

Commercial Lease Review (Tenant)

Gray Reed & McGraw Legal Alert

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Commercial Leasing 101

Planning for a successful start to your commercial office or retail lease

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The Process

A typical lease review begins with the attorney reviewing the landlord's lease form, along with any term sheet or letter of intent, to confirm that the lease matches the initial deal terms. Next, we ask the client questions concerning its business operations, expected use of the premises, finish-out needs, and objectives for the lease. Then, we revise the landlord's lease form, incorporating recommended changes to the legal provisions and business terms. Finally, we discuss the changes with the client before sending the revised draft to the landlord for review. Depending on the number of changes, the landlord typically responds with a revised draft or a phone call to discuss the changes. This process continues until the parties agree on a final form. The amount of legal involvement can be tailored to the needs of each client.

How long does it take to negotiate a lease?

The length of negotiations depends on whether the premises are constructed, the sophistication of the landlord, the size and complexity of the lease, and whether the lease is part of any larger commercial transaction. If corporate or lender approvals are required for a lease to be signed, signing can take more than a month; however, most lease negotiation takes around 3 weeks.

How much will it cost?

Preliminary lease review for a typical office lease is estimated to cost around \$2,000–\$3,000, depending on the size of the premises and the complexity of the landlord's form lease. This includes review and revision of the initial form (including work letter terms for any finish-out work) and discussion of the initial changes with the tenant and the estimate assumes a basic agreement on basic business terms, including rental rates, term of the lease, finish-out work/allowance and liability under personal guaranties. After initial

review, the cost depends on the scope of counsel's involvement in the negotiation of the lease (including the length of negotiations and the number of issues to be determined).

What should I consider before negotiating my lease?

- **Brokers:** An experienced broker can help a tenant get the best deal for the market.
- **Timing:** Plan carefully if you are hiring employees based on an expansion or leaving premises to move to a new location. Allow ample time for permitting and construction.
- **Finish-out:** If the premises will require customization for your use (think medical or restaurant), talk to contractors and space planners to get a sense of how much usable space you need and what expected improvements may cost.

Options: Until a lease is signed by the landlord, the landlord is not bound to lease a space to a tenant. Know what your next best alternatives are, and have a back-up plan (or two).

Experience Counts

Landlords and tenants often have different ideas about “standard” terms. An experienced real estate attorney can help you avoid pitfalls that can resurface later, such as:

- Late fees and penalties
- Personal guaranties
- Insurance and indemnities
- Liens on your personal property
- Subletting/assignment

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