

REAL ESTATE

Green lease contracts – Good for the environment and profit

By Dr. Reinhard Nacke

A very lively debate on green lease contracts took place during the Practice Group meeting in Cancun. As there seems to be great interest in this topic, I am pleased to provide Insider readers with a little more information on this relatively new area.

Ever more companies are trying to set themselves apart from their competitors through extraordinary commitments to sustainability in order to gain further market shares. For example, companies are using electric cars in their fleets, recycled paper and “save paper” messages in email correspondence. For a growing number of companies, this also includes concluding a green lease contract. In addition to the company’s external image, such a move is prompted by the desire to assume corporate social responsibility because there is a general feeling that we cannot rely solely on the state and non-profit organisations, but must also take responsibility ourselves.

As a rule, it can be said that a green lease contract contains provisions which encourage sustainable use of the property by the tenant and allow for as much sustainable management as possible by the landlord.

Such green lease contracts are commonly entered into for rooms in buildings which are certified as environmentally friendly, for example, in accordance with LEED (Leadership in Energy and Environmental Design). Green lease contracts are also possible for buildings that are still waiting for certification and even for those where this is not yet planned for the future. The simple fact that a building is certified does not necessarily mean that green lease contracts will be concluded. Rather, it depends on whether the tenant



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and landlord have assumed legal obligations relating to sustainability. Below are some commonplace provisions:

For example, landlords are obligated to

- bring about and uphold environmental certification in accordance with specific standards;
- provide a sufficient number of bicycle stands;
- agree to tenants implementing changes to the interior which will benefit the sustainable use of the rental property;
- pass on utility charges for oil, gas, water and electricity to the tenant based on usage.

Tenants are obligated to

- generate as little waste as possible and not increase total waste on the previous year’s volume by more than ...%;
- separate rubbish to enable easy recycling;
- carry out potential interior work in such a way that it is consistent with sustainable use and management of the rental property. Landlords can refuse to permit measures proposed by the tenant which are in contradiction of the principle. For example, if no environmentally

friendly materials are being used or the measures of the tenant will have a negative impact on energy consumption;

- tolerate measures without rent reduction which contribute towards saving energy and water;
- agree to an increase in annual rent of up to ...% of the cost of measures which contribute towards saving natural resources;
- not exceed electrical energy use of up to ...kWh/year per employee;
- not exceed water use of ... m³/year per employee.

The parties mutually undertake to

- only use ecologically harmless cleaning products and cleaning companies;
- only use energy from renewable energy sources.

The above list demonstrates that a green lease contract not only generates benefits of a non-material kind for tenants, but can also bring material benefits for the landlord through cost savings and higher rent. The latter not least because green lease contracts often result in savings in water and energy bills, which provides scope for the landlord to increase rent. In addition, landlords can benefit from tenants improving the appeal of their company and consequently also their sales and profits.

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