



Vacant Land Guide News

Options and Vacant Land Investing

by

Robert Jacobs, Esq.

www.vacantlandguide.com



We all know that today is a challenging environment, particularly when it comes to real estate. Our investing plans are especially complicated by the lack of credit and financing in this market. This is where the intelligent use of options can really make a big difference in making you a successful vacant land investor.

First, let's be clear about what an option is. When we talk about options, we mean the right to buy the property at some point in the future for an agreed upon price. The seller will typically want a non-refundable option fee paid up front to give you the right to purchase at a later date. Your negotiating skills will determine the amount of that option fee. Also, try to get it applied to the purchase price when you later exercise the option and buy the property.

If you're really successful, you might even negotiate a refundable option fee if the deal doesn't close. If the owner is

anxious to get action on his property, he might be willing to go that far.

Remember that an option gives you the right to purchase the property. It doesn't obligate you to purchase the property. Your financial risk is limited to the amount of the option fee if you decide to forego purchasing the property.

The obvious advantage of an option is that it allows you to tie up the property for a set time and set dollar amount while you arrange to either buy the property or assign the option to another party.

If you assign the option to someone else, you simply pocket a fee for the assignment. The better the deal you've received from the seller, the larger the assignment fee you can extract from the ultimate purchaser.

As you become a more adept vacant land investor, you should be able to identify well-priced land owned by motivated sellers that are willing to give you good option terms. And don't be reluctant to tell them about your prior success stories. This will motivate the seller to give you an option at a better price than he otherwise would. After all, the option is just the first step. He wants to sell the property in the end.

If you are seeking to actually buy the property, make sure that you get as much time as possible to line up financing and other partners if you need more equity money. Sellers will be reluctant to extend the time too long so a good strategy is to pay additional option fees as time expires and thereby extend your option period. But remember, you're not obligated to make those additional payments if you think the deal is going nowhere after the first option period.

An important question to ask yourself is how complicated should the option terms be? At a minimum, you need to address price, time and financing. But remember, an option can be as complicated as a real estate purchase contract. Some option holders go so far as to attach a completed real estate contract to the option agreement to make sure there are no issues when it comes time to pull the trigger on the option. If you have negotiated a really good price, it's best to be as specific as possible to block the seller from backing out from the deal because he thought some material terms weren't addressed. Some terms you should consider in your option contract include:

- Financing. What are the terms and who is going to be providing it? Can you get the seller to provide some or all of the financing?
- Closing Costs. Who pays for what and are there limits on how much?
- Closing Agent. Best to use someone you already know who is familiar with your business practices.
- Condition of the property. Are there certain issues related to zoning, the condition of the property or any buildings on the property?
- Extension of time. Can the option period be

extended and under what conditions?

While the terms of the option are very important, it is equally important that you present yourself as someone who is trustworthy and willing to move forward with the option. Remember that the landowner will be tying up his property and he will only do this if he thinks the terms are fair and the option holder is reputable.

If the seller, despite your efforts, refuses to grant you an option, perhaps you could negotiate a "right of first refusal." In this situation, the landowner gives you the right to match someone else's offer if someone else comes along and wants to buy it.

A right of first refusal is not an exclusive option since you haven't been granted the right to buy the property, only the right to match someone else's offer. Some landowners might be more comfortable with a right of first refusal since they don't want to tie up the property with one potential buyer through a traditional land option.

If you get a right of first refusal and no one else comes along to buy the property, the landowner may then come to his senses and be more willing to negotiate an exclusive option with you. Remember, you've already established a relationship with the landowner through that right of first refusal document. That way, you get your foot in the door, keep the dialogue going and perhaps later negotiate the deal that you really want, namely, an option with a price and time frame that suits you.

Robert Jacobs is President of Land Ventures LLC. He is licensed to practice law in Florida and is an active real estate investor. He resides in Jacksonville, Florida.

During his career, he has served in a variety of corporate legal positions including Senior Vice President and General Counsel of Chase Home Mortgage Corporation as well as Chief Legal Officer of Citicorp Savings of Florida. While in these positions, Bob obtained extensive experience with all phases of mortgage lending and took part in numerous corporate acquisitions.

Bob is a former President of the Jacksonville Real Estate Investors Association (JaxREIA) and the Mortgage Bankers Association of Florida (MBAF). He is a founding member and currently serves as President of the Florida Association of Real Estate Investors. He also serves as President of Ability Housing of Northeast Florida, a non-profit organization dedicated to providing housing to developmentally disabled, brain-injured and mentally ill individuals.