

Green lease issues for commercial tenants set to grow

**BY RICHARD J. SOBELSOHN,
MOSES & SINGER LLP**

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.

Therefore each commercial tenant should prepare now for upcoming



These requirements may include: mandatory energy usage reporting

ing 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.

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.

Contact a real estate attorney who is a LEED® Accredited Professional that understands how to negotiate on behalf of a commercial tenant or landlord to obtain the most favorable lease terms for either party.

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.

MOSES & SINGER LLP

Disclaimer

Viewing this document or contacting Moses & Singer LLP does not create an attorney-client relationship.

This document is intended as a general comment on certain developments in the law. It does not contain a complete legal analysis or constitute an opinion of Moses & Singer LLP or any member of the firm on the legal issues herein described. This document contains information that may be modified or rendered incorrect by future legislative or judicial developments. It is recommended that readers not rely on this general guide in structuring or analyzing individual transactions or matters but that professional advice be sought in connection with any such transaction or matter.

Attorney Advertising

It is possible that under the laws, rules or regulations of certain jurisdictions, this may be construed as an advertisement or solicitation.

Copyright © 2010 Moses & Singer LLP
All Rights Reserved