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LEASING TIMES

Key leasing phrases and topics to think about.

CRANE PAIN

Is there an overhead crane? The issue of what is or is not a tenant fixture is often confusing. Recent Ontario court decisions, however, have clearly identified an overhead crane in an industrial building as a tenant fixture unless the lease stipulates otherwise. This means that the crane belongs to and can be removed by the tenant. If the lease does not address the ownership issue, the Ontario courts have held that the crane belongs to the tenant. This could be costly for a landlord. If a landlord constructs an industrial building with a crane, one would think that the crane belongs to the landlord. Not necessarily. The landlord must substantiate its ownership of the crane. The best way to substantiate ownership is to spell it out in the lease. In addition to the ownership issue, there are also substantial costs and disruptions in removing cranes and restoring the property. These issues often arise on termination especially when a bankruptcy trustee or receiver has been appointed to deal with tenant assets. Cranes are usually valuable assets and worth pursuing. Make sure you do not suffer from the costly upset of crane pain. Your thoughts?

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