



Commercial Real Estate Group
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Commercial Lease Negotiation Tips:

46 Ways to Reduce Occupancy Cost & Risk

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INTERNATIONAL TENANT REPRESENTATIVE ALLIANCE

LEASE NEGOTIATION TIPS

46 WAYS TO REDUCE OCCUPANCY COST AND RISK

Most of the following elements will be addressed in the typical Commercial Real Estate Lease. Following are the changes that should be made from the Tenant's point of view.

1. **Eliminate personal guaranty** – The Landlord can look only to the Lessee entity in case of default.
2. **Eliminate spouse from guaranty** – The Landlord can look only to the individual Guarantor, and may not be able to attach assets that are owned jointly between spouses.
3. **Limit personal guaranty to a fixed time period** – The guaranty expires after said period.
4. **Limit personal guaranty to a fixed dollar amount** – This creates a maximum cap for which the Guarantor is liable.
5. **Obtain a “kick-out” clause** – The Tenant can pay a penalty to Landlord and break the Lease, rather than be responsible for the full term.
6. **Obtain a “kick-out” clause after a certain time frame** – Same as above, but only available after a set time frame.
7. **Obtain a “kick-out” clause based on possible future problems** – The Tenant has right to break lease if certain acts occur which are detrimental to Tenants occupancy. Such acts include parking issues, loss of anchor tenant, expansion needs, loss of major contract, etc.
8. **Eliminate or modify a non-assignability characteristic of the Lease** – Make assigning the Lease to a partner or purchaser of the business a possibility.
9. **Increase the scope of the Use Clause** – Allows the Tenant flexibility in how it operates its business, with the ability to add or delete products and services.
10. **Use shorter lease lengths and more option periods** – Shortens the length of the Tenant liability while still giving the Tenant an option to remain long term if the Tenant desires.
11. **Get as many options as possible with the longest terms possible** – Gives the Tenant control over the space, protects against increasing rents and gives the Tenant possible value in sub-lease situations.

12. **Limit Common Area Maintenance (C.A.M.), taxes and insurance increases to a certain percent per year** – Limits the Tenant's potential liabilities.
13. **Cap C.A.M., taxes and insurance increases** – Same as above.
14. **Eliminate Space Substitution (relocation) Clause** – Transfers more control from the Landlord to the Tenant (i.e. preventing the Landlord from relocating the Tenant without the Tenant's consent and compensation.)
15. **Pay CAM percentage based on total facility's square footage only, without off-set for anchor tenants or vacant space** – Ensures the Tenant pays only the Tenant's fair share (pro-rata) of operating expenses.
16. **Eliminate management fees from C.A.M.** – Reduces C.A.M. and protects the Tenant from overcharges by the Landlord.
17. **Cap management fees in C.A.M.** – Same as above.
18. **Obtain the right to audit C.A.M. charges** – Protects the Tenant against the Landlord overcharging.
19. **Define what is included in C.A.M. very precisely (no advertising, no management override, etc.)** – Same as above.
20. **Increase grace period for late rents** – Gives the Tenant additional time prior to penalties.
21. **Decrease late penalty** – Lowers the Tenant's potential costs.
22. **Reduce events of default** – Lowers the Tenant's risk of defaulting on the Lease.
23. **Increase time allowed to correct defaults** – Gives the Tenant more flexibility in their remedies.
24. **Reduce Landlord remedies of default** – Limits the Landlord's options.
25. **Decrease required insurance amount** – Lowers the Tenant's cost.
26. **Limit the Landlord's ability to lease adjacent spaces to parking intensive neighbors** – Prevents the Tenant from facing a parking problem.
27. **Obtain a broad exclusivity clause** – Reduces the Tenant's competition potential.

28. **Retain ownership rights to interior furniture, fixtures and equipment** – Allows the tenant to retain more of its assets.
29. **Shorten landlord rebuilding period** – Forces the Landlord to put the Tenant's space back in operable condition sooner.
30. **Obtain right to rebuild yourself** – Gives the Tenant the option to do its own repairs if the Landlord is too slow.
31. **Obtain right to offset rents against Tenant repairs** – Allows the Tenant to do repairs, and offset the cost against rental payments.
32. **Obtain option or right of first refusal on adjacent space** – Allows the Tenant to expand into adjacent space.
33. **Obtain option to buy** – More relevant to smaller properties, this gives the Tenant the option to purchase the property.
34. **Obtain first right of refusal to buy** – Allows the Tenant to purchase the property at the same price and terms that a third party offers.
35. **Make joining the Merchant's Association optional, not mandatory** – Reduces the Tenant's expenses.
36. **Have the Landlord guarantee HVAC, electrical, plumbing, etc. for a set time period** – May reduce the Tenant's expense.
37. **Have the Landlord guarantee indoor air quality and agree to testing on a regular basis. Clearly define work performed to improve IAQ to be a Capital Improvement, and not subject to Tenant reimbursement** – Protect the Tenant against indoor air quality problems.
38. **No percentage rent** – Reduces the Tenant's expenses and bookkeeping obligations.
39. **No limitation of trade area** – Gives the Tenant full ability to expand wherever the Tenant sees fit.
40. **Obtain a guaranty of signage use** – Assures the Tenant will obtain and retain desired signs.
41. **Investigate what the property's rules and regulations cover** – Makes the Tenant's occupancy more trouble-free. Potential problems include neighboring businesses who use too much parking, make too much noise, create obnoxious fumes, operate non-synergistic businesses (i.e. pawn shops, bingo parlors, strip joints.)

42. **Insure the right to terminate your lease if a major anchor tenant vacates the premises** – Allows the Tenant to relocate depending on relevant circumstances.

OUTSIDE of the lease document itself:

1. **Use a good mapping system** to determine the demographics and competition in the surrounding area. This will ensure that the Tenant is picking the right site with an ample amount of surrounding businesses.
2. **Talk to existing tenants** about sales activity, parking, crime, etc. to make sure that the Tenant is not getting into a bad situation.
3. **Research the rental market** for information on past and current deals so an accurate comparison can be made on rental rates and terms.
4. **Retain experienced professionals** to guide you through the process. This will allow business owners to concentrate on their business with no distracting need to learn the commercial real estate industry.

Expanding companies obtain our personal help with their site selection and lease negotiations needs, usually at no cost since our compensation is typically a share of the Landlord's Agents' fees!

To arrange a confidential meeting to discuss your needs, call:
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