

Land Use for The Lender: Due Diligence and Problem Solving

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Entitlements

Public

- Platting
- Zoning
- Traffic/Parking
- Signage
- Grandfather/Vested rights
- Development Agmts.

Private

- Restrictive Covenants
- Easements
- REA
- Condo
- Master Planned Communities



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Assumption

Collateral may be used for desired

- Use
- Structure
- Density



Importance of Entitlements



“They strung me along... and strung me along... and strung me along. Why didn't they just tell me NO in the first place?”



Due Diligence Focus

- *Status quo
- *Confirm assumed use, structures, density
- *Problems
- *Solutions



Full Entitlement Now

Otherwise – “ENTITLEMENT RISK”



Alternative Strategies

1. Cure by Closing
2. Cure after Closing
 - Escrow
 - Restructure
 - Early default
3. Kill the deal
 - Loan Commitment
 - Actions of the parties
 - Be the “Deal Killer”?

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