

DAILY BUSINESS REVIEW

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Tenant reps can play pivotal role

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A small business owner in downtown Miami sought some advice from his friend, a commercial real estate broker. The business owner had been in the same location for almost 10 years and was about to renew his lease for another five-year term. The landlord,

according to the business owner, was increasing the rent by the annual consumer price index.

The broker asked

the business owner not to commit to the renewal for two days while he checked current market rent levels. After checking, the broker informed the business owner that his current rent was above market levels for not only the area, but for the building. With the broker's assistance, the business owner renegotiated his rent and other lease provisions to permit the business owner to continue to expand. The net savings to the business owner over the next five years was in excess of \$50,000.

A tenant in an office building in Miami Lakes contacted the broker who had assisted him in locating his current office space to explain a proposed change. The new building owner was moving the tenant's reserved parking space from a gated, covered area to the perimeter of the property, several hundred feet away. The tenant asked if this could be done unilaterally. The broker remembered the lease and pulled out his file. Turning to the appropriate lease provision, which had been added at the broker's

insistence, he said the building owner could not unilaterally take this action.

As leases become more complex and financial issues become more complicated, a business owner may need to expand his traditional team of professional consultants. In addition to the attorney and accountant, the business owner may need a real estate professional who serves as a tenant representative.

An exclusive tenant representative is a real estate broker who a client engages to handle all real estate-related tasks for a specified period of time. In exchange, the real estate broker will commit all of his or her resources to assist in satisfying the client's real estate requirements. In effect, the real estate broker becomes the client's real estate department.

The real estate broker should be a multi-disciplined individual who has several years experience; has represented both the landlord and tenant on different occasions to fully understand the market; is versed on management and operations issues and has negotiated many leases.

When searching for space, a qualified tenant representative should do all of the following: Learn the client's business; conduct a market search that includes a thorough investigation of space needs and lease requirements; conduct site visits; rank choices for new space; negotiate the deal and negotiate the lease itself.

In this final negotiation phase, the landlord may be more responsive to the tenant representative than the client's attorney since the landlord perceives him as a continuing and valuable source of new tenants. This can provide the representative with market power. This

market power can be translated into obtaining more favorable lease concessions than those obtained by a single tenant.

There is still a critical role for the client's attorney to play in this process. The client's attorney should either participate in the lease negotiations or review the lease prior to the client executing it. Working with the tenant representative, the attorney will be able to protect his client's interest from the legal perspective and can also provide valuable input on the business and its operations.

Further, the tenant representative can play a crucial role in assisting the client with the entire relocation or expansion process by providing the client with qualified space planners, general contractors, attorneys, movers, printers and accountants. These professionals or vendors are typically individuals with whom the representative has dealt with before. In addition, in the case of partners or associates breaking away from their existing firm, these vendors can respond quickly and maintain strict confidences in order to protect the client's interests.

Tenant representatives help their clients obtain other benefits. Business owners save the time they would have spent on non-revenue generating activities while searching for space. The client's senior decision makers are required to participate in the real estate component of their business only at critical points, when choices need to be evaluated and decisions need to be made. ■

Broker Talk