

Guide to a lease agreement

Before the grant of lease, both lessor and lessee should clarify their rights and responsibilities and capture the same in a lease agreement

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htestates LEGAL REMEDIES

Many individuals find taking up a property on lease, be it commercial or residential, to be a better alternative compared to other legitimate modes of acquisition and transfer of property. Likewise, owners and leasing out their properties to be an attractive source of income.

Since nobody wants disputes, one should be aware of the covenants in Section 108 of the Transfer of Property Act, 1882 (TPA), which enumerate the rights and responsibilities of lessors (landlords) and lessees (tenants) have towards each other. These covenants are implied covenants — hence, in the absence of a lease contract contrary to these covenants, provisions in Section 108 shall be enforceable. Please note that if the building being rented out is governed by State Rent Acts, then a lessee cannot claim legal recourse under the provisions in Section 108 of TPA.

Lessee's rights/lessor's responsibilities

Actual transfer of physical possession of property by lessor to the lessee is essential. Unless the lessor hands over the property's physical possession to the lessee, he/she is not entitled to recover rent from the lessee. After handing over the possession, the lessor is obligated to not hinder/interfere with the lessee's quiet and peaceful possession of the premises during the term of lease. 'Interference'

in this context means direct physical interference with the lessee's enjoyment of the premises. That is, where the lessee is physically restrained from using the property in a manner he is otherwise allowed to use under the lease deed.

Before leasing property, the lessor is bound to disclose to the prospective lessee the material defects (with respect to any defect in the title of the property and/or intended use of the same) that he is aware of, which the lessee may not discover. In the event the lessor does not disclose such defects, the lessee may either claim damages under the Indian Contract Act (1872), or rescind the lease contract.

Lessee must ensure that the lease contract contains an express provision stating that the lessor shall be responsible for carrying out the repairs. If despite a specific provision, the lessor does not make the required repairs, the lessee may make needful repairs and deduct the cost of such repairs from the rent payable to the lessor or claim it from him otherwise.

In Force Majeure conditions (fire, flood, enemy action, or similar unforeseen circumstances), if any material part of the property is wholly destroyed or rendered substantially and permanently unfit for occupation, the lessee has the option to terminate such lease. This



clause is provided to protect the interests of the lessee when the property ceases to fulfill the purpose for which he took the property on rent. However, if such property or any part thereof is wholly destroyed or rendered substantially and permanently unfit for occupation due to any act/omission of the lessee, then the lessee cannot avail such benefits.

In the event of an accretion (addition) made to the land leased, in the absence of any contract to the contrary or any contrary local custom or usage, the (new) accreted land will be governed by the terms of the original lease and will be considered part of the original lease. In case the accretion takes place by way of lessee's encroachment, he must surrender the accretion and the original land leased upon the expiry of his lease term.

A lessee may transfer/assign whole/part of his interest in the property rented absolutely or by way of mortgage or sub-leasing whole/part of his interest in

such property. However, such transfers of interest do not relieve the lessee from his obligations towards the lessor. Further, lessees having non-transferable right of occupancy are not permitted to make such transfers.

Upon termination of the lease, a lessee may remove all fixtures/fittings installed by him in the property during his lease term, provided the lessee hands over possession of the property in the state in which he had first received the property from the lessor except reasonable wear and tear.

Responsibilities/rights

A lessee must fully disclose to the lessor any material facts about the property that the lessee knows but the lessor may not necessarily be aware of, which may have bearing on the lessor's decision to lease the property. In the event any harm is caused to the lessor due to lessee's non-disclosure of such vital information, the lessor may claim damages and compensation from the lessee.

A lessee is required to maintain the property in a good, habitable condition. Upon termination / expiry of the lease, the lessee should hand over the property's possession in as similar a condition as the property was when it was first handed over to him — excepting reasonable wear and tear.

A lessee is bound to notify any damages to the property caused by him and rectify such damages within reasonable time. A lessee can only carry out the repairs after notifying the lessor about the nature and extent of damage caused and upon receipt of the lessor's consent.

If a lessee becomes aware of any proceeding to recover the property or any part thereof or encroachment being made upon the property or any interference affecting the right of the lessor to the property, the lessee is bound to inform the lessor of such encroachment/interference at the earliest.

the lessor's property as a person of ordinary prudence would. Also, a lessee is prohibited from using/allowing any other person from using the property for purposes other than what it was originally leased for without obtaining the lessor's consent. Further, a lessee shall not commit or permit any one to commit illegal / hazardous / any other activities detrimental to the property.

Contracts that take into consideration as many eventualities as can be normally foreseen go a long way towards pre-empting litigation. Before the grant of lease, both the lessor and lessee should endeavour to clarify as many of their rights and responsibilities they have towards each other and capture the same in a detailed lease agreement.

This is not an exhaustive list. The author is senior partner, ZEUS Law Associates, a corporate commercial law firm. One of its areas of specialisation is real estate transactional and litigation work.



Concerns of a changing city

Delhi's growth should be planned giving its environment and heritage due importance

Vidur Bharadwaj

Change is inevitable. In the past few years, we have seen sweeping changes across the Delhi NCR. The last three decades have been especially significant and most of the time it has been a landmark event that has led to the change.

In 1982, Delhi got a makeover for the Asian Games, the first landmark event for the city. It provided the Capital an opportunity to get the finest infrastructure and transform itself.

Delhi will now see an encore in 2010 as it gets set to host the prestigious and first 'green' Commonwealth Games. This mega-event will again give a big boost to the city's infrastructure. The games will also mean a step towards ensuring that the city has zero-carbon footprint, taking cognizance of the global challenges of environment and

sustainability. For example, the games village will be a unique green project.

Other changes have been in incubation too. The introduction of the Metro Rail and BRT in Delhi marks the beginning of ensuring international transportation standards. There is still a need to improve facilities.

Over time, Delhi has grown to become a cosmopolitan metropolis, which has in turn led to unplanned development.

Sprawling malls, boutiques and a number of astonishing developments demonstrate that Delhi is on its way to becoming a global city. However, any change should not ignore sustainability of the city's environment.

Infrastructure development is inevitable. What is relevant here is to note that there is an increased need for protecting our environment as we grow. Usage of eco-friendly materials, efforts to maximise dependence on natural and renewable resources and recycling of waste, water and other perishable items would be a step in the right direction.

The author is principal architect, D&D (Design & Development)

PROPERTY NORTH DELHI

SUNRISE Apt 3BR, FF, allotee, prime location, Rst.15 & New Saraswati Apt. 3rd Flr. Lift, F.H, Corner, F/R, Rst.125, Anil Arora-910624166

FREEHOLD Rohini Sector-18, 19, 28 DDA/Society LIG, MIG, HIG with Bank loan facility, Shri Ram Property 27853800/27853900/9811039427.

WANTED PRIME LOCATION PLOTS
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9811941153

Wanted/Required PLOTS IN TDI CITY, KUNDLI

BHATIA ASSOCIATES
A-7, Lok Vihar, Pitampura
9810172700

RENTED
Hotel Ginger 16.00 Lacs PM
Bank 11.50 Lacs PM
Beneton 9.35 Lacs PM
Bank 5.65 Lacs PM
McDonalds 2.60 Lacs PM
Return 5% to 10%
Cuptason's
98100 46014
98710 59187

WANTED PLOTS IN TDI CITY, KUNDLI
KAMAL PROPERTIES
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9810190719

tdi city
REQUIRED PLOTS IN TDI CITY, KUNDLI UPTO RS. 40,000/- PER SQ.YD.
DESTINY PROMOTERS
9818572001
9810010515

WANTED PLOTS IN 'B' BLOCK 180, 250, 350, 500 sq.yds.
AKANKSHA ESTATES
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SHALIMAR Bagh, for sale, MIG Flat, first floor, park facing, sun facing, good location, Contact owner- 9873174789, 9811335648.

PRECISION SOHO TOWER
Main Sohna Road, Gurgaon
MONTHLY: 26 K
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9650082225
9818308830

FOR SALE FREEHOLD
Janta Flat, Ground Floor, 3 rooms with Marble Flooring, Large Kitchen, Big Bathroom & Balcony Pocket-JD, Facing Park, Hari Enclave, Hari Nagar, G-8 Area, Rajouri Garden, New Delhi
Interested parties may contact between 11 am. to 5 pm.
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Jai Mata Di Contact Ambika Builders for Sale, Purchase & Construction at BAWANA
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9312258752

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ROHINI SALES / PURCHASE PLOTS ALLOTTED BY DDA Sector-1 to 32
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Model Town/Gujranwala
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Civil Line/Mukherjee Ngr.
Ashok Vihar (Pitampura+Adi Area)
Wanted/Available Kothi, Plot, Flat, Shops
27210009, 981188909
27465561, 27234480

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9212359100

NORTH DELHI
SHOPS for Sale in Nehru Vihar, Vardhman Central Mall - GF & FF Contact 981068973, 9873330555.

ROHINI Buy/Sell, Plot, Flat, Floors # Bank Loan Facility, Gupta Property - Vikas Gupta # 64596711, 27934902, www.guptaproperty.com

FREEHOLD Floors & Plots available in Rohini Sec-24, 25, 23 with Bank Loan facility. 3+1(3B), 2+1 (2B), 1+1(1B). On Aggarwal Sec-25, 9313809678, 9811070015

RANA Pratap Bagh SBR+ 1 DD, Italian Flooring, Teakwood, lift, 2400 sqft. + covered parking for 2 cars. Nice Prop. 9810199128, 9312210827

BAWANA, Narela, Bhorganh DSIIIC Indl./ Resi Plots / Fact./ Flats / Shops / Off. etc. (plan/lien/const), D.R. Batra-Renuka Prop. 9810018724, 9810114699.

DLF Capital Greens Shivaji Marg, Wanted/Available 2/3/4 BR Luxury Flats Contact for Best Deals, Minocha Properties 9810255666, 9811134829.

ROHINI Sec-23, 24, F.Hold MIG FF & GF @ 45L & F.Hold MIG 1+1 @ 17-20L, 2+1 @ 30-40L, 3+1 @ 40-50L. On Aggarwal Asso. 9311070707, 9212161850

SHALIMAR Bagh- DDA MIG Flat, 3rd Floor, C & D block, Corny, Deed OK, LIG Flat B/H block, 3rd Floor- 26 Lacs. Contact: JMA- 9811361300.

GHAZIABAD
SALE/RENT strongly built adj. NH-24 total area 3600 s.ft. GF+FF 1800 s.ft. each in Rahul Vihar near Vijay Ngr. (Gzb) # 9899102004, 950366282.

PLOT for sale area 115 sq.m. Indraprastha Colony allotted by GDA, East Facing, close to Delhi-UP Border. Contact: Nareesh, M-9899061449.

*******WANTED PLOTS******* Indrapuram / Vasundhara, Vaishali & Near by Areas. Get the Best Price. Vinod Kapur # 9999799012.

250 sq.yds. freehold plot in DLF Ankur Vihar, Park Facing, excellent location. Genuine Buyer contact original Owner # 9868210627.

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9310702222, 9540305555
(011) 4372222, 43432222

3 BR, 2 Bath, 1100 Sq. Ft., G.Fir, woodwork & modular kitchen, 39 lacs, Indrapuram, Gzb, 0120 2539344 / 98732-93524.

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LAST FEW LEFT
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AVAILABLE for sale A Semi Built Plot of approx. 1100 Sq.Yds at Anand Parbat Near Sarai Rohilla Railway Station. Cont: 9891020532.

C.P. Rank 8% O/C G.F., Showroom 9% G.F. Comm. 200y. Hz. Khas 2200y. 3BR & 3400y 5 BR Opp. Akshardham. Gupta #9310246467, 9971284646.

CONNAUGHT PLACE OFFICE SPACE For SALE/RENT
Building Size sq.ft.
Statesman Hou. 450-4500
Antriksh Bha. 650-1650
Surya Kiran Bld 740-2200
Narain Manzil 1000-5000
CP APARTMENT FOR SALE/RENT
Upasana 1800-2500
Girdhar 1800-2200
Dhawan Deep 1200-2400
ANAND AGGARWAL PROP.
9811707062, 9999317823

DARYAGANJ, Chandni Chowk, Connaught Place, Asaf Ali Road Sale/Purchase/Renting. Gupta Properties 9899925000, 9971996000.

AVAILABLE Basement For Sale/Lease on Main Pusa Road Near Metro Station Cont: Vishal Vaid # 9811209192

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9811378830 9811831121 9811375342

2 Bed Room, Drawing, Dining, Car Parking flats New Ashok Nagar on Metro Station. Adjoining Noida Contact: 9810566177, 9910566177

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INDRAPURAM/VAISHALI 2/3/4 B/R in ATS, Aditya, Orange County, Express, Maingun, Arihant, Amarpali, Supertech, Kumar Linkers (P) Ltd. 9811755750, 9811150750

PREET Vihar to Vivek Vihar, Indrapuram, Vaishali, Kaushambi Vasundhara sale/purchase/renting/kothi/floors/plots # 22778-129, 22720117, 9311187300.

PPG. Society avail 2+1, 3+1, for Sale / Rent in Amarjali Indrapuram/ Vaishali Buy/Sell Society/ DDA flats/ Plots. # 9311543700/ 9311543600.

VASUNDHRA Enclave/ Patparganj/ Mayur Vihar/ Noida/ Indrapuram/ Vaishali Buy/Sell Society/ DDA flats/ Plots. # 9311543700/ 9311543600.

WANT TO Sell Industrial plot of 1250 sq.metre in Sec.A-2, partially built up & running at Tronica City Delhi Bagpat Road Loni. Genuine Buyers P/B Contact at 9811114260

PLOTS, Kothies, Floors Avail. for Sale at Surya Nagar, Chander Nagar, Ramprastha, Rampuri, Sizes: 200' 230' 350' 555' 800 sq. yards. Cont.: Modern Associates 9811598216, 9873848484

PRIME LIVING 2/3/4 BR. APTS. & PENTHOUSES READY TO MOVE
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AVAILABLE 200yds. 3 Sided Corner, 11th Floor, in Vivek Vihar
WE ALSO UNDERTAKE CONSTRUCTION & RENOVATION WORK
Cont: SANJIV WAHI
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9312402936
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9899162921

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SALE Mayur Vihar (Pratap Nagar) 3Bedroom, DD, 2 side open, North-East facing, wide road, 2nd Floor Flat. Krishna Properties # 9811010707

PATPARGANJ Navkunj Apartment Corner Park Facing 3BR + Study 2nd Floor For Sale Contact: Sachin 9810057412, 9810152769.

SURYA Nagar A Block Corner North East facing 475 sq.yards. Single Storey Kothi for sale immediately. Cont: R.S. Bhatia 9811598216.

LIG-MIG Flats with parking near Seemapuri Bus Depot C356 Shalimar Garden Extn-II. Loan available Khanna Builder 9810348666