

## WEEKLY HOSPITAL REAL ESTATE BRIEFING: 10 TIPS FOR NEGOTIATING ON-CAMPUS GROUND LEASES

We frequently get calls from hospital systems, health care providers and investors regarding negotiating on-campus ground leases. They are certainly unique. Here are 10 business points to consider when negotiating on-campus ground leases.

1. **Premises** – The land being leased can vary widely. We often see hospitals ground leasing only the footprint of the building. There are some instances, on larger campuses, where the hospital allows the developer to lease the land needed for the footprint of the building, plus the land needed for parking and access.
2. **Term** – We typically see initial lease terms of 50 years. Lessees want enough term to recoup their investment and benefit from the useful life of the improvements. Most ground leases include multiple 10-year extension options. It's common to have a total lease term between 80 and 100 years.
3. **Rent** – Most ground leases are absolute net. Rent is often based on the land value multiplied by a reasonable rate of return. The rate of return is often lower than that of a typical real estate investment. Ground lease investments are perceived to be low-risk investments, which implies a lower rate of return.
4. **Permitted Uses** – Hospital lessors often insist on a narrow definition of permitted uses. For example, a cancer treatment center, a medical outpatient use or an inpatient rehabilitation hospital. Lessors want to create an ecosystem of compatible uses on their campuses and to maintain tight control over those uses.
5. **Prohibited Uses** – Hospital lessors typically include a laundry list of prohibited uses the lessee may not provide on the land. The hospital wants to protect its core business. Those uses may include inpatient hospital services, imaging services, surgery services or any use that violates the hospital's ethical and religious directives.
6. **Prohibited Occupants** – Most on-campus ground leases prohibit the lessee from assigning its interest to a competing hospital or health care provider or certain health care providers that are excluded from participating in federal health care programs.
7. **Medical Staff Privileges** – It's common for a hospital lessor to impose medical staff requirements on the lessee's occupants. This control mechanism is designed to ensure that the physicians leasing space in the building meet certain quality and safety standards set by the hospital's medical staff.
8. **Quality of Care** – For specialty health care facilities, such as skilled nursing facilities or specialty hospitals, the hospital lessor may insist on a quality committee that oversees the operations of the health care facility. The committees are often made up of representatives from the hospital and the lessee to oversee the quality of care being provided in the building.
9. **Lender Protections** – The lessee will likely utilize financing to construct the building on the land. Its lender will want a leasehold mortgage and certain notice and cure rights before the hospital lessor is able to terminate the ground lease for a default by the lessee.
10. **Purchase Options** – The hospital lessor will want the opportunity to buy the lessee's interest and the improvements at certain points in time. It's common for the parties to include rights of first offer and refusal in favor of the hospital lessor.

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