



LEGAL Q&A

Q What type of lease provision should be included to efficiently settle disputes between landlords and tenants in determining fair market rental value for upcoming lease extension periods?

A A provision should be included to require such discrepancies to be settled by “baseball” arbitration. Aptly named, “baseball” arbitration follows a procedure similar to that used in Major League Baseball when determining player salaries. Specifically, both landlord and tenant provide an arbitrator with their determinations of fair market value rent (“FMV”), and the arbitrator will choose either landlord’s or tenant’s determination of FMV. Because the arbitrator must pick one of the FMV determinations without modification, the arbitrator will pick the one that it believes comes closest to representing FMV. Consequently, a tenant that submits a “low-ball” determination or a landlord that inflates its FMV determination both run the risk that their determination will be rejected. Thus, both landlord and tenant have incentive to submit to the arbitrator rent determinations that reflect each parties’ true assessment of the current FMV. Therefore, “baseball” arbitration is usually fair, cost efficient and relatively inexpensive.



MORE

[Click for additional information from Giordano, Halleran & Ciesla, P.C.](#)



Laurence I. Rothstein and Monica J. Ceres are shareholders at Giordano, Halleran & Ciesla, P.C. in the firm’s Leasing Practice Group. They can be reached at 732-741-3900 or at lrothstein@ghclaw.com or mceres@ghclaw.com.