Putting Green Leases into Action
TODAY’S WEBINAR TOPIC
Putting Green Leases into Action

Green leases make it easier for commercial building owners, operators, and tenants to reduce energy use in buildings. By outlining a clear process for operations and maintenance, energy measurement and reporting, and energy efficiency upgrades, building owners and operators can more effectively achieve energy and cost savings.

SPEAKERS:

Lauren Smith
Southwest Energy Efficiency Project

Andrew Feierman
Institute for Market Transformation

Adam Knoff
Unico Properties
QUESTIONS OR COMMENTS

There are two ways to ask a question:

Write your question in the comment box during the session or after the presentation.

“Raise hand.” If you have inserted your ID number you can be unmuted and can ask a question.
SWEEP is a regional energy efficiency organization promoting greater energy efficiency in the Southwest.
SWEEP Program Areas

- State and Local Government
- Buildings and Energy Codes
- Combined Heat and Power
- Transportation
- Industrial Efficiency
- Utilities
Commercial Buildings

- Support energy code adoptions and compliance
- Support local governments with benchmarking programs
- Assist utilities with implementation of ENERGY STAR Portfolio Manager Web Services and similar programs
- Provide building owners and tenants with energy management resources, including materials from DOE’s Green Lease Library
- Provide information on DOE’s SEED Platform
Building Energy Codes

- Energy code adoptions
- Energy code compliance collaboratives
- Regional codes leadership group
- Strategic studies on commercial compliance
- SWEEP energy codes workshop
Lease for Efficiency:

- Businesses renting space in Denver
- Commitment to ask about ENERGY STAR score when leasing space
- Recognition on website and energy efficiency resources
Other Benchmarking Programs

• Public buildings
• City ordinances
• BOMA Kilowatt Crackdowns
Commercial Utility Programs

- Design assistance programs
- Net zero energy
- Energy Design Assistance Program Tracker (EDAPT)
- Upstream incentives
- Advanced technologies
Standard Energy Efficiency Data (SEED) Platform

Designed to help organizations manage and share large datasets about building performance

Welcome to the Green Lease Library, a centralized site for commercial green leasing resources

- **Guidance**: How to develop, negotiate, and implement green leases
- **Lease Forms & Case Studies**: Templates and successful examples of applying green leasing best practices
- **Government Leasing**: Public sector green leasing resources
- **International**: Examples of green leasing outside of the United States

Lauren Smith, LEED AP BD+C
Buildings Program Associate
Cell: 678-410-9230
lsmith@swenergy.org
http://www.swenergy.org/
Green Leasing
Why we need it and how it changes the market

Andrew Feierman
Commercial Real Estate Engagement
Green Leasing

A lease in which landlord and tenant agree to include sustainability concepts, and assign costs and benefits of sustainability improvements.

The goal is to align “split incentive”.

Courtesy of Flickr user: Bob AuBuchon
Why “Green” the Lease?

1. Standard commercial leases contain no language regarding sustainability issues.

2. Modified gross and net leases often divide who pays for efficiency improvement and who benefits.

3. 3rd party certification systems (LEED, Energy Star) contain requirements such as energy data reporting that should be addressed in the lease.

4. Federal, state, and local regulations increasingly require sustainability/efficiency measures and energy consumption reporting.
Existing Leases: What’s the Problem?

- Myth of the Zero Sum Lease: A Lack of Trust

The Owner

Wants to make his building more energy-efficient. But if he pays for upgrades, why should his tenants get all the benefits at no cost?

The Tenant

Wants to be green, but pays a flat rate for utilities by the square foot. So she has no incentive to use less energy.
Leasing Basics: Lease Structures

**Full service gross**

*Owner* pays for all core building operating and capital expenses.

**Modified gross**

*Owner* pays for capital and a “pool” of operating expenses.

*Tenant* pays all increases in the pool after the first year of the lease.

**Triple Net (NNN) Lease**

*Tenant* pays base rent and all operating costs defined in the lease, and may or may not pay for capital improvements.
Eliminate the Split Incentive

- Building ownership entity
- Resulting savings
- Capital outlay for new building systems

X
What can you do?

- Set up meetings between leasing teams and energy managers
- Talk to energy managers – find out their barriers
- Leverage internal sustainability or CSR goals
- Abstract existing leases
Example Green Clauses

- **Building Rules and Regulations**
  - Change building operating hours to limit building-wide HVAC use

- **Energy Data Disclosure**
  - Require landlord to benchmark building in ENERGY STAR Portfolio Manager, and report score to tenant annually

- **Energy and Data Issues**
  - Submeter or separately meter utilities where possible

- **Build Out Requirements**
  - Require a build-out above existing code or to LEED C.I. standards
Start Somewhere

**Tenant**
- Meet with your Landlord
- Add a Submeter
- Align lease terms with CSR
- Mention sustainability in site selection & RFPs

**Landlord**
- Begin Benchmarking
  - No Cost
  - Regulatory Advantage
- Conduct Tenant Survey
Small Changes, Big Impacts

- Energy management controlled by green leases can reduce energy consumption by 11-22% in US office buildings.

- Potential for annual cost savings of $1.7 - $3.3 billion within the leased US Office Market.

## Value Increase

<table>
<thead>
<tr>
<th>Energy Saved (%)</th>
<th>Savings per Square Foot</th>
<th>Value per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baseline</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>5%</td>
<td>$0.13</td>
<td>$1.56</td>
</tr>
<tr>
<td>10%</td>
<td>$0.25</td>
<td>$3.13</td>
</tr>
<tr>
<td>15%</td>
<td>$0.38</td>
<td>$4.69</td>
</tr>
<tr>
<td>25%</td>
<td>$0.63</td>
<td>$7.81</td>
</tr>
</tbody>
</table>

*Income Capitalization Approach to Value. Assumes owner is responsible for utilities, energy baseline $2.50/SF/YR, cap rate 8%

The Local And National Regulatory Environment Is Changing
Green Lease Leaders

- Overcome the ‘Split Incentive’

- Redefine the role leasing plays in contributing to the Triple Bottom Line

- Contractual arrangement in place for the duration of the tenant-landlord engagement
Green Lease Library

Working Together for Sustainability: The RMI-BOMA Guide for Landlords and Tenants
Green Lease Library

Model lease clauses

The Better Buildings Partnership is proud to support best practice in collaboration and continuous improvement in the commercial office sector. The model lease clauses presented here are designed to be built into your standard lease document and have been developed through extensive industry consultation with leading owners, tenants and lawyers in association with Sparke Helmore Lawyers. These clauses are intended to encourage constructive collaboration between landlord, occupant and building manager to enhance workplace efficiency and productivity, reduce outgoings and help deliver high performance workplaces.

How to use this tool:
1. Choose from pre-selected clauses to match your "level of commitment" from entry level, to standard, to best practice as identified by the Better Buildings Partnership.
2. More experienced draftspeople with a clear set of requirements should select your own clauses from the full range provided.
3. Choose "ratings" for clauses that specifically support the attainment and maintenance of nationally recognised environmental performance ratings.
4. Once you have selected your level of commitment, use.
Green Leasing in Action
June 3, 2015
Adam Knoff, LEED AP O+M, Senior Sustainability Manager
Intros

Adam Knoff, LEED AP O+M
Senior Sustainability Manager
Unico Sustainability
@unicosustain
adamk@unicoprop.com
720-484-5162
Table of Contents

I. Unico Overview
   ▪ Who We Are & Where We Are
   ▪ Unico Sustainability

II. Commercial Leasing Basics
   ▪ Gross vs. Triple-Net
   ▪ How Lease Types are Determined
   ▪ Operational vs. Capital Expenses
   ▪ The Lease Implications and Split Incentive

III. Green Lease Rider and Language
   ▪ What is Green Leasing
   ▪ Basic Language Overview
   ▪ Overcoming the Split Incentive
Unico Overview
Investor and Manager

Unico is a commercial real estate investor and full-service operator
- 3 primary markets: Seattle, Denver/Boulder, and Portland, OR
- 3 submarkets: Spokane, Salt Lake City, and Austin
- Currently 13.5M SF – primarily commercial office

Unico is an investment company
- Allows for a longer-term view
- Ownership position opens the door for more sophisticated projects
Unico Sustainability

Nearly a decade of sustainability commitment

- Primary services:
  - Energy efficiency project identification and development
  - LEED certification
  - Renewables development
  - ENERGY STAR and ongoing performance analytics
  - All services provided to Unico and non-Unico clients
- Over 11M SF of LEED certified square footage
- Nearly 1 MW of installed solar
- More than $2.1M in efficiency-related savings annually
Commercial Leasing Basics
Lease Types

Gross Leases
- Tenants monthly rent includes rent plus pre-determined cost for building operating expenses
- Regardless of savings, tenants pay the same amount

Triple-Net and Modified Gross Leases
- Tenants pay set monthly rent and estimated share of building operating expenses
- At year’s end, tenants pay additional adjustment for true cost of operational expenses

The Market Dictates the Lease Type
- Markets tend to be ingrained with one type or the other
- It is typically *not* landlord’s discretion
Operational vs. Capital Expenses

Capital Expenses
- Expenses that are typically considered imperative to the building or big enough projects that asset managers will attempt to capitalize the project
- Capital expenses generally include roof replacement, HVAC replacement, and life & health safety systems
- Capital expenses are not always easily passed through to tenants

Operational Expenses
- Expenses that are the result of ongoing occupancy and typical wear and tear
- Operational expenses include utility expense, basic ongoing repairs and maintenance, etc.
- Operational expenses are always passed through to tenants (assuming triple-net leases)
Implication: The Split Incentive

Gross leases often render the split incentive moot
- Because tenants’ costs do not change, any savings goes to the landlord

Triple-net and modified gross leases create the split incentive
- Landlord may not be able to pass the cost of a high-efficiency HVAC replacement (capital cost) to the tenants, but tenants receive the cost saving benefit
- Although some capital expenses can be passed through, this is subject to the lease language
- The split incentive is often an insurmountable barrier to high-performance
What is Green Leasing?

Many things to many people
- Green leasing can serve multiple purposes
- It is important to decide what you are trying to accomplish with your green lease
  - Overcome the split incentive
  - Fund the cost of green building certifications
  - Gain access to ongoing energy and water consumption data
  - Require waste diversion

Unico’s green lease rider addresses all of the above
- Focusing right now on overcoming the split incentive
A Multi-Step Approach

Overcoming the split incentive is not as simple as a green lease addendum

- The entire lease and green lease rider need to work together
- Step 1: Clearly define that any cost saving project’s costs can be passed through to tenants in the lease

“Capital costs included in Expenses [including ‘the cost of any capital improvements or modifications made to the Building by Landlord that are intended to reduce Expenses’] shall be amortized over such reasonable period as Landlord shall determine…”

- Step 2: Bolster this with green rider language

“Building Expenses shall also include: (i) all costs of maintaining, managing, reporting, commissioning, and recommissioning the Building or any part thereof that was designed and/or upgraded to be sustainable…”
A true green leasing strategy is a sequence of documents and clauses

• Define which type of expenses are the responsibility of the tenant

• Stipulate that costs associated with sustainability improvements are determined to fall into the same category of costs

• Therefore, sustainability costs are the responsibility of the tenant
Thank You

Adam Knoff, LEED AP O+M
Senior Sustainability Manager
Unico Sustainability

www.unicoprop.com
www.unicosustainability.com
@unicosustain
adamk@unicoprop.com
720-484-5162
Questions?

Visit www.GreenLeaseLibrary.com

Lauren Smith
Southwest Energy Efficiency Project (SWEEP)
lsmith@swenergy.org

Andrew Feierman
Institute for Market Transformation
Andrew.feierman@imt.org

Adam Knoff
Unico Properties LLC
adamk@unicoprop.com