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# LEASING

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# Disclaimer

This presentation is for informational purposes only and does not constitute legal advice. The content provided is general in nature and may not be applicable to your specific circumstances. It is not intended to create, and receipt of it does not constitute, an attorney-client relationship. Before making any decisions or taking any actions based upon the information contained in this presentation, we strongly encourage you to seek the advice of a qualified lawyer.

# 1. About Cameron Funnell

- I am a lawyer
- I practice in the areas of:
  - corporate
  - commercial (transactional)
  - real estate
  - leasing
  - etc.



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## 2. Buying vs Leasing Premises

### Buying

- a. High up-front cost
- b. Interest rates a major factor
- c. Potential capital gain (or loss)
- d. More flexibility – can sell or lease
- e. More long-term certainty – no risk of eviction
- f. Consider expenses (strata fees, maintenance, insurance, property taxes, etc.)

### Leasing

- a. Less long-term certainty – rights of renewal? demolition clause?
- b. Possible disputes with landlord
- c. Rental rates for renewal terms may not be known in advance
- d. “Locked in” for lease term
- e. Landlord consent required for various things (e.g. leasehold improvements, selling practice)

## 2. Finding Premises

- a. Landlord often uses a leasing agent.
- b. Consider whether you should hire an agent.
- c. Location
- d. Operating hours
- e. Parking
- f. Accessibility
- g. Amenities

# 3. Offer to Lease

- a. Often non-binding.
- b. Deposit may be payable to leasing agent.
- c. Due diligence period (may not be necessary for a medical office).

# 4. Term

- a. Typically no right to terminate early.
- b. Demolition clause
- c. Termination or rent abatement for damage/destruction.
- d. Obligation to restore premises to original condition.



# 5. Tenant Inducements

- a. Rent free period.
- b. Fixturing period.
- c. Tenant improvement allowance.
- d. Landlord's work.



# 6. Rent

- a. “triple net” vs gross.
- b. Basic rent.
  - i. Area remeasurement.
- c. Additional rent.
  - i. Insurance.
  - ii. Property taxes.
  - iii. Operating costs (right to audit?).
  - iv. Tenant’s “proportionate share” based on square footage.

# 7. Operating Costs:

- a. “Management fee” charged on rent.
- b. Cost of structural repairs.
- c. Capital costs and amortization.
- d. Insurance deductibles.
- e. Cost of landlord employee salaries.
- f. Right to audit.
- g. Ensure lease has estimate of operating costs (or additional rent) for the first year.

# 8. Deposit

- a. Understand process for return of deposit at end of term.
- b. Typically does not bear interest.
- c. Can potentially negotiate to reduce deposit after some period of time.

# 9. Liability and Insurance

- a. Landlord tries to push all liability onto tenant.
- b. Landlord should remain liable for results of its own negligence.
- c. Show insurance requirements to insurance broker before signing lease.

# 10. Personal Guarantees/Indemnities

- a. Often unavoidable for a new business.
- b. Can potentially negotiate limits on duration or dollar amount.

# 11. Options to Renew/Extend

- a. Consider how rent for renewal/extension term is determined.
- b. Consider costs of having third party determination of fair market rent.

# 12. Assignment and Subletting

- a. Typically requires landlord consent (not to be unreasonably withheld).
- b. Consider process and cost of obtaining landlord consent.
- c. Original tenant typically remains liable.
- d. Original tenant typically cannot profit from increase in rent.
- e. Consider whether the “permitted use” of the premises limits possible assignees/subtenants.



# 12. Other Issues

- a. Repairs.
- b. Signage.
- c. Parking.

# Q&A

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