

SUBLEASING AS AN EXTREME SPORT

Tyree Industries leases the entire 30th and 31st floors of a downtown class A office building owned by Langston Properties in a major Midwestern city. Each floor contains 20,000 square feet of leasable area. Tyree also receives 25 guaranteed, non-reserved spaces in the underground parking garage beneath the building.

Tyree took occupancy in 2005, and the lease term expires June 30, 2015. Like most tenants in the building, Tyree is now paying \$22 per square foot full service. Because of high downtown vacancy rates, similar class A space downtown is now available for as little as \$15 per square foot full service.

The economic downturn has reduced Tyree's space needs. Tyree has entered into negotiations with Slick Software Group to sublet 10,500 sq. feet on the 30th floor. There is currently no public access to the 30th floor; the elevators open directly into Tyree's internal corridor. Visitors to Tyree's offices take the elevator to Tyree's reception area on the 31st floor, where an internal stairway connects the 30th and 31st floors. Tyree's employees have elevator cards allowing them access directly to either floor. Restroom facilities are located in the elevator core on each floor.

Slick would like to lease the space through at least December 31, 2015, with an option to extend through December 31, 2020. Tyree's lease grants Tyree the option to extend its term through June 30, 2020, but only for the entire 30th and 31st floors, at a 5% increase in base rent. Tyree's option lapses unless Tyree gives notice of exercise by December 31, 2013. Langston has offered to forego the base rent increase if Tyree exercises the option within the next two months. If Tyree holds over at the end of the term, base rent during the holdover is 150% of the base rent during the final month of the term.

Under Tyree's lease, Tyree needs Langston's consent to any sublease or assignment, not to be unreasonably withheld. Relations between Langston and Tyree have been good in general, but recently Langston and Tyree have had some disagreements concerning poor air circulation on the 30th floor, which may be related to faulty work during the reconfiguration of the space in 2008.

Langston refinanced in 2007 with McKendrick National Bank, who entered into a subordination, non disturbance and attornment agreement with Tyree. There have been rumors that Langston is going through financial problems. McKendrick executives were grilled by Congress during the TARP hearings, and McKendrick has been reporting poor financial results.