



## Leasing / Buying Real Estate A Significant Commitment

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Leasing or buying real estate is often the most significant long term commitment your company can make. Since the final outcome of the negotiations may have a major financial impact on your bottom line, you may want to consider having a professional real estate "Tenant Broker" represent your company in future real estate leasing transactions, or a "Buyer Broker" represent your company on your next purchase.

In today's commercial real estate market, a prospective tenant/buyer client is offered a variety of agency representations by a real estate brokerage firm. They are:

- (Landlord/Seller Agency) - The broker represents the landlord/seller exclusively, you represent yourself;
- (Tenant/Buyer Agency) - The broker represents you, the landlord/seller represents himself or is represented by another broker;
- (Dual Agency) - One broker represents both parties, and both parties must acknowledge this in writing;
- (No Agency/Facilitator) - A broker does not represent either party, but assists one or both parties in their negotiations.

It is a matter of where your real estate broker's fiduciary responsibilities lie. In all cases, brokers are obligated to treat the other party fairly and honestly, and must disclose items of a material nature that effect the transaction which are actually known by the broker.



The tenant/buyer representative may not give false information concerning the financial condition of their client.

Before you discuss what it is you are looking for with a prospective broker, one of the first questions you should ask is:

"Who do you represent? or How will I be represented?". Also ask: "If I disclose confidential information to you, what will you do with that information?". Note that a landlord/seller agent is required to disclose to all information given to him by a prospective tenant/buyer.

The broker should explain which types of agency are available to you and what his brokerage firm is offering. Be patient ... ask questions until it is clear what type of agency you will obtain or desire from the broker you are interviewing.

We recommend that your company engage its own real estate broker to handle negotiations independently of the other party, thereby avoiding conflicts of interest.

Even though rental rate or purchase price maybe a primary item, many other provisions such as terms, financing, personal guarantees, improvement allowances, non-disturbances agreements are key elements in securing the best possible agreement.

Your own representative could have a significant impact on the final leasing rate or purchase price, terms and concessions, whether the tenant/buyer is re-negotiating an existing lease, negotiating a new lease, or purchasing a new facility.

## **SELECTING A TENANT - BUYER REPRESENTATIVE**

There are **five key questions to ask** to secure the best possible advantage in a competitive market:

- Will the agent and/or brokerage firm exclusively represent your company in the negotiation?
- Does the agent and/or firm have integrity and impeccable reputations?



- Does the firm have the experience and an organized step-by-step process to find, select and negotiate the best possible deal for your company?
- Does the firm have comprehensive, up-to-date information on all areas and types of properties which will meet our requirements?
- And perhaps most importantly, does the individual agent really care about securing the best possible deal for us, or is the agent merely "going through the motions" to collect a commission?

Try to avoid the temptation to work with a golfing buddy, or the president's nephew. Remember ... having a trusted professional on your side, who knows what to do, what to say, and what not to say at the right time, can translate into additional dollars for your company's bottom line.

#### **HOW TO COMPENSATE A TENANT/BUYER BROKER**

Brokers can be compensated by the tenant/buyer in a variety of ways, including: a commission based on success, flat consulting fee, or an hourly rate. In most cases, the tenant/buyer broker is asked by the tenant/buyer to negotiate their broker's fee to be paid by the landlord/seller or the listing broker, out of a share of the established commission at the close of the transaction. However, as with any real estate compensation, the level of compensation is based on the agreement between the parties prior to undertaking the assignment. Brokers may not collect fees from both parties unless both parties agree and acknowledge it in writing to each other and to the broker(s).

#### **LAS VEGAS INDUSTRIAL MARKET - (March 1994)**

Las Vegas' industrial warehouse/office market has very low vacancy rates, currently under 5% across the city, and under 3% in certain market areas. At the present time, availability is dropping, rental rates and purchase prices are increasing by the month. This means that you, the tenant/buyer, now more than ever, need expert representation to secure the best possible terms. You wouldn't let the other side's attorney represent you. Make certain your company is represented by your own exclusive representative agent and brokerage firm to give you the competitive edge.



**Editor's Note:** James T Saint, Real Estate Advocate™ of Halo Realty & Investments Corporation is a CCIM, (Certified Commercial Investment Member). One of a network of 9,000 professionals across North America and 30 international countries holding one of the most coveted and respected designations in the industry, and one often referred to as the "Ph.D of commercial real estate". Mr. Saint specializes in large industrial and office properties for lease or acquisition, as well as tenant or corporate advisory services for improvement of the corporate bottom line. He may be contacted at Tel: (702) 838 - 4226, or by using our web mail form at: [www.halorealty.com/contactus.htm](http://www.halorealty.com/contactus.htm).

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