

One of my greatest pet peeves are realtors who are supposedly working for the tenant while accepting a commission from the landlord. I have hesitated writing this article for months now lest it be considered an attack on real estate salespeople or agents. Nothing could be farther from the truth. If it weren't for realtors and brokers, landlords would have half-empty buildings. The purpose of this article is to enlighten tenants, open some eyes and let you decide for yourself about this issue.

Realtor:

Anyone who works on commission is a salesperson
- not an advisor.

Beware from whom you take advice!

Friends?

Prior to becoming a Lease Consultant in 1993 and exclusively working for tenants I was the landlord's typical leasing agent/realtor so I know what I'm talking about. Realtors are deal driven, not detail driven. Whether you pay rent at \$14 per square foot or \$16 per square foot matters less to a realtor than whether the deal actually gets done. After all, realtors are only paid if a Lease Agreement gets signed and the deal closes.

Recently a real estate agent insisted that my client, the tenant, sign a Dual Agency Agreement. A Dual Agency Agreement basically states that the realtor is representing both the landlord and the tenant simultaneously. Now I don't know about you, but to me this seems nearly impossible considering that we're all human. It's virtually impossible to serve two masters. In my seminars I use the example of two people going to court over a disagreement. The plaintiff and the defendant would never agree to share a lawyer would they? How about if the defendant agreed pay the entire lawyer's fee? No plaintiff would justify this as a reasonable cost saving measure. So why would a tenant take advice from the landlord's realtor? Many of them do and the results are often disastrous.

When a tenant or entrepreneur comes to me for consulting they will often say something like "my realtor says this is a really good location. Or, my real estate agent thinks the rental rate is quite reasonable". My first response is to ask the businessperson why they refer to the realtor as "my realtor". Sometimes they will respond by saying "well the landlord has his real estate agent and I have mine". Well, who is paying these realtors I ask. Ultimately the landlord is still paying a commission, it's simply being split by both realtors.

Let me pause right here and state for the record that people who work on commission are salespeople - they are NOT advisors. If you want to be talked into making a deal, go through a realtor. If you want to weigh your options and maximize your bargaining position use a Lease Consultant who is only receiving a fee from you. Recently a client in Toronto told me about a supposed lease consultant who wanted to represent the tenant and still pick up a commission from the landlord. Beware of wolves in sheep's clothing.

You may have heard the term Tenant Rep. This is a fancy name realtors take on when they want you to believe they are working for the tenant while they are being paid a commission by the landlord. In fact the name Tenant Rep is so misused that even seasoned tenants with multiple locations and franchisers are fooled by this seemingly idealistic solution to their problems. Thinking that a broker can work for you but be paid by the landlord is too hard for me to swallow.

Real estate laws state that you are entitled to know if the realtor is being paid a commission and how much. All you have to do is ask. In most cases the realtor's commission will be



or

6% of the Base or Minimum Rent (not operating costs). So if you are leasing 3000 square feet (times) \$18 per square foot (times) five years (times) 6% (.06) the commission would be \$16,200. If you're not inclined to take the advice of a car salesman who makes a \$200 commission selling you a car how much more guarded should you be when the commission is thousands of dollars on a real estate transaction?

If I'm not in enough trouble already for writing this article I'm going to go one step further (I must be crazy). Franchisors who allow realtors/agents/brokers to do their site selection and negotiate leases for franchisees frequently leave a lot on the negotiating table. Recently I negotiated a lease for a local independent tenant in a new building. My client got more free rent than a major franchisor who was setting up next door. I believe franchisors should have in-house council that exclusively works in the tenant's best interest. Disgruntled franchisees contact me weekly complaining about a poor location or rents that are too high. This article is not an attack on franchisors either. An ethical franchisor would never intentionally undermine its own system. After all, the franchisor is frequently on the Head Lease. Franchisors must simply learn that they can't let the fox guard the chicken coup.

Let me share another tidbit of wisdom that seems to have been missed by tenants. When doing site selection you should never allow a realtor to show you around town. What I mean by this is never let one single realtor show you another realtors listing. If you want to look at space for lease in one particular building contact the listing agent whose name appears on that building's For Lease sign. Typically a tenant will know a realtor whom they feel comfortable with and let that realtor show them other buildings listed for lease by other realtors. This creates commission splitting and makes you, the tenant, less valuable than another tenant who may be dealing directly with the listing agent. It's never a good idea for the landlord's realtor to know what you are thinking about for all of the properties that you've shortlisted. Some realtors won't care which property you lease at all, as long as you do the lease deal through them.

If you are interested in five different properties, listed by five different real estate companies then you need to make five independent inquiries. Typically the listing agent will know their client (the landlord) better than an outside realtor and consequently you will get information more directly by dealing with the listing agent for any particular property. Also, don't be afraid to take charge of the leasing process. You are the customer and any landlord should be happy that you are considering leasing space in their property. There is nothing wrong with negotiating aggressively. In leasing, tenants don't get what they deserve, you get what you negotiate!



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