

Is Subleasing the Right Move for Your New York or New Jersey Business?

by Victor Kinon on February 2, 2012

For [New Jersey or New York business owners](#), commercial subleases have both advantages and disadvantages. Therefore, it is important to carefully consider both the business and legal implications of a sublease before signing on the dotted line.

Under a sublease, the existing tenant assigns some or all of their interest to a third party, known as the subtenant (or sublessee). It is important to note that the subtenant does not simply replace the original tenant. The original tenant, often referred to as the master tenant, is still the responsible party under the terms of the lease.

In order for the subtenant to obtain all of the rights of the master tenant, there must be a novation. In novation, the original lease is terminated by agreement with the landlord, and a new lease is negotiated between the new tenant and landlord.

With this in mind, below are some of the advantages and disadvantages of a sublease.

The Advantages of a Sublease

- You can often save money. Subleases are generally more affordable than other commercial leases. Therefore, they are often suitable for businesses that are just starting out.
- You can lease a smaller space. Subleases allow you to rent a portion of a larger space. Therefore, if you are only looking to rent a few hundred square feet, pursuing a sublease may give you more options.
- You can move in quickly. Unlike some commercial properties, subleased spaces are generally move-in ready. In fact, they may even be furnished.
- You can reduce up front costs. As a subtenant, you may also be able to reach an agreement with the master tenant to use existing infrastructure such as phone lines and Internet as well as office equipment such as printers and fax machines.
- You can often receive free perks. With subleases, you may be allowed to access common areas of the larger space, such as reception areas and conference rooms, for a reduced cost or even for free.
- You can avoid unexpected expenses. Subleases generally involve the payment of a flat rental fee. Therefore, you can often avoid common area maintenance fees and similar expenses.

The Disadvantages of a Sublease

- You are beholden to the terms of the original lease. Therefore, it is essential to review and understand the entire original lease agreement to make sure that there are no terms that may adversely impact your business.
- In addition, be especially mindful that most leases require consent of the landlord (and that consent may be contingent upon the consent of the landlord's lender) prior to entering into a sublease, and failure to receive such consent may invalidate the sublease. Therefore, prior to investing a great deal of time and money into a sublease, this issue should be resolved.
- If the master tenant defaults or the landlord terminates the lease for some other reason, you may be forced to vacate the premises. Therefore, it is important to consider these issues when negotiating the sublease.
- Subleased space is generally rented "as is." Therefore, you may have limited options when it comes to making modifications.
- Maintenance may be a hassle. In many subleases, you will have to go through the master tenant to get to the landlord. As a result, requests for maintenance and resolutions of other concerns may take longer.
- Finally, a subtenant should pay careful attention to the "end of lease" clause to analyze the obligation of the subtenant to remove not only all subtenant improvements, but also all improvements in the subleased premises (i.e., those originally installed by the Master Tenant).

Despite the disadvantages, a sublease can be the right fit for a New Jersey or New York business, especially those that are just starting out. In any case, it is important to consult with an [experienced business attorney](#) to make sure your rights as a subtenant are protected.