Several ways to minimize — or avoid — rent increases in your lease

COMMERCIAL REAL ESTATE

Last week, my column pondered 40 percent rent increases. Listed were various reasons that could cause your rent to rise this year, such as increases in operating expenses, pre-set rent increases throughout your lease term, the sale of your building, and the expiration and renewal of an existing lease. If your situation mirrors any of the preceding, and you are facing a rent reset this year, prepare for a shock as we have witnessed a dramatic escalation in lease rates throughout Orange County.

Today, I want to spend a minute to share some strategies you can employ to avoid rent increases.

Audit operating expenses

Op-exes include everything from property taxes to landscape maintenance. You pay these expenses in addition to your base rent if you signed a triple net lease, and these charges are included in your base rent if you are obligated to a gross lease.

Generally, landlords budget for these expenses annually in October and November. Come Jan. 1, you get an estimate of these charges included with your rent invoice. You typically have the right to audit these expenses, and your landlord is obligated to provide backup.

As property taxes are the biggest component of operating expenses — and they will rise significantly if the building is sold — try to negotiate some protection from tax increases in the event of a sale. Most landlords will balk at this request. However, maybe your owner will limit the increase with a "not to exceed" clause, which can help.

Monitor preset increases

If your lease contains annual bumps — which most commercial real estate leases do these days — take a look at your base rent. Do you pay operating expenses in addition to or included in your base amount? A simple format change to how these mandatory increases are applied can save you thousands. A base rent increase should apply ONLY to the base rent and not to the operating expenses.

Remember op-exes increase on their own. Don't place yourself in the situation of a double whammy.

Avoid long-term leases in a booming market

This seems so simple, yet I see this mistake made quite frequently. When real estate values are frothy, business normally is as well. Compelled by confidence, business owners often commit to long-term leases during these times. Rents at market highs with high increase pre-sets will cause you to gasp if the rent market adjusts.

A better strategy is to negotiate extension options: You can stay long term if you desire, but you're committing for a shorter term up front. If the rent market adjusts, you are now in a position to combat a large increase in your rent. *Allen C. Buchanan is a principal and commercial real estate broker with Lee & Associates, Orange. He can be reached at 714564-7104 or* abuchanan@lee-associates.com.

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