

# WORLD'S LAW

## Trends in Law Firm Leasing

By Scott W. Dibbs and Earl Segal

The recent recession has caused, or at least accelerated, the evaluation by law firms of how they use leased space. The economies and other efficiencies adopted by their clients have in many cases become the standard for the more efficient utilization of space by law firms. Although many current trends in the use of law firm space may not be unique to law firms, the evolution of the business of practicing law has focused the attention of managing partners, executive directors, and law firm advisors on a variety of trends now in the market. Some of the trends described in this article have implications for the design of law firm office space, others have implications for the lease by which a firm leases its space, and some have implications in both areas. All of these points should be considered by a law firm in deciding how much square footage it really needs, as well as how it uses the space. Through thoughtful redesign, outsourcing, and "densification," firms are driving efficiencies by recognizing that their lease obligations are a major factor in both their immediate competitive position and their long-term viability. A firm's lease obligations are often a law firm's largest fixed expenditure second

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only to salaries (which some may argue are no longer quite as "fixed" as they once were) and play a significant role in maintaining and growing profits per equity partner, the metric used by many firms to gauge overall profitability. The efficient use of space manifests itself in the shrinking footprint of many firms that have embraced the philosophy that "no law firm ever went out of business because it had too little space."

Current approaches to the efficient use of a law firm's leased space are discussed in this article.

### Relocation of a Firm's Administrative Services to an Off-Site Facility

After analyzing the functions being performed in their main or other urban offices, some firms have found it more economically and operationally efficient to relocate many of their administrative (or "back of the house") functions to locations not necessarily proximate to the offices where they house their lawyers. Lower occupancy costs, as well as lower employment costs, often result from such relocations. The benefits available in more remote locations—which often are not found in the market where the firm practices law—can include free parking, shorter commutes for employees, lower taxes, and quality of life benefits. Additional benefits to the firm can include governmental incentives for relocating the administrative activities,

such as relief from sales taxes on equipment purchased, abatement of real estate taxes, and employment tax credits. In addition, the movement to another location might provide the law firm employer a broader community of trained workers from which to fill the relocated positions. The effect of technology has also made moving administrative services to an off-site location increasingly feasible and attractive.

In addition, the use of space not typically occupied as law firm office space may provide design benefits not customarily found in space occupied by a firm's lawyers. For example, compared to the typical office space occupied by lawyers, administrative space might include higher permitted floor loads and electrical capacity, fire suppression systems, loading docks, and self-sufficient and energy-efficient HVAC systems that may be operated for extended hours without the high after-hours HVAC charges that can be assessed by office landlords.

Even though a firm may make a conscious decision not to move its administrative functions off-site, it may still want to keep its future option of relocating administrative services open. For example, a firm can retain flexibility by designing current administrative space so that, with as little expense and renovation as possible, the space can be repurposed as future attorney expansion space, if the idea of



moving the support personnel off-site becomes more appealing in the future.

### **Centralizing Firm Services and Eliminating Multi-Office Redundancies**

Many multi-office law firms have redundant services in multiple offices. For example, even as law libraries are replaced by electronic media, many firms still maintain some bound publications in all of their office locations. By maintaining a single centralized library, a firm can reduce not only its library

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acquisition costs but also, and just as significantly, the costs of its updating services, not to mention the savings resulting from lower personnel costs and shrinking the footprint of its leased space. Although there may be some resistance to centralizing library services, those who need bound volumes may retrieve them via courier or overnight delivery from a central library, or the materials may be available from another firm in the area through the inter-library loan programs common in many cities. Other multi-location functions are all candidates for centralization, either at an off-site location, as discussed above, or at one of the firm's existing locations. Examples of these functions include accounting, marketing, recruiting, production typing, word processing, and new client intake procedures such as clearing of conflicts.

### **"Densification" of Law Firm Space**

The square footage numbers for law firms and attorney offices are currently declining to numbers more in line with

the firm's clients than often existed in the past. This downward trend is applicable not only to new construction, but also to renovation of existing firm space with the express goal of becoming more space-efficient. Doubling-up in offices of junior associates and the use of interior space for junior attorneys are being considered by many law firms. Although there has been much discussion about single-size offices for both partners (which currently are often 250 to 275 rentable square feet per partner) and associates (often 125 to 150 rentable square feet per associate), this concept has met very little real acceptance. Even though a single-size office environment would create a higher level of flexibility in locating and relocating attorneys within the firm, there is often no appreciable savings in rentable square feet, or at least not enough to drive the culture change required by many firms considering single-size offices.

Trends toward densification can affect electrical capacity, or watts per square foot, that a firm will need. In addition, any plan to "densify" space should include a consideration of the effect that a higher population will have on the heating and cooling standards specified in the lease for the space. Moreover, it is important to consider that elevator capacity will become increasingly important with increased population density in a building.

Other factors that can support a comfortable but efficient increase in law firm density include the following: the use of interior conference rooms, more flexible interior space that is easily reconfigured through the use of movable partitions and systems furniture, the generous use of glass to open up to sunlight those areas of the office that might otherwise be less desirable, filing cabinets built into the corridors (when the efficiencies of a central file system are not used), the creation of teaming areas, and the use of secretarial pod areas.

### **Recognizing Changes in the Way People Work**

It should come as no surprise to anyone (and yet it often does) that younger attorneys do not necessarily work in the

same way as their older peers. Recognizing that significant amounts of work may effectively be done "off-premises" and during "off-hours" requires an environment more dependent on technology. The drive for cost efficiencies, the availability of technology, and the way younger attorneys now work have reduced the number of traditional secretarial support personnel needed by a firm, but these factors have also increased the dependency on technology staff.

### **Need for Flexibility in the Use of Space**

What served as a war room for litigation one day may need to be reconfigured into a "cube farm" the day after the litigation is concluded. Consideration should be given to providing for space flexibility at the very earliest stages of a firm's design of its space, as it is imperative that space be adaptable to multiple uses through the course of the lease term to address changing energy, communications, technology, and density needs. The typical use restrictions in a law firm's lease should be drafted to permit the flexibility for which the space was designed and that the market requires.

### **Subletting, Assignment, and Givebacks**

Although the expansion options discussion has always been an important focus of a law firm's lease negotiations, the other side of the coin—contraction options—have currently assumed equal, if not superior, importance. Common exit strategies include liberal (or at least realistic) assignment and subletting rights, and now early termination rights are also commonly requested by tenants and granted by landlords. These termination rights might include a meaningful period of advance notice precedent to the exercise of the early termination option, the payment of a termination fee (possibly to reflect the amount of "down time" after the termination that it will take the landlord to lease and build out the space for a replacement tenant), and reimbursement by the tenant of the unamortized value of any



tenant improvement costs or brokerage commissions incurred by the landlord. When considering the appropriate amount to compensate the landlord for the "down time" described above, tenants should take into consideration the length of the balance of the term, because the landlord will need to re-let and rebuild the premises anyway (and without reimbursement from the tenant) at the scheduled expiration of the tenant's term.

### **Outsourcing by Law Firms**

Computer help desks, accounting functions, litigation support services, food service, day care, duplication, and internal mail delivery are among the functions currently contracted out by law firms to other companies, even though the third parties often work within the firm's leased space. Many leases restrict the provision of such services in the building, and these provisions should be considered in light of a firm's practices. Assignment and subletting provisions and possibly the landlord's recapture rights, should not restrict the use of outside personnel and companies to provide services to the law firm tenant within its own space.

### **Design and Operational Standardization of Multiple Offices**

Some firms have established a "kit of parts" for firm-wide standardization of the design and build-out of offices. Examples include firm-wide color schemes, standard office sizes (subject to variances required by the specifics of a particular building), and partner, associate, and common area furniture; access security services (so that one fob or electronic card works in all offices, elevators, buildings, and parking for all locations); and standard firm-wide technology (so that the use of a firm's computers and telephones provides for a uniform experience throughout the firm and across its multiple offices).

### **Branding Opportunities**

Law firms should consider not only suite entry signage but also identify signing and branding opportunities elsewhere in or about the building,

such as in parking areas, elevators (for example, firm name on the applicable elevator buttons or on floor lights), exterior signage (lit or unlit, and consider excluding or limiting signage by other firms/companies), and building naming rights (and consider excluding naming rights by others). Unique branding opportunities should not be overlooked, such as obtaining the right to place the firm's flag (yes, some firms have created their own flag) on a flagpole on the top or in front of the building. Even with the emphasis on the efficient utilization of space, many firms seek space solutions that support hosting their clients and prospective clients in the firm's offices for a variety of firm-related functions. Providing an appropriate location for such activities is an important consideration for some firms.

### **Design for Future Subletting**

If a firm occupies an entire floor, or multiple floors, it will probably use its space in an integrated manner. When planning, however, consideration should be given to the possibility that the firm may, at some point in the future, want to sublet a portion of its space. As a result, a firm should consider how to efficiently subdivide its space, where the floor can "break,"

and if there are fire code issues (for example, required distance to a means of egress). The firm also should consider whether, if a portion of the larger space is sublet, the space can economically be made efficient and attractive on a stand-alone basis. For example, firms should consider the desirability of the view from the potential sublet space, the location of conference and file rooms, the existence of so-called "dead walls," whether a pantry exists in the potential sublet space (and if not, the proximity of the space to wet stacks), direct visibility from the elevator lobby, the ability to use the firm's cabling for the subtenant's computer and communications equipment, and the availability of space in the firm's server room for the subtenant's equipment.

### **Professional Responsibility Issues**

When considering an office-sharing arrangement with other lawyers, it is important to note that some jurisdictions professional responsibility requirements impose rigid practices and restrictions on lawyers sharing space with other non-affiliated lawyers. For example, the District of Columbia Bar noted that while "[u]naffiliated lawyers may share office space and related services," these arrangements



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### **In-House and Outside Professional Lease Administrators**

Tracking lease renewals, expansion options, anticipated future needs, operating expenses, and current space utilization levels, and managing relations with landlords and management companies, is increasingly done by dedicated professionals, rather than by non-real-estate administrative personnel on an ad hoc basis. Space use may be benchmarked among practice groups and on an office-by-office basis to determine patterns and to identify

opportunities for efficiencies. In addition, a firm may find it useful to periodically benchmark the rents against those of its peers, as well as the market in general. This exercise provides guidance when considering whether to renew a lease or relocate, especially when the renewal option is based on the then-current market rent at the time of renewal. The services described in this paragraph may be provided by in-house staff, by an outside provider, or some combination of both.

Further, as more firms become sublandlords, they have assumed a new role—tracking subtenant payments, overseeing compliance with sublease insurance requirements, and generally managing the relationships with their subtenants. Using a single point of contact for the firm's leasing will help coordinate the management of lease security deposits that may be posted by the firm, as well as provide consistency in both the design and execution of the firm's leasing practices and build-out procedures.

### **Sustainability**

Although the details of such matters are considerably beyond the scope of this article, law firms are becoming increasingly interested in the implications of sustainability and so-called "green leasing." Although data is still being collected on the economics of green leasing—for example, the effect

of green practices on construction costs and operating expenses—and the jury is still out on the ultimate effect of sustainability practices on the bottom line, law firm tenants are starting to appreciate the implications of sustainability, not only because of the societal and economic benefits of such practices, but also because a description of a firm's sustainability practices is now often included in requests for proposals from significant institutional purchasers of law firm services.

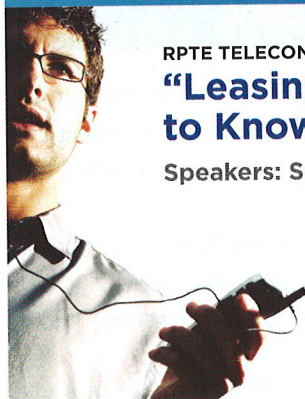
### **Using Sophisticated Analytical Tools**

Long gone are the days when a law firm's space utilization analysis was based on rough square footage standards and other generalizations. An ever-growing number of software products exist to assist in the lease administration process and provide the customized information necessary for a firm to make good long-term decisions. The ability to monitor and compare various benchmarks such as space costs per square foot in a firm's various locations, costs and square footage requirements by practice group and office, and population density by office and practice or administrative group, helps drive good and informed space decisions, and benchmarks provide useful tools to determine the efficiencies of offices and practice groups. In times of increased fee sensitivity by clients, a law firm's ability to understand the full cost structure of a proposed engagement will assist a firm in responding to increasingly frequent requests for alternative fee arrangements.

### **Conclusion**

Many of the changes in the practice of law that have occurred over the past few years are not simply cyclical but rather generational shifts toward efficiency, and many of these changes have more closely aligned law firms' business methods with those of their clients. The spreadsheet has replaced the back of the envelope, and law firms—and those who work with and advise law firms—are well-advised to understand these trends and consider more efficient strategies as the firms make long-term and financially significant real estate leasing decisions. ■

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