

Business Owners: Move On, Move Up, and Then Move Out

The longer term leases sought by commercial landlords in post-earthquake Christchurch, mostly involving higher rents and personal liability, are acting as a catalyst for company owners to reconsider their exit strategies.

Business succession planning is nothing new, however for many business owners the Canterbury earthquakes have given them particular cause to reflect on their future plans and priorities. In what direction was their business heading before versus where should they be heading now? The key issue of personal liability is centre stage, prompting some owners to think seriously about when and how to get out.

Simple logistics is driving this process. Because the status quo no longer exists, businesses are in the unusual position of being forced to make major decisions concurrently around multiple issues such as size and location of premises, funding, staffing levels and other long-term commitments.

Leasing new premises in the post-earthquake context represents a major logistical challenge. Business owners are battling with questions like: Do we want to move into a new building? Do we need to be in the CBD? Will we attract and retain customers and staff if we don't? Do we need to refit our premises to gear up for the rebuild? Can we afford new premises at significantly higher rents from pre-earthquake levels?

The prospect of committing to a ten-year lease in Christchurch's central city, with a personal guarantee and rents exceeding \$400 a square metre, can be daunting – especially for directors and shareholders who do not want to be left with ongoing liability.

Many are now considering alternative exit options. For instance, is now a good time to align with a business that doesn't have a Christchurch presence to potentially buy us out over time? What about giving the younger generation part-ownership as a possible exit strategy? Perhaps a merger with a similar business or trade competitor who, for whatever reason, doesn't have the ability or resources to thrive in the new environment?

For other company owners their business planning consists of just 'living in the now'. That's because they are enjoying a high volume of work, or circumstances are forcing them to focus on simply making ends meet.

We are seeing examples of all of these things occurring now. The earthquakes have presented opportunities that are causing people to think about not just how to position their business to take advantage of them – but also how to successfully exit when they have.

For those businesses that are not taking a hard look at succession, now is the time to start.

Business owners wanting to position themselves to 'ride the wave' and then get out in the next few years to reap the benefits (particularly baby boomers), need to put in place exit strategies that mitigate long-term personal liability and other commitments.

Meanwhile for those planning on being in business for the longer term, take advice on the structure of your affairs now to ensure your personal assets (such as the family home) are protected from trading risks and potential personal liabilities which might arise from your business.

For those in business with others, it is important to have a conversation with partners and fellow shareholders about your goals and negotiate a Shareholders' Agreement. This should include provisions on how the business will be managed and funded, but also address exit matters – for example a first right of refusal for other shareholders to buy your shares, a business valuation mechanism and seeking a release of, or indemnity for, your personal guarantees when you exit.

Planning for the future now is just common sense, even if those plans are adapted over time.

By all means, business owners should make the most of the opportunities that abound in Christchurch. But they also need to have a strategy in place to know how and when to get out.