

Free Money

Does your landlord owe you? Your year-end reconciliation statement may be a source of hidden cash.

There might just be a treasure chest of cash and cost-cutting opportunities hidden in the year-end reconciliation statement from your landlord, but you won't find it unless you're willing to roll up your sleeves and dig. Many tenants pay these reconciliation charges without thinking twice. But the savvy tenant thoroughly examines the statement, seeing it as an opportunity to improve his bottom line.

Commercial real estate leases often have provisions allowing landlords to seek reimbursements from tenants for their prorated share of operating costs. These charges are better known as common area charges, base year reimbursements, or capital expenditure amortization reimbursements.

As a tenant, you probably make estimated payments during the year and at the end of the year reconcile the difference between what you've already paid and the amount you actually owe.

But before you write a check, review the charges carefully. You might come across a few surprises similar to this one:

While reviewing reimbursement charges for a new client, we discovered that he paid two separate management fees to the landlord for his small property. The credit extended by the landlord for this single mistake cut our client's reimbursement costs by 25% last year—a significant cost reduction. But what really came as a surprise was when, upon further investigation, we informed him that his bottom line had suffered from that same duplication error every year for the past nine years.

A careful review of your statements can often reduce your reimbursement obligations, but in some cases it might put you instead of your landlord on the

receiving end of reconciliation payments.

All reimbursements you're billed for should be authorized in your lease agreement. Authorized reimbursements typically include shared expenses like landscaping, maintenance, parking lot electricity, and minor repairs. Some landlords might seek reimbursements for unauthorized expenses which you're not obligated to pay—like direct ownership costs, leasing commissions, improvements to specific spaces, and other expenses not related to common areas.

WITHIN REASON

Even if you only find authorized charges on your statement, you should still make sure that you're not being asked to cover unreasonable expenses. For example, eight hours of snow removal is an authorized reimbursement, but it's unreasonable for you to pay it if the landlord didn't have checks and balances in place to ensure that all eight hours were actually spent plowing snow. Landscaping expenses are also authorized, but they too can be unreasonable. You shouldn't have to shell out the money to pay the landlord's son \$50 per hour to mow the grass, nor should you have to reimburse property owners that chose to replace a small dead tree with a tree ten times the height and cost. In addition to a thorough examination of his reconciliation statement, the savvy tenant avoids unreasonable charges by paying close attention to the work being done around him.

The broad range of expenses you may be asked to cover also includes a gray area. Sometimes landlords seek reimbursement for expenses that enhance the property's value—like a new roof, re-paved parking lot, or HVAC

equipment replacement. To you, the tenant, unanticipated charges like these seem to come out of the blue and often turn out to be "budget busters."

So how does the savvy tenant navigate the gray area? He might start by looking at the list of reimbursable charges detailed in the CAM reconciliation statement he receives from his landlord at the beginning of each year. One way for tenants to avoid gray areas is to shift responsibilities from the tenant to the landlord in the lease document. Instead of listing expenses not authorized as reimbursable, we recommend listing the specific expenses which *are* authorized as reimbursable. An additional way to avoid "budget busters" is to place an annual cap on the expenses a landlord can seek reimbursements for in a single year.

With a qualified person to ensure careful documentation of your lease and annual reviews of your reconciliation statements, you'll avoid these "budget busters," unauthorized reimbursements charges, and unreasonable expenses. But as a savvy tenant, you'll also see a significant reduction in your occupancy costs which will have a very positive impact on your bottom line!



▶▶ Gary Christensen is the principal and founder of Tenant Real Estate Advisors (TREA), an outsourced real estate department that serves as an advocate for commercial tenants nationwide. TREA offers a full spectrum of services including lease negotiations, web-based lease administration, annual expense audits and on-going real estate strategies. Please visit www.tenrea.com for more information.