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Year-end reminders for commercial real estate - by Michael Chase

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Michael Chase

Happy new year! It may only be the end of October, but for commercial mortgage practitioners with loan closings that can take between forty-five to sixty days, it might as well already be year-end. With a few rare exceptions, most new loan requests are likely to fund in early 2022.

With the new year approaching fast, here are some items we've been keeping an eye on and discussing with our clients.

Opportunity Zones

The general rule is an Opportunity Zone should not be the deciding factor for a transaction, but it can still have the potential to make a good deal better. For investors seeking Qualified Opportunity Zone investments to help defer taxable gains, December 31, 2021 is an important deadline. This is the last date for investors to qualify for a five-year hold and a ten percent step-up in the basis of their initial investment. The last deadline was December 31, 2019, which would have allowed investors to qualify for a seven-year hold and a fifteen percent step up in basis.

Tax Abatements (Massachusetts)

For most communities in Massachusetts, the annual deadline for a First Level Appeal is February 1, with appeals based on the valuation of the previous calendar year. This means February 1, 2022 will be the deadline to file an appeal based on valuations as of January 1, 2021, which were the first property valuations potentially impacted by COVID-19.

Phase I Environmental Site Assessments

The industry standard for reporting environmental due diligence is the ASTM E1527 Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process. The current version of this standard, E1527-13, is scheduled to sunset on December 31, 2021. Once a new standard is adopted it may be important for property owners to understand how their property may be viewed differently since they last conducted environmental due diligence.

ESG

Environmental, social and corporate governance (ESG) initiatives are continuing to gain momentum and influence amongst commercial real estate stakeholders. Whether it be a developer responding to a request for proposal, an equity fund looking to maximize the value of their portfolio or an investor seeking to raise capital, understanding the challenges and opportunities related to ESG will become ever more important.

Tax Law Changes

Continuing discussions over infrastructure and social spending plans require corresponding plans for how to pay for it all. Looking back over time, many downturns in real estate markets were the direct result of tax law changes. Serious concerns from earlier this year regarding potential changes to tax provisions concerning 1031 exchanges, capital gains and estate planning seem to have quieted down; however, the industry remains vigilant.

These are just a few snippets of topics we're keeping an eye on, which also include construction costs, crypto for real estate and the LIBOR transition, amongst others. Each one of these could certainly fill an article of its own. While it may effectively be the end of the year for new loan originations, there is still plenty to keep us busy as we help our clients make plans for the rest of year and into 2022.

Michael Chase is the managing director of NorthMarq, Boston, Mass.

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540