



Commercial leases are loaded with potential ‘gotchas’

By **HOWARD LIEBERMAN**
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How often does it happen that someone starting a business finds “the perfect space,” falls in love with it and is ready to sign on the dotted line without considering the consequences to the business?



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Too often. That’s because when choosing a site without doing the necessary groundwork, there can be unknown costs and other barriers to success.

However, there is a way to avoid such pitfalls: A business plan needs to be in place before signing a lease.

The business plan will define who the market is, how to approach that market and what kind of site will make it possible to serve the market. That’s important because commercial leases differ from residential leases in several ways.

■ **First, while residential leases** are usually written for one-year terms, commercial leases are a contract for longer terms. This is often five years.

That means that even if a business closes, the lessee is responsible for all of the costs of the full term, which can run into hundreds of thousands of dollars.

■ **Second, in addition to the monthly rent,** commercial leases have what are known as triple net costs associated with them: real estate taxes, insurance for the building and site maintenance costs.

Unlike the rent, these are adjusted



Lessee beware: Besides the rent, commercial leases can have other costs for the tenant, including real estate taxes, insurance for the building and site maintenance costs.

every year, and there is little to be done to contain them. Triple net costs can add an additional 20 to 100 percent to the rental cost.

Site maintenance costs can include garbage removal, snow removal and lawn care, to name a few. Some locations, such as malls, may include marketing and administrative costs, such as hiring of security guards, parking lot maintenance and heating, ventilation and air conditioning in the common areas. (The business likely will need to bear the costs of utilities for the business site, as well.)

In the Greater Lehigh Valley, it’s not uncommon for site maintenance costs to run \$10-\$12 per square foot per year.

■ **Third, unlike a residential lease,** everything is negotiable, yet there are

very few legal protections built in. With an apartment, if a pipe bursts, the landlord must fix it. When this happens to a business, it may end up being the business’ problem.

Commercial leases generally require the landlord to maintain the four walls and the roof. So the landlord may or may not be obligated to fix a broken pipe, but, either way, a delay may cost the business money, and that will most certainly not be the landlord’s problem.

■ **Fourth, there may be restrictions** as to how a site can be used. If the business receives deliveries by tractor-trailer, can the truck get to the site? Can UPS get there?

Storage of guns, ammunition and medical waste frequently are prohibited. Landlords may restrict direct competi-

tion if you are looking at a shopping center-type setting.

■ **Finally, municipal regulations and zoning** will affect the suitability of a site.

Restaurants that seat more than 15 people may need to make two restrooms available. The parking lot may have requirements or restrictions that govern backing out of parking spaces and one- or two-way flow of traffic.

These are just some of the concerns a business owner must investigate before signing a lease.

And then, of course, the location and its amenities must be practical, as well. A business plan, in addition to targeting customers and how to reach them, will help identify key affiliates or required amenities.

For example, a health care facility will want to be near an emergency room. Most businesses require internet access. Others need easy access to the highway.

A good business-plan will help a new business-owner start out on the right foot, with needs and resources identified and financial implications considered, before entering into a costly legal agreement.

Howard Lieberman is a managing partner with Business & Community Financing Solutions of Whitehall Township and has 30 years of experience helping entrepreneurs, businesses and communities manage projects for growth. He teaches “The How and the Why of the Business Plan” at Lehigh University’s Iacocca Institute. He can be reached at 484-661-7794 or info@bcfsol.com.

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