



Commercial Classroom: Focus on leasing - by Edward Smith

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Edward Smith
Smith Commercial Real Estate

This column is offered to help educate agents new to commercial and investment brokerage and serve as a review of basics for existing practitioners.

This is a reprint of an article I did in March 2009 at the height of the Great Recession.

Given the current economy we see a lot of activity in the leasing arena. Business is on the move, some are growing, some are shrinking; leases expire. Landlords are certainly doing all they can to retain or attract new tenants: reducing rents, forgiving escalations, offering concessions. The landlords fear is vacant space, interruption of their cash flow. This gives tenants today an edge in the lease negotiations.

As agents we have to remember it is our job to negotiate all the issues in the lease and almost every issue relates to money in one way or another. We also have to focus on who we are representing and do what is in their best interests.

The leasing process needs to begin with determining the “wish list” of our client. When representing the landlord we need to know the square footage of the available space and the base rent per square foot. But we also need to determine if there is common area in the building that the tenant will be expected to pay for. Are there any “pass through” expenses in addition to the rent, i.e. utilities or CAM charges? Who pays the real estate taxes? How much security will be required? Is signage and parking included? Who pays for repairs? We need to understand the landlord’s position on every detail. We need to get this information when we take the listing.

You don’t want to show the space and have a potential tenant ask a question you cannot answer.

Representing the tenant requires the same information gathering. Remember tenants are not in the

real estate business; maybe they do a lease every 5 or 10 years. They need our guidance. Go to their existing operations; help them determine how much space they really need. Observe the number of employees, as this will relate to parking requirements. If office space is desired determine for whom? Analyze how much space a clerical worker uses, look at the size of a manager's office. How big is the conference room etc.? Helping a retailer determine needs must also include discussion of how goods are delivered to them; will they need a loading dock? Where is their inventory stored (don't forget that basement space)? Industrial building expansion may just need a building with more ceiling height!

Another set of questions for a tenant concerns their budget. They may just be focused on overall monthly cost. We may have to educate them to "our language" or do the math for them when presenting a building with loss/core factors or pass through expenses. A key question is where do you see your business in 3 years, 5years? The answer can help us place them in a free standing building or a large building with potential for future expansion.

Developing a "wish list" for whoever you are representing is the first step in leasing. Then look at what is most important to your client. Establish priorities for the upcoming building or tenant search and negotiations. Also think creatively.

Helping our clients starts with communication, it's a great time to contact landlords and tenants.

Postscript added for 2020:

Many landlords are trying to work creatively with tenants that are in trouble in both the office and retail sectors.

In office sectors, landlords are getting requests, especially from tenants with relatively short terms remaining on their lease, for Tenant Improvement Allowances. To provide the tenants with the funds to reconfigure the space to social distancing and safety guidelines. Tenants may also request a rent reduction. Landlords may consider these things to keep the tenant if the tenant will sign a new lease or extend the current one. Concern being in many markets' vacancy is increasing and as it does rents will come down.

Vacancy increasing is even more prevalent in the retail sector. Here landlords are taking a hard look at the tenant's probability of survival.

Based on the strength of the tenant a lease modification may be considered. The landlord may defer one to three months base rent to the end of the lease with the requirement that the lease be extended for that period. Most retail leases are triple net, so this would be in the form of a rent abatement, where the tenant continues to pay the operating expenses and taxes during that time. Language may also include that if the tenant does default on the lease, these monies would be added to the default.

Another concept to help the tenant and to help the landlord to continue to pay their mortgage

expense is to temporarily convert the lease to a percentage lease. The tenant will pay a significant portion of their monthly gross sales to the landlord in lieu of base rent for the remainder of the COVID-19 crisis.

Unfortunately, not all landlords and tenants will work out their difficulties defaults and evictions may result. Visit the small businesses in your area, maybe you can help them negotiate with a landlord, or find them new smaller space. Also contact the landlords in your area, see what space they have or will have available. Seek out these post-pandemic opportunities.

Edward Smith. Jr. CREI, ITI, CIC, GREEN. MICP, CNE, e-PRO and CIREC program developer, is a commercial and investment real estate instructor, author, broker, speaker and a consultant to the trade.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540