



A look at the office market with me in charge

By JASON HUGHES

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Most people I know anything about take the occasion this time of the year to look back on what's transpired -- good and bad -- but, more importantly, to look ahead and visualize what would comprise the ideal year just ahead. I'm no exception, so I will spend this column conceptualizing what a perfect commercial real-estate market might look like.

The best way for me to do so is to wonder aloud what it would be like if I could be in complete charge of the terms and conditions under which office building landlords lease space to tenants. My firm is the largest tenant representation brokerage in the region, having exercised enough grit and clout to make the playing field more even for our tenants during the years. However, because we don't represent every office tenant, there's much more to do -- more landlord monoliths to slay -- by correcting the injustices and unfair practices that have plagued what otherwise could be a mutually beneficial office-leasing environment for all tenants and landlords alike.

That a growing number of office tenants now have the option to have their own broker represent their interests at the bargaining table is a major development our firm has accomplished in recent years. We've shaken up the landlord-dominated status quo by challenging all the "industry norms" and practices that frustrate the normal conditions under which landlords and tenants should be able to operate as equal parties.

So, what would be some of the inequities between landlords and tenants that I would cure if I were in charge? Let's start with those persistent "cost-of-living adjustments" (COLAs) that plague our marketplace. These adjustments -- rent hikes, actually -- typically run 3 percent to 4 percent per year, which is the "industry norm," we're told. Truth be told, however, tenants already pay increasing property expenses, such as common area maintenance (CAM) "pass-throughs" or other increases during the base year of their lease, based on some cockamamie or other convoluted formula. Any "cost-of-living" adjustments over the other hikes tenants pay is little more than the landlord's cost of living increases and has little or nothing to do with the higher property costs. COLAs would be relics of past landlord abuses in my market reign.

Next in line is the allowance for tenant improvements -- "TIs" as they are better known. In my perfect world, TI allowances would be treated as the loans they truly are, amortized during the term of the lease and paid back by the tenant in the form of additional rent, and then treated as having been paid off in full at the end of the lease term. Should the tenant renew his lease, no additional value should be given to the existing improvements because the tenant will have already paid for them in full -- with interest -- during the previous leasehold. All too often, TI improvements are paid for continually in succeeding leaseholds. Ain't gonna happen anymore on my watch as market king.

Ah, but the largest and meanest beast to slay in order to clear the way a perfect commercial real-estate kingdom is the dragon of abject greed: dual representation. Sadly, neither state law nor common sense has dealt in any meaningful way with the "dual agency" paradox that suggests some how, some way, one broker can equally serve both the landlord and tenant in a leasing transaction.

Those who engage in dual agency, in effect, prey upon the lack of knowledge tenants have about the inherent conflicts of interest in dual-agency situations and the fact they are more focused on wrapping up a deal to lease the space they need in as little time as possible. Problem is, however, they will have to live with the consequences of whether their interests were represented all that well for a long period of time -- five to 10 years in most leasehold arrangements.

My very presence and role as chief of the market would abolish this hideous practice and even the playing field.

In my perfect scheme of things, landlords would no longer be allowed to rewrite the leasing rules unilaterally, re-measure the building, relocate tenants, pass through increasing property taxes in addition to all the other increased costs, increase the security deposit throughout the term of the lease, charge fees for routine and even casual consents and other actions.

It's a fair distance to go between where we are now and the ideal market conditions that would prevail with me in charge. The journey begins with informing and educating tenants as to their options through this and future

columns to come.

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