

Lease restructuring a widespread, growing trend

BY ED DUGGAN

Leases that were signed at top-of-the-market rents for office, retail and industrial space are starting to squeeze tenants, now that the good times are gone. This is prompting a growing number of companies to knock on their landlord's door, looking for discounts.

And, as economic conditions remain tough, landlords are likely to have to deal with a mounting tide of lease renegotiation requests, said real estate analyst Lewis M. Goodkin, founder of Miami-based Goodkin Consulting.

"Why wouldn't we expect lease renegotiations in a recession?" he said. "The name of the game is to stem the tenant's bleeding. Less cash flow for landlords beats the hell out of tenants forced out of business."

Tom Capocefalo, VP of tenant representation firm Studley in Miami, said there needs to be give-and-take between landlords and tenants to reflect market conditions.



Capocefalo

"What may have been perfect space in 2005 may be too large or too small today," he said. "I can't give you details of my secret sauce for lease renegotiations, but, suffice it to say, they are going on quietly."

Building owners need to be flexible because their commercial financing may also be at risk if occupancy drops below a certain contractual level demanded by their lender.

William Reichel, president of West Palm Beach-based Reichel Realty & Investment, said: "We're seeing our fair share of restructuring requests."

He said it was a challenge, from a management perspective, to discern the real hardship cases.

"It is not a quick or easy process," Reichel said. "In many cases, lender approval is necessary for lease modifications over a certain square footage and, in the case of conduit loans, there are many layers of approvals to wade through. And sometimes, the lenders don't get it."

George Sacks, principal broker with Commercial Florida Realty Advisers in Deerfield Beach, has seen this cycle before. In fact, he



MARK FREERKS

Broker George Sacks says due diligence goes deeper when tenant improvements are in play.

was an active participant.

"When I was with Cushman & Wakefield, we set up a unit specializing in early lease renewals and renegotiations, so that tenants stayed in place," Sacks said. "We saved millions for Prudential Securities [now Wachovia Securities] by consolidating and downsizing their spaces."

In most situations where cash flow won't support lease terms, there are three options that involve the landlord: buy the lease out; renegotiate the lease terms or sublet the space. A company can also file for bankruptcy reorganization, which typically allows it to keep or reject leases.

"Boy, are the law firms going to be busy," Goodkin said.

They already are.

Landlords are finding they have to play ball, but both sides have to approach it from a win-win position, according to Tyrone Bongard, an attorney with Gunster, Yoakley & Stewart in West Palm Beach specializing in real estate matters.



Bongard

"Unheard of a few years ago, it's become a more common transaction in this recession, and many landlords already have stacks of renegotiation requests on their desks," he said.

Bongard has seen rent holidays negotiated for up to six months, as well as temporary or permanent rent reductions, and fixed-rate leases converted to variable or percentage-rate rents so building owners have a chance of recouping the lost rent at a later time when business picks up.

SUGGESTIONS FOR TENANTS

Bongard's offers some cost-cutting suggestions for tenants:

- Check the lease to see if there is an early termination provision, generally requiring payment of a few months' rent.
- Explore any landlord breach that could lead to a lease termination or reduction.
- Present a case to the landlord that shows how gross income or cash flow has fallen below original expectations.
- Make a case that the business will have to close if a modification isn't done.

Sometimes, Bongard said, the tenant will waive its security deposit in order to get a re-

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duction, or the lease will be lengthened past its original expiration date.

"I've seen deals where premium parking spots have been given up in order to strike a deal," he said.

There are some subtle changes creeping into new lease applications, according to Commercial Florida's Sacks.

He said that due diligence is going a bit deeper, especially where landlords have to shell out for tenant improvements.

"We are looking very carefully at financial statements and a company's perceived viability," Sacks said. "In cases where there is just minimum cleanup, building owners may still be inclined to take a chance on a startup with limited financials."

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DEAL OF THE WEEK: FORMER BELLSOUTH FACILITY



The Segadores de Vida church paid \$14 million for the former BellSouth facility and 19.6 acres in Miami-Dade County.

BellSouth Telecommunications' former 216,432-square-foot hub in unincorporated Miami-Dade County has landed in heavenly hands.

The fast-growing Segadores de Vida church, currently based in Hollywood, has paid \$14 million for the former facility and 19.6 acres. The church hopes to occupy the facility in about 18 months.

The nondenominational church, whose name means "reapers of life," has about 7,000 congregants. It plans to modify the existing building to meet its needs, said Mani Maken, president of real estate company the Maken Group, the sole broker in the deal.

Pastor Ruddy Gracia started the church in his Miramar home in 1992.

The seller was 46 Acres LLC, a Coral Gables company managed by Jose Boschetti.

The buyer listed in public records is Iglesia Cristiana Senales de Vida, which translates to "Christian Church Signals of Life."

In November 2005, Boschetti paid \$16.25 million for the building and an accompanying 72 acres, according to county records.

Published reports and records show a garden-style condominium project, called Fountains at San Simeon, was

planned for the site.

Maken said the real estate market downturn made that project impossible. U.S. Century Bank provided a \$26.2 million loan to 46 Acres LLC in March 2007.

Maken said the church had been looking for a larger facility for three years. He also assisted them with buying its current 50,000-square-foot church in Hollywood.

Maken said that, despite the tough credit market, the church got \$14 million in acquisition financing from U.S. Century Bank.

OSCAR PEDRO MUSIBAY