



# CLASS ACTION

THE NEWSLETTER OF THE WISCONSIN ASSOCIATION OF LEGAL ADMINISTRATORS

FALL ISSUE 2003

Happy 25th Anniversary  
WALA!



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## Twenty-five Lease Terms a Tenant Representative Can Help You With

By Robert E. Conklin, Jr., CCIM

When the role of administering the office lease falls on your shoulders, you will no doubt hear lease jargon that is familiar to the landlord, but perhaps not so familiar to you. As a Tenant Representative ("Tenant Rep"), I work on behalf of clients in lease negotiations. Here are definitions of 25 property lease terms that will help you better understand the language of your lease.



- As-is:** The existing condition of real estate, prior to any improvements contemplated under a lease. Landlords like to offer space as-is, especially in a lease renewal. I ask my clients to picture how the space will look in three, five or ten years before we agree to lease space as-is.
- Base rent:** The minimum monthly rent due under the lease, usually computed on a per-square-foot-per-year basis. Your rental rate times your number of square feet divided by 12 equals your monthly rent. (Example: \$20 psf x 7,500 sf of space = \$150,000 per year divided by 12 = \$12,500 per month).
- Base year:** The specific year of a lease used to calculate certain rent escalations and additional expense reimbursements to the landlord. (See "Escalation" and "Pass-through expenses") Here is where a Tenant Rep can really help in negotiations.
- Building standard:** The list of materials and finishes used for the build-out, repair or restoration of a tenant's suite. Items in excess of building standard are considered upgrades. (For example: wall covering, kitchen sink and cabinets, carpet borders).
- Build-to-suit:** A design and build approach that is customized to a tenant's space. When a tenant is large enough, 20,000 sf or more, a build-to-suit building can be a great alternative.
- Certificate of occupancy:** Usually obtained from city building department by landlord or landlord's contractor upon completion of tenant improvements and satisfactory inspections by city building department inspectors.
- Commission:** The fee paid for services rendered in a real estate transaction. Generally paid by the landlord, though sometimes by the tenant in a transaction. Commissions are payable on both new and renewal leases and are usually governed by a State of Wisconsin Form WB-36 Buyer Agency/Tenant Representation Agreement.
- Common area maintenance (CAM):** An additional, annual charge often assessed to tenants for maintenance of the property's common area – entryways, hallways or bathrooms. This term is most often used with retail leases. Flex building leases are sometimes called TICAM (meaning taxes and insurance are added). With office building leases, CAM is sometimes interchangeable with "pass-through."
- Contract documents:** The drawings, specifications, bidding instructions, construction agreement, and other documents used in the construction industry. American Institute of Architects (AIA) standard forms are commonly used, but are not required.
- Demising wall:** The wall that separates one tenant's suite from another, or from the common areas of a building.
- Escalation:** The method or mechanism in a lease by which rent increases are computed, usually annually. Escalations can be tied to increases in operating expenses, or to increases in the Consumer Price Index (CPI). (See "operating expenses" and "Pass-through expense.")
- Estoppel certificate:** This is a statement concerning the status of an agreement and the performance of obligations under that agreement. A third party such as a financial institution will rely on the estoppel certificate when making a loan on property. Usually when an estoppel certificate appears on your desk, the landlord wants it signed right away in order to complete the sale of the property. This document should be carefully reviewed to make sure there are no discrepancies with the lease.
- Gross lease:** This usually specifies one rental


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## Twenty-five Lease Terms

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- amount that includes rent, operating expenses, real estate taxes, utilities, and other expenses associated with the rental of space. "Modified gross" leases usually include operating expenses and taxes, but do not include electricity. Triple net or NNN leases are a third type of lease commonly used in the Milwaukee metro area. (See "NNN Lease or Triple Net Lease")
14. **Gross square feet:** The gross area of a building measured from the outside of its exterior walls and including all vertical penetrations, such as elevator shafts. Also includes basement space.
  15. **HVAC:** Acronym for heating, ventilation and air conditioning. Probably the shortest acronym in the lease, but the most hotly debated since landlords don't like to allow temperature specifications into a lease. Tenants like to have a temperature range in the lease that requires the landlord to remedy chronic hot or cold situations. New buildings offer tenants many temperature zones and individual control of areas, whereas older buildings have little flexibility.
  16. **Hold over:** A condition that is the result of a tenancy going beyond the end of the term of a lease. Start that lease renegotiation early and avoid costly holdovers! By statute in the State of Wisconsin, hold over clauses can be up to 200% (double rent).
  17. **Loss factor:** Sometimes called the "load factor" or "add-on factor." This is the percentage of space lost between the rentable area and usable area. For example, if you have 10,000 rentable square feet and a loss factor of 15% (common in many Milwaukee area multi-story office buildings), your usable square footage is 8,500 sf.
  18. **NNN Lease or Triple Net Lease:** Structured such that the net base rental rate for a space is the face rate in the lease. In addition, the tenant is responsible for payment of building operating expenses and taxes (CAM charges). The sum of the two (NNN + operating/taxes) = gross rent or modified gross rent. As a Tenant Rep broker, I prepare an analysis for my clients comparing buildings on a gross basis. Some net leases make the tenant responsible for not only paying for operating expenses, but also arranging for services. In this case, the Office Manager or Firm Administrator often finds himself or herself wearing the hat of Property Manager! A professionally managed building may be worth a few extra dollars.
  19. **Pass-through expense:** Certain increases in building operating expenses that a landlord passes along to a tenant after a base year in the lease.
  20. **Rentable area:** Generally, all floor area less any vertical penetrations (elevator shafts, stairwells and HVAC supply/return). Includes rest rooms, janitorial and phone closets on the floor. Landlords sometimes include common areas such as building lobbies and lunch areas used as building amenities. Defined by BOMA (Building Owners and Managers Association).
  21. **Shell space:** The interior condition of either a new or existing building without improvements or finishes. Typically describes the floor, windows, walls and roof of an enclosed space. May include some electrical or plumbing improvements, but not demising walls.
  22. **Tenant representation:** Arrangement whereby a prospective tenant engages a real estate broker as its exclusive agent in negotiating a lease for commercial space. Also known as a "buyer's broker." Distinguished from real estate brokers who represent the landlord.
  23. **Trade fixtures:** Certain installed fixtures that are unique to a tenant's business and often removed by the tenant at the end of a lease.
  24. **Usable square feet:** As opposed to rentable square feet; generally denotes the number of square feet in your suite that you can actually walk on. Usable square feet are converted to rentable square feet using a factor.
  25. **White box:** Denotes an interior space with a concrete slab floor, walls ready for painting, a finished ceiling, and heating/cooling, lighting, electrical switches and outlets, and lavatories in place. Also called a "vanilla box."

It is my pleasure to clarify for you a few of the lease terms that I deal with on a daily basis as I represent tenants and their space needs. If there are any other terms I can help you with, please give me a call. The combination of a great real estate lawyer and a savvy tenant rep broker is worth its weight in gold in putting together the best lease scenario for any firm or company.

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