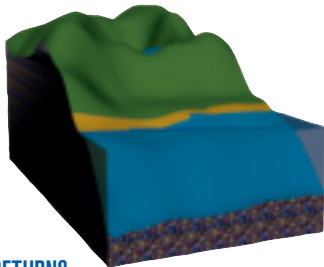


property. For this reason, termination is not a satisfactory remedy. The decision whether to "cut your losses" can be very difficult, especially in the current cost sensitive market.

A creative way to protect the funds that have been spent is to require that the closing date extend until the land split has been accomplished. This will encourage the seller to proceed swiftly toward the closing date and might also prevent the seller from using an unforeseen delay as a back door way to terminate the purchase agreement (if, for example, another buyer has surfaced offering a higher price or to buy the entire larger parcel).

Another creative option is to negotiate a right to take over the land split process if the seller is unable to have it accomplished by one of the negotiated benchmark dates. The takeover right should allow the buyer to execute and deliver any documents required in connection with the land split as the seller's attorney-in-fact, and include an assignment of all related plans, applications and other documents previously prepared by the seller.



→ RETURNS

A buyer should also try to negotiate a reimbursement from the seller for the costs and expenses incurred by the buyer if the land split is not accomplished. Sellers may not always agree, but the mere proposal may strengthen a buyer's case in negotiating one of the other alternatives above.

It is always advisable to consult an attorney, because purchasing a piece of property before it has been separated from its larger parcel can adversely impact the buyer's overall development strategy. ■■■



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