

"Green" Lease Issues for Commercial Tenants

The Problem

Tenants in commercial buildings located in New York City and elsewhere are bound to be confronted with a "green" lease at some point in the near future. In fact, on Wednesday, December 9, 2009, the City Council passed several bills that the mayor said will help reduce the city's carbon count by 30% by 2030 by making buildings more energy-efficient. Click [here](#) for more information. Therefore each commercial tenant should prepare now for upcoming changes that will have a direct impact on you.

As a tenant, if you have a lease that is up for renewal in the next few years or you will be signing a lease for new premises, you will probably have to adhere to green lease requirements. These requirements may include:

- mandatory energy usage reporting requirements;
- mandatory water usage reporting requirements;
- adherence to landlord's recycling program;
- alteration restrictions on contractor used, materials used, equipment to be installed;
- assignment/subletting restrictions prohibiting assignment or sublet to "non-green" assignees/subtenants;
- operating expense inclusions for "green"-related operations and compliance with laws and rating system requirements;
- green insurance requirements;
- if not provided by landlord, janitorial and cleaning restrictions to force compliance with "green" standards;
- mandatory energy and water use reductions throughout the lease term;
- repair and maintenance requirements to comply with landlord's "green" policies;
- green specific rules and regulations; and
- indemnification of landlord for loss of certification (in addition to violation of laws and ordinances) if such loss or violation is caused by tenant.

The Solution

As the new laws take effect in the next few years, many landlords will begin to comply well before the deadline especially since there are economic incentives that kick in earlier. The prospect of dealing with compliance issues can be daunting, but an attorney well-versed in green commercial leasing can make the process manageable. **Richard J. Sobelsohn**, a LEED® Accredited Professional in the **Real Estate** practice at Moses & Singer LLP, understands how to negotiate on behalf of a commercial tenant for the most favorable lease terms. Compliance with sustainable building requirements is no longer a mere concept or goal. Everyone will have to modify their actions based on the new rules. Please contact Richard for further information at 212.554.7643 or rsobelsohn@mosessinger.com.

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