

Negotiating improvements for commercial buildings

I recently authored a column with the headline "The almost-perfect space - but not so fast!"

One of the excerpts from that column that I want to explore today is this: "Once the true cost of the new offices is determined, we now must negotiate who pays: you, the owner or some combination of you and the owner. Generally, an owner will be reluctant to pay for an improvement that adds value today but may need to be ripped out in the future."

There are circumstances in which an owner will, in fact, write a check, as a concession, for improvements to a space - as in the case of a building in shell condition, or if the building is in need of some updates and the owner prefers to throw a wad of cash at the problem vs. doing it



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himself.

What follows are some issues to understand before you negotiate an improvement allowance.

What is it. By definition, an improvement allowance is a sum of money the owner

of a building will invest in improvements. Such improvements could be new offices, new flooring, paint for the offices or warehouse area, expanded electrical circuitry or truck door enhancements such as load levelers.

Turnkey vs. an allowance:

In a turnkey situation, you are requesting your new layout be entirely created by the owner of

the building without a cost to you, the occupant. An allowance, conversely, is a fixed amount of money the owner will spend on your layout with no guarantee the sum will cover the entire cost. If an allowance is all you can muster, make sure you understand the true cost of your improvements with adequate wiggle room in case of a surprise.

Not all deals: Understand that not all transactions will offer an allowance for improvements. We frequently see this in industrial deals. An owner will possibly freshen the offices with a coat of paint and some new flooring but will be unwilling to do much more.

What an owner will pay: Generally, an owner will pay for general purpose improvements,

or those that will be reusable by future tenants.

Ways an allowance is paid, when and how: The best for you, the occupant, is to have the owner provide a turnkey allowance as a concession. He produces your layout with no cost to you other than your timely rent payments throughout the lease period. The worst for the occupant would be a complete repayment, with interest, of the improvement dollars an owner invests in the building.

SNDA: If a substantial investment is needed to shape your space into habitable form, make sure the lease you sign includes a subordination, non-disturbance and attornment provision. Simply put, this clause will protect your investment and tenancy if your owner loses his

building through foreclosure.

Management fee: One of the "gotchas" that exists within an allowance is the owner's right to charge you a fee for managing the process of building your improvements. Let's say the owner will invest \$100,000 to mold your arrangement. Your construction costs are \$100,000. You're golden! Oops: The owner is charging you \$5,000 to oversee the construction. Now your new arrangement is tipping the scales at \$105,000. And guess who pays the \$5,000? Yep! The one reading this.

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