

THE LEGALITIES OF BUILDING PURCHASE/RENTAL: STEP-BY-STEP

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The concept of real estate ownership and financing has taken a real beating in “the great recession of 2009-10. Nonetheless, it is hard to put into words how financially beneficial a good veterinary practice building purchase can be for its owner(s). Yet, from the outside looking in, real estate purchase or leasing is one of the many factors which deter good doctors from owning their own clinics.

In fact, one of the biggest obstacles for a young veterinarian in opening a new practice is the need to overcome the perception that the hurdles of detail management and paperwork are such headaches that the pursuit either isn't worth it or worse, is something “I will do next month, next year, or when I get more time...” Procrastination is a huge barrier to financial and career success in the profession of veterinary medicine. Literally, life is short and the as far as the urge to open a practice, veterinarians who wish to do it should “just do it.” That includes identifying a good location and arranging for an attractive building.

Admittedly, one of the more daunting undertakings in opening an office for the first time is securing space on favorable and affordable terms. This does not need to be the overwhelming obstacle many young doctors perceive it to be. Instead, the project needs to be pursued with the same scientific discipline we use in working up a medical case.

First, the key to securing space is to begin the search well before the anticipated or even the “dream” opening date of the practice. I suggest that looking for a practice location actually offers the veterinarian an opportunity to allow procrastination to work on her side. Believe me, in most governmental jurisdictions, “hurry up and wait” is the rule, not the exception. Therefore, I advise that the young doctor do this: Identify the general area where she would like to open a practice about a year before it could ever actually be done. Then, begin making inquiries as to where such a practice could theoretically be located.

The possible location choices will usually begin to thin out rapidly as the following issues are explored:

COST OF OWNERSHIP/COST OF RENTAL

A certain number of potential practice locations will be immediately eliminated as a result of the cost of rental or mortgage debt service. There are certain locations which simply are not practical as veterinary hospitals because the tenant business can simply not be made sufficiently profitable in a sufficiently short period of time to make the facility cost effective.

In fact, I have seen some veterinary hospitals fail to sell upon an owner's death, simply because no new owner could afford to operate the tenant practice due to the cost of acquiring the building in which the office had been housed.

LAND USE REGULATION

The more thriving a community is, the more a vet wants to open a practice there. The problem is, thriving communities usually have complicated and carefully enforced commercial land use limitations. Once a short list of affordable rental properties, buildable parcels or buyable buildings has been developed, each must be screened for possible compliance (or lack thereof) for use as an animal hospital. The following questions must be addressed:

ZONING:

Is veterinary practice a complying use? If it is not, is a variance obtainable in a reasonable period?

OBTAINING A VARIANCE:

It is important to objectively assess the local political climate and determine whether a veterinary hospital would be a welcome addition to the area. Is one of the town fathers already practicing there? This could present enormous hurdles in obtaining a zoning variance. Might not be fair, but can you afford to appeal a zoning variance denial?

OBTAINING A BUILDING PERMIT:

No matter what category of building you chose to buy or rent, it will inevitably need to be modified structurally or internally to fit the new use intended for it. Again, local politics play an enormous role in both the veterinarian's ability to obtain permission to build and in his ability to get his modifications approved. Keep in mind that the process of approval can be slowed or expedited depending on factors such as:

1. Do the plans require the input of an architect?
2. What is the lead time for approval of the plans by the enforcement officer or board?
3. What is the availability of affordable builders and craftspeople?
4. Do regulations require that the workers be licensed?
5. Will licensed trades people be within the budget?

MISCELLANEOUS ISSUES REGARDING RENTAL FACILITIES

LEASEHOLD IMPROVEMENTS

It can be a substantial mistake for a veterinarian who is opening a new practice in a rented space to spend excessively to custom tailor the facility to his use. The more customized and user-specific the property becomes, the more money will be left behind when the veterinarian tenant departs the building.

Additionally, many leases of commercial property require that the tenant return the space to the basic condition it was in at the time of rental. If the space is customized extensively, it may be very costly to “un-customize” the work which had been done on the building to make it a veterinary practice.

LENGTH OF LEASE-IS LONGER BETTER?

If the lease terms are excellent, and the doctor anticipates a long association of his practice with the building to be rented, a long term lease may be desirable. On the other hand, if the economic climate changes and business at that location is no longer realistic, it can be very costly to try to break a lease which requires occupancy for a lengthy period.

Commercial leases are extremely complicated and many variables are involved. I strongly recommend that no commercial building lease be signed by any veterinarian without consulting counsel unless he has extensive experience and/or legal training.