

Do Your Homework Before Signing That Commercial Lease

By **Connie R. Edwards**

Successful small business owners love what they do and are enthusiastic about their businesses. But this enthusiasm can lead to huge mistakes if it is not tempered by a sound decision making process. This is particularly true when the owner has found a new location (or initial location) for the business. Many times the owner finds “the perfect spot” and rushes into signing a lease without considering the long-term consequences.

The following information presents several tips concerning leasing a space for your small business. The information presented here is *not* intended as a substitute for the advice of an attorney. It is recommended that you consult an attorney prior to signing any lease.

Get Your Lease in Writing: This may seem obvious, but some small business owners do not get a written lease, particularly if they are related to or “know” the person from whom they are renting the space. Having a written lease is critical for protecting your rights.

Read Your Lease: Leases can be quite lengthy, with many details, legal terms, and legal phrases. Therefore, many people just skim over the lease and assume that it just contains “the standard stuff.” It is important to

thoroughly read your lease and take steps to make sure you understand it. In the end, you are the one held responsible.

Have an Attorney Read the Lease: This will cost money, but it is worth it in the long run. The attorney can make suggestions concerning changes and help you understand the lease.

Check the Term: This refers to the length of time you will be leasing the space. You probably don’t want to commit yourself to a long period of time in case the location doesn’t work out, you out grow it, etc. But you want to be able to stay at the location (at a reasonable rent) if it works out well. The term is usually negotiable and you may be able to obtain a reasonably short lease with an option to renew. For example, if appropriate for your needs, you may negotiate a 2-year lease with two 3-year options to renew. You also want to negotiate rent increases so your rent does not suddenly jump unexpectedly at the end of a period.

Know What the Rent Covers: Do not assume that all you will have to pay is the base rent determined by the square footage. There may also be an additional charge for common area maintenance (CAM), which may

include water, garbage pickup, other utilities, grounds maintenance, etc. You must understand what is included in the CAM specified in your lease. There may also be an additional charge based on a percent of your sales level. You need to know what the percent is and when it becomes effective.

Understand Landlord/Tenant Responsibilities: You may assume that since you don’t own the building, the landlord is responsible for all repairs. This is typically not true. In fact, sometimes the lease is written such that the tenant is responsible for all repairs and maintenance. Other leases specify responsibility for major systems such as heating & air conditioning, plumbing, etc. The lease may specify limits concerning the dollar amount for which the tenant is responsible. These responsibilities are sometimes negotiable. And remember, even if the landlord refuses to make repairs for which he is responsible as stated in the lease, you *cannot* withhold rent. An attorney can explain what legal rights you do have.

Know What Happens When You Are in Default: If you are in default, the landlord may go to court and start the eviction process. However, some leases state that the landlord can lock you out of the space

without going to court. Be sure that you understand and agree to whatever process is specified. Time limits and late fees should be specified in the lease. You may be able to negotiate a requirement that the landlord give you

Business Sense



written notice and a specified time period before he takes action.

The University of Georgia Small Business Development Center can provide assistance concerning locating or relocating your small business.

Connie Edwards is a business consultant with in the Savannah office of the Georgia SBDC Network. To find your local SBDC, call the state office at 706-542-2762 or locate it on the web at www.sbdc.uga.edu.