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News & Types: Real Estate Update

Key Lease Terms to Consider for a Tenant Favorable Lease

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Practices: Real Estate

A well-negotiated lease is essential for protecting a tenant's financial interests and avoiding costly disputes. When representing tenants in lease negotiations, generally there are five basic lease provisions that should always be reviewed and addressed:

1. Term – Clearly defining the commencement date, duration of the lease term, and any tenant rights to extend the lease, including renewal options or automatic renewal provisions.
2. Rent – Understanding the rent structure is essential. Whether the lease is gross, triple net, or modified triple net, the agreement should clearly identify base rent, additional charges, pass-through expenses, and any rent escalation provisions.
3. Possession and Delivery of Premises – The lease should establish the landlord's obligations regarding delivery of possession, including the required delivery date and consequences if the landlord fails to timely deliver the premises.
4. Landlord Work and Representations – The landlord should be required to deliver the premises in compliance with all applicable laws, codes, and ordinances, with all required permits and certificates of occupancy obtained before tenant acceptance.
5. Common Area and Exterior Maintenance, Repairs, and Replacements – The lease should clearly allocate responsibility (including the financial responsibility) for interior, common area, and exterior maintenance obligations. Typically, tenants are responsible for the interior of the premises, while landlords are responsible for common areas and exterior elements.

Addressing these key provisions is recommended when representing a tenant in lease negotiations. A well-drafted lease should clearly define the parties' respective rights and obligations while minimizing unexpected costs, liabilities, and operational issues for the tenant.

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