Tips for commercial lease negotiations

You should always contact a qualified commercial leasing professional, but here is some general information to help you along the way.

1. Evaluate your needs

Consider your clinic's current and expected space needs and determine your budget and preferred location.

If you're uncertain about near-term needs, consider a shorter lease (for example, two or three years). It may be worth it to pay more for a shorter-term lease to avoid a long-term commitment.

2. Involve a lawyer

Involve a qualified commercial lawyer who understands leases in your negotiations.

3. Understand your costs

Review the incidentals you are being asked to pay and make sure the total cost fits your budget. Any future increases in base rent and incidentals should be clearly specified.

4. Understand your lease options

Based on the type of lease, the costs covered can vary greatly.

- **Gross rent lease** - you pay a single amount to the landlord that covers base rent and all incidentals. Those typically include utilities, property tax, insurance, maintenance, repairs, and common area expenses, such as snow removal, janitorial services, landscaping, grass cutting and property management. Another option is a modified gross lease, in which you and the landlord share some combination of incidental costs.

- **Various net leases** - you pay some incidentals directly, usually resulting in a lower rent. The main differences between net leases are:

  - **Net lease -** you usually pay for the base rent plus one of the following: property taxes (most common), insurance, or utilities. Your landlord pays for all other expenses.

  - **Double net lease -** you pay base rent plus property taxes and insurance.

- **Triple net lease -** you usually pay base rent, plus property taxes, building insurance and utilities, as well as other operating and maintenance costs. **Note**: These are standard definitions and landlords sometimes add maintenance or common area expenses to your costs as part of a single or double net lease, so always double check what costs you are responsible for.

- **Percentage rent lease -** you pay a base rent plus a percentage of your gross sales over a certain minimum. These are usually used in malls and other multi-tenant retail locations.

5. Check market rents

Get an idea of market rents in the area you're considering and compare them with the landlord's asking rent. Speak with a commercial realtor to get current market lease rates which can help you negotiate a lower rent if the asking figure is high.

6. Research the property

Gather information about the property that might be useful for your lease negotiations.

- Look at the building's tenant mix and neighbours to make sure they're compatible with your business. Are there any competitors?
- Find out what the building's traffic is like. If other tenants use most of the parking spaces, will you have enough for your needs? You may be able to negotiate lower common area payments if other tenants have much more traffic than you do and use the building more.
- Talk to other local businesses to find out about the neighbourhood and any issues that could affect your company. For example, the volume of local foot traffic, and whether the neighbourhood is growing or in decline. Recent declines in a neighbourhood's prospects or market rents could help you bargain for more favourable lease terms.
- Look into the landlord's reputation to see whether there are any red flags. You can ask realtors or existing tenants. For example, you may find other tenants are trying to get out of the building because of difficulties with the landlord.

7. Seek tenant inducements

Ask the landlord for inducements to rent the space. The landlord may be especially eager to entice you to rent—for example, if the space has been vacant for a while. It's common for landlords to offer two or three months' rent free. Some may even pay for part of your renovations or finance them over the lease duration.

8. Review termination conditions

Check the circumstances under which either party may terminate the lease. For example, can you be kicked out for missing a rent payment? What happens if the building is sold?

If your no longer need the space or you want to expand to a bigger one, how can you break the lease? Some leases require you to pay all or part of the remainder of the rent.

You can negotiate for better terms.

Also, look at whether you can sublease the space. If your circumstances change, subleasing the whole space could allow you to leave without paying a hefty lease termination penalty. Alternatively, you could sublease part of the space to help cover the rent.

9. Negotiate leasehold improvements

It may be necessary to renovate a new space to suit your needs. Make sure the lease and zoning allow your planned leasehold improvements. It is possible to seek a clause requiring the landlord to reimburse some or all your leasehold improvement costs if the landlord breaks the lease.

10. Check for special clauses

You can ask for a competitor clause in the lease that requires the landlord to get your consent to rent space in the building to a competitor. Also check for inclusion of a Pandemic clause, also known as a Force Majeure clause, which is intended to manage the landlord-tenant relationship when something unavoidable happens that substantially affects the tenants ability to operate their business.

11. Look at renewal conditions

The duration of your commercial property lease can range from month-to-month to several years. Understand when and how the lease will be renewed and ensure you have the option to renew the lease at the end of the term, if needed.

> You may be able to negotiate other options, such as the right of first refusal to lease an adjoining unit for expansion. Alternatively—if the rental market has declined, for example—the landlord might give you a better deal when you renew.

12. Don’t be quick to sign

Landlords typically submit their own lease to prospective tenants. It’s critical to carefully review this document and the proposed responsibilities of the tenant and landlord.