

## **In Rough Economic Times, Immediate Bottom Line Impact Can Be Found In Lease Financial Audits**

Jackson Cross Partners (“JCP”) works with many corporate tenants and commercial property owners in the review, abstraction and audit of property leases. The JCP Advisory group utilizes a full time staff of 7 attorneys and property specialists, along with a group of 25 independent contractors to help clients “mine for value” in their property leases. Over the last five years the group has reviewed over 30,000 property files while assisting clients in building property databases, electronic document libraries and improving internal controls for Sarbanes – Oxley compliance. A significant outcome of this effort and experience has been the identification of “found money” in real estate contracts based on auditing of the basic financial terms of the Agreement.

Cate Sennett, an experienced attorney and Director of Advisory Services at Jackson Cross notes: “It is incredible to see the number of times in reviewing a lease file, how often the rent or other financial obligations of both Tenant and Landlord are either mis-calculated or mis-applied. We have been involved in numerous situations where the amounts have ranged from a few hundred dollars to over one hundred thousand dollars.” The impact is further compounded by time, since the undiscovered errors are typically carried forward year after year of the lease. In addition to the monetary impact, which is key, often times documents or amendments are unexecuted, expired or ambiguous which can lead to disputes over notice dates or expiration dates that can dramatically impact a tenant’s right to continued occupancy. This creates a significant risk of business interruption and/or litigation expenses.

Even larger opportunities for savings can be found in various options and rights of a lease explains Lou Battagliese, a Partner at Jackson Cross: “We encountered one situation a few years back, where a client was ready to terminate a Lease, but in reviewing the Lease, we discovered the client had an Option to Purchase the property. In most cases, if you wanted to terminate the Lease, you would never consider buying the property. However, there was a large gap in the client’s favor between the option price and the value of the property. We were able to identify a purchaser and the client bought and sold the property for an \$8,000,000 gain as they vacated the property!”

In the current economic environment with businesses looking for every opportunity to find savings or reduce costs, real estate leases present a fertile and often times un-explored territory. The Gartner Group estimates that businesses spend between 5% and 10% of their gross revenue on occupancy costs. Most businesses do not have the internal staff or resources to do regular reviews of their property leases. In particular, many multi-location businesses that have grown through merger and acquisition may not even be familiar with all of the terms of their property leases. According to Battagliese and Sennett, this is “low hanging fruit” for any CFO.

The larger the portfolio, the larger the opportunity. “In addition to providing an independent review of the property files”, says Battagliese, “the exercise of doing this audit brings the properties into the business planning cycle in a pro-active fashion”. JCP clients who have undertaken this work have been able to also address capacity and space utilization issues, roof top consolidations, lease restructures, as well as operating expense audits for energy, maintenance and property taxes.

Tom Frank, CFO at Nobel Learning Communities based in West Chester, PA commented, “In just this past year, the real estate program with Jackson Cross has helped us to dramatically improve internal controls related to our 180 properties and more importantly, helped us to drive down our occupancy costs at specific schools by 10% to 20%. We are now proactively managing all of our property leases, not merely reacting to expiration dates. This is a huge step forward and will provide benefits to the company for many years to come.”

As businesses of all sizes and industries work through this difficult period, simple solutions are often overlooked. Many times, businesses believe that this audit function is something that can or should be done internally. The reality is that it never seems to get done. Using an outside resource like Jackson Cross provides a number of benefits including: an independent view, professionals experienced in reading and interpreting complicated documents, staff capacity to timely complete the review and transactional and negotiating experience to develop cost saving solutions.

In addition to the financial impact, the process provides the CFO with improved internal controls, risk management and more detailed information on rights and obligations to integrate into the business planning cycle.

**For additional information on the Lease Financial Audits contact:**

**Louis J. Battagliese Jr. SIOR**  
610-265-7700 ext. 112  
[ljb@jacksoncross.com](mailto:ljb@jacksoncross.com)

or

**Catherine S. Sennett, Esquire**  
610-265-7700 ext. 123  
[csennett@jacksoncross.com](mailto:csennett@jacksoncross.com)

About Jackson Cross Partners, LLC:

Jackson Cross Partners, LLC – ONCOR International is a real estate service company headquartered in King of Prussia, PA. The company provides Advisory, Brokerage, Management and Financing services to owners and occupiers of commercial property. JCP has offices in Pennsylvania, Delaware and New Jersey, and through its affiliation with ONCOR International, Jackson Cross can provide client services throughout the region and across 220 markets worldwide. For more information visit [www.jacksoncross.com](http://www.jacksoncross.com).