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# Market Notes

Volume 5

## Landlord Financial Strength & Stability Becoming Increasingly Important To Tenants And Their Brokers

While Landlord's have historically underwritten their investment in lease transactions by thoroughly checking the credit of their Tenants carefully, Tenants have seldom needed to exercise the same degree of caution and due diligence in evaluating their Landlord. Due to a credit crisis, tighter lending standards, as well as a deterioration in commercial property values, this practice may change!

Most commercial leases involve a variety of transaction costs which may include tenant improvement allowances, leasing commissions, rental concessions or a credit for relocation costs. In most leases all goes well so long as the Tenant pays its rent and the Landlord maintains the property. However, what if the Landlord is in financial difficulty and unable to fund the agreed upon tenant improvements? Who will pay for them? Who will ensure the property is properly maintained throughout the lease? What rights do Tenants have if the property falls into receivership or is foreclosed upon?

Without the right to self perform the work and apply all costs as an offset against rent due, the Tenant is left in a precarious situation. If the work is not completed on time, Tenants may find themselves in a hold over position with their current Landlord. This may result in penalties, or worse yet, consequential damages as a result of the tenant's failure to vacate on a timely basis.

As it relates to brokerage commissions, Minnesota does not have a broker lien law. Such laws in other states allow a brokerage commission to be placed as a lien against the property. A Brokers only recourse for non-payment in Minnesota is to take legal action, unless a right of offset is granted to the Tenant, whereby the Tenant is entitled to make said payment directly to the Broker in trade for a rent credit.

Many leases also limit the Landlord's monetary liability under default to their equity interest in the building. As a result, declining values may leave little cushion for Tenants to collect in the event of a Landlord liability arising from the Landlord's gross or willful negligence or a non-insurable event. Although Landlord default is not a widespread problem at present, a recent article in Finance and Commerce stated that the number of commercial properties with delinquent real estate taxes has risen 53.9% in Hennepin County over the past three years. Furthermore, the amount of back property taxes owed has risen 69% to more than \$11.4 million (source Hennepin County Taxpayer Services Dept.) This statistic may be a leading indicator of things to come as more Landlords are struggling to

meet their real estate tax obligations on vacant or underperforming property.

The lesson for all is to exercise proper due diligence. Confirm that the owner is not in default with its lender and check county tax records to confirm tax payments are current. If concerns exist, press for the right to self help by paying for the Tenant improvements or commissions with a right of offset against rents due. If there is a Lender, this provision may require Lender approval. If it is not granted, weigh the risks associated with a Landlord non-performance with the potential benefits of the lease. What appears to be a good deal may suddenly become a nightmare.

Although it is still a very small percentage of Landlords who are at risk of nonperformance, a successful lease is one in which both parties fulfill their obligations over the term. The moral of the story is that although the lease economics and quality of space are important, proper due diligence in selecting a Landlord with financial strength and stability will become increasingly important.



When it comes to knowledge, experience and sound advice, one name stands above the rest.

## TaTonka

TaTonka is a Dakota Indian term for the mighty American Buffalo. It is a symbol of strength, health and vitality. It is respected for its energy, spirit and integrity and thrives under adverse conditions. It was chosen to symbolize the values of our organization.

## TaTonka Expands



Bruce Bauman recently joined TaTonka Real Estate Advisors as a sales and leasing advisor. Bruce will handle office and industrial transactions where his 27 years experience in sales, marketing and management consulting will serve him well. We welcome Bruce and are pleased to add his experience and knowledge to the TaTonka team.

If you wish to discuss any requirement confidentially or have a market related question, please feel free to contact us at 612.466.7300. You may also visit our website at [www.TATONKAre.com](http://www.TATONKAre.com).

## Twin Cities Office Vacancy Rates



## Twin Cities Industrial Vacancy Rates



## TaTonka Real Estate Advisors Team



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## Top Ten Reasons To Use TaTonka Real Estate Advisors

1. We represent Tenants and Buyers of commercial space exclusively rather than the interests of Institutional Owners.
2. We listen carefully to our clients to fully understand their goals and objectives.
3. We diligently research market alternatives to present the most qualified options to our clients based on their specific requirements.
4. By maintaining a database of lease and sales comps we are able to counsel our clients on the appropriate offer once a property has been selected and analyzed.
5. Our market knowledge and expertise provides competitive leverage when focusing on a lease renewal or relocation.
6. Our experience in negotiating lease and purchase agreements will ensure that details are not overlooked and that market terms and concessions are reflected.
7. Our understanding of the process ensures that a realistic project timeline is developed up front and adhered to throughout the implementation of a real estate plan.
8. Integrity and timely communication are the foundation of our client relationships which are built on trust.
9. Between 80% and 85% of our annual business is generated from past clients and their referrals which stands as a testimony to client satisfaction.
10. We value our client relationships and seek opportunities to enhance their success as individuals and entities as opportunities arise, and judge the success of each project not on its reward to TaTonka but by its results and client satisfaction.

## Sample List of Recent Transactions

### Office

**BDH & Young Space Design**  
Edina, MN  
**AEC Engineering**  
Minneapolis, MN

### Retail

**Ah So Good**  
Minneapolis, MN  
**SLCU**  
Brooklyn Center, MN

### Industrial

**Michael Foods**  
Chaska, MN  
**Holmberg Company**  
Plymouth, MN

### Medical

**Academic Dermatology**  
Edina, MN  
**Drs. Norman & Gurganus**  
Edina, MN

### Sales

**Robert M. Herman & Associates**  
Minnetonka, MN  
**Blomquist & Espeset, P.A.**  
Vadnais Heights, MN

### National Referrals

**Iteris**  
Minneapolis, MN  
**Aero Global**  
Phoenix, AZ

## Services

- Advisory and Consulting Services
- Tenant Representation
- Lease Renewals
- Buyer Representation
- Asset Disposition
- Build-to-Suit Client Representation
- Site Search and Selection
- Sublease Assignments
- National and International Network Connections

## Areas of Specialization

- Office
- Industrial
- Medical
- Retail
- Land
- Investment



Market Notes Newsletter is published to highlight market trends and transactions, and to communicate helpful information to our clients and users of commercial space.