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Hosted by: Doug & Andrea Van Soest

Episode 17 – Get Creative! Out of the Box Ways to Structure Real Estate Deals

Doug: Welcome back to Spouses Flipping Houses podcast. It's great to be with you! Episode 17 today, I can't believe we've had 17 already.

Andrea: They've gone by fast.

Doug: It's starting to get up there. Hope you had a great week. We're glad to be back in-studio this time.

Andrea: As opposed to in our car.

Doug: If you want to call this a studio, as opposed to the car, yeah. We had a busy couple of weeks this whole January. This year started off great, so we're really excited. Five deals under contract this year so far, really excited about that. So we want to keep that momentum going.

Andrea: In fact, we just got back from going to see a house that a seller called us about.

Doug: "House."

Andrea: Yeah, Doug's using air quotes over there because we show up, and first of all, it's off this dirt road, and you're kind of like, *what in the world. Which direction does this road go? Where are we headed?* There were all of these strange sort-of shacks and then some nice houses, and it was so bizarre.

And then we get to property, and it's really a shell of a house. It's not even a house.

Doug: Yeah, he called it a house, and you know sometimes people talk about the repairs that a home needs on the phone, and we try to get the real information as best we can and get the most accurate description of the condition of the property and what it's going to need. And he said he had an estimate for $25,000 repair on this house.

Andrea: There is no way. It had a roof and some…

Doug: And some cinderblock walls. And that is it. There was nothing, nothing in this house. It was literally a shell. Part of the walls were even down. It was just some cinderblock walls and a portion of a roof out in the middle of a desert, and so our offer was going to change to land value.

Andrea: Land value minus demo for what was there.

Doug: Minus demo. So you know, sometimes it happens, and that's the way it goes. This area, I don't know if you knew this, but this area was actually out where they filmed a lot of those old *Roy Rogers* movies.

Andrea: I'm not surprised, because it looked like that. It was kind of a cool drive; we had fun.

Doug: Yeah, it's up near Yucca valley, Morongo valley area. It's pretty out there. There's snow in the mountains right now, and it's nice, but yeah we probably won't end up buying this property, but that's okay. Today we've got a great topic, talking about creative ways to put deals together.

Andrea: Yeah, most people think that the only way to buy and sell real estate is just through the traditional ways that we all know about, to put it on the MLS, somebody comes along and buys it. You get a 30-year loan and in 30 years you pay it off, and maybe you're financed somewhere in there, and there's really a lot of other ways you can do it.

One of the reasons that I love real estate so much is because there are so many creative ways that you can structure a deal. It's kind of like a fun problem solving strategy that you can use. It's pretty cool.

Doug: Yeah, one of our mentors, Mike Cantu, he says, "All you need for a real estate transaction is two people and a piece of dirt." Or something like that, "two people and a piece of property." A lot of the things in there on how that can transfer is all negotiable, and you can be creative, and it's all legal. So we're going to go into some of those ways.

Andrea: So today we're going to talk about five main ways that you can creatively buy or sell a house, and you would typically use these strategies when the conventional way of buying or selling isn't good for one party or the other.

Doug: So the first way, and these are just five of some of the most popular, some of the ones that we know a lot about. And we've done three out of these five before. There's many, many ways to buy and sell properties, but these are probably the most common creative ways.

Number one is the seller-carry, or also known as the installment sale. So what is this? What is a seller-carry transaction? Well, in a normal transaction, the buyer would either pay cash for the property or go get some new financing, a new loan. They're going to call up the bank or you know, some hard-money lender or somebody else who is going to lend them the money to buy the property.

Well in a seller-carry situation, the seller owns the property free and clear, so there is no loan against the property. And the seller actually becomes the bank for the buyer. So they are creating out of thin air a loan for the buyer when the transaction happens, and so the buyer will then make payments to the seller for whatever they can negotiate.

So why would this situation be used? Well, there are lots of different reasons, and first of all, no money even has to be exchanged in this type of transaction. That's right, zero money, depending on how the terms get negotiated. So everything is negotiable, which is the cool part of all of these transactions.

So number one, it could help the seller get the price they're looking for. Maybe they're looking for a higher price than a buyer can pay, but that's because the buyer couldn't get a loan for that amount or they felt something, they just couldn't come up with that much cash to pay that price. Well the seller can still get that price and then carry back a note, and they can just get their price in the amount of payments every month with a certain interest rate. So that's one reason.

Another would be that it could help the buyer get a certain payment that they need. Let's say they need a low payment, so they can structure the transaction in a way where the payments are low, and maybe there's a balloon payment down the road for the rest of the property or something like that.

This could also be good for a buyer who maybe just can't qualify for a traditional loan. These days, the lending standards are pretty difficult. They're pretty hard to get a good 30-year loan. If you don't fit right in the box of what the lenders are looking for, you don't qualify.

So a lot of self-employed people, entrepreneurs, people like that who own their own businesses find it really difficult to get a loan, but they maybe really qualified. They make enough money to make the payment and everything else looks good, but they don't quite fit in their box of what the lenders are typically looking for.

So this way the seller can provide the financing for them, and they can buy a home. Also, there can be good tax advantages if you're a person selling a home this way. Every person's situation is different, but there are definite advantages tax-wise for you to sell a property by carrying back a note or doing an installment sale. So that's going to vary person-to-person, but just know that that is a definitely an option if you're a seller.

Another advantage for the seller is that they can actually make additional money by charging interest of course to the buyer. A lot of times when we buy houses, the person selling the home doesn't actually need the money or a big chunk of money for any particular thing. They're just going to take the money from the sale and put it in their bank account or somewhere.

Well bank accounts and savings accounts are paying such little return right now, very little. And sometimes, it's better for them to carry back a note, and then they can make a five, six, or even ten percent interest, whatever is negotiated, on that money. So they're actually making even more money after they sell the phone because of the bank.

Andrea: Yeah it's great to know these different reasons why it helps a seller for your negotiation strategies, because ultimately you are looking for what benefits them, what is going to be a benefit to them, why they should go with you and sell their house to you. So you want to look for the reason why a seller-carry option is a benefit to them and try to sell them on that point.

Doug: Exactly. You'll get much more deals this way if you have these things in your toolbox to where you know that this will actually solve the seller's problem more than just buying it outright for cash.

Andrea: So the next way you can creatively buy or sell a home is through a method called subject-to. And basically, you are buying or selling the house subject to the existing mortgage that is on the property. And we have actually been on both sides of this kind of transaction strangely enough.

When we were first married, we moved out to Colorado; we had this concessions business; we built a brand new home, our first home, so exciting. We ended up selling that business and wanted to move back to California to be closer to family, and it all happened so fast.

We listed our business, and it sold within three weeks, which was something we were not expecting, and we needed to quickly sell our house to get back to California because we had other business plans there that we already had in motion. So we had a couple things working against us.

The first one being that we were on a time crunch. We needed to sell it quickly, and we knew that if we had listed the property, we'd have to wait however many days to even get an offer, and then have to go through escrow, and we weren't really in a position to wait that kind of timeframe.

The other thing was that we had only owned it for 18 months or so. Prices had not gone up really in that time period, so we would have probably lost money by paying the commissions, and title and escrow fees, and all of that sort of thing. We would have lost the money that we had put into the home.

So we were young and naïve, didn't really know what we were doing, listed it for sale by owner, and an investor came along, called us up, just like what we do now, and said, "Hey! I will buy it from you at the price that you want. I'll give you back the down payment that you made as my down payment, and I will take over the loan."

It was a perfect win-win situation for us because we were able to, literally within a week, walk away from that home, get our $10,000 back that we had put down on that home, and move quickly. He solved all of our problems.

Doug: Yep. It worked out great.

Andrea: So having been on that side of it, I think was a really great experience for us because we can speak to this with such confidence when we come to a prospective seller that hey, we can solve this problem for you. We know we believe it because it's been done for us. And so then we've actually bought many properties this way as well.

So it can be great for the seller if they're behind in payments or maybe they're headed to foreclosure for whatever reason. You can bring them current; they don't have to get a foreclosure on their credit, and then you just take over their existing loan. So it can be great for that.

You can sell for a little equity if the loan is good, which was our situation at that time. The buyer gets great existing financing with less cost and less hassle, so there's a huge benefit obviously to the buyer. But there is a possible downside with subject-to, and that is something called the due-on-sale clause.

Doug: Dum dum dum.

Andrea: So we have also experienced this. Go ahead, you tell them.

Doug: So most loans that have been written in the last, I don't know, 15 or 20 years, have what's called a due-on-sale clause, meaning that if a title transfers, the lender could call the loan due and payable in 90 days or so.

Now, when we were getting trained, taking some courses and going to seminars on real estate investing, you'll often hear people talk about this strategy of subject-to, and most of the time what you hear from the trainer is, "You know, yeah, there's this due-on-sale clause, but don't worry about it. I've done dozens of these, and I've never been called due. Nobody's been called due. I've never even heard of anybody having a note called due."

Well, they haven't talked to us. We have done subject-to, and we have had the note called due. And not only that, but I know several people who have had multiple notes called due. It can happen.

Andrea: You have to be really careful when you take over a property subject-to. There are certain ways that you have to set up the insurance. You have to still carry your own insurance, and what happened with us was that the insurance company mistakenly notified the mortgage company that there was a new seller on title, and that's what you're trying to avoid.

Doug: Right. Now I want to be clear that it's not illegal to do this. There's actually a line on the closing statement of most escrow companies that talks about whether you're taking the note subject-to. I mean, it's actually a common way of buying homes or it used to be more common, and it's kind of coming back. So it's not illegal.

It is a violation of most loans though. So if they see it, you know. But if you think about it, people transfer properties all of the time into a trust; they transfer them into you know… or put somebody else on the title. All of those things are also violations of the due-on-sale clause. So technically, they could be called due.

Andrea: This has gotten a lot of people in trouble I think when their loan has been called due, but for us, we always make sure that there is equity built into any transaction. We won't purchase one that's under water basically. So there was enough equity there for us to go and quickly get another loan, and it wasn't a big deal.

Doug: If that happens, make sure you take care of the problem, and solve it, and don't just be that guy that makes your seller have a big problem on their hands.

Andrea: Right, recognize that this is a possibility, and if you're not in a position to quickly fix this problem if it comes up, then don't buy it subject-to.

Doug: Right. The third creative way we're going to talk about is called rent-to-own or lease option. A lot of people have usually heard of this way of buying homes, so it is kind of what it sounds like. The buyer will actually rent the property from the owner for a period of time, usually with some type of option to purchase the home later.

So why would they do this? Well, it sort of locks down the property for the buyer and gives them time to go get traditional financing or get a loan of some kind. So it gives them time to repair their credit, or just come up with a down payment, or whatever it is that they need to get the financing.

It also can be a good for a buyer in an appreciating market, because typically you're locking in a price once you rent the home. You're saying, in a year or two, I'm going to buy it for this price, and if the market appreciates, that can be a great thing for you. All of the sudden you have built-in equity when you go to actually close on the home.

And it can be good for the seller also because, typically in this situation, the buyer is not just renting from you at a usually higher than market rent rate, but they're also paying for maintaining the home because they have the mentality of an owner because they're planning to buy this property.

Usually they've put down a little bit bigger down payment also— so it's good if you're the seller— and they're invested in the house, so they're trying to take care of it. And so usually you don't have costs of maintaining it, and you get a higher rent in the meantime. So it can kind of be a win-win situation that way.

And if the buyer can't come up with the financing down the road when it's time to exercise the option, usually that down payment they have put down is non-refundable, and the seller keeps that for their trouble. And they move on; they can do whatever else they want with the property.

Andrea: Okay, so our next creative way to purchase or sell is through a land contract, also known as a contract for deed. So this is really similar to a lease option. It is a purchase, but the title doesn't transfer until all of the payments in agreement have been satisfied, so the seller does retain the title.

This is something you might want to use in place of subject-to if you're worried about triggering the due-on-sale clause. In this case, the buyer doesn't need a new purchase loan because the seller is providing it through their payments, so that is a great benefit to a buyer.

Now if you're selling a home this way, it can be a benefit to you in the event that you need to foreclose on your buyer. It's a much easier way to go about it than if the title had transferred, because then you would have to go through the whole foreclosure process, file a notice of default. It can take a long, long time.

Doug: The laws are pretty crazy about that now too. It takes a long time to do that.

Andrea: Right. So one downside to this is the fact that the buyer is unsecured, and the rules for this sort of thing and for securing yourself are probably different in every county or state. I have no idea, so you want to look into whether or not you can get some kind of memorandum of sale that you can record.

You're going to want to ask an experienced title rep what you can do to secure yourself. So you're going to want to basically cloud the title, so that the seller can't go and sell it out from under you or take loans against the property. That would be really terrible.

Doug: Right, yeah. So you definitely want to try to protect yourself in any way you can. We've never done this type of transaction, but we have heard of it, and it is one of the types of ways in which people buy or sell homes.

Andrea: Yeah, and the last benefit to this one is that all of the terms are negotiable, just like most of these.

Doug: Yep, everything is negotiable, which is really cool. So the last strategy we're going to talk about for buying homes is trading. So it's just what it sounds like. You can trade a house for a house, if you want. We have a friend who actually traded, I believe, a house or land for RVs and boats, you know.

There's all kinds of different ways. Again, you need two people and a piece of property, and you can figure out how to make it work. And one of the reasons that this might be used is it can be good for someone who has, let's say they've got a bunch of property, but they've also got a bunch of debt against that property, and maybe they're not able to make those payments.

And they just want to get out from under that debt, but maybe they couldn't sell it in a traditional manner or they needed to sell it quickly. And somebody else, who has something else that is desirable to the person with the land, doesn't mind the debt. They can afford it or they see the potential in that property, and they can trade.

Andrea: Maybe they have a sweet RV or something, and that's their down payment.

Doug: Yeah, and in this case they would trade a sweet RV that has no debt on it for a piece of land with some debt on it. So they're just swapping. Now the person no longer has debt, and he's got a sweet RV, and this person has land that he wants to build on or whatever. So that is one way to buy and sell properties. You can actually trade.

Andrea: So we've only just barely scratched the surface here with creative deal structuring.

Doug: The sky is the limit.

Andrea: The sky really is the limit. You can just get creative, and think in terms of just solving someone's problem and out-of-the-box ways that you can do it. And it makes this business so, so fun. So again, our five ways that we went over today were seller-carry, subject-to, rent-to-own or lease option, land contract, and trading, which is kind of cool.

Keep in mind though that if you're going to go about doing one of these options, you need to make sure whomever you are entering into this agreement with or doing a deal with is a person that you can get along with long term, because you are entering a long-term relationship with this person.

And so you've got to make sure that they understand that you guys are in it for a while. You're going to need to be in contact with that person for different reasons. Things will come up, and so may make sure that you guys can deal with each other for a few years, or however long this contract is in place.

Doug: You're, in a sense, married to these people in a way. So definitely make sure you can work with them, get along, contact them after the transaction is over, very important, because you never know what documents you may need or they may need to cooperate with you later on.

Also, we mentioned it before, but you can creatively buy properties in lots of different ways, taking over loans and things like that, but I highly, highly recommend, we both recommend, that you don't overpay for a property. That is, don't takeover a loan that owes more than the property is worth. Don't over-encumber yourself. Don't make silly decisions like that.

Make smart decisions. Still buy with equity. It doesn't have to be as much, but make sure you have an exit plan if something were to go wrong.

Andrea: Yeah, or let's say I know people that will takeover loans or will structure seller-carry deals where there is no equity, but the person selling the home doesn't have a loan against it, and their payments are going all towards principal. So let's say it's paying down super, super fast.

So just have some kind of a safety net plan for yourself if you don't have equity, be smart.

Doug: Things can go bad, and we've heard of people who have built a business around this kind of thing, and it went really wrong. So just make sure you're smart with each decision or each purchase that you do. And that's it!

Thanks for listening today. Be sure to head on over to our website if you haven't, SpousesFlippingHouses.com. Even if you have, visit us again. Get your free gift, lots of cool videos and stuff on there as well.

Andrea: Yeah, and if there is anything that you're struggling with, questions that you'd like answers or something you'd like to hear us talk about, shoot me an email: andrea@spousesflippinghouses.com. I would love to hear your questions.

Doug: And her name is not spelled like the Starbucks' baristas spell it.

Andrea: They never get it right, not once.

Doug: There's no "u" in her name.

Andrea: It's not —ia.

Doug: There's no "i."

Andrea: A-N-D-R-E-A at Spouses Flipping Houses, and I promise I'll email you back.

Doug: Sounds good, so we will catch you next week. Bye!

Andrea: Bye!