

Commercial Leasing: Things to Consider When Taking Advantage of Eau Claire's Growing Waterfront Opportunities



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Over the past few years, Eau Claire has seen some exciting new development along its riverfronts. Underutilized in the past, these new spaces give local businesses the chance to add an appealing location as another asset. While some of these projects are still in the planning stages, one especially exciting new opportunity is the recently constructed Haymarket Landing. Many forward thinking business are looking to “hang their shingle” along the water, and it is not hard to make a business case for why it makes sense. Development downtown provides a ready audience of individuals already living downtown and capitalizes on the traffic coming to and from the forthcoming Arts Center as well as other downtown activities (like the Farmer’s Market, summer concerts, and weekend road races). Haymarket Landing condominium is one such property. With its unique location at the confluence of the Eau Claire and Chippewa rivers, the space, which can be rented or purchased, offers opportunities for frontage along Eau Claire Street, Barstow Street, and the Eau Claire River. The property is suited for any commercial enterprise.

If you’re considering taking advantage of Eau Claire’s waterfront opportunities, there are many items to consider and be aware of. When negotiating a commercial lease, the amount of rent and length of the lease term are obviously major considerations. However, because each business has its own unique identity and needs, the following are some important lease provisions that business owners and managers should consider:

Buildout. If the space does not meet the exact layout or other structural specifications that you envision, the lease should specifically lay out the terms of any modifications that will be made. Some questions to consider include: What sorts of changes will the landlord allow? Will the tenant pay for all of the changes, or will the landlord share the cost? When will rent payments commence? Will they start when the construction begins, when the tenant starts moving in, or when the buildout work is completely finished? Which of these modifications will remain after the tenant moves out, and which must the tenant restore to the original condition?

Common Areas. Many commercial properties include common space that is shared by the tenants (lobbies, restrooms, parking lots, etc.). The cost of maintaining these areas, including utilities, janitorial services, insurance, and repairs, should be addressed in the lease. Are the costs allocated amongst the tenants equally or based on square footage occupied? Does the landlord pay the share for vacant space, or do the existing tenants?

Exclusivity. After signing a lengthy lease and investing in a significant buildout, a business may not

want the landlord to lease space in the development to a competitor. Commercial leases often contain provisions restricting the landlord from renting to businesses that provide the tenant’s products or services. These provisions should specifically identify tenant’s business (including the services it provides or the products it sells), so that it is clear which prospective tenants will be prohibited.

Co-Tenancy. Certain tenants in the development often add a lot of value to the others. For example, some businesses attract significant foot traffic or types of customers that other tenants want. Without these tenants, the space is not worth as much to the remaining tenants. Co-tenancy clauses provide for a reduction in rent or even the opportunity to terminate the lease if a certain tenant ceases doing business or terminate its lease.

Subleasing and Assignment. The lease should address if and under what conditions subleasing or assignment to a third party is allowed. Can the tenant

do so whenever and to whomever it wants, or is the landlord’s consent required? Can the landlord withhold its consent for any reason or must it be “reasonable”?

Personal Guarantees. Oftentimes, landlords ask business owners, especially of small-business tenants, to personally guarantee the business’s lease obligations. Owners should appreciate the risk that this entails. If you choose to sign a personal guarantee, make sure you understand its terms. Consider carefully the following: What constitutes a business default that allows the landlord to seek payment from you personally? Can the landlord do so right after default, or does it have to first seek payment from the business and its assets?

Moving to a new space can jumpstart your business, but it can also present a new set of complex considerations, especially when doing so for a lengthy term. Attorneys at Ruder Ware, L.L.S.C. have significant experience navigating these sorts of issues. Please contact us with any questions or for additional information.



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