

Dilapidations Advice Note for Tenants

When is the right time for a prospective tenant to think about the dilapidations process?

Not at the end of the lease!

The best time to consider dilapidations and your liability at the end of your lease term is before you actually sign the lease.

Many solicitors slip in onerous repairing and yield up covenants into leases to protect the landlord. We would recommend that any prospective tenant instructs a Solicitor experienced in commercial property prior to agreeing any heads of terms (HOT's) and also consider appointing a Chartered Surveyor experienced in commercial property and dilapidations to advise on the key covenants within the draft lease.

Interim Dilapidations

If you do not maintain the property within the terms of your lease the landlord may serve you with an interim schedule of dilapidations. The first time you will be aware of your landlord's intentions would be when a Section 146 Notice arrives through your letterbox. As a commercial tenant you are protected by the Leasehold Property (Repairs) Act 1938 by being entitled to serve a counter notice within 28 days requesting the landlord to justify any repairs are essential and are required mid lease term. It is vital that you respond ideally through your legal advisor as otherwise, if you do not respond or do not carry out the necessary repairs the landlord may have provision in the lease to carry out the works himself at your cost.

Terminal dilapidations

A terminal dilapidations schedule will arrive before the end of your lease and the most valuable piece of advice is to review your lease and your repair obligations early on, at least 12 months prior to the end of the lease. Keep your landlord informed of your intentions; are you vacating at the end of the term or do you want to renew the lease? If you keep the property in repair and intend to vacate the property at the end of the term, careful management of the last years occupation can save you thousands of pounds. When you first occupied the property, did you have a schedule of condition carried out? Have you altered the property, and do you need to reinstate the layout back to the original? There are many variables to terminal dilapidations and specific leases, having an experienced dilapidations surveyor review your lease and inspecting the property early can assist significantly with your exit strategy.

Lease break clause

Lease breaks can be more important than the lease end as break clauses allows tenants to make strategic business decisions in relation to the space they occupy. You, as a tenant, need to plan sufficiently in advance with an experienced dilapidations surveyor to allow you to deal with the intricacies of the various clauses in leases. You may only be able to break the lease if you have not breached any covenants in the lease with all service charge, insurances and rent payments paid up to date with no arrears on the date of the break. For example if your quarter rent falls 1 day before the break date would you pay all of the quarters rent for 1 day of your lease-**YES** if not you could be in breach of your lease with the break deemed invalid binding you into the rest of the lease term.

To summarise please consider dilapidations well before a key date in your lease. Allow for at least a year and that will give you enough time to prepare for your lease event. Take advantage of our **Free Property Health Check**. Please feel free to contact us to review your lease and discuss your Dilapidations scenario before it's too late.

Email-Info@quoinsurveys.com

Tel-Phil Hunt -07725308043



Quoin Property Consulting Limited, Licensed and Regulated by RICS