

Glossary of Real Estate Terms

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Black's Guide's Glossary of Real Estate Terms provides a complete reference dictionary of terms and phrases used in the commercial real estate industry. These definitions have been endorsed by numerous industry organizations as the Market Standard for their respective regions.

Abatement: A reduction or decrease; usually applies to the forgiveness of rent or a decrease of assessed valuation of ad valorem taxes after the assessment and levy.

Above Building Standard: Specialized design and engineering services and all construction necessary to personalize tenant space.

Absorbed Space: Net change in leased space between two dates.

Absorption: The rate at which land or buildings will be sold or leased in the marketplace during a predetermined period of time, usually a month or a year. Also called "Market Absorption."

Absorption Period: The number of months required to convert vacant space into leased space assuming no new delivered space. Computed by dividing the average monthly absorbed space during a recent period into the current vacant space.

Ad Valorem: (According to value) Used in reference to general property tax, which is usually based on the official valuation of property.

Add-On Factor: Considered a loss factor, the percentage of gross rentable square footage which is lost to the tenant's physical occupancy.

Adequate Rate Covenant: An agreement often required in revenue bond-financed projects; guarantees the operator will charge adequate rates to produce revenue necessary to cover principal and interest payments.

Alienation Clause: A type of acceleration clause where a debt becomes due in its entirety upon the transfer of ownership of a secured property. See also "Due on Sales Clause" and "Acceleration Clause."

Allowance Over Building Shell: One of three arrangements often used for financing tenant improvements (finishing out office space to accommodate a tenant such as walls, doors, carpeting etc.). Often used in a yet-to-be-built building, this arrangement caps the landlord's expenditure at a fixed dollar amount over the negotiated price of the base building shell. This arrangement is most successful when both parties agree on a detailed definition of what construction is included and at what price. Tenants may ask for

a contingency in the event the actual build-out costs are less than the allowance, requiring the landlord to return the savings in the form of rent abatement or other concession.

AM: Accredited Member (designation offered by the American Society of Appraisers).

Annual Percentage Rate (APR): APR reflects the cost of a loan on a yearly basis. It may be higher than the note rate because it includes interest, loan origination fees, loan discount points and other credit costs paid to the lender.

Anticipatory Breach: Occurs when one party to a contract, prior to time of performance, informs the other of his or her intent not to perform. Example: The buyer informs the seller before the closing date of his or her intent not to buy.

Appraisal: The estimation and opinion of value placed upon a piece of land based upon a factual analysis by a qualified professional; the process of estimation and the report itself.

Appreciation: An increase in the value of property caused by an improvement or the elimination of negative factors.

ASA: Accredited Senior Appraiser (designation offered by the American Society of Appraisers).

"As Is" Condition: Premises accepted by a buyer or tenant in the condition existing at the time of the sale or lease, including all physical defects.

Assessment: (1) An estimate of property value for the purpose of imposing taxes, (2) A fee imposed on property, usually to pay for public improvements such as streets and sewers,

Asset-Based Lender: A lender who loans money based primarily on the values of an asset--accounts receivable, inventory, a piece of equipment, real estate--rather than on the financial strength of the business, which is the primacy criterion for banks.

Assignment: A transfer between parties of title to any property, real or personal, or of any rights or estates in the property. Common assignments include leases, mortgages and deeds of trust.

Attachment: Legal procedure to aid in the collection of a debt. Usually the court issues a writ to seize the property of a debtor and holds it pending the outcome of a lawsuit, keeping the property available for sale to pay any money judgment entered in such lawsuit.

Attorn: To turn over or transfer to another money or goods. To agree to recognize a new owner of a property and to pay him rent. See also "Letter of Attornment."

Balloon Payment: A large payment due on a loan. Generally a balloon payment is required when regular monthly or quarterly payments have not covered both the increase due and the principal of the loan.

Bankrupt: The condition when one is found to be unable to repay one's debts by a court having proper jurisdiction. The bankruptcy may be one of two types: one that is petitioned by the debtor (voluntary) or petitioned by creditors (involuntary).

Bankruptcy: Proceedings under federal statutes to relieve a debtor who has been declared bankrupt from insurmountable debt. After addressing certain priorities and exemptions. The bankrupt's property and other assets are distributed by the court to creditors as full satisfaction for the debt. See also: "Chapter 11."

Base Rent: A set amount used as a minimum rent in a lease which also employs a percentage or other allocation for traditional rent.

Base Year: The year upon which a direct expense escalation of rent is based. See also "Escalation Clause."

Below-grade: Any facility or part of a facility located underground or below the surface grade.

Breach of Warranty: The failure of the seller of real property to pass title as either expressed or implied by law in the conveyancing document.

Buffer: A strip of land established as a transition between distinct land uses. May contain natural or planted shrubs, or fencing, singly or in combination.

Building Classifications: Class "A" -- Building has excellent location and access to attract the highest quality tenants. Building must be of superior construction and finish, relatively new or competitive with new buildings and providing professional on-site management. Class "B" --

Building with good location, management, construction and tenancy. Can compete at low end of Class A. Class "C" -- Generally an older building with growing functional and/or economic obsolescence. Class "D" -- An older building in need of extensive renovation as a result of functional obsolescence or deterioration.

Building Codes: Rules set by local, state or municipal governments to regulate building and construction standards. In many areas these codes are based on national standards. Building codes are designed to provide minimum standards to safeguard the health, safety and welfare of the public by regulating and controlling the design, construction, quality, use and occupancy, location and maintenance of all buildings and structures. The establishment of building codes is a valid exercise of the state's police power and thus they are valid restrictions on an owner's use of his or her property. Some codes are divided into specialized areas, such as plumbing, electrical and fire codes. Codes are enforced by the issuing of building permits and certificates of occupancy and by inspections. Fines are imposed on violators.

Building Standard: A list of construction materials and finishes used in building out office space for a tenant that the landlord contributes as part of the tenant improvements. Examples of standard building items are: doors, partitions, lights, floor covering, telephone outlets, etc. May also specify the quantity and quality of the materials to be used and often carries a dollar value. See also "Workletter."

Building Standard Plus Allowance: One of three arrangements often used for financing tenant improvements (finishing out office space to

accommodate a tenant such as walls, doors, carpeting etc.). Under this arrangement the landlord lists in detail all materials and costs to make the premises suitable for occupancy and provides a negotiated allowance for the tenant to customize or upgrade materials. See Also. "Workletter."

Buildout: The cost of configuring and finishing new or relet space in accordance with a tenant's specifications.

Build To Suit: A method of leasing property whereby the landlord builds a new building in accordance with a tenant's specifications.

Bullet Loan: Also known as a Construction Loan, any of a variety of short-term (generally five to seven years) financings provided by a lender to a developer to cover the costs of construction and lease-up of a new building with the expectation that it would be replaced by long-term (or "permanent") financing provided by an institutional investor once most of risk involved in construction and lease-up had been overcome resulting in an income-producing property.

CAM: Certified Asset Manager.

C.A.M.: Common Area Maintenance.

Capitalization: A process of determining the value of real property in which project income is divided by a predetermined annual rate (capitalization rate). For example, a building with annual project income \$100,000 is worth \$1,000,000 at a 10 per cent capitalization rate ($\$100,000/10\% = \$1,000,000$). See "Capitalization Rate."

Capitalization Rate: The rate that is considered a reasonable return on investment (on the

basis of both the investor's alternative investment possibilities and the risk of the investment). Used to determine and value real property through the capitalization process. Also called "free and clear return. See "Capitalization."

Carrying Charges: Various costs that are incidental to ownership (e.g., taxes insurance costs and maintenance expenses).

CCIM: Certified Commercial Investment Member.

Certificate of Occupancy: A certificate issued by a local government building department or agency stating that a building is in a condition suitable for occupancy. Sometimes also called a "C of O" or a Non-Residential Use and Occupancy Permit (NON RUP).

Chapter 11: A section of the Federal Bankruptcy Code dealing with business reorganizations. A separate section, referred to as Chapter 7, deals with business liquidations.

Clear-Span Facility: A parking structure with vertical columns on the outside edges of the structure amid a clear span between columns making it unnecessary for vehicles to maneuver between columns.

Common Area: The total area within the shopping center that is not designed for rental to tenants but that is available for common use by all tenants or groups of tenants, their invitees, and adjacent stores. Parking and its appurtenances, malls, sidewalks landscaped areas, public toilets, truck and service facilities, and the like are included in the common area.

Common Area Charges: Includes income collected from tenants for operating and

maintaining items pertaining to common areas. Shopping center leases usually contain a clause requiring the tenant to pay its share of operation and maintenance on common areas and defining the basis on which charges are made and the type of cost items allocable to maintenance of the common area. Of the ways to prorate the charges among tenants, the most common are (1) a prorated charge based on a tenant's leased areas as a portion of the total leasable area of the center or the linear exposure to store frontage, (2) a fixed charge for a stated period, and (3) a variable charge based on a percentage of sales. Some centers include a cost-of-living increase in the common area charges.

Comparables: Recorded sales of properties similar in size, use, construction quality, age, and often located within the same submarket used as comparisons to determine the fair market value of another particular property.

Competitive Space: Space in office buildings which contain or are intended to contain more than one occupant. In addition to the multiple tenant criterion, typical characteristics of Competitive Space include: tenants generally have short-term leases (10 years or less) and the interior of the building is not designed with one organization in mind but rather to accommodate the widest variety of tenants.

Concessions: Cash expended by the landlord in the form of rent abatement, build-out allowance or other payments to induce the tenant to sign a lease.

Condemnation: The process by which private property is taken by a governmental agency for public use without the consent of the owner, but only upon payment of

just compensation. See also "Eminent Domain."

Construction Management: Construction supervision by a qualified manager.

Consumer Price Index (CPI): A federal government index that measures the change in the cost of a variety of goods and services. Used in loans, purchase agreements and leases as a measure by which to adjust future payments to reflect inflation. Also called "Cost-of-Living Index."

Contiguous Space: Adjoining office space.

Contract Documents: The design plans and specifications for construction of a facility. Working drawings that detail for the contractor the exact manner in which a project should be built. See also specifications "Working Drawings."

Contract Rent: Rent paid under a lease. The actual rent as opposed to the market rental value of the property.

Conveyance: Most commonly refers to the transfer of title to land between parties. The term may also include most of the instruments by which an interest in real estate is created, mortgaged or assigned.

Core Factor: The percentage of common areas in a building (rest rooms, hallways) that, when added to the net usable square footage equals the net rentable square footage. May be computed for a building or floor of a building. A "Loss Factor" or "Load Factor" is calculated by dividing the rentable square footage by the usable square footage. See also "Design Efficiency."

Cost Approach: A method of appraising real property, whereby

the replacement cost of a structure is calculated using current costs of construction.

Covenant: A private legal restriction on the use of land, recorded in the land records.

Covenant of Quiet Enjoyment: Usually inserted in leases or conveyances whereby landlord or grant or promises that the tenant or grantee shall enjoy possession of the premises in peace and quiet without disturbance.

CPM: Certified Property Manager

CRE: Counselor of Real Estate

Cumulative Discount Rate: A discount factor applied to the rental rate that takes into effect all landlord lease concessions expressed as a percentage of base rent.

Dedicate: Transfer of property from private to public ownership.

Deed: Generally a conveyancing instrument given by the seller to pass fee title to property upon sale.

Deed In Lieu Of Foreclosure: A deed given by an owner/borrower to a lender to prevent the lender from bringing foreclosure proceedings.

Deed Of Trust: An instrument securing a loan that is used in many states in place of a mortgage. Property is transferred to a trustee by the borrower (trustor), in favor of the lender (beneficiary), and reconveyed to the borrower upon payment in full.

Default: The general failure to perform a promised task or to pay an obligation when due. Some specific examples are: (1) Failure to make a payment of principal or interest or other type of financial obligation when due;

(2) The breach or failure to perform any of the terms of a note or the covenants of a mortgage or deed of trust.

Deficiency Judgment: Commonly, the amount for which the borrower is personally liable on a note and mortgage if the foreclosure sale does not bring enough to cover the amount owed. Actually, the judgment is for the total amount of the obligation and not for the deficiency. Any recoveries from a foreclosure sale are deducted from the judgment.

Delivered Buildings: Buildings that have completed construction and are ready for tenant build-out. May or may not yet have a Certificate of Occupancy.

Demising Walls: The boundaries that separate a tenant's space from another tenant's space and from a public corridor.

Density: Number of dwelling units divided by the gross acreage being developed.

Design/Build: A system in which a single entity is responsible for both the design and construction of a facility, often involving the fast-track method of construction; also referred to as "design/construct."

Depreciation: Decrease in the usefulness, and therefore value, of real property improvements or other assets caused by deterioration or obsolescence. (2) A loss in value as an accounting procedure to use as a deduction for income tax purposes.

Distraint: The act of taking (legally or illegally) personal property and retaining control until the property owner performs an obligation. Commonly, a landlord takes possession of personal property of a tenant in

default until the default is satisfied.

Distress Sale: The sale of property under less than favorable conditions. Usually, the seller is experiencing financial difficulties area is under extreme pressure to sell.

Earnest Money: The monetary advance by a purchaser of part of the purchase price as evidence of good faith. The earnest money is used to bind the parties to the contract of sale. See also "Deposit."

Easement: A right to use the property of another created by grant, reservation, agreement, prescription or necessary implication. It is either for the benefit of land "appurtenant," such as the right to cross A to get to B, or "in gross," such as a public utility easement."

Economic Feasibility: A project's feasibility in terms of costs and revenue with excess revenue establishing the degree of feasibility.

Economic Rent: Calculations or analysis to determine market rental value of a property at any given time, even though the actual rent may be different.

Effective Rent: The rental rate actually achieved by the landlord after deducting the value of concessions from the base rental rate paid by a tenant, usually expressed as an average rate over the term of the lease.

Efficiency Factor: The number resulting from dividing the Usable Area by the Gross Building Area in an office building, providing a benchmark measurement for that building's use as an office building.

Eminent Domain: A right of the government to acquire private property for public use by

condemnation in return for just compensation. See also "Condemnation."

Encroachment: Generally a structure which extends impermissibly over a property line, easement boundary or building setback line.

Encumbrance: Any, right to or interest in, real property that may exist in one other than the owner, but which will not prevent the transfer of fee title. A claim, lien, charge or liability attached to and binding real property.

Environmental Impact Report: A report generally prepared by an independent company detailing the probable environmental effect of a development on the surrounding area.

Equity: The value of one's interest in a property consisting of its fair market value less any outstanding debt or other encumbrances.

Equity Kicker: Also called a participation loan. Under this kind of loan -- often used by non-bank lenders with start-up businesses -- the lender gets not only interest payments and principal repaid, but the right to buy equity (part ownership in the company) as well. Equity participation is generally required for riskier deals or in return for lower rates.

Equity Participation: The participation by a lender in the equity ownership of a project as one of the conditions for granting a loan. Used by financial institutions no partially offset the effects of inflation, also called "Equity Kicker."

Equity of Redemption: Not the same as the redemption period after a foreclosure sale, which is a right established by statute. Properly, the right to pay off the mortgage lien in default by

payment of the principal, interest and costs due.

Escalation Clause: A clause in a lease providing for increased rent at a future time. May be accomplished by several means such as (1) Fixed increase -- A provision that calls for a definite, periodic rental increase; (2) Cost of living -- A clause that ties the rent to a government cost of living index, with periodic adjustments as the index changes; or (3) Direct expense -- Rent adjustments based on changes in expenses paid by the landlord, such as tax increases, increased maintenance costs, etc.

Estoppel Certificate: A statement concerning the status of an agreement and the performance of obligations under the agreement relied upon by a third party, including a prospective lender or purchaser. In the context of a lease, a statement by a tenant identifying that the lease is in effect and certifying that no rent has been prepaid and that there are no known outstanding defaults by the landlord (except those specified).

Escrow Agreement: A written agreement usually made between a buyer, seller and escrow agent. The escrow agreement sets forth the basic obligations of the parties, describes the objects deposited in escrow, and instructs the escrow agent concerning the disposition of the objects deposited.

Exclusive Listing: A written agreement between a real estate broker and a building owner in which the owner promises to pay a fee or commission to the broker if specified real property is sold or leased during a stated period. The broker may or may not be the cause of the sale or lease.

Expense Stop: Provision in a lease establishing the maximum level of operating expense(s) to be paid by the landlord. Expenses beyond this level are to be reimbursed by the tenant. May be applied to specific expenses only (e.g., property taxes or insurance).

Face Rental Rate: The "asking" or nominal rental rate published by the landlord.

Fair Market Value: A term usually found in appraisals that attempts to determine the cash price that would likely be negotiated between a willing seller and willing buyer in a reasonable amount of time. For a sale to be considered a reflection of "Fair Market Value," it must meet all the conditions of a fair sale whereby: (1) both buyer and seller act prudently, knowledgeably and under no necessity to buy or sell, i.e., other than in a forced or liquidation sale; (2) the property must be offered on the open market for a reasonable amount of time, taking into consideration the property type and local market; and (3) payment is made in cash or terms equivalent to cash. When a sale is unlikely, i.e., when it is unlikely to be completed within 12 months, the appraiser must discount all cash flows generated by the property to ascertain the estimate of Fair Value.

Feasibility Study: An analysis of needs, costs of recommended improvements, and anticipated revenue and costs; establishes the basis for the construction of an individual improvement or a complete system.

Fee Simple: An estate of real property that the owner has unrestricted powers to dispose of and which can be left by will or inherited. Commonly used as a synonym for ownership.

Finance Charge: The cost of credit as a dollar amount. It includes any charges payable by the borrower as a condition of the loan. The finance charge includes the total amount of interest, points, loan fees and other credit charges paid for the term of the loan.

FIRREA: The Financial Institutions Reform Recovery and Enforcement Act of 1989. Created the Resolution Trust Corp. (RTC) and placed new restrictions on savings and loans regarding real estate investment.

First Mortgage: A mortgage creating a lien against a property which has priority over all other voluntary liens which exist against the property. Foreclosure of a first mortgage lien will generally extinguish or cut off any second mortgage lien or other subordinate lien.

First Refusal Right: A clause occasionally inserted in a lease, that gives a tenant the first opportunity to buy a property if the owner decides to sell. The owner must have a legitimate offer which the tenant can match or refuse.

Fixed Costs: Costs, such as rent, which do not fluctuate in proportion to the level of sales or production.

Flex Space: A one- or two-story building with little or no common areas, high ceilings, load-bearing floors and loading dock facilities. Usually con-figured to allow a small amount of office space in combination with light assembly or warehouse/distribution uses.

Floor/Area Ratio (FAR): The ratio of the bulk area of a building to the land on which it is situated. Calculated by dividing the total square footage in the building by the square footage of land area.

Floodplain: Land adjoining a river than would flood if the river overflowed its banks.

Force Majeure: A force that cannot be controlled or resisted. In other words something beyond the control of the parties involved. Includes acts of God (e.g., flood, tornadoes, etc.) and acts of man (e.g., riots, strikes, arson, etc.).

Foreclosure: A proceeding, in or out of court, designed to extinguish all rights, title, and interest of the owner(s) of property in order to sell the property to satisfy a lien against it.

Full Recourse: A borrowing with an unconditional guaranty. Should the borrower become delinquent under a full recourse loan, he or she must accept full responsibility for the loan.

Full Service Rent: A rental rate that includes operating expenses and real estate taxes for the first year. The tenant is generally still responsible for any increases in operating expenses over the base year amount. See also: "Pass Throughs."

Functional Design: Design of a structure or facility that increases its overall efficiency and provides maximum user acceptance; a parking concept plan showing traffic flow, stall geometry, and other features that determine the interior design of parking facilities.

Future Proposed Space: Commercial space in proposed development projects which either have not started construction or set a construction start date. Future Proposed projects include all those waiting for a lead tenant, financing, zoning, approvals or any other event necessary to begin construction. Also may refer to the future phases of a multi-

phase project that have not yet been built.

General Contractor: The party that contracts for the construction of an entire building or project, rather than a portion of the work. The general contractor hires subcontractors, (e.g., plumbing contractors, electrical contractors, etc.) coordinates all work, and is responsible for payment to the subcontractors.

General Partner: A member of a partnership who has authority to bind the partnership. A general partner also shares in the profits and losses of the partnership. See also "Limited Partnership;" "Partnership."

Graduated Lease: A lease, generally long term in nature, with varied rental payments and usually based on periodic appraisal or simply the passage of time.

Grant: To transfer an interest in real property either the fee, or a lesser interest such as an easement.

Grantee: One to whom a grant of property or property rights is made, generally, the buyer.

Grantor: One who grants property or property rights; generally, the seller.

Gross Absorption: Absorption is a measure of the amount of office space leased over a period of time. Gross absorption is a measure of the total square feet leased over a period of time with no consideration for office space vacated in the same area during the same period. See also "Net Absorption."

Gross Building Area: The total floor area in an office building measured in square feet or square meters that is associated with that building's use as office building. The area extends to the

outer surface of exterior walls and windows and includes office area, retail area, and other rentable areas such as vending machine space and storage area, but excludes parking and roof space.

Gross Lease: A lease that provides that the landlord shall pay all expenses of the leased property, such as taxes, insurance, maintenance, utilities, etc.

Ground Lease: A lease covering the use of land only, with the lease sometimes secured by improvements installed by the tenant. Also called a "Land Lease."

Ground Rent: Rent paid for vacant unimproved property. If the property is improved, ground rent is that portion of the total earnings attributable to the land only.

Guarantor: One who makes a guaranty. See also "Guaranty."

Guaranty: Agreement whereby the guarantor agrees to pay the debt or perform the obligation of another who fails to do so. Differs from a surety agreement in that there must be a failure to pay or perform before the guaranty can be in effect.

Hard Dollars: The actual cash proceeds from a loan that is given to the seller. See also "Soft Dollars."

Highest and Best Use: The reasonably probable and legal use of vacant land on an improved property, which is physically possible, appropriately supported, financially feasible and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility and maximum profitability.

High Rise: A building higher than 25 stories above ground level.

Hold Over Tenant: A tenant who retains possession after the expiration of a lease.

HVAC: The acronym for Heating Ventilating and Air-Conditioning. Refers to the equipment used to heat and cool a building.

Improved Value: An appraisal term that encompasses the total value of land and improvements rather than the separate values of each.

Improvements: Generally, the term refers to buildings, but may include any permanent structure or other development, such as a street, utilities, etc. See also "On-Site Improvements."

Indirect Costs: Development costs other than direct material or direct labor costs including administrative and office expenses, financing costs and property taxes.

Inventory: When referring to a market of office or industrial space, the total amount of rentable square feet of existing and delivered space in a given category, for example, prime office space. Inventory refers to all space within a certain proscribed market without regard to its availability or condition, and can include both office and flex and warehouse space.

Involuntary Conveyance: An involuntary transfer of real property without the consent of the owner, such as by a divorce decree, condemnation, etc.

Judgment: The decision of a court of law. Money judgments, when recorded, become a lien on real property of the defendant.

Judgment Lien: A lien placed against the property of a

judgment debtor. An involuntary lien.

Judgment Mortgage: A mortgage creating a lien which is inferior or subordinate to a prior lien. Foreclosure of a junior mortgage will not extinguish any lien which is superior to it. See also "First Mortgage;" "Second Mortgage."

Just Compensation: In a condemnation proceeding, the term refers to the amount paid to the property owner. The theory is that in order to be "just," the property owner should be no richer or poorer than before the taking.

Land Contract: An installment contract for the sale of land whereby the seller has legal title until paid in full. The buyer has equitable title during the contract term.

Landlord's Lien: Several types of landlord's liens are created by contract or by statute. Some examples are: 1) a contractual landlord's lien; 2) statutory landlord's lien; and 3) landlord's remedy of distress (or right of distraint), which is not truly a lien but has a similar effect.

Landlord's Warrant: A warrant enabling a landlord to levy upon a tenant's personal property (e.g., furniture, etc.) and to sell this property at a public sale to collect delinquent rent.

Land, Tenements and Hereditaments: Originally used to describe freehold estates only. The terms have come to mean the most technical and all-inclusive description of real estate.

Lease: An agreement whereby the owner of real property (i.e., landlord) gives the right of possession to another (i.e., tenant) for a specified period of time (i.e., term) and for a

specified consideration (i.e., rent).

Lease Commencement Date: The date on which beneficial occupancy commences and the legal terms of the lease go into effect.

Leasehold Improvements: Improvements made to leased premises by a tenant. See also "Tenant Improvements;" "Workletter."

Legal Description: A method of geographically identifying a parcel of land that is acceptable in a court of law.

Legal Owner: The term is used to distinguish the legal owner from the equitable owner and not as opposed to an illegal owner. The legal owner has title to the property, although the title may actually carry no rights to the property other than to act as a lien.

Legal Title: Usually title without ownership rights, such as the title placed in a trustee under a deed of trust, or the title in a vendor under a land contract.

Letter of Credit: An engagement, pledge or commitment by a bank or person, made at the request of a customer, stating that the issuer will honor drafts or other demands for payment upon full compliance with the conditions specified in the letter of credit.

Letter of Attornment: A letter from a grantor to a tenant, stating that a property has been sold, and directing rent to be paid to the grantee (i.e., the new owner). See also "Attorn."

Letter of Intent: A formal method through which a prospective developer, buyer or tenant expresses his/her interest in property. Depending on the language, a legal obligation may be created.

Lien: An encumbrance against property for money, either voluntary or involuntary. All liens are encumbrances but all encumbrances are not liens.

Lienholder: A mortgagee or other creditor who has a lien against the property of another.

Lien Waiver (Waiver of Liens): Generally, a waiver of mechanic's lien rights signed by a general contractor and his subcontractors.

Like-Kind Property: A tax term used in certain real property exchanges. Property must be exchanged for like-kind property and the tax consequences postponed pursuant to Section 1031 of the Internal Revenue Code.

Limited Partnership: A partnership created under state law which consists of one or more general partners who conduct the business and are responsible for any losses, and one or more special or limited partners who contribute capital and are liable only up to the amount contributed.

Listing Agreement: An agreement between a real estate broker and the property owner which authorizes the broker to assist in the sale or lease of that property in return for a fee, commission or other form of compensation. See also: "Exclusive Listing Agreement."

Long Term Lease: A lease whose term exceeds ten years from initial signing until the date of expiration or renewal option.

Lot: A parcel of land, generally part of a series of parcels which make up a subdivision, the boundaries of which are created by and shown on a plat.

Low Rise: A building with fewer than seven stories above ground level.

Lump-Sum Contract: A construction contract requiring the contractor to complete a building for a specified amount, usually established by competitive bidding. The contractor absorbs any loss or retains any profit.

MAI: Member of Appraisal Institute.

Maker: One who executes (i.e., signs) a note in the capacity of the maker (i.e., borrower).

Market Indicators: Statistical measures of construction and real estate activity, including issued permits, indices of building costs, deeds recorded and homes for sale.

Market Price: The price a property brings in a given market. Commonly used interchangeably with market value, although not truly the same. See also "Market Value."

Market Rent: See "Economic Rent."

Market Study: A forecast of future demand for a type of project along with recommendations as to quantity to be sold or leased and prices to be charged. Also called "Marketability Study."

Marketable Title: Title to real property that can be readily marketed (i.e., sold) to a reasonably prudent purchaser aware of the facts and their legal meaning concerning liens and encumbrances.

Market Rent: The rental income that a property would most probably command on the open market: indicated by current rents paid and asked for comparable space as of the date of the appraisal.

Market Value: The most probable price which a property should bring at competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and acting in what they consider their own best interests; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financial or sales concessions granted by anyone associated with the sale.

Master Lease: A primary lease that controls subsequent leases and which may cover more property than subsequent leases.

Master Plan: (1) A zoning plan for an entire governmental subdivision, (e.g., a city). A comprehensive plan to allow a city to grow in an orderly manner, both economically and ecologically. (2) A developer's plan for a multi-phase office park or mixed-use development that takes into account all proposed or projected uses, improvements and amenities.

Mechanic's Lien: A claim created by state statutes for the purpose of securing priority of payment for the price or value of work performed and materials furnished in construction or repair of improvements to land, and which attaches to the land as well as to the improvements.

Metes and Bounds: The boundary lines of land described in accordance with their terminal points and angles. Originally metes referred to distance and bounds referred to direction. Today the words have no individual meaning of practical significance.

Mid-Rise: A building with between seven and 25 stories above ground level.

Mixed-Use: Space within a building or project provided for more than one use (e.g., an apartment building with office space, a hotel with office space, or a retail establishment with apartments).

Mortgage: The instrument that evidences an interest in real estate and created to provide a pledge as security for the performance or repayment of a loan. The borrower (i.e., mortgagor) retains possession and use of the property.

Mortgagee: The party that lends the money and receives the mortgage.

Mortgagor: The party that borrows the money and gives the mortgage on the property.

Net Absorption: Absorption is a measure of the amount of office space leased over a period of time. Net absorption is a measure of the total square feet leased over a period of time taking into consideration office space vacated in the same area during the same period. See also: "Gross Absorption."

Net Lease: A lease in which the tenant pays, in addition to rent, certain costs associated with a leased property, including property taxes, insurance premiums, repairs, utilities and maintenance. There are also "net-net" (double net) and "net-net-net" (triple net) leases, depending upon the degree to

which the tenant is responsible for operating costs. See also "Gross Lease."

Net Rentable Area: Floor area of a building less any vertical penetrations of the floors. No deductions are made for necessary columns and projections of the building. (BOMA Standard)

Non-Competitive Space: Space in office buildings which contain or are intended to contain one office occupant so that the space is rarely if ever available for lease or sublease.

Non-Recourse Loan: A loan which does not allow for a deficiency judgment against a borrower in the event of default. The borrower cannot be held personally liable. The lender's only available recourse in the event of default is the collateral of property.

Nonjudicial Foreclosure Sale: A property sale by a trustee under a deed of trust, or a mortgage under a power of sale of a mortgage.

Open Space: The total area of land and/or water not improved by a building, structure, street, road, or parking area, or containing only such improvements as are complementary, necessary or appropriate to the use and enjoyment of the open area.

Operating Expenses: The actual cost of operating income - producing property, including utilities and similar day-to-day expenses, taxes, insurance and reserves for the replacement of items that wear out.

Operating Cost Escalation: Refers to the clause in a lease agreement used to adjust rents over the term of a lease.

Ownership: Rights to the use, enjoyment, and alienation of

property to the exclusion of others.

Parking Index: Figure representing the number of parking spaces available per 1,000 square feet of gross leasable area.

Partial Taking: The taking of part of an owner's property under the laws of eminent domain. Compensation must be based on damages or benefits to the remaining property, as well as the portion taken.

Pass Throughs: Building and operating expenses that are paid by the tenant under the terms of a lease.

PE: Professional Engineer Building and operating expenses that are paid by the tenant under the terms of a lease.

Percentage Lease: A lease, generally on a retail business property, in which the rent is calculated as a percentage of sales. There is usually a minimum or "base" rent in the event of poor sales.

Performance Bond: A bond posted by a contractor guaranteeing the owner that the bonding company will complete construction if the contractor defaults.

"Phantom" Space: Generally refers to space that is under lease to a tenant but not presently occupied. Usually created when a tenant consolidates or reduces operations in space it leases prior to the end of its lease term. The vacant but leased space may or may not be formally marketed on a sublet basis or counted among a market's vacancy.

PITI (Principal, Interest, Taxes And Insurance): Acronym used to indicate what is included in a monthly mortgage payment on

real property. Principal, interest, taxes and insurance are the four major portions of a typical monthly payment.

Planned Delivery Space: Office space that is currently under construction or renovation and will be completed (delivered to the market) within two years. Does not include Proposed or Future Proposed Space.

Plat (Plat Map): A map dividing a parcel of land into lots, as in a subdivision.

Power of Sale: Clause in a mortgage or deed of trust giving the mortgagee or trustee the power to sell the property in the event of default.

Precast Concrete: Concrete building components fabricated at a plant site and shipped to the site of construction.

Prelease: Assigned lease for space in a multi-tenant office building which has not yet received a Certificate of Occupancy.

Prime Space: First generation (new) space that is currently available for lease but has never before been occupied by a tenant.

Prime Tenant: The major tenant in a building, shopping center etc.

Proffer: A development plan and/or written condition that, when offered by an owner and accepted by the county, becomes a legally binding part of the property in question.

Punch List: An itemized list noting incomplete or unsatisfactory construction. Usually prepared by the tenant architect after the contractor has notified the owner that the tenant space is substantially complete.

Quitclaim Deed: A deed operating as a release and, as such, intended to pass to the grantee any title, interest, or claim that the grantor may have in the property, but not containing any warranty of valid interest or title in the grantor.

RA: Resident Architect.

Raw Land: Land in its natural state. Land that has not been subdivided into lots, does not have water, sewers, streets, utilities, or other improvements necessary before a structure can be constructed.

REO (Real Estate Owned): All real estate directly owned by a lender, including real estate taken to satisfy a debt. Includes real estate acquired by lenders through foreclosure or in settlement of any other obligation to the lender.

Real Property: (1) Land and anything permanently affixed to the land, such as buildings, fences and those things attached to the buildings, such as light fixtures, plumbing and heating fixtures, or other items which would be personal property if not attached. (2) May refer to rights in real property as well as the property itself.

Recapture: That portion of the gain from the sale of real estate that is taxed at ordinary income tax rates. Calculated as the difference between the accelerated depreciation taken and the straight-line depreciation that would have been allowed.

Recourse: The right of a lender or holder of a note secured by a mortgage to look to the personal assets of the borrower or endorser for payment, not just to the property.

Rehab: A building undergoing extensive renovation in order to cure obsolescence. Some rehab projects are so extensive that

tenants may not be in the building during the work period.

Renewal Option: The right of a tenant to renew (i.e., extend the term of) a lease for a stated period of time and rent at an amount that can be determined.

Rent: Consideration paid for the occupancy and use of real property. A general term covering any consideration (not only money).

Rent Commencement Date: The date on which a tenant begins paying rent. Depending upon the nature of the marketplace, it may coincide with the lease commencement date or it may be several months after. It will never begin before the lease commencement dates.

Rentable Square Feet: Usable square feet plus a percentage (the core factor) of the common areas on the floor, including hallways, bathrooms and telephone closets (and sometimes main lobbies.) Rentable square footage is the number of square feet on which a tenant's rent is based.

Rentable/Usable Ratio: The number resulting from dividing the Total Rentable Area in a building by the Usable Area. The inverse of this ratio describes the proportion of space that an occupant can expect to utilize.

Rental Concession: See "Abatement."

Rent-Up Period: The period of time following construction of a new building when tenants are actively sought and the project is approaching stabilized occupancy.

Right Of First Refusal: See "First Refusal."

RPA: Real Property Administrator.

Running With The Land: This term is generally synonymous with and usually used in reference with easements and covenants. It also means passing with the transfer of the land.

Sale-Leaseback: A financing arrangement in which a property owner sells all or part of the property to an investor and then leases it back. Although the lease actually follows the sale, both are agreed to as part of the same transaction.

Second Mortgage: A mortgage that ranks after a first mortgage in priority. Properties may have two, three, or more mortgages, deeds of trust, or land contracts as liens at the same time. Legal priority determines the designation first, second, third, etc.

Secondary Space: Space which has been previously occupied and becomes available for lease. Includes both relet and sublet space.

Security Deposit: Generally, a deposit of money by a tenant with a landlord to secure performance of a lease.

Seisen (Seizen): The term originally referred to the completion of feudal investiture by which a tenant was admitted into the field to render services to the lord or proprietor. Today it has come to mean possession under a legal right (usually a fee interest).

Setback: The distance from a lot line or other reference point, within which no structure may be located.

Setback Ordinance: Part of a zoning ordinance that regulates the distance from the lot line to the point where improvements may be constructed.

Site Analysis: The study of a specified parcel of land (and the

surrounding area) to determine its suitability for a specific use.

Site Development: All improvements made to a site before a building may be constructed, such as grading, utility installation, etc.

Site Plan: A detailed plan, to scale, depicting development of a parcel of land and containing all information required by the zoning ordinance. See also "Master Plan."

Slab: The exposed wearing surface laid over the structural support beams of a building.

Soft Dollars: That portion of equity investment that may be tax-deductible in the first year. See also "Hard Dollars."

Space Plan: Sometimes called the preliminary plan. A graphic representation of a tenant's office space requirements, showing wall and door locations, room sizes, and some furniture layouts.

Special Assessment: Any special charge levied against real property for public improvements (e.g., sidewalks, sewers, etc.) that benefit the assessed property.

Specific Performance: A lawsuit in which the court compels one of the parties to perform or carry out the provisions of a contract into which he has entered.

Speculative Space: Any prime space that has not been leased to a tenant prior to commencing construction on a new building.

Step-Up Lease (Graded Lease): A lease calling for set increases in rent at set intervals.

Straight Lease (Flat Lease): A lease calling for the same amount of rent to be paid periodically (usually monthly) for the entire term of the lease.

Strip Center: Any shopping area, generally with common parking, comprised of a row of stores.

Subcontractor: One who works under a general contractor, often a specialist, such as an electrical contractor, cement contractor, etc.

Subdivision Plat: A detailed drawing, to scale, depicting division of a parcel of land into two or more lots and containing engineering considerations and other information required.

Subordination Agreement: An agreement by which the priority of a mortgage lender is relinquished in favor of that of a lender that would otherwise be junior in status.

Surety: One who voluntarily binds himself to be obligated for the debt or obligation of another. A common example is the co-maker of a note. Surety differs from guarantor, although the terms are commonly (and mistakenly) used interchangeably.

Surface Rights: The rights (i.e., easements) to use the surface of land, including the right to drill or mine through the surface when subsurface rights are involved.

Survey: The measurement of the boundaries of a parcel of land, its area and sometimes its topography.

Taking: A common synonym for condemnation or eminent domain.

Tax Base: Assessed valuation of real property, which is multiplied by the tax rate to determine the amount of tax due.

Tax Lien: (1) A lien for nonpayment of property taxes. Attaches only to the property upon which the taxes are unpaid.

(2) A federal income tax lien. May attach to all property of the person owing the taxes.

Tax Roll: A list containing the descriptions of all parcels in the county, the names of the owners (or those receiving the tax bill), assessed values and tax amounts.

Tenant: (1) A holder of property under a lease, (2) Originally, one who had the right to possession, irrespective of the title interest.

Tenant At Will: One who holds possession of premises by permission of the owner or landlord, but without agreement for a fixed term.

Tenant Improvements: Improvements to land or buildings to meet the needs of tenants. May be new improvements or remodeling, and may be paid for by the landlord, the tenant, or shared. See also "Leasehold Improvements;" "Workletter."

"Time Is Of The Essence": Clause used in contracts to bind one party to performance at or by a specified time in order to bind the other party to performance.

Title: The means whereby one has just and full possession of real property.

Title Insurance: Insurance against loss resulting from defects of title to a specifically described parcel of real property. Defects may run to the fee (i.e., chain of title) or to encumbrances.

Title Search: A review of all recorded documents affecting a specific piece of property to determine the present condition of title.

Total Inventory: Total square footage of rentable office or industrial space, vacant and

occupied, ready for tenant finish. Includes owner-occupied space.

Trade Fixtures: Personal property used in a business and attached to a structure, but removable upon sale because it is deemed to be part of the business, not of the real estate.

Triple Net (NNN) Rent: Rent stipulated in a lease in which the tenant agrees to pay a share of the landlord's operating expenses or real estate taxes for the building proportionate to the amount of space it occupies. See also "Full Service Rent."

Turn Key Project: A project in which the developer is responsible for the total completion of a building (including interior design and construction) or demised premises to the customized requirements of a future owner or tenant.

Under Construction: Planned buildings for which construction has started but have not yet been granted a Certificate of Occupancy. Planned buildings are not included.

Under Contract: A property for which a purchase offer has been accepted by the seller is said to be "under contract." Generally, the prospective buyer is given a certain period of time in which to perform feasibility studies and finalize financing arrangements. During the time, the seller cannot entertain offers from other buyers unless the purchase contract is allowed to expire without going to closing.

Unencumbered: Describes title to property that is free of liens and any other encumbrances. Free and clear.

Unimproved Land: Most commonly refers to land without buildings; it can also mean land

in its natural state. See also "Raw Land."

Use: Specific purpose for which a parcel of land or a building is designed, arranged, intended, occupied or maintained.

Vacancy Factor: The amount of gross revenue lost because of vacant space; an allowance item on pro forma income statements, usually calculated as a percentage of gross revenue.

Vacancy Rate: A measurement expressed as a percentage of the total amount of available space compared to the total inventory of space. Computed by multiplying vacant space times 100 and divided by total inventory.

Vacant Space: Existing space which is currently being marketed for sale or lease, excluding sublet space.

Variance: A permit that grants a property owner relief from certain provisions of a zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship or practical difficulty which would deprive the owner of the reasonable use of the land or building involved.

Vendee: Purchaser or "buyer," generally used in real property context.

Vendor: The person who transfers property by sale. Another word for "seller." Commonly used in land contract sales.

Warranty: A binding promise made at the time of a sale whereby the seller gives the buyer certain assurances as to the condition of the property.

Wear and Tear: The deterioration or loss in value caused by the tenant's normal and reasonable use. In many leases the tenant is not responsible for "normal wear and tear." See also "Normal Wear and Tear."

Weighted Average Rental Rates: Rental rates averaged to the amount of space available in each building per market area.

Workletter: The standard building items that the landlord contributes as part of the tenant improvements. Examples of standard building items are: doors, partitions, lights, floor covering, telephone outlets, etc. The Workletter may specify the quantity and quality of the materials to be used and often carries a dollar value.

Working Drawings: The set of plans for a project that, in combination with a set of specifications, comprise the contract documents indicating the exact manner in which a project should be built. See also "Contract Documents."

Workout: The process by which a borrower attempts to negotiate with a lender to restructure the borrower's debt rather than go through foreclosure proceedings.

Zoning: A method of regulating use of real estate by dividing a city or other area into zones and designating which uses may be permitted for land in each zone.

Zoning Ordinance: The set of laws and regulations, generally at the city or county level, that control the use of land and construction of improvements in a given area or zone.

The Glossary of Real Estate Terms was prepared for Black's Guide by E. Andrew Keeney. Committees on Real Property, Probate and Trust Law