SMART MOVE: FIVE TIPS FOR A SUCCESSFUL RELOCATION

Have you outgrown your existing space? Are you consolidating operations? Do you need to open an office in a new location? Whatever the motivation and whether you are taking immediate action or engaging in long-term strategic planning, there are countless factors to weigh when undertaking such significant company real estate decisions. When considering a relocation or commencement of operations at a new facility, there are a number of issues that you need to consider.

1. Assemble The Right “Team”

Depending on the nature of the operation, the type and amount of space needed, the preference to lease versus own, or vice versa, and numerous other factors, the right team will look different.

A larger company might employ in-house real estate personnel who manage and analyze company real estate matters on a daily basis, potentially reducing reliance on outside consultants in making strategic real estate decisions. Yet, for a smaller operation, an owner or high-level manager who wears many different hats might be the default decision-maker and might be either less savvy or stretched too thin to investigate the real estate landscape, requiring heavier reliance on the advice of third-party real estate advisors.

Regardless of the particular situation, an experienced real estate advisor and knowledgeable legal counsel should be engaged during the relocation process.

Selection of an outside real estate advisor requires careful consideration of the individual(s) expected to handle the details of the engagement on a daily basis. In fact, examination of the primary advisor’s credentials is arguably more critical than the reputation of the brokerage firm with whom the advisor is affiliated. Multiple potential advisors should be interviewed if time permits. It is important to consider whether advisors (1) specialize in the relevant area of commercial real estate (i.e., office, retail, industrial or land); and (2) have successful track records of completing similar transactions.

A trusted legal advisor should also be involved from the outset in most cases. For very complex transactions, a full-service firm with a wide breadth of capabilities may be the best choice to offer advice on ancillary, non-real estate matters relating to the relocation. Understanding and evaluating potential environmental liabilities, as well as tax consequences of a lease or purchase of real estate (i.e., tax treatment of capital versus operating leases, cash allowances versus rent credits or turnkey improvements, depreciation of improved property, etc.) is critical.

No matter the size and scope of the proposed transaction, the counselor should be dependable, efficient and, most importantly, sufficiently knowledgeable and experienced in the particular type of commercial real estate transaction that is planned.

2. Consider Exit Strategy
On The Front End

Whether planning to occupy a new location for 24 months or 24 years, an exit strategy must be considered and designed from day one. No one ever plans on an unexpected plant or office closure, but in life, one thing is certain: change is constant, and it is critical to have evaluated an exit strategy on the front end. Being in a position to quickly dispose of a real estate asset or sublease or assign lease rights at fair
market value can be the difference in hundreds of thousands of dollars. Of course, two seemingly identical locations could differ greatly in marketability, depending on shape and layout, construction material, vehicle access, etc. — all features of the property that will remain. The factors affecting future marketability, as well as the features contributing to the present utility of the space for the intended operation, must be considered in selecting a new location.

For some operations, designing a facility that is marketable to a wide variety of users is impossible. This is particularly relevant in the manufacturing arena. For most, however, a marginal amount of mainstream design and investor appeal (for new construction) on the front end could significantly ease the pain should the operation need to be relocated in the future.

3. Appreciate The Timing

Appropriate planning and a realistic understanding of the timing involved when commencing operations at a new location will prevent undue stress down the road. As with all other aspects of the transaction, however, the timing will differ depending on the complexity of the relocation and the type of transaction that is proposed (i.e., lease, purchase, build to suit, etc.). Regardless, the process will undoubtedly take longer than expected, especially if an overly aggressive advisor, in a quest to land a client or prevent a reconsideration of the potential move, offers an unrealistic estimate of the projected timetable.

Although the time devoted to each stage in the process will differ on a case-by-case basis, the steps are generally the same: (1) locating potential properties or available space; (2) issuing a Request for Proposal (RFP) for a landlord's proposed lease terms or delivering a Letter of Intent (LOI) with proposed purchase terms; (3) negotiating the RFP or LOI to the point that the parties have a “meeting of the minds” regarding the essential business terms, as evidenced by their execution of a non-binding letter agreement; (4) negotiating and signing the operative legal document governing the transaction, whether it be a lease or purchase agreement; and finally (5) performing due diligence and allowing time for closing under a purchase agreement or coordinating with a landlord or undertaking build out of a leased space prior to occupancy. Each of these steps can take a substantial amount of time.

4. Anticipate The Costs

Fully understanding what an operation's relocation will cost is one of the most difficult aspects of the whole process. From labor issues and human resource challenges to energy costs, potential transportation costs increases, racking/automation fitting and more traditional moving costs, everything must be considered when analyzing a new location. Potential sites that appear to be the same on paper might differ greatly when considering, for example, different retrofitting costs of existing equipment or true energy costs of running the operation. Many companies overlook these issues or absorb them in their cost of doing business.

5. Know How To Offset The Costs

With regard to tenant relocations, landlord concessions are key to offsetting costs. Depending on market conditions, the size of space needed, the length of the proposed term and other factors, including the financial strength of the tenant, an experienced real estate advisor should be in a position to accurately estimate the amount of concessions likely to be obtained, based upon concessions previously offered, or currently being offered, on similar transactions in the targeted location. Landlords may be willing to contribute money to offset relocation costs in the form of moving allowances, fixtures allowances, turnkey tenant improvements, free rent or other benefits. Such concessions can be critical to the feasibility of the move, although a tenant should be aware that a sophisticated landlord will generally amortize the amounts of any concessions during the length of the lease term, and in the event of a default or any early termination of the lease, the tenant will likely be held responsible for reimbursement of any such unamortized amounts.

For a business looking to acquire an existing facility or to purchase land and develop a new facility, various sources of incentives may be available to help mitigate the costs. Alert advisors and legal counsel should be prepared to offer advice (and conduct research, if necessary) regarding potential available funds. All forms of government incentives and subsidies (federal, state, municipal), including tax abatements, tax-increment financing, payments-in-lieu-of-taxes, and other public incentives should be researched and investigated prior to acquiring real estate for the operation of an existing facility or development of a new facility.

James E. (Jeb) Atkinson is vice president of corporate services at ProVenture Commercial Real Estate in Brentwood, Tenn. He specializes in national tenant representation, site selection, and surplus asset disposition management in the manufacturing and logistics sectors. Justin W. Leach, an attorney in the real estate practice at Waller Lansden Dortch & Davis, LLP in Nashville, Tenn., concentrates his practice in counseling corporate clients in the acquisition, disposition and leasing of industrial, retail and office facilities. To learn more, visit www.wallerlaw.com.