Consider “green” leases - by Marc Karell

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NYREJ has published several articles detailing the many proven, direct financial benefits of reducing one’s energy usage. However, there is another area where these advantages are less obvious, and that is the leased community. In many cases, such as comfort, if a landlord invests money to make a building more efficient or “green,” the tenants benefit (reduced need for electricity which they pay for), but the landlord does not get directly compensated for the investment in the upgrade. Examples include improving the building envelope (windows, insulation) or upgrading the A/C system. While a landlord can rightly claim to provide a well-run building and benchmarking through NYC Local Law 84 can demonstrate the better performing buildings, there is little motivation (quick, direct benefit) for a landlord to invest in energy upgrades.

To improve on this, there is a recent growing concept of “green” leases which provide incentives for energy and related upgrades. According to a recent study issued by the Institute for Market Transformation called “What’s in a Green Lease? Measuring the Potential Impact of Green Leases in the U.S. Office Sector” (http://www.imt.org/resources/detail/green-lease-impact-report), leases with the proper clauses in them have the potential to cut energy consumption by 11 to 22% (or $0.26 to $0.51 per s/f) in U.S. leased office buildings.

The intention of such leases is to provide direct financial benefits for energy conservation measures to both the tenant and landlord for such investment. The report provides ideas to consider to make a lease more beneficial, such as:

Savings Pass-Through: This allows landlords to pay for the investments in energy efficiency by directly adding a portion of the likely energy cost savings from their tenants in the rent over a period of a few years until the original investment is recouped. The tenant will understand that this increase in rent will be less than its energy cost savings and will terminate at a certain point at which time the tenant gets all of the savings.

Energy-Efficient Tenant Buildout: This mandates that the lease requires tenants to meet certain basic guidelines to ensure that the space is efficient. Taken to an extreme, it could mean that the space meets a certification program, such as LEED. However, since this can be quite expensive, more commonly this calls for more modest standards, such as for lighting power density (watts/s/f) or only using energy-and water-efficient equipment. The tenant saves money in the long run; the landlord has made no initial investment and the building is potentially more desirable at re-sale or when the tenant moves out. An example of a standard is ASHRAE 90.1-2013, which recommends a lighting power density for an office of 0.82 watts/s/f. This document also lists recommended power densities for other functions.

Submetering: As discussed in another NYREJ article, installing sub-meters for tenant spaces and having the lease re-written to mandate that tenants pay for their electricity, gas, water, etc. usage is a proven way to make tenants aware of their utility usage. After a bill or two comes in and tenants see the correlation between their usage and cost, they are incentivized to reduce usage to save money.

Please note that this is a technical only evaluation about the topic of “green” leases, and not a legal one. Please speak to a qualified legal professional if you wish to develop a “green” lease.

CCES can perform for you technical assessments of your energy and water usage and develop smart, cost-effective ways to reduce your usage and costs without impacting and, in fact, while enhancing your operations.

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