

Silence is Golden in Lease Renewal Provisions

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We previously wrote that commercial lease renewal provisions are void and unenforceable if they rely upon “market rent” with no mechanism to determine the market rent, but what happens when the renewal provision is completely silent on rent?

The Second District Court of Appeal in *Certified Motors, LLC v. Aventine Hill, LLC* recently held that “silence is golden” when a renewal provision unequivocally calls for the extension of a lease agreement and does not mention rental at all. This silence results in the extension of all terms of the expiring lease, including the expiring rental rate.

The provision at issue in *Certified Motors, LLC* was the following:

“Tenant can exercise an option for an additional 5-year period if given in writing to the owner 90 days before the term expiration.”

The court held that tenant’s timely exercise of the option extended all terms of the lease for five (5) years, including the existing rental rate. This was true even though landlord argued that the continuation of the existing rental rate would be inequitable as it was below market rent.

In the court’s eyes, there was no uncertainty, and the parties’ bargain was clear. The lease continues on all of its terms, including the expiring rental rate.

The *Certified Motors, LLC* case emphasizes the importance of detailed legal drafting in renewal provisions. If you want rent to be modified upon a renewal, then say so, because otherwise “silence is golden” – particularly golden for a renewing tenant.

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