Commercial Guide

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COMPASS
COMMERCIAL

Commercial Real Estate in New York City

Looking to open or expand your business in office or retail space, or just curious about opportunities to invest in commercial real estate?

We have extensive experience in the world of New York City Commercial real estate and are available to assist you. This guide touches on some key topics within the commercial arena.

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The Purchase Process

Once a property has been identified, the steps and time-frame that are generally involved are:

1

Written Offer to Seller with Proof of Funds

For foreign buyers, funds can be held locally in a recognizable bank at the time of offer submission and be transferred and readily available prior to contract signing and before closing.

2

Price and Terms Negotiation

Terms such as the due diligence period and closing date are negotiable:

- Due diligence for industrial building or whole building purchase may take longer (usually 30 days) than a condo or co-op retail purchase (generally 15 days).
- The closing date can be adjusted with mutual agreement if for example financing exists which may present longer wait time (about 30 days) for bank approval.
- Other scenarios that may extend the closing date are board approval requirement in a condo or co-op retail purchase (around 30 days) or the seller needs to buy out existing tenants within a building.

3

Offer Acceptance

4

Fully Execution of Purchase and Sale Agreement

5

Contract Deposit in Escrow

Contract deposit is typically 10% and is negotiable to be refundable at any time during the Due Diligence Period for any reason. However, it is non-refundable once the Due Diligence Period is over.

6

Due diligence

In addition to existing documents provided by seller, other due diligence may include but not limited to are violations search, liens search, and any financial concerns.

7

Closing

Frequently Asked Questions

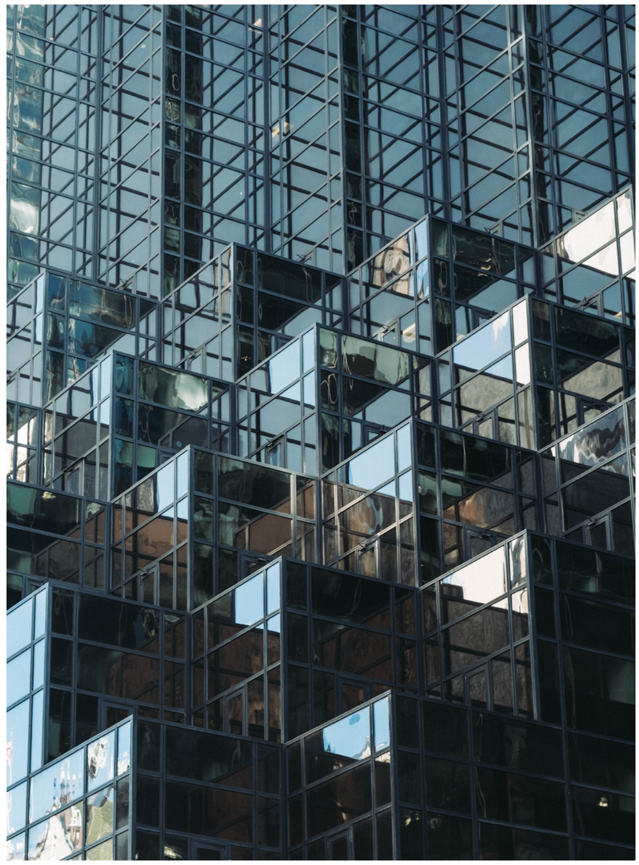
What does a commercial broker do and who pays a commercial broker's fees?

When working with a tenant, commercial brokers identify space availabilities to meet a tenant's requirements (location, accessibility, size, cost and amenities), model the financial implications of a commercial lease, negotiate business terms with landlords and participate in the lease negotiation coordinated by attorneys for the tenant and landlord.

Commercial brokers can also represent landlords in positioning and marketing available space and negotiating lease transactions.

Brokers also work with buyers of user and investment commercial property to identify acquisition opportunities and negotiate purchases of commercial and mixed use buildings and office and retail condominiums. Owners of these assets are also typically represented by commercial brokers in marketing them for sale.

Generally, all brokerage commissions are paid by owners (landlords), even to brokers who are exclusively representing a tenant. The major exception is in the acquisition of buildings where an owner selling a commercial asset only pays the broker who represents him or her and the buyer's brokers are compensated by buyers. (In this case, one way to mitigate cost for buyers is to bake in fee in offering price)



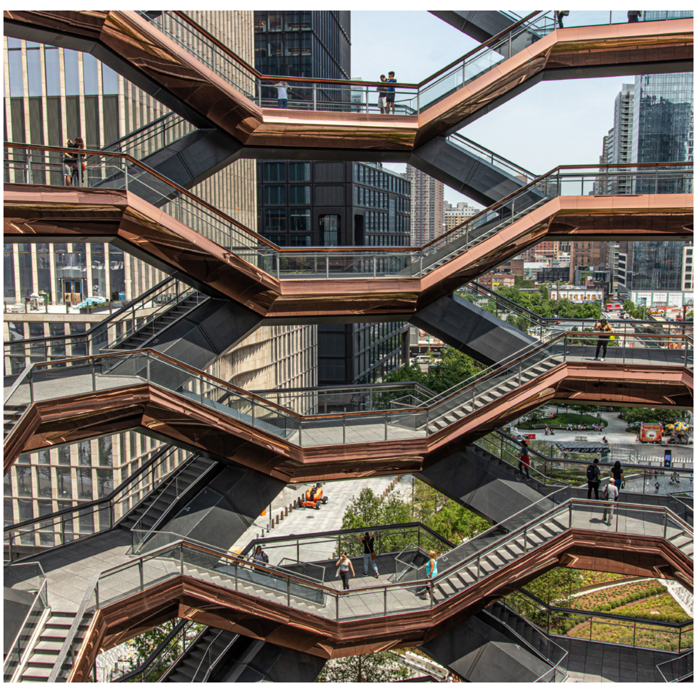
Go-To Experts

In addition to a commercial broker, there are a range of professionals involved in commercial transactions and occupancy planning. These include:

- Real Estate Attorney
- Accountant
- Architect
- General Contractor
- Furniture Vendor
- IT Consultant
- Movers

Should you consider owning commercial space and leasing it to your business?

Firms looking for office or retail space in New York find that the majority of opportunities are available only for lease and not for purchase. But for entrepreneurs and other private business owners who have the ability to purchase (and finance) the acquisition of real estate to lease to the businesses they own, the hunt for relatively uncommon commercial purchase opportunities may be worth the extra effort and due diligence. The most important location criteria for selecting any office or store must be accessibility to talent and visibility to targeted customers. No matter how attractive a commercial purchase opportunity may appear, any location that potentially hinders a firm's prospects should generally countermand the benefits and opportunities presented by property ownership. Leasing space also typically provides much more flexibility (and liquidity) if a company is growing, unless a purchased building or condominium provides surplus space into which the business may grow.



There are very clear potential investment, tax and business expense advantages for a company's principals by owning the real estate that can be leased to the firm owned by these same principals.

If the supply of the type of real estate acquired is constrained, there is strong likelihood its value will increases over time. For example, commercially zoned townhouses in New York are not common but desirable and generally no new inventory of this product type is added to the market. If the property does increase in value and is eventually sold as a part of a 1031 tax deferred exchange, the equity can be moved to another property by the seller with no immediate tax liability on the capital gain.

If a business owner acquires real estate through a Limited Liability Corporation (LLC) structure and the company (also typically structured as an LLC) pays rent to the LLC to occupy the space (a lease back arrangement), the company can deduct the rent as a normal business expense and the property owner can offset the rental income with interest payments, operational expenses and depreciation.

Since the company owner is also the building landlord, the lease rent can be stabilized. In contrast, if a business rents from a third-party landlord, it will likely face base rent increases and tax and operating expense escalations over the course of the lease term. This can be very critical in a tight real estate market prone to rent spikes. This explains why a bar such as The Brass Monkey (http://brassmonkeynyc.com) has been able to maintain its unpretentious but successful niche as rents in its Meatpacking surroundings have spiked—the bar's principals also own their building!

What is a cap rate and what does it measure?

A cap (capitalization) rate is the rate of return for a real estate investment based on the net income the property is expected to earn. A cap rate is calculated by dividing the net operating income (NOI) by the property value. The NOI is the annual income of the property less expenses. The cap rate is usually expressed as a percentage and makes it easier to assess and compare potential investments. Cap rates across most real estate asset classes in New York City have dropped since the Great Recession, as interest rates have remained low and property values have generally increased.

The cap rate is a popular tool for evaluating different real estate investments, but it should not be the sole factor particularly when making longer-term investments where growth or decline in income and property value should also be assessed.

What is a 1031 tax free exchange?

Under Section 1031 of the United State Internal Revenue Code, the exchange of certain types of investment property may defer the recognition of capital gains (or losses) and therefore defer any capital gains taxes otherwise due. To be eligible, the properties exchanged must be "like kind," i.e., of the same nature or character. The property to be exchanged must be identified within 45 days and received within 180 days. 1031 Exchanges provide a potentially powerful and unique tax benefit to real estate investments.

If I lease space, how do I know I am not paying too much rent?

A broker may provide relevant lease or sale completed transactions ("comps") and analyze the terms of a potential transaction in light of recent comps and historical market trends and forecasts. The magnitude of landlord concessions (tenant improvement allowance and free rent) in office or retail leases as well as a tenant's credit worthiness will also impact the negotiated lease rent.

In addition to rent, a commercial tenant typically pays for electricity according to a direct meter, submeter or on a rent- inclusive basis. Office and retail leases are generally "gross" leases which means a tenant rent includes the tenant's share of building operating expenses and taxes in the first year of the lease term. After the first year, tenants typically pay a "tax escalation" which is their proportionate share of increases in the building's taxes above the building's taxes in the first "base" year of the lease. Tenants also pay either their proportionate share of increases in the building's operating expenses above the "base" year operating expenses ("operating escalation") or pay fixed annual increases compounded over the base year's rent in lieu of an operating escalation.

Office or Store vs. Apartment

How does an office lease or store lease in New York City differ from an apartment lease?

Office leases are typically for a minimum of 5 years and can stretch to terms of 15 or 20 years. Retail leases are most often for 10 to 15 years. Shorter term sublease office spaces are often available as are "pop-up" brief retail leases.

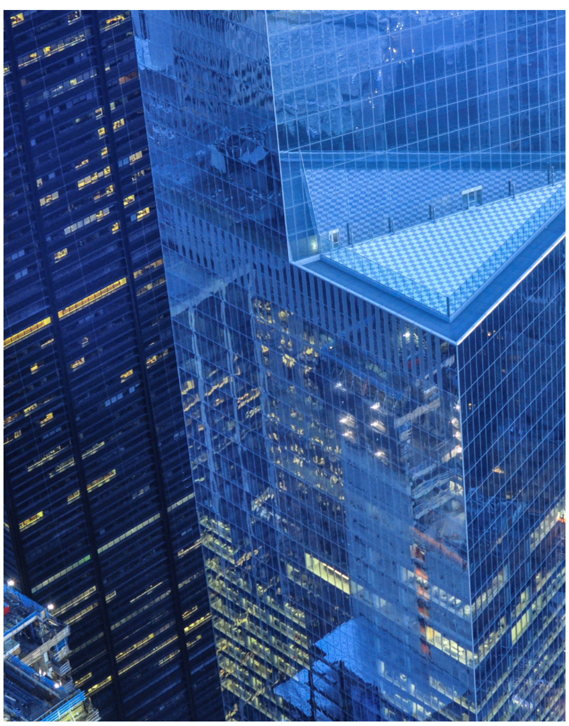
The typical tenant protections enjoyed by residential tenants may not apply to commercial tenants. For example, there is no such thing as a rent-controlled or rent-stabilized office or store tenant. Unless a commercial lease contains an explicit tenant renewal option, a landlord is not obligated to extend the lease term for an existing tenant beyond the lease expiration date specified in the lease. The landlord can increase the rent a commercial tenant pays by whatever the market allows upon the expiration of a lease.

For office tenants in New York, the square footage for which a business pays rent can be 30% - 40% greater than the square footage on which carpet can be laid and furniture installed.

Rentable square feet for office space in New York City typically reflects a "loss factor" while retail space generally is marketed and leased on a usable square foot basis. Generally, loss factors are higher for partial floor office spaces than for full occupancies, because common areas like corridors, elevators and lobbies are apportioned on divided floors into each tenant's square footages. This means full floors are generally more efficient and cost effective than partial floor occupancies.

Where are the fastest growing technology and creative firms choosing to open their offices in New York City?

Recently firms as diverse as Hewlett Packard, Anheuser-Busch, Red Bull, Cadillac, Unilever and Amazon have established new significant occupancies in New York City. All chose a side-core, former industrial building ideally suited to create a customized, activity-based and team-oriented office space. In neighborhoods like Chelsea, Tribeca, Williamsburg and SoHo, these firms find accessibility to creative and tech talent in architecturally significant, renovated structures and in neighborhoods with diverse and high-quality housing, shops, restaurants and other amenities.



Alex Cohen

Educated at Yale and Princeton and an innovative thinker and leader in New York's commercial real estate community, Alex Cohen develops strategy, advises, manages and analyzes commercial office, retail and mixed-used acquisition and lease transactions for tenants, landlords and investors.

With a background in urban planning, Alex has over 20 years of commercial real estate transaction negotiation, totaling ten million square feet. Alex has both extensive experience in launching international brands in the U.S. and a deep expertise in the marketing and repositioning of mixed use real estate. Alex's unique perspective allows him to identify markets, brand buildings and plan space configurations with the potential to attract and retain talent and customers vital to the workplace and retail environments of the future. Alex is a recognized thought leader and frequent contributor and speaker in national and business media, including US News & World Report, USA Today, Huffington Post, Epoch Times and Crain's NY Business and he was recently interviewed on the floor of the NYSE by CheddarTV. His recent speaking engagements have included Columbia Business Schools' annual Retail and Luxury Goods Conference and Luxury Interactive. His recent clients include Sennheiser, Unilever, Kering (Gucci), Canada Goose and CBS.

Alex resides in Midtown Manhattan, one block from Central Park, and often spends his weekends in the Hamptons with his family and Golden Retriever, Lapo.

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Specialties

- Office and Retail Lease Negotiation
- Commercial and Multi-Family Investments
- Corporate Location Strategy
- Property Repositioning and Marketing Strategy
- Site Due Diligence and SWOT Analysis
- Coworking and Office Space Disruption
- E-commerce, Demographics and Retail Disruption

Awards

Most Ingenious Deal of the Year, Sublease and Purchase of 685 Third Avenue on behalf of Pfizer, 2003

First Tucker Ashworth Memorial Fellow, Municipal Art Society, 1989

Client Testimonials

"Alex combines his expansive knowledge of commercial real estate, with insightful observations about today's new economies—to give us all extremely helpful predictions about the future shape of office and retail space."
– Jean Brownhill, CEO and Founder, Sweeten

"Alex is unique in that he puts the same energy and diligence in a small requirement as he does in a large one. He has been a huge asset to our company in filling every space that has become available with viable, credible tenants. I have worked with Alex for 10 years and plan to continue that relationship."
– Mary Ann Corio, Director of Corporate Real Estate, CBS Corporation

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