The Power of the Pen:
Leasing Best Practices for Energy Efficiency
Today’s Panel

**Moderator:**
- Alexandra Harry – Institute for Market Transformation (IMT)

**Speakers:**
- Christopher Ofstedal – Weingarten Realty
- Will Teichman – Kimco Realty Corporation
- Cindy Jacobs – U.S. Environmental Protection Agency (EPA)
Power of the Pen
Leasing Best Practices

Alexandra Harry
Institute for Market Transformation
Better Buildings Summit
August 23rd, 2018
About the Institute for Market Transformation (IMT)

**Mission**
Catalyze widespread and sustained demand for high-performing buildings

**Vision**
A world in which buildings are efficiently and positively transforming our physical, social, and economic wellbeing
What is a Green Lease?

Aligns the financial and environmental goals of landlords and tenants to work together to save money, conserve resources, and ensure the efficient operation of buildings.

- Potential to reduce energy consumption in an office building by 11-22%.
- Can reduce utility bills by up to $0.51 per square foot.
Benefits

- Lower Operating Expenses
- Increased Occupancy and Base Rents
- Employee Attraction and Retention
- Assistance Meeting Corporate Sustainability Goals
- Improved Employee Comfort, Health, and Productivity
- Compliance with Current and Future Regulations
Recognizing Leaders in the Field

Since 2014, Green Lease Leaders has:

- Defined best practices in green leasing and addressed the “split incentive” barrier

- Recognized tenants, property owners, and brokers that represent 1.8 billion square feet of commercial, industrial, and retail space who meet the Green Lease Leaders standard
2018’s Green Lease Leaders

GREEN LEASE LEADERS
CREATING SUSTAINABLE LANDLORD-TENANT RELATIONSHIPS

AEW
BRIX MOR
CommonWealth
DIGITAL REALTY
Federal Realty
Forest City
Ivanhoe Cambridge
JAMESTOWN
JBG SMITH
Kilroy Realty
KIMCO
LaSalle
Manulife
Morgan Creek
NRDC
PROLOGIS
Rocky Mountain Institute
Sprint
TD Bank
TOWER COMPANIES
TRIOVEST
ULTA
WEINGARTEN REALTY

IMT INSTITUTE FOR MARKET TRANSFORMATION
Thank You!

Alexandra Harry
Program Manager, IMT
alex.harry@imt.org
www.imt.org
Weingarten Realty
Weingarten Realty’s principals in Corporate Responsibility embrace achieving success in ways that honor and respect people, communities and the environment.

**People**
By promoting healthy lifestyles for associates and their families, we believe we are building a strong and healthy workforce. Weingarten’s Award Winning Wellness Program includes exercise challenges, nutrition consultation, financial seminars and much more.

**Communities**
Weingarten’s annual philanthropy campaign beneficiﬁng United Way raises over $150,000 for the communities we serve. Weingarten Realty also supports causes that are important to our associates, often matching what they raise individually. Organizations backed include:

**Environment**
Weingarten Realty recognizes that environmental responsibility is both an obligation and an opportunity to beneﬁt our patrons, tenants, investors and the property as a whole. Areas of focus include Recycling, Energy Management, Water Management and Alternative Transportation.

**View our first annual Corporate Sustainability Report at**
[www.weingarten.com/about/GreenForward.aspx](http://www.weingarten.com/about/GreenForward.aspx)

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Implementing well-managed, environmentally-friendly policies and practices that further enhance property performance and value.
In late 2013, Weingarten Realty made it a goal to create a Green Lease by the end of 2014

• What are our objectives?

• Who are the key Stakeholders that should be involved?

• Drafting the Green Lease

• Green Lease roll-out

• Challenges along the way

• Future goals
OBJECTIVES

• Develop a Green Lease that is not overly-complicated, but achieves the goal of aligning Landlord and Tenant sustainability interests

• Develop a Green Lease that can be used in different parts of the country

• Develop a Green Lease that conforms to the Green Lease Leader criteria

• Develop a Green Lease that is standardized and does not involve much negotiation

• Understand what language is critical vs what is overreaching and burdensome to Tenant

• Develop a Green Lease that is embraced by Leasing
Green Leases- Key Stakeholders

- **Senior Management**: Need Senior Management to sign off on project (COO)
- **Leasing**: Need to sell Leasing on why this is important
- **Legal**: Need Legal to draft documents
- **Property Management**: Property Management oversees project
- **Construction**: Ensure Construction Department gives feedback on Lease language
- **I.T.**: I.T. to add Green Lease to system
- **Marketing**: Marketing to help publicize Weingarten Green Lease
Green Leases- Drafting the Green Lease

• Create two (2) versions of Weingarten’s Short Form (LD) Lease
  • LD Lease
  • Green LD Lease

• Identify appropriate language to incorporate
  • Align with IMT Green Lease Leader criteria

Prerequisite:
• Tenant cost recovery clause that can be used for energy efficiency related capital projects*

Plus, the following:
• Provision requiring regular scheduled tenant disclosure of utility data to facilitate whole-building energy benchmarking.*

• Minimum standards and/or tenant improvement specifications for energy efficiency. (For example, “Tenant improvements will conform to LEED C.I. standard or better.” “Tenants will install ENERGY STAR appliances only.” This may also cover items like lighting specification or available plug load watts per square foot.)*

• Submetering of tenant spaces or separate metering of tenant plug load and equipment, including data centers. Ideally tenants are billed according to actual use rather than on a pro-rata basis.*

*Institute for Market Transformation
Green Leases- Drafting the Green Lease (Cont.)

1. **Pursuant:** Tenant cost recovery clause that can be used for energy efficiency related capital (C) costs.

Landlord shall bear the right, but not the obligation, to alter, replace or improve the Leased Premises and the buildings in the Shopping Center (or any component thereof) to reduce operating costs for the Shopping Center, energy or water consumption and/or greenhouse gas emissions, improve operational efficiency and sustainability, obtain or maintain certification from any third-party green building certification (such as, but not limited to, LEED, Energy Star, or BREEAM). The cost of any Green Improvements shall be included in Landlord’s Common Area Operating Costs and shall be subject to the Common Area Payment (as more particularly provided in Section 10.02). Landlord shall be entitled to all credits,arbon credits and other such credits or entitlements (“Green Credits”) that may be earned, credited or receivable because of energy savings or other sustainability activities conducted in the Shopping Center or the Leased Premises, excluding Green Credits to which Tenant is entitled in accordance with applicable law. Landlord shall be entitled to allocate, in Landlord’s sole discretion, any Green Credits earned with the participation of Tenant and/or tenants of the Shopping Center.

2. **Plan the following:**

- **Property:** Tenant requiring regular scheduled tenant disclosure of utility data to facilitate whole-building energy benchmarking.

Within 30 days after written request from Landlord, and within 30 days after the end of each calendar year, Tenant shall deliver to Landlord data in form reasonably acceptable to Landlord documenting Tenant’s consumption of energy, water, electricity and other utilities used in the Leased Premises. Further, Tenant shall furnish all applicable utility companies to release such information to Landlord upon Landlord’s request. Tenant’s obligations under this paragraph shall survive the assignment or other transfer of the Lease.

- **Minimum standards and tenant improvement specifications for energy efficiency:** For example, “Tenant improvements will conform to LEED-CI standard or better.” “Tenant will install ENERGY STAR® appliances only.” (This may also cover items like lighting specifications or available plug load with per square foot.)

Tenant shall, at Tenant’s sole cost and expense, install and use high-efficiency, ENERGY STAR® rated (for energy-efficient) equipment and appliances in the Leased Premises. In addition, within 30 days of written request, Tenant shall deliver to Landlord documentation regarding the equipment and appliances installed in the Leased Premises (in form reasonably acceptable to Landlord) in order to verify that such equipment and appliances meet the foregoing ENERGY STAR® Requirements.

- **Energy use of tenant spaces or separate working of tenant plug load and equipment, including data centers:** Ideally tenants are billed according to actual use rather than on a pro-rata basis.

**Note:** Under the LEASED PROPERTY IS ENTIRELY INTENDED FOR SUBLEASING. ALL UTILITIES, IF THE LEASED PREMISES IS NOT LEASED ENTIRELY (OR SUBLEASING), THEN THIS LEASE WILL NOT BE CONSIDERED A "GREEN LEASE."

Nonetheless, the foregoing, as of the date hereof, all water, central power, gas, electricity and other utilities used in the Leased Premises are separately metered (or submetered).
INITIAL ROLLOUT CRITERIA

• Green LD Lease finalized by Legal and blessed by Senior Management

• I.T. uploads into leasing database

• Florida initial pilot region

• Tenants under 10,000 SF

• Focus first on “Mom and Pop” Tenants

• All LE’s trained on new Green LD Lease process
  • This included presentation on what language goes into a Green Lease and how this language benefits both Landlord and Tenant
Weingarten Realty Signs First “Green Lease”

The Green Team is pleased to announce that in December of 2014, Weingarten signed its first “Green” Lease in Florida. Green Leases include language that mandate tenants to implement best practices in regards to sustainability, including the installation of Energy Star compliant equipment. In addition, the Green Leases require tenants to comply with utility reporting mandates that assist the Weingarten with tracking their sustainability initiatives. If it is decided that a particular property will implement a “green” initiative, such as LED parking lot lights, cool roof, etc., a Green Lease mandates that the tenant participate in the cost recovery.

We have already signed an additional (4) Green Leases in 2015. This qualifies Weingarten to submit for the coveted Green Lease Leader Recognition Program. This program recognizes real estate companies who include their sustainability initiatives into the tenant leases. We hope to hear soon if we were awarded this designation.

Special thanks to Steve Weingarten, Karl Brinkman, and the Southeast Regional Leasing Team for being the Green Lease Guinea Pigs for the company. The Southeast Region kindly volunteered to be the pilot region for the company. It is the Green Team’s goal to roll this initiative out to the rest of the regions in the near future.
LEASE CONTRACT

THIS LEASE CONTRACT entered into by and between “Landlord” and “Tenant” on this the 3rd day of January, 2018, in accordance with the terms and conditions hereinafter set forth.

WITNESSETH:

ARTICLE I. BASIC PROVISIONS AND CERTAIN DEFINED TERMS

When used herein, the following terms shall have the indicated meanings:

1. "LANDLORD": Weingarten Realty Investors
   "NOTICE ADDRESS": P.O. Box 924133, Houston, TX 77292-4133, Attn: General Counsel

2. "TENANT": [Redacted]
   "TENANT'S TRADE NAME": [Redacted]
   "NOTICE ADDRESS": [Redacted]

3. "GUARANTOR": [Redacted]
   "GUARANTOR": [Redacted]

4. "LEASED PREMISES": Approximately 1,200 square feet constituting part of the Shopping Center as shown on Exhibit "A".
Challenges

• Selling idea to Senior Management and allocation of resources

• Ensuring Leasing does not see Green Leases as a lease impediment

• Negotiations with sophisticated/national tenants
  • Why does Landlord need this info?
  • How does it benefit Tenant?

• Enforcement of new lease language

• Rolling form out to other regions
Future Goals

• Add language to renewals/amendments
• Roll-out to all regions
• Add additional language as needed
• Start to roll-out to national tenants
• Commence proper enforcement
Kimco Realty Corporation
Leasing Best Practices for Efficiency

Will Teichman
Sr. Director of Strategic Operations
KIMCO SNAPSHOT

- Kimco Realty Corporation
- 50+ year old Real Estate Investment Trust (REIT)
- One of North America’s largest owners and operators of open-air shopping centers
- 545 employees, headquartered in New Hyde Park, NY
- NYSE: KIM, S&P 500 Index
- Launched formal sustainability program in 2011
NATIONAL PORTFOLIO, LOCALLY MANAGED

475 shopping centers (81 million square feet) across the top U.S. metropolitan markets:

Over 8,000 leased tenant spaces, including:

- TJX
- The Home Depot
- Walmart
- Safeway
- PetSmart
- Ross
- Dress for Less
- Dollar Tree
- Ulta Beauty
- Subway
- Great Clips
- Starbucks
INDUSTRY CONTEXT: RETAIL ENERGY USE

- Manages “common areas”
- Pays for capital improvements, electric & water costs to operate these areas
- In a typical triple net lease, “passes through” common area utility expenses for tenant reimbursement

Energy Use at a Typical Grocery-Anchored Shopping Center

- Landlord: 15%
- Tenants: 85%

- Manages interior leased space
- Pays for capital improvements during lease term. Responsibility for construction costs varies by deal
- In shared meter situations, landlord pays utility charges and bills a share to each tenant user (methods vary)
DRIVING SUSTAINABILITY IN OUR BUSINESS

**Issues**
- Energy & Emissions
- Water
- Waste
- Building Materials

**Approach**
- Measurement
- Operations
- Retrofits
- Engaging Tenants

**Energy & Emissions**
- Measurement

**Water**
- Operations

**Waste**
- Retrofits

**Building Materials**
- Engaging Tenants

**Graph**
- Common Area Energy Consumption
- 2013: 110,142
- 2014: 103,227
- 2015: 99,748
- 2016: 97,071
- 2017: 89,983
- 18.3% decrease

- MWH consumed
CASE STUDY: FIXED CAM

Pain Point:
• Pass-through nature of common area utility expenses means savings from retrofits are captured by tenants (while landlord bears part or all of capital project cost)

Solution:
• Negotiate a fixed PSF rate for common area reimbursement in new & renewing leases
• Landlord is incentivized to invest in retrofits and more effectively manage operating expenses
• Tenant achieves cost certainty and can focus on running a successful retail business

Progress to Date:
• ~20% of all leases converted since 2016, including a mix of national and local/regional tenants
• Global discussions with several multi-site anchors to convert entire Kimco population of leases to Fixed CAM
• Significant reduction in billing and collections workload
• Multiple large-scale retrofit programs in progress – building controls, LED lighting & irrigation
**CASE STUDY: CONSTRUCTION STANDARDS**

**Pain Point:**
- Lack of standards can lead to missed sustainability opportunities during the tenant build-out process
- Generally, low appetite to increase deal costs

**Solution:**
- Create a national spec for a greener “white box”, with two levels:
  - **Base**: Low/no cost sustainable measures. Energy Star® & Water Sense® products are standard
  - **Premium**: Increased lighting & HVAC specs designed to pay back within typical 5-yr lease term

<table>
<thead>
<tr>
<th></th>
<th>Base</th>
<th>Premium</th>
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<tbody>
<tr>
<td>Exterior Storefront &amp; Signage</td>
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<td>Exterior Service Door</td>
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<td>Water and Gas Metering</td>
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<td>Demising/Corridor Partitions</td>
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<td>Ceiling System</td>
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<td>Floor Slab/Flooring</td>
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<td>Restroom</td>
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<td>Restroom Fixtures</td>
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<td>Paint</td>
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<tr>
<td>Electrical &amp; Lighting</td>
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<tr>
<td>Mechanical HVAC System</td>
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<td>Fire Alarm</td>
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<td>Life Safety System</td>
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<td>Fire Protection System</td>
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<td>Roof Penetration</td>
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<td>Telephone Conduit</td>
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![Environmentally preferable base criteria](false)  ![Enhancement to base criteria](false)
CASE STUDY: SUB-METERING

Kimco Commitment:
Sub-meter 100% of tenant electric, gas & water by YE 2018.

Pain Point:
- Shared meters are common at retail properties due to cost considerations, utility norms, etc.
- Pro-rata share billing leads to inequitable billing and disincentivizes tenant utility savings

Solution:
- Sub-meter each tenant space
- Tenants receive transparency and are incentivized to save
- Landlord eliminates disputes, dramatically improving AR collections
FOR MORE INFORMATION

Corporate Responsibility Site
http://kimcocr.com

2017 Corporate Responsibility Report
https://eu2azurecdn.blob.core.windows.net/kimcorealty-com/site/webfiles/documents/1/1023/1023.pdf

Contact Info:

Will Teichman
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Kimco Realty Corporation
wteichman@kimcorealty.com
U.S. Environmental Protection Agency
ENERGY STAR Tenant Space:
Charter Tenant Pilot

Cindy Jacobs
Better Buildings Summit
August 23, 2018
The biggest little label in energy efficiency

- 5.8 billion products
- 32,000 buildings
- 190 industrial plants
- 1.9 million homes
Recognized by more than 90% of Americans
ENERGY STAR for Buildings

Voluntary EPA program that delivers environmental benefits and financial value through superior energy efficiency
Background on ENERGY STAR Tenant Space

- *Energy Efficiency Improvement Act of 2015* directed EPA to develop recognition for energy efficient commercial tenant spaces (aka “Tenant Star”)
  - Design & Construction (D&C)
  - Occupancy-Based
    - Modeled on 1-100 ENERGY STAR score for whole buildings
    - Requires data collected by Energy Information Administration, not available for several years

- In 2016, EPA proposed D&C recognition criteria
  - Gathered comments (in writing and via meetings)
  - Determined that criteria could be adapted for occupied spaces
Why Commercial Tenants?

• Whole building energy performance depends on:
  • Continuous energy management and measurement
  • Efficient equipment and systems integration
  • Controls and occupant behavior
• Office tenants typically responsible for majority of energy use (estimates range from 50-80%; higher in retail and warehouse)
• Good base building systems important, but tenant investments and operations are critical to performance
• Tenants increasingly interested in sustainability
• Owners looking for ways to engage tenants to earn certification and improve performance
Barriers

• Split incentive limits investment
• Historically hands-off landlord-tenant relationship
• Lack of information on best efficiency options
• Not easy to determine what an efficient tenant space looks like
• Without sub-metering, difficult to gauge efficiency
Existing ENERGY STAR Resources for Tenants

Gaps:

- Performance benchmarks
- Recognition
Recognition Pilot: Charter Tenants

- Launched in fall of 2017 with office tenants -- “Charter Tenants”
- EPA worked with Charter Tenants (and landlords where involved) to test concept and implementation
  - Held series of webinars and one-on-one discussions with several Charter Tenants
  - Created web pages, online tools and guidance documents
- More interest than anticipated
  - Over 140 spaces started in pilot
  - Close to 50 have completed all the steps for ENERGY STAR Charter Tenant Space recognition
Charter Tenant Steps to Recognition

• Meet 5 criteria
  1. Estimate Energy Use
  2. Meter
  3. Light Efficiently
  4. Use Efficient Equipment
  5. Share Data

• Have a Professional Engineer or Registered Architect verify the information and stamp the application

• Submit the completed, stamped application to EPA
<table>
<thead>
<tr>
<th>Criterion</th>
<th>Value</th>
<th>Pilot Requirement and Results</th>
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</thead>
<tbody>
<tr>
<td>Estimate Energy</td>
<td>Establish practice; placeholder for eventual benchmark</td>
<td>Use pilot-scale web tool (developed in collaboration with DOE)</td>
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<td></td>
<td>Worked well for pilot; assessing results</td>
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<tr>
<td>Meter</td>
<td>Enables measurement and ability to track improvement</td>
<td>Verify meters in place</td>
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<td></td>
<td></td>
<td>Worked well; more guidance needed</td>
</tr>
<tr>
<td>Light Efficiently</td>
<td>Key way tenants can reduce energy use; performance-based metric</td>
<td>Conduct lighting inventory and test pilot-scale web tool</td>
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<tr>
<td></td>
<td></td>
<td>Additional analysis and testing of metric needed</td>
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<tr>
<td>Use Efficient Products</td>
<td>Plug load is growing energy use; many high efficiency options</td>
<td>Complete equipment inventory</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Assessing option; inventory was just for pilot, to gather data</td>
</tr>
<tr>
<td>Share Data</td>
<td>Allows whole building benchmarking, landlord engagement</td>
<td>Create Portfolio Manager account</td>
</tr>
<tr>
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<td>Worked well</td>
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Congratulations!

- Automatic Controls Company, Inc.
- CodeGreen Solutions
- COOKFOX Architects
- CRB
- Cushman & Wakefield
- DOE Office of Legacy Management
- DNV GL Energy
- Empire State Realty Trust HQ
- Event Network, LLC.
- Forest City Realty Trust, Inc.
- Harvard Pilgrim Health Care
- Hines (East & Midwest Regions)
- HKS, Architects
- HNTB Corporation
- JCDecaux
- JLL
- JPMorgan Chase
- Kilroy Realty Corporation
- LaSalle Investment Management
- Legrand NA
- LinkedIn
- MG2 Corporation
- Related Companies
- Robert A.M. Stern Architects
- Rocky Mountain Institute
- Samsung Electronics America
- Salesforce
- Satori Energy
- Servidyne, LLC
- Shorenstein
- Skanska USA
- TowerPinkster
- Ventas, Inc.
- Verizon
- Wells Fargo
- Zeal Optics
Sample of Comments Received

• I am so grateful to have been part of the Pilot Program. It was a wonderful experience. I learned so much. It was the first time I worked so closely with a Federal program.

• Keep up the good work! Tenant spaces are notorious for not having incentives for energy improvements. This is a great step in the right direction!

• Can't wait to push this out to our tenants!

• Great to have this program off the ground and glad to provide additional advise as needed.

• Since our space was sub-metered at the impetus of the Charter Tenant program… lighting has dropped dramatically.
Next Steps

• Assess results of pilot and determine effort needed for market-scale recognition
• Work with NREL and PNNL (thanks to support from DOE) to improve and refine analysis
• Stay tuned at www.energystar.gov/tenantrecognition for updates
Questions?
### Contact Information

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