 - o Focus effort through a documented blueprint
- Higher commercial costs, including third-parties

Investor goals:

- Commercial investment returns
- Types of risk:
 - o Financial (interest rate, costs, sales, inventory, etc.)
 - o Market (occupancy rate, rent, lease renewal, capital, competitors)
 - o Business (taxes, economic situation, profits)
 - o Building (resale building, damage, insurance, zoning)
- Types of returns:
 - o A return **OF** the investment: Recapture of initial funds

- A return **ON** the investment: Return on funds invested
- Calculating Investment returns:
 - Net operating Income (NOI): Income from all sources less expenses to generate that income
 - $\text{Net operating income} = \text{Value} \times \text{Rate}$
 - Capitalization rate: The rate at which net income was converted into an indication of present value
 - $\text{Cap rate} = \text{Income}/\text{Value}$
 - To estimate value:
 - $\text{Value} = \text{Income}/\text{Rate}$
- Tenant mixes: Mix of goods or services provided to customers of a shopping centre when all the centre's tenants are considered

Revenue sources for retail:

- Base rent (minimum rent):
 - Basic rent by the tenant under a lease
- Additional rent:
 - Owed by tenant in addition to base rent, represents the tenant's proportionate share of operating costs
- Percentage rent:
 - Periodic payments based on a percentage of their sales

Investors cash flow:

- Operations cash flow
- Sales proceeds cash flow:
 - Profit or gain realized after sale of property
 - $\text{Net proceeds of sale} = \text{Actual sales price} - \text{adjusted cost base} - \text{registrations against property}$
 - Treated as capital appreciation
- Cash flow and salespersons

Lesson 2 – Showing Commercial Properties

- Record of Site Condition (RSC): Informs buyer of any legal issues attached to the title
- Legal matters: Easement, encroachment, restrictive covenant

Gathering Info for Buyers:

- Zoning (Each zone has different restrictions):
 - LC (local community)
 - MD (mixed-use downtown) – could have special zoning for parking
 - AM (Arterial Mainstreet)
 - NC (Neighbourhood Commercial)
- Verify zoning through municipalities, city hall, GIS (geographic info system) mapping

Income Streams:

- Due diligence documents:
 - o Income and banks statements
 - o Balance sheets
 - o Rent role, tax, employee records, operating costs, utility, contracts, insurance, etc.

Energy efficiency:

- Natural Resources Canada offers the Eco Energy Program through its Office of Energy Efficiency

Leadership in Energy and Environment Design (LEED):

- Buildings with this certification meet criteria in categories such as:
 - o Location and transportation
 - o Water efficiency
 - o Sustainable sites
 - o Energy and atmosphere
 - o Indoor environmental quality
 - o Material and resources
 - o Innovation
- Certification is important because it...:
 - o Provides building owners with direct access to expert technical support
 - o Helps with financing
 - o Shows buyers that operational costs will be lower
- You can access project profiles through the Canada Green Building Council website

Broker-protected signs:

- Means brokers or salespersons can bring them clients and the owner agrees to pay remuneration for their service

Lesson 3

- Free-standing office buildings preferred, but more expensive

Lesson 4

- Free-standing favoured by businesses with unique marketing or patronage (banks, restaurants, gas station)
- Mixed-use are very popular due to greater affordability however have shared condo fees
- Some prefer to be surrounded by businesses to drive traffic

Lesson 5

Workplace health and safety:

- Requirement from the environmental protection act could include:
 - o Presence of backflow preventers
 - o Presence of hard-wired smoke alarms with battery back-up
 - o Sprinklers

- Low-activated radon protection system
- Safety equipment, etc.

Lesson 6

ESA phases

- Phase 1: Record of site condition
- Phase 2: assesses scope of condition identified in phase 1
- Phase 3: Remediation
 - If an RSC is required, a qualified professional must be a member of the Association of Professional Geoscientists of Ontario (APGO) or holder of a licence issued by Professional Engineers Ontario (PEO) to perform the ESA

Module 9 – Completing Agreements of Purchase and Sale for Office and Retail Properties

Lesson 1

The Commercial APS:

- Clauses
- Condition precedent (notice of fulfillment) and subsequent clauses (notice of termination)
- Third-party
- Tenants

Due diligence:

- Normally:
 - ID the buyer and seller
- Corporation:
 - Verify the corporation and identify and signing authority of the person signing (corporate search – to verify identify of a corporation)
- For partnerships:
 - Verify partnership
 - Only designated signatories can sign
- General partnerships:
 - All listed partners sign any sale documentation
- Limited partnership:
 - General partner signs on behalf of the limited partnership (request copy of the partnership agreement so that the signatory can be confirmed)

Chattels and Fixtures

- Chattels normally considered excluded and fixtures included
- Typically related to work equipment

*HST is collected and remitted by the seller

Clauses to address requirements:

- Assign agreement:
 - o Assignment: Where original buyer allows another buyer to assume the rights and obligations of the APS before it closes
- Show property for future leasing:
- Seller to provide documentation for due diligence after offer acceptance
- Confidentiality

Balance Due Clause:

- All APS must have the buyer's obligations to pay the balance
- Calculation:
 - o Balance Due = purchase price – any seller take back mortgage, any mortgage being assumed, any and all deposits
 - o Buyer agrees to pay balance, funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque, or wire transfer using the Large Value Transfer System

A clause protecting the buyer needs to have:

- "this condition is included for the benefit of Buyer and may be waived at the Buyer's sole option by notice in..."
 - o Allows buyer to get out of the condition subsequent

Balance due tip: *Seller-take back mortgage does not cut into the assumption of the general mortgage

After APS completed:

- APS is signed by both parties who acknowledge understanding and confirming acceptance of the agreement, and in the final steps, receipt of a copy of the agreement

Signing authority:

- Must be authorized to sign on behalf of an entity (they must add 'Per:' before their signature and have the corporate seal or add "I have the authority to bind the corporation")
- Partnership:
 - o Add "Per:" before signature and their title after it

Lesson 2

- Ensure these timelines if possible:
 - o 1 week before irrevocability (to consider the offer)
 - o 6-weeks to carry out due diligence
 - o Enough time for title searching and 3 weeks to resolve issues
- Goes through Agreements
- To accept offer:
 - o The final party initials all changes
 - o Completes and signs the confirmation of acceptance and acknowledgement portion

- Once accepted:
 - The salesperson for the seller:
 - Provides copy of accepted offer to seller
 - Signs the commission trust agreement on the APS, and obtains the co-operating brokerage's signature when providing docs to the co-operating salesperson
 - Provides copies of the accepted offer to the co-operating salesperson
 - Retains a copy of the accepted offer for the brokerage's records
 - Ensure all parties sign all changes

Lesson 3

Amendment:

- Cross-reference with APS
- Insert deletion and/or insertion
- Insert irrevocable date and signature(s)
- Acceptance
- Complete acknowledgement

Notice of fulfillment:

- Cross-reference with APS
- Insert exact clause wording
- Signatures and receipt acknowledgment
 - The party providing the notice signs and dates it
 - The party receiving the notice signs, dates, and inserts the time the notice was received

Lesson 5

- Innocent Misrepresentation:
 - Statement by one party of a material fact that is though to be true, but is later shown to be false
- Potential Resolutions
 - Adjust purchase price
 - Extend closing
 - Financing approval from different lender
- When a Transaction is Not Completed
 - Legal options for clients
 - Legal advice
 - Managing documents
 - If a transaction fails and a mutual release is completed, you are responsible of the following docs:
 - Lawyer's letter of release
 - Letter of explanation, including interest due calculations
 - Notice of termination
 - Request to return all original documents, such as leases, surveys, and report

- Direction to the existing broker for the release of funds
- Salesperson's options

*Non-title search date is 30 days from the requisition date

*Mutual release must occur even if financing was failed, and brokerage or lawyer could hold the funds

*Review summary activities!!

Module 10 – APS for Commercial Condo's

- APS:
 - Property description
 - Legal description: Legal name of Corporation, Condominium Plan Number, unit number, level, building number
 - Municipal address: ex. 200 markham street, city of anycity, region anyregion
 - Parking and lockers (separate deed for each if owned, or sold separately from the unit)
 - APS describes them as exclusive use, owned, or assigned
 - If assigned, there may be an additional cost over and above the common expense fees that are payable by unit
 - Property managers (name and contact info)
 - Common expenses
 - Additional parking and lockers
 - Approval
 - Present use
- Signage:
 - Some cases commercial condo's offer a buyer the option to purchase an exterior sign panel advertising
 - Located on a pylon near the street and are unitized and have a legal description
 - Owners pay property taxes and condominium fees for the signage as they do with any unit

*Review Lesson 1 activities

Lesson 2

Clauses and Conditions:

- Key fob/access device
- Special assessments:
 - Seller warrants there are no special assessments planned by the condo corp
- Occupation prior to completion of construction
- Occupation prior to completion of transaction
 - Buyer will be responsible for a pro-rate occupancy fee based on the unit's share of costs. Clause should include a specific occupancy date, payment sched, and how fee will be paid

- Status certificate:
 - o Include condition to review the status certificate and lawyer must have sole and absolute discretion to find the certificate satisfactory or not acceptable

Lesson 3 – Drafting APS agreements

*Do Summary activities

- no need for lot and concession number in APS; only unit and level

Lesson 4 – Pre-closing issues

- adjust time frame, costs between buyer and seller

*REDO Summary Questions

Module 11 – Completing APS for Industrial Properties

Lesson 1

- Clauses related to various things (Equipment, chattels, fixtures)

Lesson 2 – Offer Plan

Lesson 3 – Pre-closing issues

*Do all activities

Module 12 – Preparing to Lease Office, Retail and Industrial Properties

Lesson 1 – Intro to Commercial Leases

- Lease components:
 - o Names of all parties
 - o Description of the leased premises
 - o Rent
 - o Permitted uses
 - o Commencement and expiration dates
 - o Rights and obligations of the parties
- Commercial lease types:
 - o Gross lease:
 - Agreement in which the tenant pays a fixed rent and the owner pays all operating expenses associated with the property
 - o Net lease
 - Single net lease:
 - Tenant pays the base (minimum) rent plus additional rent, such as property taxes. Landlord pays the remaining expenses.
 - Double net lease:

- Tenant pays base rent plus additional rent, such as property taxes, maintenance, and sometimes insurance. Roof replacement, repair, operating expenses are often the landlord's responsibility.
 - Triple net lease:
 - Tenant pays base rent plus additional rent, which includes all of the expenses related to the operation of the complex plus roof replacement, structural repairs, and replacement
 - Percentage lease:
 - Retail market
 - Tenant pays a fixed minimum monthly rent, plus a % of gross monthly income in excess of base sales calculated using the minimum rent
 - $(\text{Percentage rent} * \text{anticipated sales}) - \text{Minimum rent} = \text{percentage rent}$
 - $\text{Percentage rent} + \text{minimum rent} = \text{total rent}$
 - Retail ground lease:
 - Rental of land only (land lease, pad lease)
 - Common for stand-alone retail or restaurant sites
 - Long duration
 - Allow tenants to construct a building while avoiding additional capital outlays for the property
 - Allow tenants to leverage existing financial resources and potentially use land at a lower cost than purchasing the property
- Types of rent:
- Base rent
 - Additional rent
 - Percentage rent
 - Fixed rent: tenant pays an agreed fixed amount and landlord is responsible for all operating cost

Lesson 2

- Term of the lease, including any renewal options:
 - Tenant fit-up period: Rent-free period the tenant is given to renovate the leased premises, stock shelves, begin operations
 - Tenant may be required to pay utilities and operating costs
- Non-payment of rent:
 - Charge interest on unpaid rent
 - Specify a time limit within which rent must be paid
 - Terminate lease
 - Enter premises to perform work tenant failed to do
 - Make payments due by the tenant to a third-party
- Common area Maintenance (CAM)
 - Landlord's cost to the common areas of the complex related to repair, maintenance, operation, etc.
 - Billed as part of additional rent and pro-rated among the building tenants

Assignment vs Subletting

- Privity: rights and obligations enforceable only on the parties to that contract
- Assignment: If tenant assigns their interest to an assignee, the assignee assumes the tenant's obligations and rights under the lease (as if the landlord leases the tenant who allows another person to live there)
- Sublet: no privity of contract; no legal relationship between landlord and subtenant

Small claims court:

- Limit is \$35,000

Superior court of justice:

- Court order

Lesson 3

- Office needs ability to customize

Shared meters:

- Charging tenant for electricity:
 - o Landlord estimates the tenant's cost based on amount of office equipment using electricity and number of hours they're used per day or per week
 - o Landlord includes electrical charges in their operating costs
 - o Internal meter to measure that used by a specific tenant
 - Landlord pays master meter charges then separately charges the tenant back based on the internal metered cost
- AODA: Accessibility for Ontarians with disabilities Act

Lease must include a schedule that indicates:

- Parking spaces in terms of a ratio per sqft
- Required number of spot is in line with actual demand
- Reserved spots
- Charging stations

Signs:

- Permits

Non-permitted use: added to every tenant in the mall showing restrictions for each tenant

Live load: weight from people, equipment, materials

Dead load: weight from structural components

Sprinkler density: volume of water released in a given period of time over a certain area

Lesson 4 – Regulations affecting a commercial lease

- Statute of Frauds states that a lease fewer than 3 years duration need not be in writing
- Short form of leases act

Commercial tenancies act:

- Non-payment of rent:
 - o Landlord may change locks and evict tenant on the 16th day after the day rent was due
 - Not obligated to notify tenant
- Rent increases:
 - o Not regulated. Reasonable time should be given in writing of a rent increase
- Notice to end a tenancy:
 - o Month-to-month tenancy: Landlord can terminate with a 1-month notice
 - o Fixed-term tenancy: once the tenancy ends, tenant no longer has the right to occupy the premises
- Commercial landlord rights and obligations:
 - o Landlords must notify tenants of breaches of lease
 - o If tenants fail to fulfill their obligations, landlord may terminate tenancy (can apply to court)
- Commercial tenants' rights and obligations:
 - o Must fulfill their obligations
 - o Pay rent
 - o Cannot hold back rent because landlord failed to fulfill their obligations

*Alterations to the property by the tenant, become the landlords property. Only trade fixtures (those installed by tenant, necessary for their business, are personal property)

Lesson 5 – Due diligence

- Contents of rep and service agreements:
 - o Effective date of agreement
 - o Remuneration
 - o Amount payable to co-operating brokerage
 - o How remuneration will be paid
 - o What services are being provided
 - o Prominent displaying/installing for agreements exceeding 6 months
 - o Provision for only one expiry date
- Must give copy of rep agreement immediately; must be in writing

Lesson 6

- Salespersons responsibilities include:
 - o Carrying out marketing plans of landlord
 - o Using ability to pay rent as the most important criterion
 - o Blend and extend strategy is the best

Calculating remuneration:

Office

- Based on price per sqft annually
- Ex.
 - o Office area: 1000 sqft
 - o Lease term: 5 years
 - o Agreed remuneration: \$1 per sqft per annum
 - o Total remuneration payable: \$5000 at beginning of lease term
 - o Split equally between salesperson involved (or 2/3 for he who brings the tenant)

Industrial and retail

- Percentage of net rent
- Ex.
 - o Agreed remuneration rate: 8% of net rent for first year + 3.5% for each year thereafter
 - o Net rental rate: \$10/sqft per annum for first year + \$15 for each year thereafter
 - o Leased area: 5000 sqft
 - o Lease term: 5 years
 - o Total remuneration:
 - First year: $\$10 \times 0.08 \times 5000 = \$4,000$
 - Remainder of lease: $\$15 \times 0.035 \times 5000 \times 4 = \$10,500$
 - Total remuneration payable to salesperson/brokerage: $\$4000 + 10,500 = \$14,500$

*Clawback clause: responsibility of tenant to pay back portion of remuneration to the landlord for the remaining lease term, in case they leave early

Lesson 7 - Responsibilities of Landlord and Property Managers In Commercial Real Estate

- Provide accurate information to the brokerage or salesperson
- Ensure access to the unit for showing
- Ensuring compliance with the Building Codes
- Allowing the Tenant Quiet Possession of the Property
- Arranging for proper insurance for the property
- Responding in a Timely manner to the Tenant's Issues
- Property maintenance
- Financial management

Lesson 8 – Calculated Areas and Related Linear Measurement

Lesson 9 –

Prepare a CMA (Comparable Marketing Analysis)

- Location
- Prices and rents
- Building compliance and regulations
- Occupancy analysis
- Supply and demand
- Improvements
- Time on market

Lesson 10

Factors affecting advertising and Marketing

- False and misleading advertising
- Falsifying Information
- Promises/Inducements
- Salesperson Name/Identification
- Information about parties, properties and agreements
- Inaccurate Representations

Module 13 – Transactions involving Commercial Leasing

Lesson 1 – Documenting Lease Negotiations

- Agreement to lease: Agreement for lease without a settled form of lease
- Agreement to lease must include:
 - Names of all parties
 - Description of premises to be leased
 - Commencement of the lease
 - Term of the lease
 - Amount of rent

Essential components of a commercial lease:

Protection of the landlord:

- Guarantor:
 - o Requested to sign appropriate docs assuring the landlord that, in event of default, the guarantor is responsible for the default of the tenant
- Indemnifier:
 - o Agrees to hold harmless the landlord against any damages resulting from the tenant's failure to perform its obligations pursuant to the lease
- Co-tenancy:
 - o The proposed guarantor becomes a co-tenant with the tenant, joining them in their responsibilities, obligations, rights

Lesson 2 – Essential components of a commercial lease

Indemnity by Agent:

- Can be initiated
 - o Representations made on behalf of a client
 - o Failure to carry out duties
 - o Matters involving drafting and presenting offers
- Rent increases are not regulated by the Commercial Tenancies Act

Rent-free periods or early occupancy:

- Incentive to sign a lease
- Rent-free periods occur in advance of the actual commencement date of the lease
- May include a flat rate payment per sqft for services and utilities used during the installation of tenant improvements

Taxes, tenant payments:

- Advance tax payments:
 - o Advance payment of realty taxes to align with municipal tax payment date
- Statement of Additional Rents:
 - o Shows actual expenses for the prior year, payments collected, amount owing or credited
- Supplementary rent:
 - o May be charged to cover the tenant's pro-rated share of operating costs
- Pass-throughs

Non-payment

- Locks unit, evicts tenant 16 days after rent was due
- Or, the day after rent was due, the landlord seizes and disposes of tenant's property contained within the rented premises
- If proper payment not made within 5 days of contacting a baliff (he who posts notice to tenant), landlord must obtain 2 appraisals before selling tenants property
 - o If value of asset is greater than the rental arrears, excess must be given to the tenant

Overholding

- Allows tenant to remain in property and landlord to receive income for a reasonable period following the lease term
- Can significantly increase rent (double)

First Right of Refusal

- Tenant has first right of refusal on an adjacent space on the property, if space becomes available. If landlord receives an acceptable offer, tenant will be notified, then has 72 hours to match the offer, failing which tenant forfeits their right

Sublet:

- Sub-tenant, sub-landlord, approval of head lease by sub-tenant, approval of sub-tenant by head landlord

Lesson 3 – Components of an office, retail, and industrial lease

- Percentage rent (if sales are more than rent, percentage paid, if less, than minimum rent paid)
- Dark space: empty or closed units

Lesson 4 – Additional docs

Landlord may request:

- Credit references
- Rental history info
- Authorization to conduct a credit check
- Guarantee for rent, in addition to a rent deposit

Confidentiality agreements are commonly used

Lesson 5 – Review an Agreement to Lease

Signing and initialing for the tenant submitting an offer and the landlord accepting the offer

- Step 1: Any work prior to a tenant occupying the space indicated in schedule
- Step 2: additional details regarding work
- Step 3: both parties initial the schedule.

Lesson 6 – Complete an Agreement to Lease

- Deposit: sum of first and last month's rent, plus HST

Lesson 7 – Pre-closing issues and the role of a salesperson

- Get mutual consent or release if transaction does not close

*Do Summary activities

Module 14 – Transactions involving development land and farms

Lesson 1 – Intro to land development trades

Highest and best use criteria for appraisal:

- Zoning
- Physical possibility of proposed use
- Demand

Improved site

- To estimate highest and best use, the improvements must be:
 - o Either conform to the zoning or be legal non-conforming
 - o Conform to the other buildings in the area
 - o Add value to the land

Land assembly

- Known as plottage, involves acquiring multiple parcels of property and combining them, increasing total land's overall value. More appealing.

Appealing properties to land developers:

- Raw and vacant land (less expensive)
- Unoccupied property up to 5 acres with improvements (less expensive, appealing for small projects)
- Large tracts of land (5+ acres) ready for a change in use (appealing for larger projects)
- Farmland (expansion or investors who would like to convert the land to another use)
- Smaller properties available for assemblage
- Brownfield sites (often located in desirable urban locations)

Places to Grow Act:

- Legislation enables:
 - o Designation of any geographic region of the province as a growth area with a specific focus
 - o Development of a growth plan
 - o Decisions about growth for greater housing and transportation options, investments in public facilities in downtown areas

Lesson 2 – Due diligence

Lesson 3 – Intro to transactions involving Farm properties

- Trend towards larger farms
- Trend for fewer farms overall
- Quotas can affect farm value

Three leases for crop land:

- Crop share lease
 - o Most common division is 1/3 share of all crop sales to the landlord and 2/3 to the tenant
- Cash rent leases
 - o Tenant receives income from sales, pays landlord a fixed amount/year
- Flexible cash lease
 - o Tenant receives all income from sales, but dollar amount paid to landlord varies with either the price of the commodity, yield of the crop, or both
- *In all 3, the tenant pays operating expenses, supplies the labour and machinery to farm the land

Farm debt mediation act: Defines farming as cultivated and uncultivated crops

Farm credit corporation:

- Offers financial products and business services to farmers and agri-businesses associated with farming. Includes venture capital financing and insurance coverages.

Exemptions for HST:

- Farmer using smaller portion of the farm for living (that part is exempt from HST)
- Farm is sold to a relative
- Corporation sells farm to a related person
- Farm has not been used for business, but for personal use only
- *If not exempt, HST is noted as “in addition to” in purchase price
- Seller is not required to collect HST if buyer is registered for it under the Excise Tax Act

Farm Property Class Tax Rate Program:

- Ontario farmers receive a 75% tax reduction for municipal taxes + the residential property class will be applied to the home and 1 acre of surrounding farm property, while the farmlands property class will apply to other farm-use lands and buildings
- Even if you own a farm, as long as its rented to a farmer, you are eligible

Tax-free sales of farm property: 1) Sold to their child, 2) a \$750,000 capital gains exemption for farms

*buyers should get an HST account to pay to CRA

Lesson 4 – Due diligence for Farms

Lesson 5 – Review an APS for Farms

- Make offers conditional upon an arborist's inspection of the woodlot
- Organic farming
- Chattels included and fixtures excluded should be accompanied by a schedule indicating a full and complete description of each item, including serial numbers, where appropriate

Lesson 6 – Additional Sale-Related Docs for Farms

Lesson 7 – Pre-closing issues for farms

- Nutrient management act requires any building project relating to livestock housing or manure storage facility must have an approved Nutrient Management Strategy (NMS) before a building permit is issued. (for all farms generating 5+ nutrient units)

Module 15 – Transactions Involving Brokering the Sale of a Business

Lesson 1

Statements for a trade:

- Profit and loss statement
- Statement of assets and liabilities
- Statement containing a list of all fixtures, goods, chattels, other assets and rights not included in the trade

Affidavit: - REVIEW

- Terms and conditions under which the seller holds possession of premises in which the business is being carried on, the seller has sublet a part of the premises in which the business is being carried on, all liabilities of the business, statement of the seller to make available all books of account

Lesson 2 – Additional Regulations and Legislation Impacting the Sale of the Business

- Business Corporations Act:
 - o Salesperson can determine signing authority by:
 - Reviewing articles of incorporation
 - Obtaining a copy of a corporate resolution
 - Obtaining a copy of a letter signed by the corporation
- Employee Standards Act:
 - o Continuity of employment provision
 - o Employee records provision
 - o Termination and severance provision

Lesson 3 – Providing Services to a Seller or Buyer

Lesson 4 – Understanding Financial Statements

Lesson 5 – Key Considerations when Selling a Business - REVIEW

- Asset sale
 - o Capital gains tax
 - o Buyer obtains ownership of tangible items, without assuming debt liability
- Share sale
 - o If a seller sells a share, they may be eligible for a capital gains tax exemption. For a buyer, this may mean a lower purchasing price.
 - o If a buyer is buying shares, they will assume all assets and liabilities of the corporation.
 - o Buyer obtains ownership of tangible and intangible assets, and assumes responsibility for all liabilities

Inventory

- Inventory is always valued at cost
- Inventory at closing is a fluid amount and may present discrepancy in its value

Trade union:

- Trade union may be attached to a business may require a buyer to take over the trade union contract as part of the business sale
- The business may be bound to retain employees under the trade union contract

Seller financing: Earnout

- Earnout: financing based on actual performance
 - o Accountant deducts the down payment and calculates the balance purchase price based on the performance of the business after closing
 - o Solves differences between buyer and seller price
 - o Balance of payment can be spread over a specific period of time, with the amount of each payment based on the earnings of the business
- Types of Earnout:
 - o Base period earnout:
 - Additional payments made every year in excess of balance due on the purchase of a business.
 - These payments are paid as a proportion of the increase in profits from operations over and above those profits derived in a particular base year.
 - Base year: Typically, the fiscal year before the year of sale
 - If prior 3-5 years fluctuated noticeably, a weighted average would be taken to arrive at the necessary base amount
 - Increases then capitalized at an agreed upon factor (usually same rate employed at the outset to estimate the value of the business)
 - o Incremental earnout:
 - Additional payments over fixed debt calculated on a proportion of the year-to-year increase, capitalized at the agreed rate
 - Profits must increase each year for a payment to be due

- Favours the buyer, but seller can counterbalance this by demanding a lower capitalization rate and therefore, a larger payment than usual
- Cumulative earnout:
 - Based on the total increase in earnings over the base year for the number of years contracted
 - This amount is then paid to the seller at expiration of term of agreement, with or without interest
 - Disadvantage to the seller is that funds are not received until the end of the term and payment could be in depreciated dollars

Lesson 6 – Valuing a Business

- Direct capitalization method
 - Net operating Income (NOI), used to determine its value
 - Converts income into capital value using a cap rate
 - Based on a single year's projected income and expenses in arriving at value
 - $\text{NOI}/\text{Cap rate} = \text{Value of business}$
 - $\text{NOI} = \text{gross income} - \text{operating expenses}$
- Gross Profit Multiplier Method
 - $\text{Value of business} = \text{Gross profit} \times \text{gross profit multiplier (based on market)}$
 - $\text{Gross multiplier} = \text{Sale price}/\text{Gross profit}$
- Weighted Average
 - $(A \times B + C \times D)/(B+D) = \text{Weighted Average}$
 - A higher weighted average than simple average means the business enjoyed higher profits during some years of operation
 - Ex.
 - Year 1 = \$1000 profit
 - Year 2 = \$3000 profit
 - $\text{Weight profit} = (\$1000 \times 1 + \$3000 \text{ profit} \times 2)/(1+2)$
- Discounted Cash Flow Method
 - Uses a pre-determined interest rate to bring all future cash flows to present value
 - Best if both the business and real property are being sold together

Adjusted Book Value and Asset Valuation

- Adjusted Book Value
 - o The latest statement of assets and liabilities provides the tangible net worth
 - o Additional asset values analyzed at book value or adjusted to reflect fair or market value
 - o When a business has marginal earning potential but notable retained earnings
- Asset Valuation Method:
 - o Good will: quantified by analyzing above average return on investment
 - o Individual only acquiring assets, liabilities are not assumed

Example:

A buyer purchases a business and assumes the lease in the present business location. The business leases 2,000 sq. ft. with a particularly favourable rate of \$7 per sq. ft., with four more years to go. The current market rent at the time of sale is \$15, so the buyer saves \$8 per sq. ft. per year. With a saving of \$8 per sq. ft. per year, the existing leasehold benefit is: $2,000 \text{ sq. ft.} \times \$8 / \text{sq. ft.} / \text{year} \times 4 \text{ years} = \$64,000$.

Using the discounted cash flow and an appropriate rate, the present value of this economic benefit can be established and included in the value of the business.

Lesson 7 – Role of Third-Party Professionals

Lesson 8 – Turnkey and Franchise Businesses

- Turnkey business:
 - o Includes everything a new owner needs to start running the business
- Franchise business:
 - o For a fee or other remuneration, grants the franchisee right to sell goods or services perfected by the franchisor using the franchisor's name, logo, and methods of expertise
 - o Great for new franchisee's, with no previous experience
 - o Bad for someone who wants to do their own thing
 - o Not easily transferable to a new buyer
 - o There are extra costs to pay the franchisor

Lesson 9 – Preparing to Sell a Business

Lesson 10 – Pre-closing Issues for a Business Trade