

## The Hammer and the Nail: Space Options for the Small Firm Practitioner

### You Are Ready for your Own Lease

The practice began in your finished basement. Your clients were charmed by the generosity of your house calls and had no idea that the slight thumping they heard while on the phone with you was your daughter's sneakers in the dryer. Eventually you got tired of finding court notices in the coupon drawer. It was time to get out of the house.

Your mentor suggested a "space-for-services" arrangement. She offered an office, fax machine and shared conference room in exchange for 20 hours of work a week. You had a lot of time available in your schedule and not much money, so it worked. But over time your practice got busy and you realized that in billable hours (which you now could fill) that space cost you \$4,000 per month for 100 square feet. Once again, it was time to move on.

The next step was to sub-lease space in another law office. This allowed you to control overhead and provided respectable conference room space and the usual amenities. It worked fine until your staff began to grow. Your staff now includes a secretary, a paralegal, a high school student once a week to file, and a law student in the summer. A few short years after you started the practice, it is time to take out your own lease. And this is an excellent time to do it – there's lots of office space around.

### Location, Location, Location

If your clients are from one main geographic area, then a local office creates good visibility and is the most economical and productive. The larger the area from which you wish to draw clients, the more centrally you must locate your office. A client from Queens will travel to Manhattan, but a client from Brooklyn or the Bronx will not travel to Queens.

With some exceptions, attorneys in Manhattan tend to locate their offices below Canal Street. (Exceptions include the "White Shoe Firms" which locate wherever they please throughout mid-Manhattan, and are not reading this column to decide where and how to rent space.) Locating in Manhattan, however, does not require you to rent near the courts. Notwithstanding the economic incentive grants offered to firms renewing or relocating to lower Manhattan, currently the good deals are between 14th Street and 30th Street, in and around the Silicon Alley area vacated by the dot.com enterprises.

Most clients do not realize and do not care that all the other attorneys are located near the courthouse. Clients want an attorney with an office that gives an impression of confidence and success, that they can get to within an hour, and that they don't have to wait in too long on the day of their appointment.

### Compare Spaces

Of course you want to compare spaces on a cost per unit basis. It is difficult to make an accurate comparison between office spaces because owners have devised a Byzantine structure of pricing which brilliantly subverts all attempts at comparison.

Here is how it works: Office space is rented for a set dollar amount per square foot per year, called "Rentable Square Feet"<sup>1</sup>. When you ask the cost of renting a space, this is the number you are quoted and in Manhattan for ordinary office space it runs from \$15 to upwards of \$75/square foot per year. To determine the monthly rent, multiply the square foot rental rate by the quoted Rentable Square Feet and divide by 12 months. A space quoted as 1,500 Rentable Square Feet rented at \$20/square foot will generate a monthly rent of \$2,500. This would seem to make it easy to compare space, but beware: the quoted rent, the "Rentable Square Feet" is not the usable space. So there is more to consider.

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<sup>1</sup> For a glossary of commercial real estate terms see [www.officespacesearchusa.com](http://www.officespacesearchusa.com).

In theory, the Rentable Square Feet includes all the space associated with the floor, including elevators, stairs, air conditioner storages spaces, and common areas, which vary from office to office, so you must make an adjustment to determine and compare the cost of usable areas. Usable area is the “carpetable area” where you can actually put down your own two feet. In reality, the Rentable Square Feet is a number arbitrarily inflated by as much as 40%, over the actual usable area. The difference between Rentable Square Feet and the usable area is a number called the “loss factor” which varies from office to office (and sometimes from hour to hour). Now, you would think that if you know the Rentable Square Feet, the loss factor and the rent quote, it would be feasible to calculate the cost per square foot of the usable area and compare the cost of office space. But wait, there’s more...

You have to measure the dimensions of the space yourself. Ask for a floor plan, and then check the floor plan measurements with a tape measure. Building owners have been known to make mistakes, sometimes in their favor. You might think that now you can compare spaces. But wait, there’s still more...

Often there may be additional fees, including air conditioning maintenance, pass through taxes, garbage removal, cleaning, and an annual escalation clause. In addition, sometimes there are fees with no identifiable origin, similar to the undiagnosable fees that banks charge to close mortgages. Ascertain which of these fees the owner is invoking and add them to the bill. NOW start your comparison-shopping.

## **Learn The Market**

Educate yourself about the commercial rental market, which fluctuates, cycles, rebounds and ricochets. Several websites provide both searchable databases and reports about the current market conditions. The Commercial Tenant’s Broker websites [www.igdnyc.com](http://www.igdnyc.com), [www.tenantwise.com](http://www.tenantwise.com), and [www.edwarren.com](http://www.edwarren.com) report that it is a renter’s market and the websites itemize the aggressive incentives owners are offering to close deals. Careful research and analysis will give you an edge in negotiating for

space in much the same way that you negotiate for a new car at the showroom by waiving printouts from Consumer Reports about market trends and dealer costs. This kind of work can be fun in a tenant’s market and is critical to success when the market gets harder.

## **Negotiate Rent Abatements**

Owners are offering abatements up to a month for each year of the lease. Be sure to bargain for this incentive. Owners are routinely building out space to suit tenants, even in small spaces. In the alternative, you may save more money by taking the space “as is” and getting additional rent concessions from the landlord. This will require you to call in favors from every family member you ever represented in traffic court and may require some bartering for additional services as well, but it is an excellent form of sweat equity. The photo of your partner with the paintbrush in one arm hand and his two-year-old in the other is worth the price of the silk tie he loves to wear for jury selection.

## **Get the “Good Guy Clause”**

The “Good Guy” clause is a limitation of your personal guarantee of the rent, which can easily run upwards of \$40,000 per year for 5 to 10 years. Only guarantee to pay the rent as long as you occupy the premises. If you vacate the premises with the rent paid up, even if there is time left on the lease, you have no personal obligation to the owner to continue paying the rent. You are the “Good Guy” because you paid for the whole time you occupied the space.

## **Pin Down the Escalation Factor**

The escalation clause is the percentage of your current lease that will be tacked on to how much more you have to pay next year. The escalation percentage should be a real number that you can verify, either a straight percentage (a couple to a few percentage points) or an independently published number, like the consumer price index. Trouble is brewing if you accept an escalation factor to be determined later by the landlord, such as one based on “the owner’s reasonable expenses.” The escalation clause is negotiable and should be determined before you agree to the deal.

## **Get Subtenants**

As always, ask yourself, “What would Adam Smith do?” The goal of capitalism is to teach your money make you more money. The ideal arrangement is to take a space large enough to sublease to newcomers, whose rent payments to you will cover part of your rent, or more. (Be sure that all firms within an office space are properly identified to the public, and be sure that all attorneys sharing space are properly insured.) Negotiate a lease that allows you to sublet and resist the owner’s attempt to take a percentage of your subletting profits.

## **In the End**

This is a good time to take a long lease at favorable terms. Read the lease you are offered carefully, like a lawyer would. Negotiate to remove or ameliorate any harsh provisions. Once you have signed, the fun begins. Now, for decorating issues, always ask yourself “What would Christopher Lowell do?”

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