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Brokers enlisted with marketing excess space need to test their creativity and deal making ability

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Retailers downsizing. Retailers going dark. After a post-recession low, this process seems to be picking up steam as 2011 hurtles toward 2012. Sears and Best Buy are just two of the major names with quality real estate embarking on downsizing programs. Others such as Shaw's and Modell's are looking to cut their losses in particular geographies around New England. Brokers enlisted with marketing the excess space on behalf of these retailers need to be ready to test the bounds of their creativity and dealmaking ability. Most importantly, they need to assess whether the retailer truly understands the difficult road ahead.

At Atlantic Retail Properties we have always had a significant retailer disposition program. Going back to Lechmere and Grossman's and more recently with Best Buy, Office Depot and Petco we have handled their disposition nationwide. In our home market of New England, Atlantic we currently handle assignments for a pretty broad mix of retailers including Target, Stop & Shop, Best Buy, Petco, Bed, Bath & Beyond, Toys 'R Us, Modell's, Yum Brands, CVS and quite a few others. These assignments are not taken lightly as all parties involved - broker, retailer and landlord - need to understand the difference from a traditional deal.

The work is challenging on a number of levels. First, leasehold control is vastly more limited than traditional ownership control. Issues of term, sublet/assignment rights, use restrictions and non-disturbance. Second, the retailer is most often attempting to stem a loss. Even a seemingly good deal as compared to market conditions often leads to a financial hit for the retailer. Decisions built around a definitive loss are significantly different than those for a potential win.

As a broker enlisted to market leased space, the first step is to understand the existing space and the co-tenancy in the center. Getting the details on the ceilings heights, the loading, the column spacing, the storefront elevation and the width of the space are among the focal points. Second, the broker needs to get a copy of the lease to deconstruct it to understand the limitations to any sublet or assignment. The remaining term, the use clause, percentage rent, signage rights and non-disturbance language are among some of the hot buttons. New tenants will require term in order to make the effort in opening a store and, even more importantly, to amortize the expense to open the new store. Once open, they cannot be at risk of losing the space if the retail on the master lease goes bankrupt or chooses not to pick up an option. It always gives us pause when a retailer who has just enlisted us is reluctant to provide their lease, always a clear indication that they do not grasp the challenge ahead.

After the initial homework is complete, a call to the owner of the property, with the retailer's approval, should be made to make clear sure they are clear about the upcoming marketing effort. It is unlikely they will be indifferent and you will certainly be speaking with them at some point during any deal process. Oftentimes, they are ready for this call and will provide even more information from the

lease than may have been gleaned on first pass.
Concurrent with this homework is a frank dialogue with the retailer. A common refrain or in our office during these discussions with the retailer looking to downsizse is "Put your site selection hat on". Some retailers are quick to forget what they demand in a deal for a new store and take on the mindset of an owner with little experience dealing with retailers. "What do you mean they need ten years of control?" "Why do they need a non-disturbance?" "Cap on CAM? Impossible." Retailers need to keep their eyes on the prize - cutting costs whether it is slashing the store size or getting free of non-performing real estate.
I recall speaking with a talented retail real estate director for a leading chain years ago. I asked him how he learned the trade. I still remember him telling me that it was his experience as a young attorney in the real estate department at Woolworth's as they worked to survive by getting rid of both their valuable and underperforming stores. He told me that there was no better way to understand the strengths and weaknesses of a lease and the manner in which it was crafted than when the time came to get out of it.

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