

Why Use A Broker At All?

- Dennis Copeland

A prospective client recently asked this question, and I found myself fumbling for a simple answer. It occurred to me that in recent years I've buried the fundamental benefits of our profession under a mountain of words in order to sound sophisticated. The truth is that there are three fundamental reasons for using a broker: To save money. To save time. And Protection.

Good brokers do save their clients money – often a lot. In the first place, we know every aspect of a deal that can cost our client money, from management costs to tax escalations to contractor's fees. We also know what is reasonable and what is not; which buildings need a particular size deal; and dozens of other factors that can influence the negotiation. When brokers say that they "know the market" it means a lot more than building vacancies and rental rates.

In addition, there is significant value to be derived from a third party representation. A skilled broker almost always brings extra firepower to bear in helping his client negotiate a real estate transaction. This doesn't suggest that we are more talented than our clients, but rather that a broker:

- ◆ Generally has more latitude to backtrack and change positions to protect the client or improve the deal;
- ◆ As a rule, has experienced a greater variety of real estate negotiations;
- ◆ Can work the art of brinkmanship to a greater extent in order to cut the toughest deal, without the risk of derailing the negotiations; and
- ◆ Forms a negotiating team with the client that enhances the clients negotiating position.

Saving time simply means that the more we get done and the better we communicate, the less our clients have to disrupt their business routine in order to work on real estate issues. Even when the client contact is an experienced real estate director, we can still carry the responsibility of follow up and follow through as we keep the process moving and anticipate each step along the way.

AN EFFECTIVE BROKER MANAGES TWO SIMULTANEOUS ACTIVITIES:

- ◆ Identifying, touring, screening, evaluating, and negotiating with all appropriate facility options

until the client has secured the best possible lease.

◆ Guiding the client through its own internal process, from needs definition to carrying out the move itself.

Most clients view the former as the domain of the broker. In reality, the latter is equally important, and a good broker has to balance both. When properly executed, the client's business needs and culture drive the process, not the deal. Even under adverse circumstances there is a rhythm or flow to every real estate transaction, and when the broker does the job correctly, the client's principal involvement is making judgements and decisions, not fighting fires and following up on details.

There are several different ways in which client protection occurs. The first (and the easiest) is building the obvious tenant control and flexibility provisions into the lease, such as expansion and termination rights, self help provisions, caps on escalations, etc.

The second is more subtle, requires more experience, and calls upon a broker's true professional integrity. It's called "hanging tough on the little thing," such as the specific language on how the client's sublet process will work (if you've never been caught in the Catch 22 of Recapture Notice and Sublet Notice you know what I mean). Or what happens when the landlord decides to throw in a Relocation Clause – at the last minute. Or the lender decides he can't quite give you the language he committed to in the Non-disturbance Agreement.

Finally, when emergencies happen (I think Murphy's Law was written for our business) there is one person that the client can always turn to, and that's the broker. Strikes, foreclosures, management changes, late deliveries, contractor/architect wars, bait and switch negotiating tactics, and a host of other problems are a way of life in our adversarial industry, and nobody can fix problems faster or more effectively than a good advocate broker.*