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# Smart Leasing 101: Tools and Case Studies that Attract Key Tenants and Meet Denver's Climate Goals

March 18, 2020



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# AGENDA

- Denver's Climate Goals
- Denver's Smart Leasing Program
- ULI's Tenant Energy Optimization Program
- Smart Leasing at Unico Properties
- Structuring Your Smart Lease

# Allison Kirby

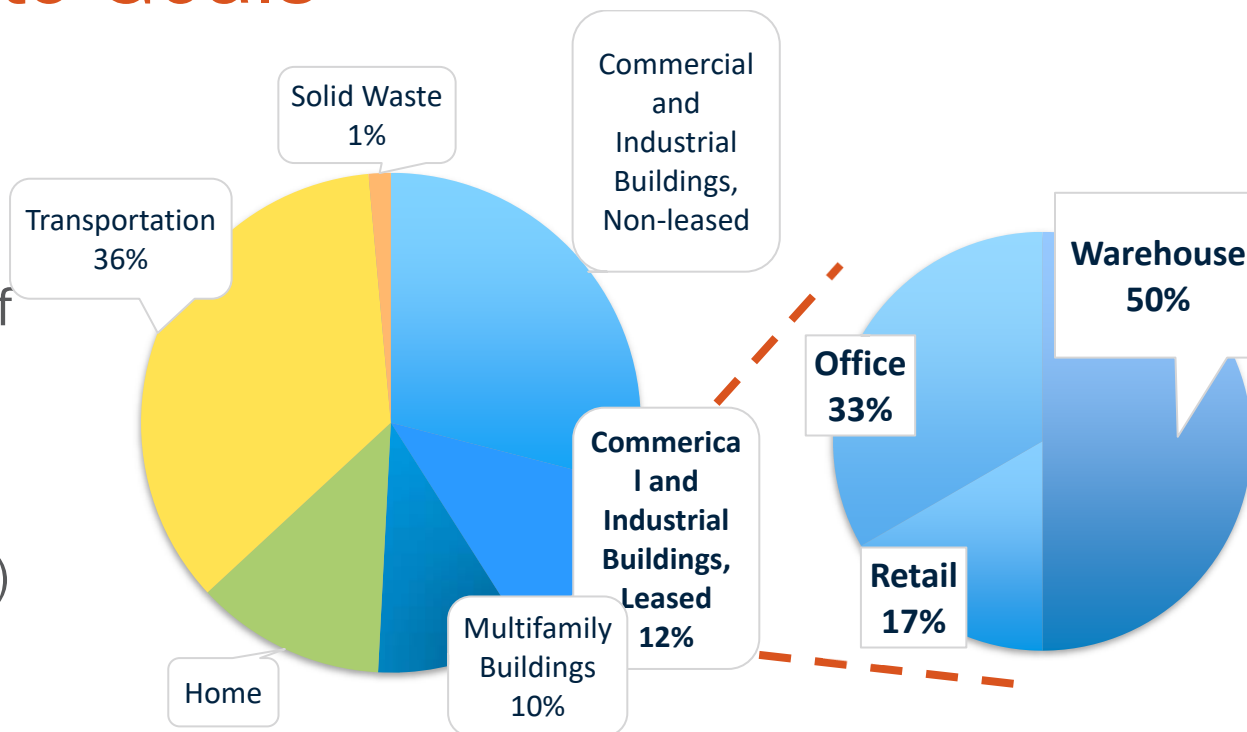
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City and County of Denver Smart Leasing Representative



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# Denver's Climate Goals

- Leased Commercial Space in Denver represents about 9% of total City emissions
- 103 Million Square Feet of Leased Space (449 Million sq.ft Total)
- 23% of Building Stock



# The Split Incentive



<http://www.greenleaselibrary.com/>



Provides tools, training, and resources to better align the interests of tenants and landlords to achieve healthy, high-performance, energy-efficient buildings.

### Stakeholder Groups



**TENANTS**  
Better health, comfort, productivity, and employee retention.



**LANDLORDS / PROPERTY MANAGERS**  
Increase tenant retention and NOI by lowering energy costs.



**BROKERS**  
Help clients lease healthy, high performance, energy efficient spaces.



**ATTORNEYS**  
Help clients meet their smart leasing goals in leasing documents.



**ARCHITECTS, DESIGNERS, AND SPACE PLANNERS**  
Demonstrate added value to clients by helping them find energy and cost-efficient options.

### Leasing Process

1

Pre-lease and site selection

2

Lease negotiation and build out

3

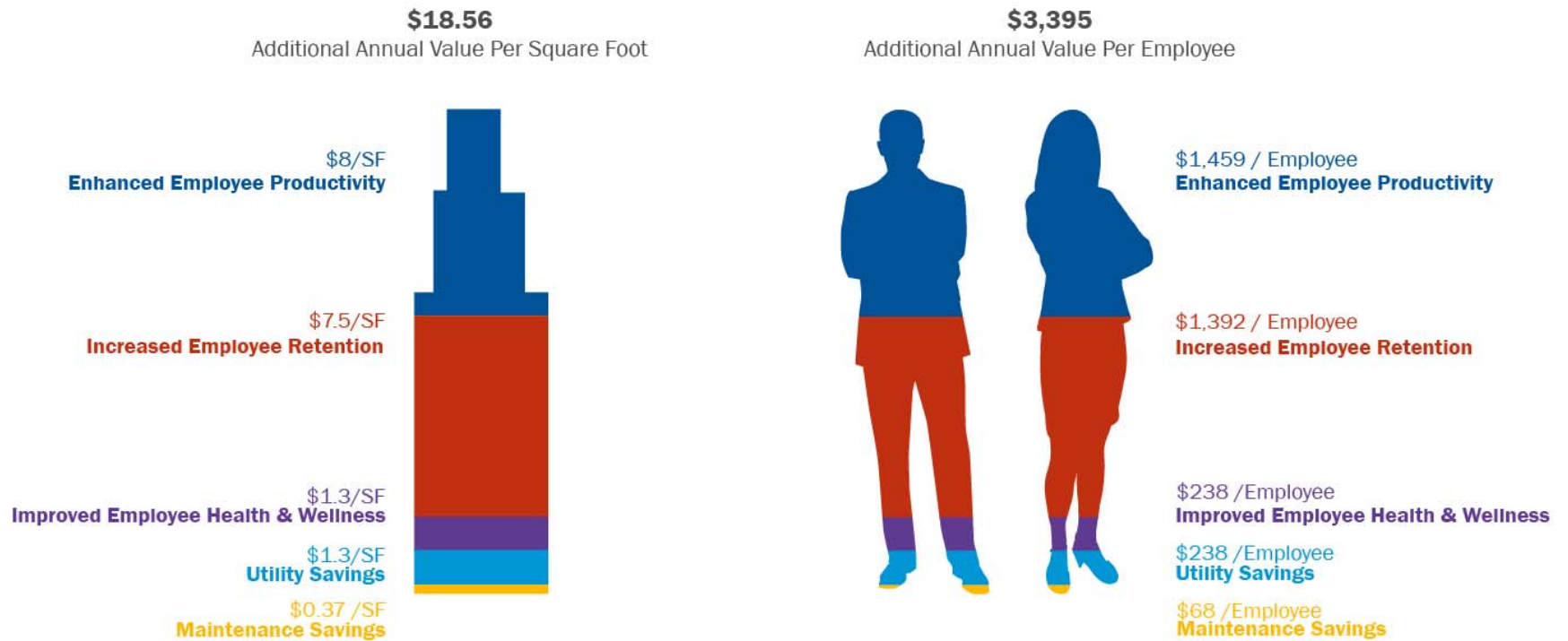
Occupancy and operation

### Denver's Impact

**57%** Greenhouse gas emissions from commercial and multifamily buildings

**20%** of this from leased space

# Determining the Value of High Performance Buildings




# Take the Pledge!

When you take the smart leasing pledge, you simply commit to having conversations about *energy efficiency* and *sustainability* at each stage of the leasing process: pre-lease and site selection, lease negotiation and build out, and occupancy and operation.

Ready to start the conversation?

Visit <http://bit.ly/DenverSmartLeasing>





Take the Smart Leasing Pledge




## Program Resources

- Access to expert advisors
- Best practice documents
- Recognition opportunities
  - Have a story? Get in touch:  
[smartleasing@Denvergov.org](mailto:smartleasing@Denvergov.org)

# Available Resources

- [Smart Leasing Webpage](#)
- Guides
  - Site Selection Criteria
  - Build out Guidelines
  - Building Rules and Regulations for Landlords
  - Example Lease Clauses
- Best Practices
  - Stakeholder Specific
  - Align with LEED & WELL
- Case Studies



SMART LEASING AND LANDLORDS

### Example Lease Clauses & Provisions

The Department of Energy, Institute of Market Transformation, and Berkeley National Lab developed the [Green Lease Leaders Reference Guide for Landlords](#) that includes example clauses and provisions listed below that landlords can work with tenants to integrate into their leases to establish a collaborative and mutually beneficial landlord-tenant relationship that leads to energy savings.

#### Provide Sustainability Contact

**Example Lease Clause**  
Landlord and tenant shall provide a point of contact for issues related to sustainability and energy. Issues include, but not limited to retrofit projects, billing issues, energy efficiency upgrades, and data access.  
Tenant sustainability contact:  
Email:  
Phone:  
Landlord sustainability contact:  
Email:  
Phone:


#### Implement Cost Recovery Clause for Energy Efficiency

**Example Lease Provision**  
Landlord may include the costs of certain capital improvements in operating expenses of tenant space. The amount of any one year shall not exceed the prorated capital cost of that term of that improvement (and shall not exceed in any year the saved by that improvement). Interest/the cost of capital can be

#### Disclose Whole Building ENERGY STAR Score to Tenant

**Example Lease Provision**  
Landlord shall provide tenant with the building's ENERGY STAR score annually. Tenant shall disclose energy use for inclusion in Landlord's annual reports, ENERGY

DENVER SMART LEASING PROGRAM



SMART LEASING AND LANDLORDS & PROPERTY MANAGERS

### Smart Leasing: Conversations about Energy Efficiency

Smart Leasing refers to any activity that better aligns the interests of tenants and landlords to achieve high performance, healthy, and energy-efficient buildings.

Smart Leasing encourages all stakeholders in the leasing process to have conversations about energy efficiency, sustainability, and building performance during the pre-lease and site selection process, lease negotiation and build-out, and occupancy and operations.

### Reduce Operating Costs

Landlords and Property Managers involved with leasing energy-efficient space has been proven to improve asset value through reduced operating costs and increase tenant retention. By integrating smart leasing into your business practices, you can unlock the value of leasing cost-efficient space that reduces utility costs, drives tenant satisfaction, and benefits your bottom line.

### Smart Leasing steps for Landlords and Property Managers:

- 1. Promote the energy-efficient features of your property to the market, including the ENERGY STAR® score.
- 2. Set efficiency standards build out of leased spaces and communicate your criteria and its benefits to prospective tenants.
- 3. Submeter your tenant spaces to increase transparency and provide data that can help you target and pursue energy efficiency improvements.
- 4. Implement, evaluate, and continuously improve energy management practices throughout building operations to establish consistency towards achieving efficiency goals.

### Resources to learn more:

- Department of Energy's Better Buildings:
  - 1. [Build Out to Save Money - Large Office](#)
  - 2. [Build Out to Save Money - Small Office](#)
  - 3. [10 Green Leasing Tips for Building Owners](#)
- Environmental Protection Agency's ENERGY STAR:
  - 1. [Find Green Space](#)
  - 2. [Engage Occupants](#)
- Green Lease Leaders: [Reference Guide for Landlords](#)
- Institute of Market Transformation:
  - [Why Landlords Should Take the Lead on Installing Submeter Technology](#)

DENVER SMART LEASING PROGRAM [HTTP://BIT.LY/DENVERSMARTLEASING](http://bit.ly/denversmartleasing)

# Take Action

Take the [pledge](#) to gain access to:

- Expert advisors for implementation
- Free recognition and promotional materials

Check out the [Smart Leasing Webpage](#)

- Sign up for our newsletter!

Spread the word with your colleagues:

- Stakeholder specific one-pagers
- Social Media #smartleasing

Connect with us at [smartleasing@denvergov.org](mailto:smartleasing@denvergov.org)



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# Emily McLaughlin

Director, Greenprint Center for Building Performance  
Urban Land Institute



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The background of the slide is a high-angle, black and white photograph of a modern building's atrium. The space is characterized by its geometric, multi-level design with glass railings and white walls. Several people are seen walking on the different levels, providing a sense of scale. The lighting is bright, highlighting the architectural details.

# Tenant Energy Optimization Program (TEOP)

EMILY MCLAUGHLIN

DIRECTOR, GREENPRINT CENTER FOR BUILDING PERFORMANCE

# ULI Greenprint: “Reducing Carbon, Building Value”

Founded in 2009

Worldwide alliance of **leading real estate owners and financial institutions** committed to improving the **environmental performance** of buildings

Member-driven initiative with the **goal** of reducing greenhouse gas emissions **by 50% by 2030**

Includes **~40 companies** representing 8,000 properties totaling 164 million square meters across **28 countries**

# ULI GREENPRINT MEMBERS



Rudin Management Company, Inc.



## Tenant Energy Optimization Program (TEOP)

- **Over 50% of energy used in commercial office buildings is consumed by tenants**
- **Free and open program**
- **A returns-driven, 10-step process to embed energy efficiency decisions into tenant space design and construction**
  - **Energy savings of 30 – 50%**
  - **Payback period of 3 – 5 years**
  - **Average IRR of 27%**

*[Tenantenergy.uli.org](http://Tenantenergy.uli.org)*





# Phase I – Pre-Lease



## Step 1: Select a team

- Use a broker with experience in sustainability.
- Add other team members (architect, engineer, etc.) in subsequent steps.



## Step 2: Select an office space

- Choose an efficient base building.
- Negotiate lease terms that allow energy efficiency improvements.

# Phase II – Design & Construction



## Step 3: Set energy performance goals

- Consider overall corporate sustainability commitments and investments.



## Step 4: Model energy reduction options

- Develop a Menu of Measures.
- Project performance of different combinations and iterations of measures.



## Step 5: Calculate projected financial returns

- Review incremental costs and available incentives.
- Use Value Analysis Tool.

# Phase II – Design & Construction



## Step 6: Make final decisions

- Determine the optimal package that meets financial (NPV and IRR) and energy performance goals.



## Step 7: Develop a post-occupancy plan

- Address needs for performance monitoring and occupant training.



## Step 8: Build out the space

- Execute the planned energy efficiency projects.

# Phase III - Occupancy



## Step 9: Execute the post-occupancy plan

- Measure and verify performance and perform ongoing maintenance.



## Step 10: Communicate results

- Perform ongoing reporting.

# Creating Business Value

Company	Leased area (SF)	Added cost (per SF)	Energy reduction	Total savings	ROI	Payback (years)
Bloomberg	20,000	\$3.06	10.5%	\$173,880	140%	2.5
Coty Inc.	80,000	\$0.71	30.7%	\$716,148	328%	2.7
Cushman & Wakefield	7,500	\$3.25	47.5%	\$87,862	359%	1.7
Estée Lauder Companies	10,000	\$1.29	12.1%	\$15,862	42%	3.7
Global Brands Group	137,000	\$0.98	11.8%	\$438,090	126%	4.6
LinkedIn Corp.	36,000	\$2.63	31.3%	\$153,000	23%	6.4
NYSERDA	15,200	\$2.42	39.0%	\$188,017	179%	3.6
Reed Smith	117,000	\$1.31	44.5%	\$1,126,498	410%	2.2
Shutterstock	8,600	\$2.63	22.9%	\$369,897	40%	6.1
TPG Architecture	40,000	\$2.01	21.6%	\$275,372	162%	3.2

Read more here:  
<https://tenantenergy.uli.org/case-studies/>

# What's next for TEOP?

- First of the new cohort of case studies published next week on Rocky Mountain Institute's leased space in Boulder Commons
- TEOP 10 Step "addendums" for:
  - **Multifamily**
    - Partnership with NAA – coming spring 2020
  - **Retail**
    - Broken down for "smaller mom and pop" type stores vs. malls
  - **Industrial**
    - Will include considerations for data centers and industrial shipping hubs
- An accompanying TEOP resource for architects and engineers (In partnership with AIA) – coming May 2020



**Thank You**

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# Edmée Knight

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Unico Properties



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## Green Leasing

March 18, 2020

Edmee Knight

Unico Properties



# Investor and Operator

Unico is a commercial real estate investment and operating company

- University Company (Unico)
- 6 primary markets: Austin, Denver, Nashville, Portland, Salt Lake City, Seattle
- \$5 billion AUM
- Long-term investment philosophy
- Ownership position opens the door for more sophisticated projects



# Unico Sustainability

12 Years of Sustainability

- Sustainable Real Estate Operations
- Sustainable Development
- Unico Solar Investors



2030  
DISTRICTS<sup>®</sup>  
NETWORK





# Unico Lease Types

## Modified Full Service Gross Leases (FSG)

- Tenants' monthly expenses include rent **plus pre-determined cost** of building operating expenses
- **Landlord is responsible for maintenance** of common areas and tenant space.
- At year's end, tenants pay additional adjustment for true cost of operational expenses

## Triple Net Leases (NNN)

- Tenants pay set monthly expenses include rent and **estimated share** of building operating expenses, including taxes
- **Tenants are responsible for maintenance** in their space – janitorial, utilities etc.
- At year's end, tenants pay additional adjustment for true cost of operational expenses



# Unico Expenses: Operational vs. Capital

## Capital Expenses

- Expenses that are typically considered imperative to the building or high cost projects that asset managers will attempt to capitalize the project
  - 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
  - Utility expenses, basic ongoing repairs and maintenance, etc.
- Operational expenses are typically passed through to tenants



# The Split Incentive

Triple-net and modified gross leases create a 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-performing, efficient buildings



# 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 a green lease
  - Overcome the split incentive
  - Fund the cost of green building certifications
  - Improve energy and water efficiency in the building
  - Gain access to ongoing energy and water consumption data
  - Compliance with local laws
    - Energy disclosure
    - Recycling and composting

Unico's green lease language addresses all of the above

- Consistently updating our boilerplate lease





# A Multi-Step Approach

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

- The entire lease and green lease language need to work together
- Step 1: Clearly define that any cost saving projects 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 lease 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...”***





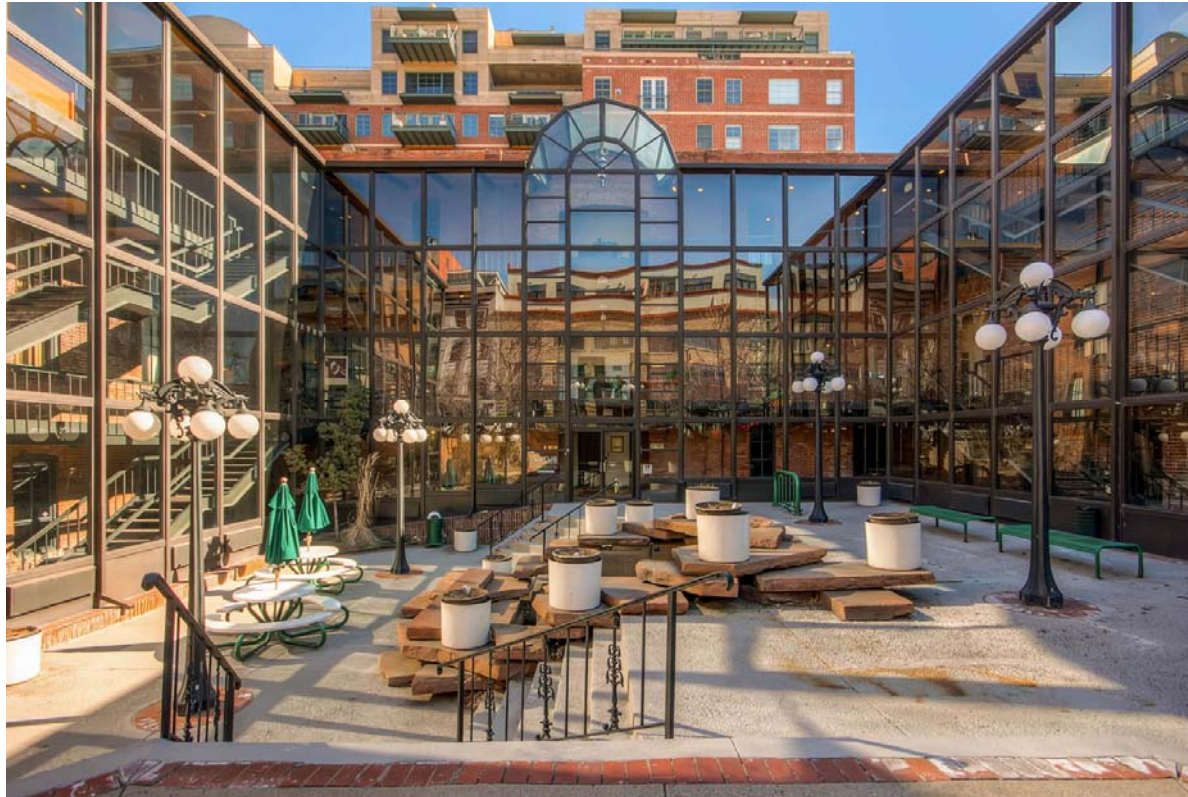
## A true green leasing strategy is a sequence of documents and clauses

- 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 expenses
- Therefore, many sustainability costs are the responsibility of the tenant



# Case Study – Elephant Corral

- Purchased in 2016 with an EUI of 71.1
- Annual energy consumption = 605,000 kWh
- Annual energy cost = \$62,000

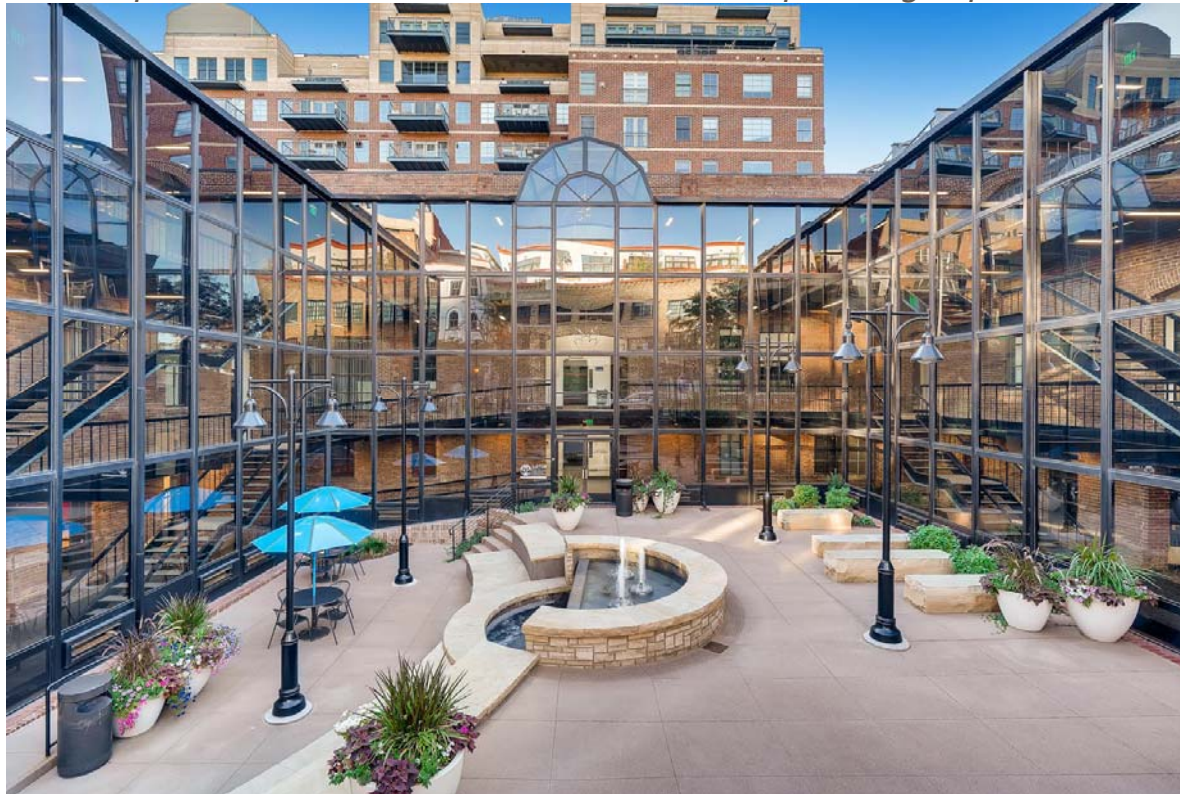


# Case Study



- Current (2019) EUI of 42.5
- Current annual energy consumption = 328,000 kWh
- Current annual energy cost = \$39,000
- 50% reduction in HVAC related tenant request

*Improved tenant comfort and decreased operating expenses*



# Thank You



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# Structuring Your Lease to Maximize High Performance Goals

## Overview

- I. Green Leases
- II. Net Zero Leases
- III. Conclusion / Additional Resources

# Structuring Your Lease to Maximize High Performance Goals

## I. Green Leases

### A. Why Green Leases?

# Structuring Your Lease to Maximize High Performance Goals

## I. Green Leases

### B. General Issues for Parties to Consider Related to Green Leases

- Which party bears the cost of being green
- New leases vs. existing leases
- Existing, finished premises vs. new premises
- Gross vs. net leases
- Other general items to consider



# Structuring Your Lease to Maximize High Performance Goals

## I. Green Leases

### C. Specific Items / Clauses to Consider

- Term
- Rent
- Maintenance and Repair
- Utility Services
- Damage and Destruction
- Surrender

# Structuring Your Lease to Maximize High Performance Goals

## I. Green Leases

### C. Specific Items / Clauses to Consider (cont.)

- Letters of intent
- Remedies
- Work letter
- Reconstruction / relocation issues
- Rules and regulations

# Structuring Your Lease to Maximize High Performance Goals

## I. Green Leases

### C. Specific Items / Clauses to Consider (cont.)

- Assignment
- Alterations and Improvements
- Compliance with Laws
- Landlord's Services
- Other items

# Structuring Your Lease to Maximize High Performance Goals

## I. Green Leases

### D. Forms and Resources

- BOMA
- Real Property Association of Canada
- Rocky Mountain Institute

# Structuring Your Lease to Maximize High Performance Goals

## II. Net Zero Leases

- A. What is “Net Zero”
- B. Single Tenant vs. Multi Tenant Buildings
- C. Preliminary Items to Consider



# Structuring Your Lease to Maximize High Performance Goals

## II. Net Zero Leases

### D. Lease Provisions





# Structuring Your Lease to Maximize High Performance Goals

## II. Net Zero Leases

E. Remedies

F. Lender Issues

# Structuring Your Lease to Maximize High Performance Goals

## III. Conclusion / Additional Resources

Additional information about green building law (in general) or green leasing:

- Cara A. Carmichael, Laurence G. Preble, Evan L. Randall, and Beat U. Steiner, “Sustainability Gets Serious: Drafting Multi-Tenant Offices for Net Zero Energy Buildings,” *Prob. & Prop.*, 34-37 (Sept./Oct. 2017).
- Beat U. Steiner, Evan L. Randall, and Jordan J. Bunch, Commercial Leasing in Colorado: A Practical Guide, ch. 28 (2d ed. 2019) (Chapter 28 concerns green leases).
- Evan L. Randall, Rebecca W. Dow, and Laurie K. Choi-Brochu, “Green Building: A Primer for Attorneys,” in The Practitioner’s Guide to Colorado Construction Law, ch. 30 (Robert E. Benson et al. eds., 2d ed. update April 2018).
- Alisa Petersen, “The Piece of Paper That Could Make or Break Commercial Net-Zero Energy,” Rocky Mountain Institute, at <https://www.rmi.org/news/piece-paper-make-break-commercial-net-zero-energy/> (Feb. 8, 2018) (note – has copies of net zero lease examples).



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# Q&A

# Contact Us

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