
GLOSSARY OF REAL ESTATE TERMS

Abandonment	Occurs when someone voluntarily surrenders or relinquishes possession of property with the intention of terminating his interest in the property, but without vesting it in any other person. A tenant, who vacates leased property, no longer intending to perform under the terms of the lease, is abandoning the property.
Abatement	A lessening, reduction or removal. Generally applied in two situations: <ul style="list-style-type: none">▪ Rent Abatement. Period during which rent is removed or reduced. In the former case, it is also called "free rent."▪ ACM Abatement. The removal of ACM (<i>Asbestos Containing Material</i>) from a building.
Absorption Rate	An estimate of the rate at which a particular classification of space -- such as new office space -- will be sold or occupied each year.
Abut	To reach, to touch, to be contiguous. Joined at a border or boundary. The term "abutting" implies a closer proximity than the term "adjacent."
Acceleration Clause	A provision in a credit agreement that "accelerates" an entire debt when the debtor defaults on any provision in the agreement. Allows the lender to take legal action to recover the entire amount owed if the borrower is in default. The clause in a mortgage or trust deed that can be enforced to make the entire debt due immediately if the mortgagor defaults on an installment payment or other covenant.
Accrual Basis	A method of accounting that reflects expenses incurred and income earned for any one tax year. In contrast to the cash basis of accounting, expenses do not have to be paid to be deductible nor does income have to be received to be taxable.
Actual Eviction	The result of legal action originated by a lessor, whereby a defaulted tenant is physically ousted from the rented property pursuant to a court order.
Ad Valorem Tax	Tax levied according to value; generally used to refer to real estate tax. A tax imposed on the value of a property. Also called the general tax.
Additional Insured	A person other than the named insured who is protected under the terms of the insurance agreement.
Additional Rent	Required tenant payments under a retail lease other than base minimum rent. Additional rents might include: Overage Rent, Percentage Rent, Common Area Rent, Tax Prorations, Environmental or Utility Service Charges, Promotional Fees/Dues. May also be referred to as "Additional Charges," "Other Rent," or "Tenant Reimbursables."

- Adjacencies** Two or more tenant units located adjacent to one another. In retail leasing, thoughtfully considered to allow for maximum compatibility and synergy between tenant stores in an optimal tenant mix.
- Adverse Possession** The actual, visible, hostile, notorious, exclusive, and continuous possession of another's land under a claim of title. Possession for a statutory period may be a means of acquiring title.
- Affidavit** A voluntary statement written down and made under oath before a notary public or other official authorized by law to administer an oath. Means "has pledged in faith."
- Agent** One who is authorized to represent and to act on behalf of another person or entity (*called the "principal"*). Unlike an employee who merely works for a principal, an agent works in place of a principal. A fiduciary relationship is created under the law of agency where a property owner, as the principal, executes a listing agreement or management contract authorizing a licensed real estate broker to be his or her agent.
- Air Rights** The right to use the open space above a property, generally allowing the surface to be used for another purpose.
- Alienation** The act of transferring property to another. Alienation may be voluntary, such as by gift or sale, or involuntary, such as through eminent domain or adverse possession.
- Alienation Clause** The clause in a mortgage or trust deed which states that the balance of the secured debt becomes immediately due and payable at the mortgagee's option if the property is sold by the mortgagor. In effect, this clause prevents the mortgagor from assigning the debt without the mortgagee's approval.
- Alterations** Changes made to a premises for a specific tenant that may have to be removed or restored at lease expiration.
- Amendment** To alter by modification, deletion, or addition. In leases, amendments are used to facilitate specific changes without renegotiating the entire lease.
- Amenities** Features that enhance and add value or desirability to real estate. Most often used to describe stores, restaurants and other conveniences of a particular building.
- Amortized Loan** A loan in which the principal as well as the interest is payable in monthly or other periodic installments over the term of the loan.
- Apparel** Broad merchandise category grouping together stores offering clothes or attire for sale. Subcategories: Women's, Women's Specialty, Men's, Unisex and Children's. Further classification often necessary, such as with Women's Apparel, wherein concept stores are commonly referred to as Professional Women's; Half Sizes (or Large Sizes); Juniors; Misses; Petites.

Appraisal	An estimate of the quantity, quality, or value of something. The process through which conclusions of property value are obtained; also refers to the report setting forth the process of estimation and conclusion of value.
Arrears	The state of being delinquent in paying a debt. Also, in many cases payments are made "in arrears" - meaning they are paid at the end of the period for which they are due. Arrears is the opposite of "in advance."
Assessed Valuation	The value of real property established to compute real property taxes. In general, property is valued or assessed for tax purposes by county and township assessors.
Assignment of Lease	The written transfer of all title, rights, and interest that a lessee possesses. If a lease has an assignment clause requiring the consent of the landlord, the landlord may not unreasonably or arbitrarily withhold such consent. An assignment of a lease in violation of an anti-assignment restriction is not void, but is voidable at the lessor's discretion.
Back-to-Back Lease	An agreement made by a landlord as a concession to a prospective tenant, in which the landlord agrees to take over the tenant's existing lease in return for the tenant's agreement to lease space in the landlord's building.
Base Minimum Rent	Lease-required minimum annual rent to be paid by tenant, which is guaranteed to landlord, with or without the payment of percentage or overage rent. In the context of a retail lease, usually included in a rent structure which has "base minimum rent" plus percentage participation by the landlord in tenant's sales performance. Also referred to as "Fixed Minimum Rent" or "Guaranteed Rent."
Base Period	The time interval or starting point used for calculating escalations. Usually quoted as a "base year" which is generally the year prior to lease commencement. The prior year is generally chosen because full-year, actual financial data is available for establishing a base for future escalation calculations.
Base Rent	The minimum rental stipulated in a lease.
Blanket Insurance	The type of insurance policy covering more than one type of property in one location, or one or more types of property in more than one location.
BOMA (Building Owners and Managers Association)	A national organization of professionals in the high-rise/office building industry, represented through local BOMA organizations in most markets. BOMA provides professional training and market statistics that are often used as the basis for expense escalations.
Breach of Contract	Violation of any terms or conditions in a contract without legal excuse; for example, failure to make a payment when it is due.
Breakpoint	The dollar figure beyond which tenant begins to pay a percentage of its sales to landlord as overage rent. A "natural" breakpoint refers to a sales performance "breakpoint" level which is the mathematical product of the

lease's annual base minimum rent divided by the percentage rent factor. An "unnatural" breakpoint refers to a negotiated performance benchmark(s) purposely put in place in order to advance or delay the point at which tenant begins to pay overage rent.

Broker	One who buys and sells for another for a commission.
Brokerage	The business of buying and selling for another for a commission.
Broker-Salesperson	A person who has passed the broker's licensing examination but is licensed to work only on behalf of a licensed broker.
Building Codes	Rules established by local, state, or municipal governments to regulate building and construction standards for the protection of public safety and health. Building codes are enforced by issuing building permits and certificates of occupancy, by inspections, and by fines imposed on violators.
Building Compliance	Laws and codes required for a building, including ADA and hazardous materials.
Building Permit	Written government permission for the construction of a new building or a major improvement in an existing building. The proposed project must conform to local zoning ordinances and must generally be inspected and approved upon completion.
Building Services	Services defined by an individual building, for example, janitorial and hours.
Building Standards	The specific design/feature elements of construction the owner/developer chooses to use throughout the building. The building standard offered to an office tenant, for example, would relate to the type of partitions, doors, ceiling tile, light fixtures, carpet, window treatments and like items.
Business Hours	Lease-stipulated hours during which a retail tenant is required under the lease to be open to the public for business, considered to be critical to achievement of maximum sales performance.
Business Insurance	Type of insurance which protects a business on the disability or death of a key employee.
Cancellation Clause	A clause in a lease that grants the lessor or the lessee the right to terminate the lease upon the happening of certain stated events or occurrences by the payment from one party to the other of definite amounts of money as consideration. Such consideration is usually computed to cover expenses or damages of the party whose rights are being canceled, such as unamortized costs of special improvements, brokerage commissions, and possible loss of rental before the property can be re-rented.
Canvassing	Making telephone calls or visiting from door to door to seek prospective buyers or sellers; in the real estate business, generally associated with

acquiring listings in a given area.

Capacity of Parties	The legal ability of people or organizations to enter into valid contracts. A critical issue in executing leases is the "capacity" of the document signer. Often, proof of capacity is required to assure a valid lease.
Capital Employed	Reflects the sum of total equity plus outstanding debt at face value.
Capital Improvement	Any improvement made to extend the useful life of a property or significantly add to its value. Capital improvements are handled separately from normal operating "expenses."
Capital Investment	The initial capital and the long-term expenditures made to establish and maintain a business or investment property.
Capitalization	<p>A mathematical process for estimating the value of a property using a proper cap rate of return on the investment and the annual net income expected to be produced by the property. The formula is expressed:</p> $\frac{\text{Income}}{\text{Cap Rate}} = \text{Value}$
Capitalization Rate	Also called a "cap rate." The percentage selected for use in the income approach to valuation of property. The cap rate reflects the recapture of the original investment over the economic life of the property to give the investor an acceptable rate of return. A shorthand method used to determine value.
Cash Flow	The spendable income from an investment after deducting from gross income all operating and fixed expenses, including principal and interest on any loans. The amount of cash derived over a certain measured period of time from operation of income-producing property after debt services and operating expenses, but before depreciation and income taxes. Modified cash flow represents net cash flow excluding adjustment of operating accruals.
Casualty Insurance	That type of insurance that is primarily concerned with losses caused by injuries to persons or damage to the property of others.
Certificate of Insurance	A certificate by which an insurance company verifies that a particular policy insuring certain parties is in effect for given amounts and coverages.
Certificate of Occupancy	A certificate issued by governmental authority indicating that buildings or premises are ready and fit for occupancy and that there are no building code violations.
Change Order	An order to a contractor authorizing specified changes or modifications to the original work as shown in the contract drawings, plans, or specifications. A standard American Institute of Architects (AIA) form is normally used. A change order usually changes the original contract price.

Chattel	An article of personal property, as opposed to real property. A thing personal and movable.
Coinsurance	A common provision in building insurance policies under which the insured agrees to maintain insurance of the property in an amount equal to at least 80% of the replacement cost. One reason for the 80% rule is that generally no more than 80% of the building's value is destroyed by fire; a certain part of the structure will usually be available for salvage.
Coinsurance Clause	A clause in insurance policies covering real property that requires the policyholder to maintain fire insurance coverage generally equal to at least 80 percent of the property's actual replacement cost.
Commission	Payment to a broker for services rendered, such as in the sale or purchase of real property; usually a percentage of the selling price of the property.
Common Area Administration Charges	Most retail lease documents provide for an add-on administrative charge levied on top of actual CAM expenses as an additional service fee to cover the landlord's overhead and administrative costs incurred in connection with maintaining and accounting for the common area. Such CAM administrative charges, accepted (<i>even expected</i>) by retail tenants, serve to partially effect a property's non-recoverable administrative expenses.
Common Area Maintenance (CAM)	Refers to the landlord's lease-required obligation to maintain and keep in repair all areas of the building not under lease to tenants, including all interior and exterior public areas, public rest rooms service corridors, truck docks, parking lots, etc. Most often used in retail leases.
Common Area Maintenance Expenses	Expenses of all types incurred by landlord in performance of its obligations to repair and maintain the common areas of the building which are recoverable from tenants on a pro-rata basis under most retail leases. Also called "CAM Expenses," "CAM Charges," and "Joint Use Charges."
Competent Parties	Persons who are recognized by law as being able to contract with others; usually those of legal age and sound mind.
Concurrent Lease	A lease that overlaps the term of an existing lease. The concurrent lease may cover all or part of the same premises as the earlier lease.
Condemnation	Declaration of an unfit structure, often due to code violations. Also the taking of private property for public use.
Consideration	<ol style="list-style-type: none">1. That which is received by the grantor in exchange for his or her deed.2. Something of value that induces one to enter into a contract. Consideration may be a payment, a service, or a promise.
Construction Allowance	Money given to a lessee by the lessor to cover the cost, in whole or in part, of preparing premises for the lessee's occupancy (e.g. tenant improvements).

Constructive Eviction	Acts done or not done by the landlord which so materially disturb or impair the tenant's enjoyment of the leased premises that a tenant is effectively forced to move out. A tenant who has been constructively evicted may terminate the lease without liability for any further rent.
Constructive Notice	Notice given to the world by recorded documents. All persons are charged with knowledge of such documents and their contents, whether or not they have actually examined them. Possession of property is also considered constructive notice that the person in possession has an interest in the property.
Consumer Price Index (CPI)	An index prepared by the Department of Labor Statistics of the Federal Department of Labor used to measure changes in the price of general goods and services. The CPI is often used as a standard in making rent escalations. The CPI is periodically re-set to 100 for a base year.
Contiguous	Adjoining or abutting. Frequently used in option clauses in leases where the lessee's option is to space "contiguous" to the current premises.
Contract	<p>A promise, or set of promises, for breach of which the law gives remedies, or the performance of which the law in some way recognizes as a duty. A contract is established when one party has made an offer which is accepted by another party. The essential elements of a contract are:</p> <ul style="list-style-type: none">▪ Both parties are competent to make a contract.▪ Both parties receive consideration - a payment, service, promise or anything of value.▪ Both parties mutually agree on terms - a so-called "meeting of the minds" on what the contract means. <p>In essence, a lease is a contract. The landlord agrees to lease space to a tenant in return for rent as consideration.</p>
Contractor	One who contracts to construct buildings or make physical improvements to an existing building or space within a building at a certain price. A contractor is ordinarily understood to be the person who undertakes to supply labor and materials for specific improvements under a contract with the landlord. A "general" contractor is a contractor whose business operations require the use of two or more unrelated building trades or crafts.
Counteroffer	An offer made in response to an offer received. A counteroffer has the effect of rejecting the original offer, which cannot be accepted unless specifically revived by the offeror.
DBA/Approved Trade Name	The lease-stipulated name under which tenant will operate its business in dealing with the public. In the case when a tenant enters into a lease under the name of a corporation or other entity not intended to be the publicly recognized trade name for the tenant's business, then tenant is restricted to

	doing business as ("DBA") the entity specifically designated under the lease as the business unit's approved trade name.
Deed	A written instrument that when executed and delivered conveys title to or an interest in real estate.
Default	The nonperformance of a duty, whether arising under a contract or otherwise; failure to meet an obligation when due. Remedies may include abating rent, bringing a suit, or terminating.
Delinquent Taxes	Unpaid taxes which are past due.
Demise	Generally implies the division of one large tenant unit into two or more smaller units usually for the purpose of realigning tenant space size and/or merchandise uses and maximization of sales/rent potential.
Demised Premises	That portion of a property leased to a tenant.
Desmising Wall	A partition or dividing wall separating the area leased by one party from the area leased by another.
Demographaics	The vital statistics and characteristics of a specific population, such as size, growth, income, occupation, density, distribution, etc. In retail, usually refers to a defined trade area.
Deposition	The testimony of a witness taken upon interrogatories, not in open court. One party asks question of the other party or of a witness of the other party. The deposition is conducted under oath outside the courtroom.
Depreciation	<ol style="list-style-type: none">1. In appraisal, a loss of value in property due to all causes, including physical deterioration, functional depreciation, and economic obsolescence.2. In real estate investment, an expense deduction for tax purposes taken over the period of ownership of income property.
Discount	The sale of merchandise or services at prices considered less than at retail market levels. When used to describe a store or establishment (i.e. a "discounter"), relates to a merchant who sells merchandise, usually in large volumes and at price points which are consistently less than similar goods offered by retail store operations in the marketplace.
Due Diligence	An expressed or implied requirement in certain real estate contracts stating that a person use good faith efforts to take a due degree or care in fulfilling his obligations under a contract. Also applied to the process of taking due care in representing a client's interest in a transaction.
Easement	A right of use over the property of another. An example is a "public easement" through which the public is vested with the right to enjoy another's property, such as an easement of passage over a parcel of land.
Easement by Necessity	An easement allowed by law as necessary for the full enjoyment of a parcel of real estate; for example, a right of ingress and egress over a grantor's

land.

- Easement by Prescription** An easement acquired by continuous, open, uninterrupted, exclusive, and adverse use of the property for the period of time prescribed by state law.
- Eminent Domain** The power to take private property for public use by the state, municipalities, and private persons or corporations authorized to exercise functions of public character.
- Employee Status** One who works as a direct employee of an employer. The employer is obligated to withhold income taxes and social security taxes from the compensation of his or her employee.
- Employment Contract** A document evidencing formal employment between employer and employee or between principal and agent. In the real estate business this generally takes the form of a listing agreement or management agreement.
- Encroachment** A building or some portion of it - a wall or fence - that extends beyond the land of the owner and illegally intrudes upon some land of an adjoining owner or a street or alley.
- Encumbrance** Any claim, lien, charge, liability or commitment attached to and binding on property which may lessen its value or obstruct its use. Premises are most often encumbered in commercial real estate by the options of other tenants on the premises. Such options make the space more difficult to lease.
- Environmental Impact Statement** A report that includes a detailed description of a proposed development project with emphasis on the existing environmental setting and a discussion of the probable impact of the project on the environment during all phases (e.g. traffic, air pollution, wildlife).
- Environmental Protection Agency (EPA)** A federal agency created in 1970 to oversee pollution-control activities, including air and water pollution.
- Equalization** The raising or lowering of assessed values for tax purposes in a particular county or taxing district to make them equal to assessments in other counties or districts.
- Equity** The interest or value which an owner has in his or her property over and above any mortgage indebtedness.
- Escalation Clause** A clause in a lease permitting the landlord to adjust certain payments for the purpose of covering pre-determined contingencies. Most long-term commercial leases contain escalation clauses in which the parties agree to adjust rent based on increases in the Consumer Price Index, BOMA statistics, taxes, insurance, maintenance and other operating expenses.
- Escrow** Created by delivering something of value into the hands of a third person to be held by the latter until the occurrence of a contingency or performance of a condition, and then by him delivered to the recipient. Escrows are often used in real estate transactions to protect both parties between

contract signing and actual deal closing.

Estoppel	A legal doctrine by which a person is prevented from asserting rights which are inconsistent with a previous position or representation made by act, conduct or silence. A person is estopped from taking action on the basis of something contrary to what they have previously said or indicated through action. Estoppel letters re-stating the terms of a lease are often signed by tenants (prior to a building sale) to prevent the tenant's future denial of those terms with the new owner.
Eviction	The legal process of removing a tenant from the premises for some breach of the lease.
Exclusives	The granting to a single operator an express right to sell or provide specific merchandise or services within a property. Such rights are infrequently granted and generally resisted by the landlord. However, when allowed they are carefully constructed and qualified in a tenant's use clause in the lease.
Exclusivity Clause	A clause in a lease granting the lessee an exclusive right to sell a particular good, type of good or service with a prescribed area. Often used in retail leasing with a specific radius established within which the landlord cannot place a competitive operation.
Expressed Contract	An oral or written contract in which the parties state their terms and express their intentions in words.
Fidelity Bond	Also known as a surety bond, a fidelity bond is purchased by an employer to cover his or her employees who are entrusted with sums of money or are responsible for valuable assets.
Fiduciary	A person having duty, created by his undertaking as a fiduciary, to act primarily for another's benefit. A fiduciary trustee must act with unscrupulous good faith and candor. Also used as an adjective to describe the general responsibility to act in a trustworthy manner on behalf of another.
Fiduciary Relationship	A relationship of trust and confidence, as between trustee and beneficiary, attorney and client, and principal and agent.
Fixture	An article of personal property which has become so annexed or attached to a property or premises that it is regarded as part of the property or premises.
Food Courts	The clustering together into a separate and distinct architectural area a group of operating units offering a broad array of convenience oriented or fast foods. Generally characterized by a common seating area shared by all tenants' customers.

Force Majeure	A clause in contracts protecting either or both parties from having to perform contractual obligations for reasons beyond the control of the parties. Force majeure issues usually include acts of God, labor disputes, unavailability of materials, fire and civil insurrection.
Fraud	Deception intended to cause a person to give up property or a lawful right.
General Contractor	A construction specialist who enters into a formal construction contract with a landowner or master lessee to construct a real estate building or project or tenant space. The general contractor often contracts with several subcontractors specializing in various aspects of the building process to perform individual jobs.
Grandfather Clause	A provision in law permitting an existing condition, practice or group of people to be exempt from meeting criteria of a new law. Most common in building codes, where existing conditions do not need to meet the requirements of code changes, assuming the changes have a grandfather clause.
Gross Lease	A lease under which the lessee pays a fixed rent and the lessor pays the taxes and operating expenses. In a "net lease" the tenant pays a pro-rata share of all taxes and operating expenses. Most residential leases are gross leases.
Gross Rentable Area	The total building area, measured in square feet, specifically dedicated from lease to tenants.
Gross Sales	Total revenue receipts from sales transactions, at retail or wholesale, which are initiated, generated or conducted at, or through, a tenant's premises which are explicitly reportable to landlord for purposes of computing a tenant's percentage or overage rent under the lease.
Ground Lease	A lease of land only, on which the tenant usually owns a building or is required to build its own building as specified in the lease. Such leases are usually long-term net leases; a tenant's rights and obligations continue until the lease expires or is terminated through default.
Ground Rent	Rent to lease the land upon which improvements may or may not exist.
Holdover Tenant	A tenant who retains possession after the expiration of a lease, or after a tenancy at will has been terminated.
Implied Contract	A contract under which the agreement of the parties is demonstrated by their acts and conduct.
Indemnification	Protection against loss or damage.
Independent	A business operating in not more than two outlets located in one metropolitan area.
Insurance	Indemnification against loss from a specific hazard or peril.

Insurance Obligation	Typical coverage: All Risk Property Insurance, Commercial General Liability, and Statutory Worker's Compensation and Employer's Liability.
International Council of Shopping Centers (ICSC)	Trade association of the shopping center industry.
Internal Rate of Return	A rate of discount (<i>interest rate</i>) at which the present worth of all future cash flows is exactly equal to the initial capital investment.
Investor Equity	Reflects the sum of original cash invested plus subsequent capital improvements and principal payments.
Investment	Money directed toward the purchase, improvement, and development of an asset in expectation of income or profits.
Jointly and Severally Liable	A situation in which any or all partners in a transaction are liable for repayment of a debt or obligation and a creditor can obtain compensation from one or more of the partners, either individually or jointly.
Judgment	The formal decision of a court upon the respective rights and claims of the parties to an action or suit. After a judgment has been entered and recorded with the county recorder, it usually becomes a general lien on the property of the defendant.
Judgment Clause	A provision that may be included in notes, leases, and contracts by which the debtor, lessee or obligor authorizes any attorney to go into court to confess a judgment against him or her for a default in payment. Also called a cognovit.
Latent Defect	A defect which is hidden from knowledge as well as from sight and one which would not be discovered even by the exercise of ordinary and reasonable care.
Lease	An agreement whereby a "landlord" relinquishes his right to immediate possession of property while retaining ultimate legal ownership. Ordinarily, a lease is a contract through which the landlord-lessor turns over specifically-described premises to the exclusive possession of the tenant-lessee for a definite period of time and for a consideration called rent.
Leasehold Estate	A tenant's right to occupy real estate during the term of a lease, generally considered to be a personal property interest.
Leasehold Improvements	The improvements to leased property made by the lessee.
Legal Description	A description of a specific parcel of real estate sufficient for an independent surveyor to locate and identify it.
Lessee	One who rents property <u>from</u> another - a tenant.
Lessor	One who rents property <u>to</u> another - a landlord.

Letter of Credit	An agreement or commitment by a bank (issuer) made at the bequest of a customer (account party) that the bank will honor drafts or other demands of payment from third parties (beneficiaries) upon compliance with the conditions specified in the letter of credit. Most often used as a substitute for a security deposit in a lease.
Letter of Intent	A letter to reduce to writing a preliminary understanding of parties who intend to enter into a contract.
Liability Insurance	Agreement by which one party promises to compensate or reimburse another if the other suffers a loss from a specific cause.
Lien	A charge or security or encumbrance upon property. A right given by law to certain creditors to have their debt paid out of the property of a defaulting debtor, usually by means of a court sale.
Lien Waiver	An agreement with a creditor, contractor or other supplier <u>not</u> to place a lien on a particular property.
Liquidated Damages	An amount predetermined by the parties to an agreement as the total amount of compensation an injured party should receive in the event that the other party breaches a specified part of the contract.
Live Load	A moving or variable weight which may be safely added to the intrinsic weight of a structure. For example, an office building may have a live load capacity of 60 lbs. per square foot to accommodate office furniture and equipment.
Loss Factor	The difference in square footage between the rentable area and the usable area expressed as a percentage. For example, an office-building floor with a rentable area of 10,000 square feet and a usable area of 9,000 square feet has a loss factor of 10 percent. The 1,000 square feet is used by bathrooms, corridors and elevator shafts - and is not included in the tenants' rent.
Management Agreement	A contract between the owner of income property and a management firm or individual property manager outlining the scope of the manager's authority to manage the property and the compensation level.
Market Price	The actual selling price of a property.
Market Share	An individual entity's acquired portion of business gained from a measurable total of all available business of the same type within a given market. Usually expressed as a percent of total sales dollars in the market.
Market Value	The highest price which a ready, willing and able buyer would pay and the lowest price which a ready, willing and able seller would accept on a property - with neither the buyer nor seller being under any pressure to act.
Master Lease	A dominant lease to which subleases are made. The subleases will generally have provisions that conform to the terms of the master lease, since the subleases are subject to the terms of the master lease.

Mechanic's Lien	A statutory lien created in favor of materialmen and mechanics (<i>and often architects and designers</i>) to secure payment for materials supplied and services rendered in the improvement, repair or maintenance of property. The mechanic's lien attaches to the improvement as well as to the interest of the owner. Enforcement usually requires a court action to foreclose the lien through the sale of the real estate to produce money to pay off the lien.
Merchandise Mix	The composition and selection of retail goods offered within a given entity. In a retail shopping center, refers to the diversity of tenant uses as a combined offering.
Merchandising	The act of trading commercially. In retail parlance, the setting forth of, or appealing arrangement of, goods offered for sale.
Merchant	An individual whose occupation is the wholesale purchase and subsequent retail sale of goods for a profit.
Merchants Association	An organized body, usually incorporated, made up of representative tenants of a shopping center property which has as its purpose the conduct of collective consumer marketing efforts for the shopping center. Membership in such an association, as well as monetary contributions by tenant members and the owner, is usually required by the lease.
Misrepresentation	A false statement or concealment of a material fact made with the intention of inducing some action by another party. A court will grant relief in the form of damages or rescission, if the misrepresented fact is material to the transaction.
Mitigation of Damages	A principal of contract law that establishes the obligation of an injured party to take all reasonable steps to reduce or eliminate the amount of damages caused by the action or inaction of another party. For example, a landlord may have a duty to try to locate a replacement tenant for space vacated or abandoned by a prior tenant in breach of the lease. Or, if a tenant action is causing physical damage (e.g. water leaking into a hallway), the landlord has a responsibility to mitigate the damage by trying to stop the leak.
Month-to-Month Tenancy	A periodic tenancy where the tenant rents for a one month at a time. Most commonly occurs with holdover tenant situations.
Mortgagee	The lender in a mortgage loan transaction.
Mortgagor	A borrower who conveys his property as security for a loan.
National Tenant	An organization of retail chain stores with business units operating in four or more markets and in three or more states.
Negligence	The omission to do something which a reasonable person would ordinarily do under the circumstances, or doing something which a reasonable person would ordinarily not do under the circumstances.

Net Lease	A lease in which the lessee not only pays the rent for occupancy (<i>the "base rent"</i>), but also pays a pro-rata share of taxes and operating expenses.
Net Operating Income (NOI)	The balance remaining after deduction against the gross rental receipts for all fixed and operating expenses, but before deducting any debt service or income taxes.
Nominal Internal Rate of Return (IRR)	Reflect the rate of return at which the property's discounted historic cash flows and current equity valuation equal the property's new original cash investment.
Note	An instrument of credit given to attest a debt.
Novation	The substitution of another party for one of the original parties to a contract—with the consent of the remaining party. The result is that the old contract is extinguished and a new contract, with the same content but with at least one different party, is created.
Offer and Acceptance	The two components of a valid contract; a "meeting of the minds."
Operating Expenses	Amounts paid to maintain property, such as property taxes, utilities, and hazard insurance. Excludes financing expenses and depreciation.
Option	An agreement to keep open for a set period; an offer to sell, lease or purchase property.
OSHA (Occupational Safety and Health Administration)	A federal agency that develops and promulgates occupational safety and health standards; develops and issues regulations; conducts investigations and inspections to determine the status of compliance; issues citations and proposes penalties for noncompliance with safety and health standards and regulations.
Overage Rent	Rent structure with lease provisions calling for a tenant to pay rent in addition to its base minimum rent in an amount equal to a specified percentage of sales over a predetermined level (<i>the breakpoint</i>). Such provisions usually express rent as a percentage of sales versus a specified base minimum rent guaranteed to the landlord; e.g., when referring to a natural breakpoint one might say, rent is equivalent to seven percent of gross sales versus a guaranteed minimum of \$100,000 per year.
Partnership	<p>An association of two or more individuals who carry on a continuing business-for-profit as co-owners. Under the law, a partnership is regarded as a group of individuals rather than as a single entity.</p> <ul style="list-style-type: none"> ▪ A General Partnership is a typical form of joint venture, in which each general partner shares in the administration, profits, and losses of the operation. ▪ A Limited Partnership is a business arrangement whereby the operation is administered by one or more general partners and funded, by and large, by limited or silent partners, who are, by law, responsible for

losses only to the extent of their investments.

Parking	<i>Parking Ratio</i> : Number of parking spaces per 1,000 square feet of gross leasable area.
Party Wall	A wall that is located on or at a boundary line between two adjoining parcels and is used or is intended to be used by the owners of both properties.
Percentage Lease	A lease whose rental is based on a percentage of the monthly or annual gross sales made on the premises. Percentage leases are most common with retail stores and are often combined with a minimum base rental amount.
Percentage Rent	Sometimes used to refer to that which is actually an "overage rent" structure. Actually, percentage rent connotes that a tenant is required under the lease to pay rent based solely upon a specified percentage of gross sales. In this case, a specific amount guaranteed to the landlord in the form of base minimum rent is not included as part of the rent structure.
Percentage Rent Factor	The lease-specified numerical percentage (<i>e.g.</i> : 4%, 5%, 5.5%, <i>etc.</i>) on which landlord's participation in tenant's sales is based.
Personal Property	Items, called "chattels," that do not fit into the definition of real property; movable objects.
Plaintiff	A person who brings an action; the party who complains or sues; a person who seeks remedial relief for an injury to his rights.
Plat	A map of town, section, or subdivision showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys, easements, <i>etc.</i> , usually drawn to scale.
Policyholder	The person who owns the policy of insurance whether he is the insured or not.
Premises	Land and tenements; the subject matter of a conveyance.
Price Point(s)	The relative price levels at which goods and services are sold. In retail, such relative price levels are used to describe tenant business in the following ascending scale: popular, moderate, better, high-end. At less than retail, price point is usually described as "discount."
Private Label	A merchandise line or concept (<i>usually apparel categories</i>) conceived, developed and implemented exclusively by a single retailer for sale in its own operating stores. Undertaken to increase margins and maximize control over distribution and product through by-passing traditional retail industry sources such as wholesalers and manufacturers.
Promissory Note	A promise, in writing, to pay a specified sum at a time in the future to a person named therein, their order, or the bearer of the note.

Promotional Funds	Landlord-controlled sum of monies set aside for the express purpose of marketing and promoting a multi-tenant property as a combined entity. Such funds are lease-established and tenant is required to make monetary contributions in specified amounts at regular intervals throughout its lease term.
Psychographics	The profiling of a specified population to characterize its habits, values, attitudes, interests, ethnic or cultural backgrounds, etc.
Quiet Enjoyment	The right of the lessee to the undisturbed use and enjoyment of property leased or conveyed.
Radius Restriction	A lease covenant that expressly provides specific damages or a penalty to the tenant in the event tenant opens additional store units of similar type or DBA to that which is covered under the lease within a specified distance of the location/premises covered under the lease.
Real Internal Rate of Return (IRR)	Reflects the nominal IRR reduced by the annualized rate of inflation from the date of the property's purchase to the current date.
Recapture Clause	A clause usually found in percentage leases giving the landlord the right to terminate the lease and thus recapture the premises if the tenant does not maintain a specified minimum amount of business.
Relocation	A relocation clause may allow the landlord to relocate a tenant within the same building.
Rendering	An artist's or architect's interpretation, in perspective, of a completed development or re-development, usually done in color or ink.
Renewal Option	A covenant in a lease which gives the lessee the right to extend the lease term for a certain period, on specified terms, provided the tenant is not in default on the date lessee may exercise its option.
Rent	A fixed, periodic payment made by a tenant of a property to the owner for possession and use, usually by prior agreement of the parties.
Rent Commencement Date	The date on which tenant's rent and other charges will begin under a retail lease. Likely to be different from lease commencement date and store opening date.
Rent Schedule	A statement of proposed rental rates, determined by the owner or the property manager, or both, based on a building's estimated expenses, market supply and demand, and the owner's long-range goals for the property.
Rentable Area	As standardized by the Building Owners and Managers Association (BOMA), rentable area of an office on a multiple tenancy floor is computed by measuring to the inside finish or permanent outer building walls, or to the glass line if at least 50% of the outer building wall is glass, to the office side of corridors and/or permanent partitions, and to the center of partitions that separate premises from adjoining rentable areas. No deductions are

made for columns and projections necessary to the building.

Repairs and Maintenance	Work required to return the property to a former condition, and upkeep or activities/compensation for wear and tear.
Replacement Cost	The construction cost at current prices of a property that is not necessarily an exact duplicate of the subject property, but serves the same purpose or function as the original.
Required Advertising	Lease provision requiring a tenant to place a certain amount of advertising at regular intervals for its store unit. Such required advertising may take the form of stipulating that tenant must participate in landlord's joint or cooperative advertising efforts or that tenant must commit a certain percentage of its sales in the premises to advertising of its business.
Required Remodeling	Lease provision requiring tenant to remodel its store at designated intervals during the lease term to ensure that the tenant's physical presentation remains fresh, appealing and consistent with current retail design standards.
Restriction	A limitation on the use of real property, generally originated by the owner or subdivider in a deed.
Retail	The sale of goods or services directly to the end-user consumer, generally at a non-discount price point.
Reversionary Right	An owner's right to regain possession of leased property upon termination of the lease agreement.
Rider	A schedule or piece of paper reflecting an amendment, addition or endorsement annexed to some part of a contract.
Right of First Offer	A right requiring the landlord to allow a lessee an opportunity to make an offer to lease a particular space before any other party can make an offer. <u>More</u> desirable for landlords (<i>versus Right of First Refusal</i>) because the lessee can be forced to exercise the right at the time the space becomes vacant; the landlord does not need to wait for an offer from another party for the lessee to consider matching.
Right of First Refusal	A right requiring the landlord to present to a lessee any legitimate offer to lease a particular space and give the lessee the opportunity to match the offer and lease the space over the offer. <u>Less</u> desirable for landlords (<i>versus Right of First Offer</i>) because it requires an interruption to any pending lease deal while the holder of the right considers the offer.
Sales Per Square Foot	A measurement of a tenant's sales performance within a specific store unit which, by division, reduces gross sales to a base-line level of productivity for each square foot under lease. This calculation allows for relative comparison of sales performance with other store units of varying sizes. Sales per square foot is derived by dividing total gross sales of the store unit by the gross leasable area set forth in the lease, e.g. \$1,000,000 divided by 2,000 square feet = \$500 per square foot.

Sales Performance Clause	Lease clause requiring that a tenant reach specific levels of sales performance at one or more specific time intervals within its lease term. If tenant does not meet predetermined sales performance levels, landlord and/or tenant retains the right to cancel the lease.
Sarbanes-Oxley Act of 2002	Also known as "SOX." This Act was passed in July 2002 and was a direct reaction by the U.S. Congress to address the accounting scandals of late 2001 and early 2002. The goal is to advance the standards for corporate governance. A key requirement is management's assessment of internal controls. See also Jones Lang LaSalle's SOX Delphi page via the Global Finance page.
Security Deposit	<p>Money which a tenant deposits with a landlord so as to assure the landlord that the tenant will abide by the lease agreements. The security deposit represents a fund from which the landlord may obtain payment for damages caused by the tenant during his occupancy.</p> <p>Leases sometimes provide that the landlord may retain the security deposit as liquidated damages in the event that the lease is terminated at the tenant's request prior to the expiration of the full lease term.</p>
Signage	Building signage options may be important to a tenant. Review lobby signage and building signage. Are there any competitors' rights to consider?
Special Assessment	A tax or levy customarily imposed against only those specific parcels of real estate that will benefit from a proposed public improvement (i.e. <i>street or sewer</i>), as opposed to a general tax on the entire community.
Specific Performance Suit	A legal action brought in a court of equity in special cases to compel a party to carry out the terms of a contract. The basis for an equity court's jurisdiction in breach of a real estate contract is the fact that land is unique and mere legal damages would not adequately compensate the buyer for the seller's breach.
Statute of Frauds	That part of a state law which requires that certain instruments, such as deeds, real estate sales contracts, and certain leases, be in writing in order to be legally enforceable.
Statute of Limitations	That law pertaining to the period of time within which certain actions must be brought to court.
Store Opening Date	Lease-specified date on which tenant is required to open its store for retail business which may or may not be concurrent with the commencement of the lease term or the initiation of rent.
Sublease (Sublet)	A lease given by a lessee for a portion of the leasehold interest, while the lessee retains some reversionary interest, as well as the obligations of the original lease. The sublease may be for all or part of the premises, for the whole term or part of it, as long as the lessor retains some interest in the property. Leases normally contain a clause prohibiting subletting without

prior consent of the lessor. The lessee remains directly liable to the lessor for rent, which is usually paid by the sublessee to the lessee and then from the lessee to the lessor.

Subordination	Moving to a lower priority. A subordination clause may permit a new lease to take priority over an existing lease.
Subrogation	The substitution of a third person in place of a creditor to whose rights the third person succeeds in relation to the debt. Insurance policies generally have a subrogation clause. This means that if the insurance company pays a loss and the injured party subsequently receives payment for the loss from another source (e.g. <i>court-award damages</i>), the insurance company has a claim against the payment. In most instances, an insurance company would pay a legitimate claim and then use its subrogation rights to initiate an action to collect damages from the injuring party.
Suit for Possession	A court suit initiated by a landlord to evict a tenant from leased premises after the tenant has breached one of the terms of the lease or has held possession of the property after lease expiration.
Surrender	A premature conveyance of a lease from the lessee to the lessor with the consent of both the lessor and the lessee. If the surrender is accepted by the lessor, then the lessee is no longer liable for rent. However, if the tenant abandons the premises without a formal surrender, the landlord can usually collect either the rent due for the entire period of the rental agreement, or the rent for the time it takes to rent the space at a fair rental plus the difference between the fair rental and the rent the tenant would have paid under the terms of the lease.
Tax Prorations	Tenant rent escalator which requires reimbursement of landlord's real estate tax expense on a direct, pro-rata pass-through of total expense. Unlike an office lease, there is generally no tax stop in a retail lease.
Tax Rate	The rate at which real property is taxed in a tax district or county. For example, in a certain county, real property may be taxed at a rate of .056 cents per dollar of assessed valuation.
Tenancy at Sufferance	A tenancy that exists when a tenant wrongfully holds over after the expiration of a lease without the landlord's consent, as when the tenant fails to surrender possession after termination of the lease.
Tenancy at Will	A tenancy that exists when a tenant holds possession of premises by permission of the landlord, but without a fixed term.
Tenant	One who holds or possess lands or tenements by any kind of right or title.
Tenant Design Criteria	Landlord's detailed guideline governing all physical and procedural aspects of store build-outs within a shopping center which carefully documents all requirements pertaining to tenant's work under the lease and the process by which landlord approvals are gained. Intended to preserve uniformity of

architectural quality throughout a building.

Tenant Improvements	Those changes to accommodate specific needs of a tenant, including moving interior walls or partitions, carpeting or other floor covering, shelves, windows, etc... The costs for any such items are negotiated in the lease.
Tenant Mix	Often used as synonymous with "Merchandise Mix," although relates more directly to the balance of tenant store operational types (<i>national chain store or independent merchant</i>) within a shopping center complex.
Tenant Sales Audit	Lease-granted right enabling landlord to review a tenant's records pertaining to sales from the premises especially for the purpose of certifying the accuracy of percentage or overage rent due to landlord. Relates primarily to retail leases.
Term	The period of time during which a lease is in effect.
Time is of the Essence	A phrase in a contract that requires the performance of a certain act within a stated period of time.
Time-Weighted Return	Measures portfolio net income and unrealized appreciation as a percentage of weighted-average total equity for the portfolio. Net income and unrealized appreciation are incorporated as the last day of the quarter. This return is a measurement of the portfolio's performance rather than a measure of an individual property's performance.
Total Effective Rent	Represents the sum of rent receipts – guaranteed base minimum rent, overage or percentage rent, and combinations thereof.

Total Equity	Reflects the sum of invested equity plus unrealized appreciation.
Total Occupancy Cost Ratio	Total occupancy costs (<i>all charges of whatever kind</i>) of a tenant expressed as a percent of gross sales. Generally, tenants operating viable businesses can support total occupancy costs at approximately 15 percent and under.
Total Occupancy Costs	Represents the sum of total effective rent as well as all other charges levied against a tenant such as common area maintenance charges, tax prorations, environmental use or utility charges, merchants association or promotional fund dues, etc.
Trade Fixtures	An article installed by a tenant under the terms of a lease and removable by the tenant before the lease expires. These remain personal property and are not true fixtures.
Triple Net Lease	A net-net-net lease, where in addition to the stipulated rent, the lessee assumes payment of all expenses associated with the operation of the property. This includes both fixed expenses, such as taxes and insurance, and all operating expenses, including costs of maintenance and repair. In some markets, triple net means the tenant also pays a share of interest payments on the lessor's mortgage on the property.
Under-Floor Ducts	Floor channels which provide for the placement of telephone and electrical lines required for the floor. Normally, under-floor ducts are installed to integrate with the building's modular design, allowing faster and less expensive placement of electric, phone and computer cable outlets.
Unenforceable Contract	A contract that seems on the surface to be valid, yet neither party can sue the other to force performance of it. For example, an unsigned contract is generally unenforceable.
Uniform Commercial Codes	A codification of commercial law adopted in most states which attempts to make uniform all laws relating to commercial transactions including chattel mortgages and bulk transfers. Security interests in chattels are created by an instrument known as a security agreement. Article 6 of the Code regulates bulk transfers – the sale of a business as a whole, including all fixtures, chattels, and merchandise.
Unilateral Contract	A one-sided contract wherein one party makes a promise in order to induce a second party to do something. The second party is not legally bound to perform; however, if the second party does comply, the first party is obligated to keep the promise.
Urban Land Institute (ULI)	An independent, non-profit research and educational organization, incorporated in 1936, to improve the quality and standards of land use and development.
Usable Area	On a multi-tenant floor, usable area is the gross area minus the core space. Core space includes the square footage used for public corridors, stairwells, washrooms, elevators, electrical and janitorial closets, and fan rooms. On a single-tenant floor, the usable area is the gross square footage excluding

building lobby and all penetrating shafts, such as ducts, stairwells, and elevators.

Use Clause

Important lease clause granting tenant a qualified right to use the premises for sale of specifically designated goods/merchandise or services and for no other purpose. This clause is considered key to the successful merchandise mix of a retail center and represents landlord's primary control over the conduct of a tenant's business within the premises.

Useful Life

In real estate investment, the number of years a property will be useful to the investors.

Variance

An exception from zoning ordinances; permission obtained from zoning authorities to build a structure or conduct a use that is expressly prohibited by the current zoning laws.

Voidable Contract

A contract that seems to be valid on the surface but may be rejected or disaffirmed by one of the parties.

Year-to-Year Tenancy

A periodic tenancy where the tenant rents for a one-year period at a time.
