JOINED AT THE HIP

SCREENING A JOINT VENTURE PARTNER

ASK AN EXPERT

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Before you join yourself at the hip to an investment-real-estate joint venture partner, you need to be clear on what a joint venture is.

I looked at several sources to find what I consider the best definition and decided on Investopedia's (www.investopedia.com/terms/j/jointventure.asp#ixzz56zxdztk8) definition because of its focus on the word "business."

What Is a Joint Venture?

A joint venture (JV) is a business arrangement in which two or more parties agree to pool their resources for the purpose of accomplishing a specific task. This task can be a new project or any other business activity. In a joint venture (JV), each of the participants is responsible for profits, losses and costs associated with it. However, the venture is its own entity, separate and apart from the participants' other business interests.

Let's say you are running a small business and you need either capital or skills to take your business to the next level. Taking on a joint venture partner is serious business, and you need to have a system for properly screening potential JV partners.

My first joint venture partner was my wife; you need to ensure how you set the title and ownership split takes your partner or spouse into consideration. My wife is on the title of each property we own as individuals, and she is an equal partner in our real estate corporation.

In our early years of purchasing investment real estate, we made several missteps when it came to joint venture partners. And JV partners have been involved in over 65% of our portfolio.

Our Joint Venture Missteps

1. Acting in ignorance: in our first two purchases of investment real estate, we did not know what a joint venture was, nor what a JV partner could bring to the table.
2. Purchasing with family and not thinking to execute a joint venture agreement.
3. Not doing a credit check on an early JV partner, which necessitated either having to buy out the JV partner's share of the investment property or lose the entire real estate investment.
4. After purchasing an investment real estate property with a JV partner, we all agreed we needed a joint venture agreement, but never executed one.
5. Signing a one-sided joint venture agreement. Win or lose, both parties must be happy.
6. Not seeking legal advice regarding partnerships.
7. Not executing a joint venture for each property purchased.
8. Not understanding that by purchasing investment real estate, we were running a small business.

The cost of these missteps has been high. Learning from these missteps led us to create a joint-venture-partner screening checklist that, when used, has diminished the pain and created a lot of financial gain.

Profile of a Joint Venture Partner

As in business, in a joint venture you need to identify your ideal customer. The *Collins* dictionary defines "profile" in this context as "a set of characteristics developed for use in identifying persons or things as being likely to belong to a certain group."

Characteristics of Joint Venture Partnership

The parties are—

1. Looking for a safe investment vehicle that (a) delivers a superior interest-rate return on bank savings accounts or superior mutual fund returns; (b) means not having to deal with the volatility of the stock market; and (c) is an asset with a physical presence.

2. Looking to build a strong financial foundation that creates sustainable wealth and a legacy for future generations.

3. Looking to invest additional cash or equity in real estate but just don't know how.

Joint Venture Partners Go-To's

The list below identifies people and groups we have reached out to about investing in investment real estate:

- family
- friends
- friends of friends
- co-workers
- membership and organization associates
- business associates
- money folks
- people who have seen your success and want in

Use this list as a guide to build your list.

Many of us start with family members. They seem to be the easiest go-to, involving the least path of resistance. But every JV partnership, with both immediate and extended family, requires transparency and an agreed-upon agreement. You have to create the conditions that ensure everyone is focused on the business side of the joint venture purchase.

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Each of these joint venture partner groups has its pro and cons. Before you start to identify and assemble your investment-real-estate joint venture partners, you need to create one critical tool: a joint venture agreement.

"Joint Venture Agreement" Defined

A joint venture agreement is an agreement between you and your partners that sets out the duties and obligations of the partners to each other and to the joint venture. Your joint venture agreement does not have to be formally filed or registered.

Each province and territory has its own rules and regulations. Customize your joint venture agreement to the laws of your province or territory. (See www.lawdepot.ca/contracts/joint-venture-agreement)

Over the years we have created several versions of a joint venture agreement, making improvements with each. Each also takes on different context and content. If your potential partner is not willing to put in the time and the work to create a joint venture agreement, stop now and find a different JV partner.

I recommend that every joint venture agreement includes seven major components. These can act as another screening process for finding great joint venture partners.

Components of a Joint Venture Agreement

1. **Forming the joint venture** covers formation, purpose, protection of investment, tenancy in common, relationship of the investors, term, and venturer's due diligence.

2. **The committee and financial manager** aspect covers who is the person or corporation in each of these two roles, details and duties of the committee, duties of the financial manager, remuneration of the financial manager, duties of the investors, and scope of authority and indemnification.

3. **Financing the JV** outlines the initial financial contributions, additional financial contributions, default on cash call or co-operation, indemnity, and failure to indemnify.

4. **Transfer of ownership** covers right of first refusal, buy-sell, forced listing and sale, guarantees, indebtedness, and non-arm's-length sale.

5. **Accounting and distributions** covers books, annual financial statements, location and rights of inspection, special tax requirements, fiscal year, bank accounts, budgets, allocations, and distributions.

6. **General provisions** includes a complete agreement clause, addresses, effective dates, deemed receipt, change of address, and validity.

7. **Survival of rights** covers, among other things, governing law, time, further assurances, headings not part of the agreement, disputes, business-day hours, counterpart, waiver and truth in substance and in fact.

Attached to the joint venture agreement will be affidavit of execution and Schedule A, which identifies the finder, venturer, financial manager, property information, financing details, initial financial contribution by venturer, and investors' percentage participation.

Just as with the human body, the diagnosing of a joint venture partner takes into account a lot of moving parts. So it's important to make an accurate diagnosis before becoming joined at the hip, so to speak. The health of your joint venture partner is only as strong as the screening you do to ensure you are a match.

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