

CRE Lease Structure Is Changing in Favor of the Tenant

Software provider Quarem offered its predictions and trends for 2023.

By Paul Bergeron

The demand for commercial lease space has definitely changed over the last several years, but the structure of these leases has equally shifted in favor of the tenant, according to Quarem Software President John Rice.

Rice described the past 36 months in commercial real estate as experiencing “dramatic shockwaves” due to variable social and economic events, and noted, at the same time, how “little attention” has been given to how commercial leases are now being structured differently. This week, the company released its negotiation trends for 2023, focused particularly on tenants negotiating shorter lease terms and to gain more “get out of jail” flexibility.

Tenants to Seek Clarity of Force Majeure

Quarem says that the period between commencement and expiration dates for both renewal and new leased space will continue to decrease.

Tenants will negotiate for greater clarity when it comes to force majeure and seek expanded concessions and termination rights.

In most contracts, force majeure is a clause that allows one party to be excused from fulfilling their obligations if there are unforeseen circumstances beyond their control. If this happens then the other party will not have any legal recourse against them for failing to perform as expected under normal conditions.

Termination Options ‘Imperative’

Termination options will become nearly imperative and no longer will simply be nice-to-haves “especially if a longer-term lease is the landlord’s objective,” it said.

The conditions precedent clause will remain a tenant favorite because it “is much broader in scope and can be tied to any number of tenant performance KPI metrics.”

Price added in prepared remarks that most CRE research focus on vacancy, absorption, rental rates, etc.; metrics that are vitally important.

“What we’re observing is based on the details in the leasing activity driving those stats,” he said.