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Current Leasing Law And
Techniques—Forms

Publication 401 Release 38 April 2003

HIGHLIGHTS

Shopping Center Leases (Revised Chapter 11)

- Addresses lease clauses commonly found in shopping center leases.

Lease of Office Space in International Financial Center—Government Lessor—Construction of Facility Not Yet Complete (Revised Section 20.06)

- A standard form of lease for the rental of office space in a multi-storey office building in a major metropolitan area.

Case Law Developments in White Page Text

- Updated material to reflect the latest developments affecting leasing law and the landlord-tenant relationship.

Shopping Center Leases (Revised Chapter 11). This Chapter addresses lease clauses commonly found in shopping center leases.

There are typically major differences in this type of lease versus other commercial leases since a shopping center functions as a symbiotic unit. The right mix of tenants will enhance the profitability of the center’s tenants and increase the percentage rent received by the landlord. A poor tenant mix, or worse yet, empty storefronts, will be devastating to the financial health of the tenants and the shopping center.

Topics covered include:

- developing a shopping center;
- condemnation and eminent domain;
- radius clauses;
- exclusivity rights;
- use clauses;
- parking;
- brokers;
- First Amendment issues;
- antitrust issues;
- bankruptcy; and
- demalling.
This chapter also includes annotated lease forms along with a Drafting Guide to aid the attorney in negotiating and drafting a shopping center lease.

**Lease of Office Space in International Financial Center—Government Lessor—Construction of Facility Not Yet Complete (Revised Section 20.06).** The lease that follows is a standard form of lease for the rental of office space in a multi-storey office building in a major metropolitan area. The bulk of the space in the facility is rented as office space, typically to financing, banking, investing, and related types of enterprises. This lease agreement is suitable for a large facility located in an established financial district. In addition to the office space, the facility includes vendors, eateries, parking facilities, and management offices.

Topics covered include:
- letting;
- term;
- governmental requirements;
- responsibilities of lessee;
- maintenance and repair;
- casualty;
- indemnity;
- signs; and
- termination.

The lessor in this lease is a government entity, subject to state and local rules and regulations. This lease includes a number of provisions that are appropriate or necessary only for leases where the lessor is a government entity.

**Case Law Developments:**
- whether an agreement to transfer shares in a housing cooperative was subject to the statute of frauds where, as part of the transaction, the share purchaser would obtain a proprietary lease for an apartment. *Firth v. Lu* (Wash. 2002) (§ 2.01[1]);
- whether a landlord who retains control over the security and safety of the leased premises owes a duty to use ordinary care to protect against an unreasonable and foreseeable risk of harm from third party criminal acts. *St. Paul Guardian Ins. Co. v. Centrum GS Ltd.* (5th Cir. 2002) (§ 3.01[4][a]);
- whether a light and air easement in favor of the tenants can be implied, if the lease agreement did not expressly establish such an easement. *Levin v. 117 Limited Partnership* (N.Y. App. Div. 2002) (§ 3D.04[5]);
- whether the terms of forfeiture in a lease control, where they differ from the lease forfeiture statute. *2606 Building v. MICA OR I Inc.* (Or. 2002) (§ 4D.03[1]);
- whether as a matter of equity a court may reject the cancellation of a lease when the lessee has committed a breach that is minor, not the tenant’s fault, or the result of a good faith mistake. *Western Sizzlin Corp. v. Greenway* (La. App. 2002) (§ 7.01[1][b]);
- whether a landlord’s liability for injuries caused by a leased fraternity house’s “condition” encompassed liability for a pledging fraternity member’s excessive consumption of alcohol. *Prime v. Beta Gamma Chapter of Pi Kappa Alpha* (Kan. 2002) (§ 8.03[2][a]); and
- whether a rent-stabilized apartment could be “deregulated” by private contract where there are statutes regulating deregulation. *309 West End*

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