

Green Leases: What They Are and Why Landlords Resist Them

BY BERT ROSENBLATT AND ANDREW STEIN

WHEN IT COMES TO GREEN OR ECO-FRIENDLY REAL ESTATE BUILDINGS, NEW YORK CITY IS BEHIND THE EIGHT BALL. VERY FEW BUILDINGS IN THE CITY ARE GREEN AND/OR LEED CERTIFIED, MOSTLY DUE TO THE FACT THAT MOST OFFICE BUILDINGS IN THE CITY ARE OLD, NOT NEW, AND THE COST OF RETROFITTING AN OLD BUILDING TO MAKE IT GREEN IS EXTREMELY EXPENSIVE.

What are you to do if you're a tenant that believes in the importance of going green? Request a green lease. Going through the process of procuring a green lease can be a long and arduous procedure – but if you're a person who believes in going green, it's worth your time.

What is a green lease?

A green lease is a lease that is modified to:

- Remove disincentives to reduce energy, water and raw material consumption
- Increase recycling and use of sustainable materials in tenant build-out
- Create incentives for the implementation of sustainable practices by both landlord and tenant
- Communicate shared environmental standards and goals
- Allocate responsibility to ensure that identified goals will be met by both parties

Because green leases are a relatively new concept, there's no "one size fits all" green lease. However, you can rest on the following laurels – for a green lease to be effective, it must incorporate specific green goals and outline mechanisms for measuring performance to assure that the goals are met both initially

and continue to be met throughout the term of the lease. It should also provide for allocation of costs for achieving the sustainability standards identified by the tenant and the landlord, offer appropriate remedies if one of the parties does not sustain his end of the deal, and take an integrated and holistic approach to the green process.

Why Landlords Resist Green Leases

Unfortunately, retrofitting old buildings to make them sustainable and incorporating green practices into a lease can be expensive – which is why many landlords don't like to go green, even if it's something they believe in. Some other reasons why you might encounter resistance to a green lease are unfamiliarity with green concepts and fear of how much they'll cost, lack of capital to make the changes required to go green, restrictions built into existing leases and indifferent or resistant tenants. Remember that there are other tenants in the building – and that they, just like the landlord, might not want to pay what it takes to go green. Your fellow tenants are probably worried about the costs to them if you push the landlord to go green – will the changes be at their expense? They too may be unfamiliar with green concepts – for example, while they probably know that LEED certification can be

obtained for an entire building, they may not know that LEED certification can also be obtained for the premises on a stand-alone basis.

Feeling overwhelmed? Please contact ITRA at info@itraglobal.com for a free PowerPoint presentation that details the process of green

leasing, created by Louise C. Adamson, a LEED accredited real estate attorney with international law firm K&L Gates LLP.

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