

cers the JV and the property mechanics. That may include how the mortgage is administered, the property managed as well as a repair schedule. Review what is each party's obligation and address any shortcomings.

- » If your partner is not paying the mortgage or has gone into default you may need to step in and qualify for a new mortgage or even sell the property.
- » In the example that your partner is not fulfilling her management obligation, you may need to hire a third-party licensed property manager to take over.

3. Cash calls

How does your joint-venture agreement (JVA) layout the responsibility? Cash calls are inevitable and should be built into your reserve fund along with money allocated for upcoming repairs. Your vacancy and R&M allotment will also build up a nice cash padding for the unexpected (HWT that blows out, tenant that trashes the property, dog that rips up a lawn). If your reserves don't handle the cash calls, then what do you do? In my JVA, we have a 50/50 profit and loss setup. Meaning that for reasons beyond our control (note: not due to poor management or shirking of responsibility) we will equally share the cash call. The cash call will be deducted from our sale, refinance or future cash flow and paid back equally to partners before the split of profits.

- » What if your partner doesn't have enough cash to cover the cash call you ask? Well, you may opt to amend the JVA agreement and change the percentage of ownership, create a payment plan that gives the partner time to catch up or if possible give the partner more responsibility in the investment if they are capable, for example managing the unit.
- » Your JVA needs to have a section dealing with delinquencies and how they will be handled. Sometimes this includes a partner forfeiting his share of the investment.

4. Tenanting/management issues

Always have property management built into your expenses. If you are struggling with tenants or keeping your property full, you will need to examine ways to make your suite more rentable, attract better tenants and market better than your competitors.

If you or the property manager you've hired lack these skills, remedy this situation

immediately by either hiring a more capable PM or re-evaluating your property and finding ways to improve it.

- » That may mean spending money to upgrade the suite or hiring someone to post bandit signs on street corners. Don't drop your rent if you are at market or offer a slew of silly incentives (no damage deposit, two months free upfront, etc.). Deploying knee-jerk 'quick fix' solutions will only hurt the rental market and ultimately your pocketbook. Rent at a fair market price for a quality property and use honest marketing practices and you can stay full. Reading books on ethical marketing while cultivating a list of prospective tenants will serve you well.

5. Bankruptcy, death and divorce

What happens if you or your JVP dies? This is something you must address in your JVA and if you haven't, you'll be spending time with your lawyer figuring out what your current JVA means in regard to these situations. You need a clause outlining the steps to take in any one of these events.

- » Bankruptcy: If the JVP 'expert' were to go insolvent, his assets would most likely be turned over to a trustee in order to liquidate and pay off creditors. The trustee can only go after that partner's assets and not the other 'money' partner. You can also create an addendum to your JVA outlining ownership positions that you both sign as a preventative measure. If your JVP is held in an equally shared corporation that was created for the purpose of purchasing JV properties, make certain that it stands alone from your other assets. You may have a similar clause added or agree in a method of dissolving the corporation should a potential risk develop.
- » Death: What to do if your partner passes away or if you do? Well, if you pass away first, not too much worry right? Correct, as long as you have made proper provisions for any and all situations in your JVA. For example, death of either partner may allow the other partner right of first refusal. This means they are given the chance to purchase your share and take over the investment. If your JVA stipulates that nothing changes other than the ownership passed onto a spouse, your terms of sale are not affected by death thus leaving the investment running as is.

If you haven't made proper legal preparations in the JVA or in your will your property may be tied up in estate division or family bickering. You may end up dealing with a slew of relatives whose wishes are very different from your late partner's or your own. Everyone dies. Plan for it.

- » Divorce: Again make provisions. Although the divorce rate was down to 41% in 2010, it's still almost half of marriages dissolving in Canada. We've seen *War of the Roses*. Don't get caught in a bitter breakup that may affect the profitability of your asset. Provisions for divorce may be very similar to death in the JVA. If you've stated the investment carries on to term then it shall do so.

Remember just like good fences make good neighbours, good legal documents make good partnerships. In the old days, a man was as good as his word. Nowadays, the mere complication of life gets in the way. Marriages, divorce, bankruptcy and other unplanned events *will* affect your JVP. Having a clear joint-venture agreement template designed will help you navigate the bumps in the road.

Listen, prepare, commit. Knowing yourself and knowing your partner is very important. Our philosophy is to under-promise and over-deliver - no one is happy when it is the other way around. Make certain that both party's lawyers read and interpret the JVA and that you understand what it means. Take your partnership seriously. It is a wonderful thing to create a partnership and business relationship with a like-minded person. You can achieve so much more by working together. ■



Glenn Simon Inc. founders, **TODD** and **DANIELLE MILLAR** are veteran real estate investors.

They have been putting together winning joint-venture partnerships for nearly a decade with partners hailing from Japan, Australia, Singapore, Canada and America. Glenn Simon Inc. helps its partners reach their wealth-building goals with secure real estate investments based on economic fundamentals not emotion.