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Basics to follow that can assist every landlord when tenants request rent concessions

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Several of my landlord clients have received requests from their tenants for rent concessions and they, in turn, have asked for my assistance. While each situation needs to be evaluated individually there are some basics to follow that can assist every landlord in their decision making.

First and foremost is to evaluate the situation and not just reject the request. It may be an opportunity with benefits to be gained for the landlord. These can include improved future financial terms for the landlord as well as addressing issues or concerns with the lease or related documents. The first consideration is the history of the tenant which includes payment, relationship and in the case of retail leasing; the relationship between the tenant and the center. The landlord should also have a "feel" for the tenant's overall credit worthiness. The retail tenant and in some cases office tenants may also add something to the property in terms of a needed use at the property or a traffic generator, and this should be a strong consideration for the landlord in his dealings with the tenant. More importantly, the landlord needs to determine that the problem the tenant is having stems from an outside influence such as the weakness in the economy and not been brought about by an operational or management issue. This can be done through a combination of observation and requesting sales information/history from tenants.

The landlord also needs to factor in current market conditions. It is not a stretch to think that in the Northeast, should a space go vacant, the space will be vacant a minimum three months and in some cases as long as 12 months. After carefully considering what the expected vacancy period will be it may be reasonable for the landlord to consider a rent concession for the tenant. If the tenant has a good payment history and was looking for a reasonable rent reduction what landlord would rather have vacant space then keep a tenant in place at a reasonably reduced rate?

Once the landlord determines granting a rent reduction is the prudent way to proceed he can make an offer to the tenant. What should the landlord consider as concessions? While of course it would be easy for the landlord to simply reduce rent, for a number of reasons simply reducing rent is not the advice given. The landlord should receive something in return for granting a concession. Some of the options could be to offer a rent reduction now in exchange for some extended term on the lease or a reduction now and an add back to the rent in subsequent years. In some cases the landlord will have conversations with the tenant about a base rent plus a percentage of sales. In this scenario it is possible for the landlord to recoup some lost dollars when the tenant's business bounces back. This could also offer the landlord the opportunity to "clean up" the lease documents if they are unacceptable to the landlord or have been inherited from a prior owner. Items such as tenant responsibilities, tenant chargebacks, environmental, guarantees, signing entities can be modified to the landlord's benefit.

When considering rent concessions it is important to consider all of the factors related to the tenancy

and then make a decision accordingly. If the tenant has constantly been a problem then this may be the time to reject the request and deal with the vacancy when it occurs. If there is a comfort level with the tenant, the landlord should consider concessions in exchange for benefits to the landlord, and look for opportunities to bolster the landlord's position while helping the tenant. In some cases the landlord may opt to simply grant a one time or short term rent concession simply to assist the tenant and keep the space from going dark for a considerable amount of time, or worse, entering into a tenancy with a less desirable tenant who could become a payment problem. Or as my mom use to say "sometimes the devil you know is better than the one you haven't met yet".

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