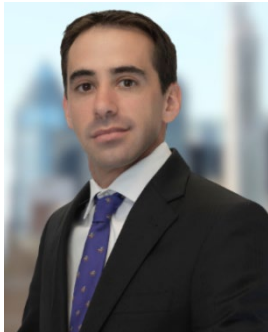




Due Diligence - by Kyle Scheiner

January 16, 2024 - [Front Section](#)



In a world where everything, from shopping to banking, is done on the internet, the ability to research due diligence effectively and quickly on real estate is a major asset to buyers, lenders, brokers, and attorneys.

There are several tools available at everyone's disposal to compile a significant amount of information about the premises, their taxes, current owner, open permits, liens etc. As attorneys we value these tools mainly supplied by the government agencies who correlate to the realm we are searching. A main example of this in New York City is the ability to search the tax status of any property to, confirm accurate tax amounts and see if the property is benefiting from any abatement or exemption, and whether such a reduction of taxes "runs with the land" (i.e. stays on the property after it's been sold) or are specific to the current owner (i.e. veterans or senior citizens exemptions).

New York City also has a phenomenal online database of all building records including open permits and valid and expired Certificates of Occupancy. This allows us to see, before any obligation by a client to purchase property, whether there are open permits which would either delay a closing or require additional work to be done. Additionally, it allows the attorney to check violations and compliance with a host of local laws---which in NYC would be items like Local Law 11 and its' façade requirements.

The Automated City Registration System or ACRIS as it's more commonly referred to, is the online database for 4 of the 5 boroughs of NYC (sorry Staten Island) which contains an online index of all land records within Queens, Brooklyn, the Bronx and Manhattan. This tool allows us to check record owner—an important tool to make sure the seller entering into contract is actually the one legally able to convey the premises) and any open liens or mortgages which will need to be taken care of at the closing.

Also, non-governmental tools such as simple google searches or even more detailed background checks help us as attorneys to “Know your client”. In the high-stakes world of New York City Real Estate there are many avenues for money laundering and opportunities for persons who may be disqualified from investing or purchasing due to sanctions, that we, as an industry as a whole and not just attorneys, are not actively helping someone to avoid these rules.

A new and interesting wrinkle that will come into effect in January of 2025 is the LLC Transparency Act, which will require Limited Liability Companies (LLCs) organized under New York Law, or doing business within the state, to disclose their beneficial owners to the State. The State will then host a publicly searchable database of this information. The requirements under this Act effectively mirror those of the federal Corporate Transparency Act (CTA), which will come into effect in January of 2024. This tool will be helpful in real estate due diligence to ensure the veracity of the person or people shielded behind the entity. However, the true goal of both Congress and the NYS Legislature is to prevent the use of LLCs to shield illicit and nefarious activity such as money laundering. It is also intended to spur tax evasion. Adam Kemp, owner of Kemp Tax and Accounting in Short Hills, NJ says the CTA’s underlying main goal is to provide more avenue for the IRS to enforce the tax code. “Knowledge of who the ‘man behind the curtain’ of these anonymous entities will allow the IRS to better monitor tax cheats, reduce loopholes, and overall enhance compliance among taxpayers, which would lead to a boon for IRS coffers at a time where the Country is facing huge deficits and debt burdens” says Kemp. Additionally, Kemp goes to predict that “New York State Department of Taxation and Finance stands to gain significantly due to all the entities that do business in NY but pay no taxes because they are effectively domiciled in other jurisdictions.”

While most of these tools are available to the general public, it is imperative that a qualified professional review all available information to provide professional opinions and advice to potential transactors.