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THE TEN COMMANDMENTS OF LEASE EVALUATION

Any facilities manager can become conversant in the language of leasing by keeping these Ten Commandments in mind.

I. Prepare for lease negotiations 18 months in advance. Even real estate and FM professionals usually do not consider the time it takes to either: a) prepare for and move to a new facility; or b) renegotiate a lease to stay in an existing facility. Find out when your current lease expires or can be canceled. If you own your location, estimate when the company will outgrow the facility's capacity.

II. Weigh all costs of moving from your present location. The per square foot cost of moving actually can exceed the rental rate per foot. Cabling, raised flooring, HVAC, and electrical requirements also must be considered, as well as new stationery and location notices.

III. Monitor the leases of thy brethren. Take advantage of your association with other FM professionals. Gaining their knowledge of lease or purchase costs and associated expenses will be an invaluable asset to the 'deal-makers."

IV. Do not be confused by the terms rentable and usable square feet. You may encounter "multi-tenant" facilities. Multi-tenant facility leases include terms such as "gross," "rentable," and "usable" square footage to describe the quantity of space your organization is leasing.

Usable square footage always is less than rentable square footage, except in single-tenant facilities. Usable square footage is the space in which your offices actually are situated. Usable space does not include elevator shafts, stairwells, bathrooms, or elevator lobbies.

Rentable square footage is usable footage plus common (shared) areas of the building. In a multi-tenant buildings, each tenant pays a fraction of the main lobby and each of the elevator lobbies. The percentage difference between rentable and usable square footage is referred to as the "common area factor." Be familiar with measurements such as "BOMA Standard" and "Modified BOMA Standard," which create different rents.

V. Know the difference between triple net, double net, single net, and gross leases. Triple net: Tenant pays taxes, insurance, and maintenance; landlord pays for structural repairs only. Double net: Tenant pays taxes and insurance; landlord pays structural repairs and property maintenance. Single net: Tenant pays taxes *or* insurance; landlord pays structural repairs, property maintenance and property taxes *or* insurance. Gross: Tenant just pays rent; landlord pays all expenses.

"Absolute net" means that the landlord pays absolutely nothing towards maintaining the property.

VI. Take every available concession. Get the landlord to share costs. Concessions include: free rent, stepped rent (when rent is reduced in the early part of the lease and increased over time), and spaceplanning and moving allowances. Other possible concessions: building signage, free reserved parking, building access control, and no service charge for afterhours electrical usage.

VII. Limit exposure to rental escalations. Faced with inflation, rising maintenance and utility costs, and property tax reassessment, a landlord is concerned with maintaining a profitable operating margin. One way to do that is to have the tenant participate in any increases through rental escalators. The ideal tenant lease contains no escalators. It is more likely you will encounter terms such as (1) CPI (consumer price index) escalator, (2) Base-Year Operating Expense escalator, or (3) Operating Expense Stop escalator. If the escalators cannot be avoided, work to cap the escalators at a fixed percentage (i.e. 5% per year).

The CPI escalator increases the rent at the rate of inflation or some percentage thereof. One method of reducing exposure when faced with this is to negotiate a portion of the CPI, i.e. 50% or 75%.

The Base-Year Operating Expense escalator attempts to let the tenant participate in operating expense increases occurring after the year in which the lease is signed. The problem here is that a sloppy landlord who does not attempt to control expenses can pass the failure to manage properly along to a tenant. It may be possible to cap a tenant's exposure under this method by only permitting escalation for those expenses that are not controllable by the landlord, i.e. property taxes, utilities, or insurance.

VIII. Build protective contingencies into your leases. Five years into a 10-year lease, the organization either needs more or less space than is provided for in the lease and is stuck with paying rent on an inefficient facility. As a result, some organizations will take a shorter term lease (usually at a higher rate).

Instead, consider taking the longer term lease at a better rate, but build in contingencies, such as: (1) right to expand, (2) right to contract, (3) right of first refusal on nearby spaces, (4) lease buyout, or (5) lease termination.

IX. Obtain multiple proposals on new leases. Keep at least two locations vying for your lease until very near the end of the transaction. Let the contenders know that you have ongoing correspondence with their competitors. This tactic generally will result in lower rental.

X. Don't let your attorney destroy a good deal. Good deals can go sour over legal issues that have little practical impact on the landlord-tenant relationship. Conflict over the number of days permitted to rebuild the premises after a major disaster can get blown out of proportion. Other legal issues that can trip up a deal include insurance and negligence burdens.

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