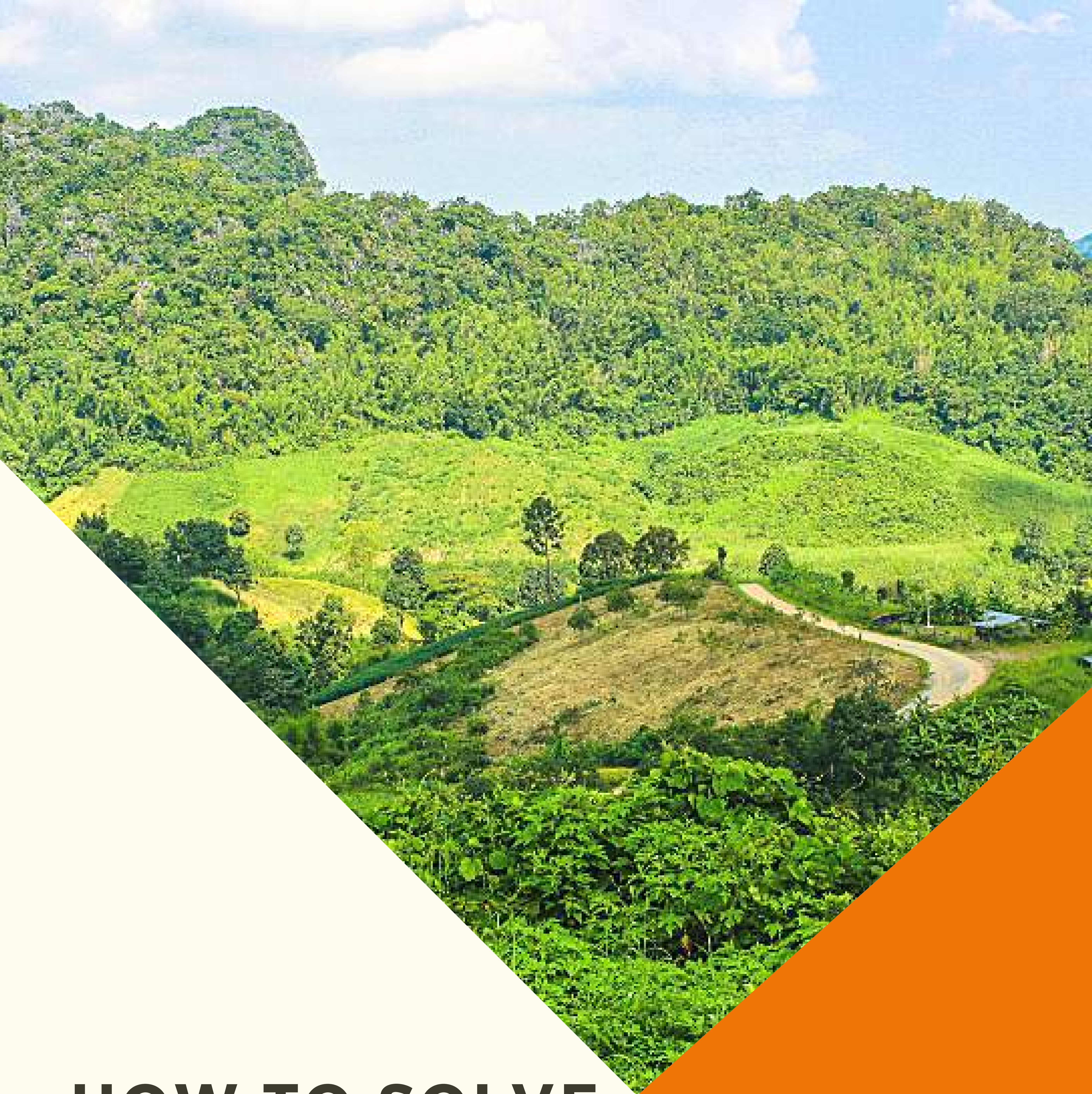

HOW TO SOLVE YOUR LAND BANK HEADACHES

THE REAL ESTATE JOINT VENTURE MANUAL

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INTRODUCTION

Following the figures in circulation about the housing deficit in Nigeria (about 21 Million now) and the rising population of the country, one business you cannot go wrong in is real estate. The needs are major and the opportunities are vast.

However, along with the remarkable demand for real estate in the country, comes other major challenges. One of the varying challenges common with real estate both in Nigeria and other places in the world (especially big cities) is the problem of getting land to build.

This is a question every real estate developer has to answer. If you fail to tackle this challenge adequately as a developer/business concern, then you are bound to find yourself in some major financial turmoil sooner than later in your business journey.

This e-book seeks to shed some light on and sourcing strategies that have been tested and known to work well over the years. It is particularly useful for young developers who are just starting off and do not have huge capital to tie down on the purchase of lands at the initial stage.

In this book, our focus will be on Lagos Nigeria, the commercial hub of the country. Vastly populated yet remains the smallest state in the nation.

CHAPTER ONE

DEALING WITH LAND BANK HEADACHES IN LAGOS NIGERIA

If you're a real estate enthusiast or a developer with long term development goals in the Lagos Metropolis or any other Metropolis in the world, I'm sure sourcing for land (which is a major real estate raw material) to develop is one matter you are constantly dealing with.

Despite the fact that Lagos State is the smallest State in Nigeria with an area of approximately 356, 861 hectares (out of which 75.755 hectares are wetlands), it remains the most populated. It is estimated that over 21 Million souls currently reside in the State with millions more visiting from neighbouring states on a daily basis. This is a major real estate problem.

Once developers see these numbers, all they can think of are the real estate opportunities in the state not realising that land to build on is in short supply.

For private individuals who only wish to build a home for themselves, its quiet simple, (although expensive) you buy.

However, if you are in the business of real estate development (with a view to maximize profit) you'll soon find out that buying landed properties (especially in prime locations) eat too much into your construction finance and rubs you of your competitive edge. You need to be wiser and more strategic to survive.

To address these land sourcing headaches, we suggest entering into Joint Venture (JV) arrangements with land owners.
These may include private individuals, families, cooperative societies, firms and government bodies.

CHAPTER TWO

JOINT VENTURE DEVELOPMENT DEFINED

As the name implies, real estate joint venture development is a situation where a real estate developer partners with a landowner to engage in a real estate construction project and split the profits according to an agreed profit sharing ratio.

In this scenario, the Developer is the party who has the technical know-how to handle the process of project conception, designs, construction, marketing and sales of the developed property (could be residential, commercial or mixed development) in order to maximise profit for all parties involved.

Even though the developer brings his technical know-how and corporate experience, goodwill and network to the table, he/she is also obliged to raise the project finance for the project and tele guide all parts of the project from start to finish. The landowner simply contributes the land (one of the major raw materials of construction) and this serves as his/her equity contribution to the project.

To ensure neither of the parties feel cheated, both the market value of the land (which is the landowner’s equity contribution), the cost of project (which includes, the cost of getting the construction funds, and the cost of the entire construction) which is the developer’s part of the project; must be property analysed in order to arrive at a fair profit sharing formula for both parties.

JOINT VENTURE DEVELOPMENT DEFINED CONTD

For instance, let's assume that a landowner is bringing as his equity contribution to a project, land worth $2 million and the developer is trying to carry out a project with total cost of $8 million. Obviously, the landowner's contribution to the project has earned him 25% of the profit while the developer takes 75% (remember, he still has to pay back loans collected, pay the construction team and handle marketing etc).

While tidying up the Joint Venture Agreement, it must be stated clearly how the landowner is to be paid. It could be in form of a number of the apartments developed or the cash equivalent of total apartments due to him (the landowner)

Now, as simple as joint ventures may seem, there is nothing simple about them. Finding a common ground for parties involved is always a complicated process. Whether the transaction is between a developer and a private landowner, State Government or Federal Government, the negotiation process is always very tricky and controversial as everyone is after their own interests and landowners always tend to have emotional attachment to their landed properties which always affects their perceived profit deserved. To seal a Joint Venture deal, you would require a lot of tact, patience and the willingness to make compromises.

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Premium Defined:

One of the major terms that come up during Joint venture transactions is the word; 'Premium'.

In this context, premium is a fixed amount of money which the developer pays to the landowner as rent (usually on annual basis) while construction is ongoing on his land. Some landowners insist on this where the land or previous building on it was yielding some form of rent prior to the construction of the project. This is to ensure he doesn't go broke while construction work is ongoing and to ensure the developer does not stay longer than necessary in construction of the project. Not all landowners require this though since it is deducted from the landowner's eventual profit.

CHAPTER THREE

VARYING FORMS OF REAL ESTATE JOINT VENTURE IN NIGERIA

JV with Private Land Owners

From experience, the most straight forward out of the above three types of JV explained in the previous chapter is JV with private land owners or firms.

Here, it's always about the figures for both parties. However, where either or both parties are hard headed and selfish, egos start taking precedence over numbers, tempers flare and the deal goes south in no time. So, the transaction will only be completed if the developer is willing to bend to the land owner's terms or vice versa.

In order to avoid pit falls like this, the best thing to do is for both parties to agree on a real estate valuation firm to carry out an assessment of the property in order to officially determine its current market value before talks about profit sharing ever comes up at all.

JV with Private Land Owners (contd)

Although most times, individual owners of lands don't have vast expanse of land for development, where you have a creative developer a lot can be done even with as little as a plot of land. As long as your commercial analysis is in order and the figures are well defined,
you are good to go. I know many developers who started off with this model and today, because of the momentum they have generated over the years and the goodwill they have built, easily access lands for joint venture from local and state governments. It really doesn't matter how small you start, as long as you keep going and perfect your strategy, the sky is your starting point.

JV With the State Government

If you have ever done any transaction with the Lagos State Government or any other State government before on land related matters, then I'm sure you can imagine what signing a document like a Development Lease Agreement with the state would entail.

JV With the State Government(Contd)

In Lagos, land is gold so you should know that there are many other developers applying for the same land you've applied for. To get the land, you must be offering something others can't beat. Coupled with this, is the bureaucratic process of getting things done in any government establishment in Nigeria.

For requests to get a reasonable level of attention you need to start pushing from the top; the higher your level of connection is in the State Government, the easier it is for you to receive a positive response to your Land request. This is a put-off for most developers but for those who have what it takes, it is a sure way to scale up.

As a company, this is where your board of directors will come in handy. I wish I could tell you of an easier way to achieve this but I'm sorry, I can't. Its business and it's a battle ground.

JV With the State Government(Contd)

I have handled the processing of a joint venture development for a huge project with Lagos State government before and I know the many huddles I had to pass before the Development Agreement was signed.

In total, the process took a little over 4 years, a lot of connection, meetings, follow ups and some matters I cannot describe in this book for obvious reasons. So, if you wish to pursue this option, be prepared for the battles to come.

JV at the state level is very similar with local government since they both operate within the same geographical location (State). Their mode of operation is almost the same however, power and approval levels differ.

JV With the Federal Government

Just like the state Government, be ready for a major battle to get land from the Federal Government. The truth of the matter is that the Federal Government has a lot of old and abandoned properties in choice locations (sitting on hundreds of hectares) that can be put to optimal use but getting approval to do this is always the issue. When you consider the cost of sealing a JV at the Federal level, cold chills will run down your spine.

However, Federal JVs are always the most profitable. Their conditions are not as stringent as those of the State Government but the bureaucracy and stress is a lot more.

CHAPTER FOUR

HOW TO HANDLE REAL ESTATE JOINT VENTURE ARRANGEMENTS

Now that we have established that the strategy to having a healthy land bank in Lagos Nigeria or any other geographical location for that matter as a real estate developer is through Joint Venture arrangements let's talk about the step by step process of achieving this.

Starting from the developer's vantage point (since the process has to be initiated here), below are the step by step tips on this subject matter:

1.) Send in your letter of intent:

Once you have identified a suitable piece of land for your desired project, you must send in a letter of intent to the owner. This doesn't have to be some long elaborate letter but a simple letter expressing your interest in the land (your mission for a joint venture development must be clearly stated) and requesting for documents of the property for your search purposes.

If the land truly belongs to the addressee, then you should get a response on whether or not they are interested in a joint venture arrangement or in an outright sale of the land. Attached to their letter, you should have some form of documents or search numbers that would enable you carry out your search before a meeting is arranged.

However, where the addressee is merely an agent for the land owner, he may want a form of meeting to clarify your intentions before search documents are released to you.

2.) Carry out a thorough search:

Once you have copies of the land documents, it is required that you carry out your due diligence on same. Make sure the property indeed belongs to the owner and that there are no encumbrances on same.

HOW TO HANDLE REAL ESTATE JOINT VENTURE ARRANGEMENTS (CONTD)

Much more than ensuring that the land belongs to the owner as claimed, you need to find out the type of title on the land. In our part of the world, the most common and acceptable land title is the Certificate of Occupancy (C of O) which is issued by the government to a buyer (since government owns all land) as lease for a 99 year period.

Your aim here is to make sure that the title on the land is good. It doesn't necessarily have to be a C of O (as there are titles out there better that C of O. An example are freehold titles. These imply that the property belongs to an individual or family forever) but the title must be marketable to buyers since that is the bottom line of your construction.

A potential buyer wants to see what title the land has and what is being transferred to them in terms of legal documents after procurement.

If for instance you're giving your buyers Deed of Assignment which will reference the C of O on the land, it's important to know how many years lease is left on the document as renewal of C of O can be really expensive.

If during your search, you discover that the land doesn't have a good title (let's assume it only has a purchase receipt), you have to give them the option of sorting out the proper documentation of the land or you do it for them and add the cost to your cost of project. Whichever option is agreed will determine how you proceed but it is advisable that there is at least, a registered survey reflecting the name of the owner before you proceed. This will make even your search process a lot easier.

3.) Do your assessment of the land:

You need to have a professional perspective of what the land is really worth in terms of value. To achieve this, you need to carry out a proper valuation of the land. This will come in handy in your commercial analysis since it represents the owner's equity.

Depending on the type of structure you intend to put on the land, you may also have to carry out a soil test (however, try and minimize your expenses on assessment before an agreement is signed). The soil test informs you of the type of foundation the land will require and will inform you of whether the land requires piling works or not. This is also important for your commercial analysis as foundation is usually a very expensive part of your construction process.

4.) Get your designs ready:

This is a pictorial representation of the building on paper. This is what all your calculations will be based on. It is just like saying, this is what we are building, what will it cost us?

You can have a standard design for specific land types so you don't have to engage an architect each time you want to build and you may also just request for schematics from an architect till you're sure the project is a done deal. This way, you minimize cost (especially since the project isn't exactly sure at this stage).

5.) Prepare your Commercial Analysis:

This is your most important document and it entails such details as the value of the land, the estimated cost of the project (which is what the developer would be bringing to the table), other costs and how they'll be shared and ultimately the profit sharing formula.

Please note that this is just a guideline. Your commercial analysis must be very detailed and as much as possible don't leave any expense unattended to.

At this stage, you will need to engage the services of a Cost Consultant (quantity Surveyor) for cost and quantity accuracy. This is really important as the landowner will not be responsible for your miscalculations.

6.) Meet with the Owner(s):

There are basically three documents to be presented at this meeting, they are: your commercial analysis, project concept and your proof of funds. There is no point having this meeting unless you have these documents sorted out. Your commercial analysis is where you both look at the numbers and determine if both parties are willing to go forward with the transaction.

Usually, this is a negotiation meeting but it is also a good opportunity for you to sell your project concept to the owner with pictorial/architectural presentation.

The proof of funds are documents that show the landowner that you have the required construction finance for the project. An offer letter or some commitment letter from financial institutions will not suffice here. It has to be a statement of account showing cash in bank or bank guarantee from your bankers.

7.) Sign the Joint Venture/Development Lease Agreement:

Once you can scale through step six above, the deal is as good as done. At this point an agreement must be drawn for both parties to sign.

8.) Commence Development:

Once there are no issues and the agreement has been duly executed, by all means, commence development and please stay within the time frame and other conditions provided in your agreement.

Step by Step Processes for the Landowner:

Before we go into the various steps to take as a landowner when entering a joint venture arrangement, it's important for you to know that the direction of this deal is up to you. The fact that you're not the one bringing the money doesn't mean you don't have control (after all, it's a partnership arrangement). Don't ever feel powerless or let any developer take you for a ride. They may be a big organisation with a lot of money and political clout, when they get to you, they must recognize that this is your land and you can say no to their offer no matter how juicy it may appear.

What I'm trying to say with the explanation above is that, you must make up your mind on the type of joint venture arrangement you want. i.e. Do you want the developer to; Build operate and Transfer (here the developer builds and make money on the property over a period of time to recoup their investment while giving you rent on some of the apartments till everything is returned to you) or Just build and hand over agreed flats to you or the cash equivalent? The decision is all yours.

HOW TO HANDLE REAL ESTATE JOINT VENTURE ARRANGEMENTS (CONTD)

Once the decision on the direction is made, you can follow the steps below:

1.) Get your property listed:

The first thing is to engage a good real estate agent and brief them on you or your family's plans for the land. You need to be very clear on what you want.

2.) Carry out your search on the developer:

Once letters of intent start coming in, before you respond to their letters, you need to carry out a thorough search on the developers involved. This is your responsibility.

In addition to what you find about them on-line, you may ask for their corporate profile to see their past projects (inspect if necessary), know their board of directors and ask around about how credible the company is.

3.) Respond to their letter of Intent:

Once you're done with your search on the applying firm, you need to respond according to your decision. If you wish to go ahead, kindly respond informing them of your decision and send copies of your title documents so they can authenticate your ownership of the land.

If you don't wish to partner with them, simply tell them you're sorry but you do not wish to do so. You don't need to go into any details.

4.) Meet with the Developer:

At some point, the developer will inform you that they are ready to proceed and want to meet with you. Usually, it will be to present the project to you and give details on same. Kindly listen and ask questions. This doesn't mean you can't listen to other developers to compare offers (remember the final decision lies with you. So, make sure you go for the best offer on the table).

One of the major reasons for this meeting is presentation of documents, chief of which is proof of funds. Do not accept anything short of a statement of account showing cash in bank or bank guarantee from the developer's bankers.

5.) Engage professionals to help you with the process:

I want to assume that your asset is valuable to you and you won't want to get cheated on a transaction that concerns it. So, you need to at the very least, engage the services of an experienced lawyer and cost consultant to help you on this transaction.

The lawyer will ensure that your interest is protected in the Joint Venture agreement presented by the developer while the cost consultant will help you interpret the commercial analysis and Bill of Quantity (BoQ) presented. Developers like to pad up their costs a lot in order to have a higher profit margin. These are some of the things the cost consultant will be looking out for.

CONCLUSION

It has been established that as far as getting a robust land bank is concerned, JV is the way to go. To do so however, both sides of the table need to get their strategy right and equip their legal & negotiation teams for this journey.

The guidelines given above are not cast in stone but they will provide a rookie developer or landowner with good safety nets if well followed.

For anyone willing to try the Joint Venture option out, they will soon realise that this is an extremely efficient and cost effective way to solve your land bank problems as a developer and have your land developed without going through the headaches of raising construction finance. The partnership works for both parties without anyone losing out (if well executed).

Good luck.

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Thank you.

SOUQ GRANDEUR

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Ayo is the Executive producer and host of the Real Estate Show; 'Project Souq Grandeur' (PSG) on youtube and he uses the platform to educate the public about matters bothering on real estate investment and the many opportunities in the real estate sector.

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