



# Commercial real estate process and predictability



**Greg Gaddis**

With the election of our new president, a few questions seem to be common in the business community. How will Donald Trump's policies affect my business and my client's businesses? When will these changes take place? How do we prepare for and adjust to these changes?

The answer to these questions may take a while to manifest themselves. In the meantime, our local businesses should consider their commercial real estate with an eye toward an uncertain future. Putting specific processes in place for acquisitions or renewals of leased space is critical to securing predictable real estate costs.

The best leases capitalize on this process and the resulting predictability. There must be a clear and

consistent process by which to seek, evaluate and secure real estate, and this process must result in predictable future outcomes as they relate to both the financial and flexibility aspects of a long-term lease.

## Process

Whether negotiating a renewal or a new lease, leverage is key. Leverage is established in the following ways:

- Engaging a Tenant Representative to work for you on your side of the table.
- Starting the process early...in some cases as much as two years prior to a lease expiration date
- Gaining a full understanding of the current real estate market and landlord motivations.

Begin the process by taking an early look at future needs and desires of your business. Once you have a thorough knowledge of your future needs, look to the current market for a solution. This may include a tour of available options and, in a tight market such as ours, meetings with appropriate developers. The question of whether to lease or buy should be addressed at this time as well.

If a renewal of the existing lease is possible or desired, there may be value in creating a visible search campaign in order to create some noise in the market about your potential actions. On the other hand, a relocation may involve some covert action in order to preserve the upper hand or confidentiality.

Local market intel can provide additional leverage. Is the landlord facing a refinance or hoping to sell the building soon? Is the building losing or gaining a significant tenant in the near future? These can be important bits of information and care should be taken to understand the other side's motivations.

At the correct time in the process, a proposal should be requested from the current landlord and/or prospective landlords. Asking for a proposal rather than 'making an offer' is a key step in the process to preserve leverage and maintain a clear and detailed understanding of the options available in the market. Receiving detailed information on all aspects of a property will help a business make an informed decision about which is the best facility for its needs.

## Predictability:

As you negotiate, the aim should be to secure a lease that provides as much predictability as possible. Most leases come off the press with financial and flexibility terms in the landlord's favor. By understanding a company's need for a predictable future, a property owner can usually agree to negotiate a win-win document.

In order to obtain a predictable lease, some key points should be carefully crafted. These points can include:

- Clear language as it relates to oc-

cupancy, rent and lease commencement dates. This is especially important if tenant improvements are involved.

- Predictable rent escalations
- Clear expense language regarding who pays for various property expenses.
- Clear, process driven options to renew, expand and even options terminate or purchase in some cases.
- Clear language on who takes care of what, when and how as it relates to building maintenance.

If the preferred location's deal terms contain acceptable language regarding the above, and the financial details are acceptable, a final lease will be drawn up to reflect these intended terms. A thorough legal review would be the next step in mitigating risk and ensuring predictability, and I always advise our clients to engage a good real estate attorney at this point. You can be sure the other side has one!

In uncertain times, the above process is time tested and worth the extra effort. Remember, once signed, a lease is a long-term commitment and you will be bound by its language. Kind of like an election result! ■

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