

WHAT IS THE COMMERCIAL LEASE PROCESS

Commercial leasing generally follows a relatively consistent process or sequence of events. I want to lay out some of the basics to provide a first time tenant with a high level road map of how the process evolves.

NEEDS ANALYSIS

Prior to commencing a property search it is wise to sit down and document both the needs and wants of your business in order to provide a game plan to find the right space for your business that meets your strategic objectives and functional requirements. There are numerous important considerations in selecting suitable premises for your business. Here are a few to consider:

- **Size:** number and type of rooms to meet current and expected needs in a contemplated lease term
- **Location:** accessibility to staff, visibility and customer traffic, transportation logistics
- **Functional Requirements:** layout, loading, parking (client/customer and staff), signage, building amenities and services, washrooms, kitchen
- **Mechanical Requirements:** power supply, plumbing, heating, ventilation, air conditioning
- **Communication:** internet, cable, telephone, satellite eg building service and subject property pre-wiring/networking

VIEW PROPERTY

Once a tenant's requirements are established they will need to look at what is available in their market(s) of interest. Available properties can be found on public and private real estate web sites and in many cases by driving through market(s) of interest and calling leasing agents from site signage. A leasing agent can assist in touring properties that meet your needs and wants and more importantly provide valuable market information that will assist in the decision making process. Market rental rates and availability of product can frequently determine the direction a tenant may go and any concessions they may need to make in finding a reasonable match for their business. It is not uncommon to need to modify a space and invest in tenant improvements to make a lease premises suitable for a tenant's occupancy.

OFFER TO LEASE – NEGOTIATION PROCESS

After a thorough property search and the selection of a suitable premises, a tenant must enter into negotiations with a landlord to attempt to come to terms. A leasing agent can be invaluable in this process if not already involved. Typically at this stage a document called an Offer to Lease (or sometimes Letter of Intent) is prepared to facilitate the negotiation. The lease offer will contain a number of higher level terms including but not limited to:

- A clear legal description of the Landlord, the Tenant and the Premises that the lease offer is being prepared for
- A clear description and orientation of the square footage, location and particulars of the premises itself
- The rental rate being offered for the premises and the duration of the term being offered
- A clear break down of Landlord and Tenant costs
- Any renewal provisions
- Other entitlements such as common area usage, parking
- A list of Tenant and Landlord Conditions to be waived or fulfilled subsequent to offer acceptance. If mutually agreeable high level terms are achieved a Tenant may wish to conduct more detailed due diligence on a site and a Landlord on the Tenant themselves

LEASE AGREEMENT

Once an accepted Offer to Lease is achieved and all conditions are removed, the Landlord typically provides the Tenant with their final lease agreement. This is a much more detailed document that contains the high level terms from the Offer to Lease with additional elaboration on the legal language surrounding such terms plus the appropriate terms and conditions to cover off the numerous “what-if” scenarios that could transpire during the term of a tenancy. A Tenant’s lawyer will frequently review the Landlord’s document and provide recommended changes to ensure that the final lease agreement is equitable for the Tenant as well. It is crucial that a lawyer is involved in this second level of negotiation as this is the document that will govern the Tenancy.

The above information contains some high level information in the lease process, but it is important to hire a leasing professional to assist in your real estate search and negotiation to ensure the best possible outcome for your business.