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Subleasing: An important tool for tenants and landlords during the pandemic and after - by David Connolly

July 30, 2021 - Front Section



David Connolly

With the U.S. hitting an all-time high of 158 million s/f of subleased space as of July 2021, the spike in subleasing during the pandemic will continue to heavily influence the commercial real estate market. The fluidity of this situation is likely to continue well into 2022, as more workers return to full-time, in-person status, while others continue to work remotely or with hybrid schedules. Here are a few ways subleasing is impacting commercial tenants and commercial landlords and how it might continue to shape the commercial real estate market in the coming months and years.

Subleasing is an opportunity for tenants: The pandemic sent many tenants into panic when it came to overhead costs. As the return to the workplace ramps up, tenants must reevaluate their need for commercial real estate space. The subleasing market is picking up because companies are trying to decide what to do with the space they have and how to reconfigure the space to maximize its utilization. Tenants are likely to continue to be cautious as they make changes to their leased space given the uncertainties created by flexible work schedules as employees gradually return to the office. There are both benefits and challenges to subleasing existing space in a post-pandemic world. Tenants are venturing in uncharted waters as they try to find the right balance to address existing space needs without sacrificing future growth.

Landlords can also benefit from subleasing: Approving subleasing agreements offers a way for landlords to maintain cash flow when an existing tenant may no longer be able to fulfill the terms of their lease. Landlords need to review and confirm the creditworthiness of the subtenant. Depending on what kind of business the new subtenant operates and what number of employees will be working in the space, there may also be impacts on the building services or HVAC system that need to be examined. Landlords must examine what additional demising there will be, how the sublease space will access the common areas and what signage space should be allocated to the subtenant. Landlord and tenant should work cooperatively together to ensure a mutually advantageous outcome.

A Peek into the Future of Subleasing: More employees are returning to work every day and you can see that in the traffic, on the streets and sidewalks. Is this a permanent trend? A “right now” thing? The Counselors of Real Estate have named remote work and mobility as the number one issue affecting real estate for the next year ahead of other critical issues like housing supply and infrastructure.

As real estate contracts grow more complex and the need for flexibility in the space we use grows, working with seasoned real estate attorneys will still yield the best results for landlords and tenants.

David Barry Connolly is the vice chair of Hinckley Allen’s Real Estate group and a board member of the New England Chapter of the Counselors of Real Estate, Boston, Mass.