

## MORE LEASE NEGOTIATION AND SITE SELECTION MISTAKES

**WRONG ZONING** Tenant does not have adequate representation and assumes the zoning is suitable for its use. This is particularly a problem in medical and research & development companies, as different municipalities deal with these uses in entirely different – and many times inadequate – ways.

**TENANT PERFORMS THE BUILD-OUT** It may be better to have the Landlord perform actual build-out work, so that unexpected problems or delays will be the Landlord's cost.

When it is appropriate for the Tenant to perform the build-out, have the lease provide for an extension if delays are encountered which are not the fault of the Tenant, and extra Landlord monetary contribution if unexpected repairs are required (termites, code violations, etc.).

**NO LIMIT ON PERSONAL GUARANTY** Many times it is possible for the Personal Guaranty to expire "x" months after lease commencement, or provide a specific dollar amount of guaranty. Although not as beneficial, it may be possible to use an "Evergreen Guaranty" which provides that Tenant will personally guaranty a set number of months or years, commencing upon default by Tenant. Your professional will know what is typical for your market.

**LIMIT ON FUTURE FLEXIBILITY / COMPANY GROWTH** How fast is the company going to grow? Will it be necessary to downsize? How likely is a new partner or merger? These situations, and more, indicate the Tenant's need for as much flexibility as possible. Tenants should work with experienced professionals to insert language into the lease which will allow a cancellation or modification of the lease under certain circumstances.

**LIMIT ON FUTURE FLEXIBILITY / PRODUCT GROWTH** Will the company want to carry a new product line or install a new technology? Will a neighboring Tenant vacate (or move -in) which impacts the business? Tenants should be cautious with their "Use Clause" since these clauses can be very specific as to what goods and services the Tenant will provide, and may prevent a Tenant from offering a very lucrative product or service in the future which has not yet been invented!

**CHOOSING THE WRONG LOCATION / TURNING MARKET** Tenants who do not know the local market may locate into a declining area, making it impossible to hire and retain the highest quality employees.

**CHOOSING THE WRONG LOCATION / PENNY WISE AND POUND FOOLISH** Retail tenants who choose locations in unanchored properties to obtain lower rental rates. Traffic and subsequent sales volumes are dismal, and tenants fight a losing battle.

**HAMSTRUNG BY YESTERDAY'S TECHNOLOGY** The office building is not set up with the newest in telecommunications and data cabling, such that Tenant cannot benefit from today's technology. Business is lost to competitors which can offer better service to clients.

**TAKE TOO MUCH SPACE** Tenant did not use their own space planner and leased offices which were too large or had an inefficient floor plan.

**SPACE WAS MEASURED INCORRECTLY** Tenant did not verify the Landlord's dimensions and figures and paid rent on "phantom" space.



**UNNECESSARY SECURITY DEPOSIT** Landlord asks for Security Deposit as standard procedure, but does not require one depending upon Tenant creditworthiness and/or build-out requirements.

**NARROW SEARCH** Tenant limits its geographic area of interest too severely, and does not complete adequate market education resulting in lost opportunities.

**HOLD-OVER PENALTY IS TOO HIGH** Standard hold-over penalties in first draft lease agreements are typically far higher than necessary.

**NOT REVIEWING THE LEASE OFTEN ENOUGH** Tenants miss notification dates, resulting in automatic renewals, loss of option period, or other penalties.

**POOR DESIGN** Tenant made poor choices during interior design stage because of focus on "least initial cost" instead of "lifetime operating costs". Many times upgraded lighting, windows, insulation, etc. can make very dramatic improvements in employee productivity, operating costs, and business security. Your professional should be able to discuss the latest in facility design, materials and technology.

**POOR PLANNING** Natural catastrophe occurs and electric power is lost for an extended period of time. Tenant is out of business, and losing clients at a rapid rate. Proper planning and/or design can eliminate potential business disasters.