

Florida Real Estate Journal



Stay in the know
with REcap

FREJ's free e-mail news bulletin!

January 1-15, 2010
Vol. 17, No. 18

www.FREJ.net

Challenges part of mixed-use leasing

By Robert Pitts

Florida Real Estate Journal

ORLANDO - Leasing takes on new challenges when done in a mixed-use environment, according to Mary Hurley, CCIM, LEED AP, RPA, real estate and leasing manager of Pineloch Management Corporation.

Florida Real Estate Journal recently spoke with Hurley about the unique factors commercial real estate professionals face when attempting to close lease transactions in mixed-use properties.

FREJ: Are there, in fact, some special considerations when crafting leases in a mixed-use environment?

"There are many considerations, and flexibility is the key - the current economic environment notwithstanding," said Hurley, adding that a successful project starts with the developer paying close attention to the mix of uses.

"Typically, if you're in a suburban setting, I think you set yourself up to fail if the developer depends on the residential component to support the

retail," she said. That holds true in an urban setting as well, Hurley said. Marketing and balance are essential.



Mary Hurley

What unique issues do property owners/leasing reps need to be aware of when crafting leases in a mixed-use environment?

"The pass-throughs and operating expenses for each component are different. Residential has a different focus than retail and office as far as how pass-throughs are calculated. And with the caps, you have to be careful of the definitions," Hurley said.

"Parking is huge. You need to be very, very studious and insightful about the parking requirements and how parking is managed. A lot of developers in many projects lean on the off-use of residential to handle retail and the off-use of retail to handle office," she said.

Hurley added that basic

management is also an issue. Although they may have residential, office and retail components, some projects aren't large enough to warrant three management companies, she said. One company may have to suffice for all three components, but does it have the expertise for all three? Hurley advised tenants to look closely at the management before signing a lease.

What are some of the most overlooked considerations?

"The most overlooked issue is that no one lease form will work for residential, office and retail. There's no one cure-all form for everything," Hurley said.

Also at issue is the structure of the pass-throughs for the operating expenses, she said, and common areas are a good example. For office users, common area expenses for interior and exterior areas are structured at a stop, with the reconciliation of costs over the "stop" occurring later.

But retailers are used to paying common area expenses out-

side of the building, Hurley said, and may not want to pay a proportionate share for interior common areas of the office component.

And residential users used to paying one flat fee per month - with annual escalations - to cover amenities built into the monthly rent, she said. They typically don't want to bother with reconciliations.

Other issues include who gets signage and whether HVAC and other utilities will be master-metered or separately metered, she said.

What consequences have you seen from improperly drafted leases?

Implementing a standard lease with three components can become a real burden for the property management company, Hurley said.

The practice often results in after-the-fact lease amendments and, sometimes, the hurried formation of associations to handle the common areas.

Under what circumstances should the parties on

both sides of the table seek legal counsel in this type of arrangement?

"In the very, very beginning. When you're planning the design, the orientation and the square footage of each component, the attorney needs to be on board then. Not when the negotiations are over," Hurley said.

What qualities should they look for in a legal representative in this situation?

Someone experienced with mixed-use projects specifically and who understands their quirks, Hurley said. Hopefully the firm is large enough to supply representation for each use. Don't rule out using three different firms, she added.

Any additional advice for both sides of the transaction?

To be an effective owner or manager, you need to be familiar with the issues facing each property type and speak the "language" of the end user in each arena, Hurley said.