

## Looking at New Office Space – What Do You Negotiate?

Looking at new spaces. What were you able to negotiate? Some of the spaces are empty shells and need buildout. Is the Landlord typically required to build this out on their dime, or as the tenant you build it out to your specs but foot the bill? Did you get free months of rent or other incentives? I know it's largely based upon market.

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I used an agent. As I recall, in commercial leases the agents are paid by the landlord. So no cost to get a professional to assist you. Worked well for me.

Deborah, Matthews, Virginia

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Depends on the market, Deb. I realize that in more urban areas a lot of commercial space, particularly the "class A" stuff is handled by agents; at least in the more rural areas of Florida there are an awful lot of landlords who DIY it. It's one thing when you're leasing a shopping center to Kmart or Winn Dixie or whatever; it's another thing when you're leasing 1500 SF to a startup business; those agents charge maybe 25% of the first years lease payments, to charge a landlord 25%, in cash, commission; and then expect landlord to foot the bill either directly or by rent abatement for the buildout, for a new business that may be out of business in 6 months, simply isn't attractive to smaller landlords.

Ronald Jones, Florida

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No cost on paper but certainly the landlord has to figure that into the deal that is made. Having represented a few commercial landlords in the past, I can tell you that that is certainly something that goes into the calculations.

Not to say that using agent is a bad thing necessarily, but something to be aware of. Nothing is free.

Robert Weiss

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It probably varies by locale, but in NY and CT, the build-out of an office space is one more item for negotiation.

When we leased our current office about 4 years ago, one of the major attractions is that it needed no build-out, not even new carpeting, painting or wiring. We could move right in.

If build-out is needed, you can negotiate to do it yourself. You have more control, but you also have a LL looking over your shoulder, and likely imposing requirements on what you can do or have to do (might require more elaborate planning than you would otherwise do; might restrict times of construction, or charge a lot for using the freight elevator). Plus, you have to manage a construction project while doing your day job (or pay someone to manage it for you).

That's all the LL's problem if he does the buildout. Generally, up here, it's in the form of an allowance per square foot, and the people who do this sort of thing know what you can get for \$x/ft. If you want fancier, the LL likely will charge you for it. While you won't be paying directly for the cost of construction (or not all of it, anyway), the LL is expecting to get that money back. So you will either get fewer rent concessions, or a higher rent. You almost certainly will be locked into a longer term than otherwise (so LL has the time to recover the cost), and you almost certainly will have a higher security deposit, and/or greater likelihood of a guarantee being required. (for example, in our case, with no buildout, we negotiated a 5-year lease, with all personal liability (of the firm or partners) ending after 12 months (with an increased security deposit, and providing we vacated). It's extremely unlikely we'd have gotten that deal if the LL had to do construction.

So avoiding the need to build is the best option (but, heck, avoiding moving at all is even better). If you have to build, you need to dig in to understand the pros, cons, costs, and benefits of building v. not building, and doing it yourself v. having the LL do it.

As another poster suggested, a broker can be an enormously helpful resource in this process, giving you advice on these issues.

Patrick W. Begos, Connecticut

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I have an article entitled Renter's Commercial Lease Checklist. It has over 118 issues/questions.

Not sure of its source from about 2002. I think it was from a now-retired Houston-area attorney. When he retired, the Internets (a Texas term), the legal profession, and clients lost a great resource.

It is an excellent tool which may help you here plus it is an excellent law practice reference. I am in need of the user name and password for our Solosez documents file. I lost mine in a crash. Once I am able to access NetDocuments (a project for which the hat is passed here on occasion to refresh the membership; next time hat is passed, please contribute) I will check if that file is already there. If not, I will upload it in WordPerfect and Word. Great list.

Rob V. Robertson, Texas

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Rob and all, the logins are in the Unofficial Solosez Faq (maintained by Mike Koenecke - one of his many services to his colleagues).

<http://www.solosezfaq.com>

Anne Pohli, Texas

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The article entitled "Renter's Commercial Lease Checklist" is now uploaded to NetDocuments (solosez; legal123).

Thanks to COTE for refreshing me on the user id and password.

Again, next time the hat is passed to pay for that research resource, please contribute.

The uploaded list/article appears in both WordPerfect and Word in the Real Estate folder.

The article does not directly suggest what to negotiate but it indirectly may prompt to wonder about subjects of concern.

Rob V. Robertson

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I'm not far from Travis, and I agree with everything Patrick said. It's all up for negotiation. If the landlord is footing the bill for build-out, it will be a longer term lease and expect to essentially pay for it in higher rent.

However, I'm betting you can find something close to what you want or need with minimal need for build-out, unless you have unusual requirements. I don't have my hand really in the PSL market, but the commercial vacancy rate in the Vero-Ft. Pierce corridor (other than Vero beachside) is high.

Cynthia V. Hall, Florida

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