

Know the rules of leasing

Tips for negotiating commercial office leases **By Tom Hadley**

As the saying goes, the devil is in the details. Details within a lease agreement are complex and require in-depth knowledge and a professional's scrutiny. In the eagerness to close on the ideal space, it's tempting to rush the process. But before signing on the dotted line, consider these lease negotiation necessities.

Square-footage assessment

Double-check all space calculations before signing a lease. Most lease documents do not clearly identify the correct size of the space. To ensure space accuracy, your broker can check the building's standard for measurement. One of the most common references for space measurement is the The Building Owners and Managers Association (BOMA) standard.

The amount of space the tenant can actually use is called the usable space. However, office space isn't priced based on usable square footage, and tenants often will not find this information spelled out in the lease document. Rather, pricing is based on the rentable square footage, which is usable square footage plus prorated share of the building's common areas. These areas include lobbies, public corridors and restrooms. Make sure your lease clearly spells out measurements of both spaces and that you are paying a fair market price for rentable space.

Net vs. gross

Learn how the operating expenses are structured and whether or not they are included in the tenant base rent. Net and gross refers to whether the base rent includes operating costs. A net lease means that the base rent does not include building taxes, insurance, utilities or other operating expenses. The tenant must pay for these separately.

Conversely, a gross lease means the tenant pays a lump sum each month and all of these additional costs are included in the rent. Note that these terms can have different meanings to different people so it is always better to spell out the explicit obligations of the parties.



Grossing up the base year

Vacancy can create an inequity against the tenant when it occurs in a base year (the year you signed the lease). In many leases, the tenant is obligated to pay operating expense increases over the actual amount that they were in the base year. If the building has significant vacancy in that year, building expenses will be abnormally low, likely resulting in unexpected increases in occupancy costs.

Grossing up the base year helps protect the tenant. An ideal lease will figure operating expenses on no less than 95 percent occupancy. This way, a business owner can minimize severe increases in operating expense pass-throughs.

Rights to additional space

Don't get caught in a position where your lease will not allow you physical room to grow. One way to protect your business is to negotiate the right of first refusal on other space in the building. This is a lease clause that gives a tenant the first opportunity to lease additional space that might become available in a property. Right of first refusal allows the existing tenant to rent the space at the same price and on the

same terms and conditions contained in a third-party offer that the owner is willing to accept. This right is often restricted to specific areas of the building such as adjacent suites or other suites on the same floor.

Landlord's right to relocate

Most leases allow a landlord to relocate a tenant to similar space. If you are unsuccessful in removing this clause, your business could be faced with a major disruption and unbudgeted expenses. Always check into who the other tenants are in the building. Is there a large tenant that is eying your space? What are the expiration dates on leases of nearby tenants? Avoid overlooking this critical clause and try to strike it out of the lease document.

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