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"BOMA 2010 OFFICE STANDARD AND NEW BOMA 2010 RETAIL STANDARD"

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BOMA 2010 Office Standard and New BOMA 2010 Retail Standard

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In 1915 the Building Owners and Managers Association (**BOMA**) International published a standard method of floor measurement for office buildings and that standard, as revised from time to time (which, for convenience, is referred to in this paper simply as the "**Office Standard**"), has been used by the majority of building owners ever since. In 2010, the Office Standard was revised again. The revisions are important to lawyers and business persons dealing with office leases.

The 1996 version of Office Standard deals with store areas within office buildings but the 2010 version does not distinguish between store areas and office areas in office buildings. For the first time, in 2010 a measurement standard was developed by BOMA specifically for retail buildings by BOMA until 2010.

This paper will discuss the salient features of the 2010 version of the Office Standard (the "**2010 Version**"), as well as the salient features the new 2010 standard for retail buildings (referred to in this paper as the "Retail Standard").

THE 2010 OFFICE STANDARD

In early versions of the Office Standard, rentable areas were calculated by grossing up usable areas (spaces that could be occupied by tenants) by means of a conversion factor referred to as the R/U ratio to include a pro rata share of the floor area of the floor common areas (janitor

closets, telephone rooms, washrooms, corridors, elevator lobby areas, etc. occupying the same floors as the respective usable areas). The floor areas of facilities serving the entire building (as opposed to a single floor) such as ground floor lobby areas, concierge areas, loading docks, boiler rooms, electrical and mechanical rooms and other amenities were not apportioned to increase the areas of usable areas for the purposes of calculating rentable areas.

In the 1996 version of the Office Standard (the "**1996 Version**"), ground floor lobby areas, atrium spaces at the level of the finished floor, concierge areas, security desks, conference rooms, lounges or vending areas, food service facilities, health or fitness centres, mailrooms, fire control rooms, and fully enclosed mechanical or equipment rooms were included in a new definition: building common area, and this area was allocated by means of a conversion factor referred to as the building R/U ratio to all usable areas to calculate rentable areas.

Although the 1996 Version did provide a reasoned approach to building measurement, it had some problematic quirks that needed to be fixed. The method employed by the 1996 Version for determining and apportioning common area creates volatility when some spaces are reconfigured. Reconfigurations of common areas can necessitate numerous revisions of the rentable area calculations for a building. It has been suggested that the 2010 Version reduces volatility in rentable areas because it establishes more categories of space, which results in more flexibility in defining common and tenant occupied areas of buildings. Adam Fingret, CEO of Extreme Measures Inc. which is designated as an official interpreter of the BOMA Standards, is quoted to this effect in the article by Barbara Carss "*Taking Measure of an Evolving Industry*" published in the October 2010 issue of Canadian Property Management. However, the reduction of volatility is not stated as an objective in the guide to the 2010 Version and analysis by the

writer indicates that volatility of rentable areas arising from conversions of space from one category to another may not in fact be materially reduced in the 2010 Version.

One quirk of the 1996 Version which is fixed by the 2010 Version concerns the gross up of usable areas on a floor that contains building common areas. As stated above, in the 1996 Version the total of the building common areas is allocated to the usable areas by means of the building R/U ratio.

Before being allocated to usable areas, building common areas are grossed up to include a pro rata share of floor common areas on the same floors upon which the building common areas are located. As noted above, floor common areas include areas such as janitor closets, telephone rooms, washrooms, corridors and floor elevator lobby areas serving tenants on a particular floor. When floor common areas are allocated to all building common areas without distinguishing between areas, such as boiler, electrical and mechanical rooms, main floor common lobby areas and shipping areas, all of which are essential for the operation of the whole building and none of which is used or occupied in a manner which actually places a burden on the washrooms and other facilities comprising the floor common areas serving the floors where they are located, the result is that tenants on the other floors receive, through the building R/U ratio, an increase in their rentable areas which, properly, should be absorbed by those usable areas on the same floor upon which the building common areas are located and which actually need the benefit of those floor common areas.

A second problem with the 1996 Version is that it includes in the rentable areas of the building, storage areas, even though they are not intended for occupation. This gives tenants of office areas a windfall at the expense of the landlord. Storage areas are generally not finished to the

same level as office areas. They do not receive janitor services and, in many cases, have limited air conditioning, heating facilities and other services, yet their floor areas are included in the rentable area of the building. This inflates the denominator of the proportionate share fraction for determining a tenant's share of operating costs, taxes, etc. In addition, the space occupied by storage areas would generally not rent at the same rate as office areas and, therefore, in an assessment, would attract a lower value and, therefore, fewer taxes to the building than space occupied by office areas. Tenants that lease storage areas do not usually contribute to operating costs or taxes on the same basis or at the same rate as would apply to office space.

If storage areas are not excluded from the rentable area of the building, the landlord effectively subsidizes an amount equal to all or a substantial part of the operating costs and tax contributions per square foot of the storage areas.

METHOD A AND METHOD B

The 2010 Version, officially called "*Office Buildings: Methods of Measurement and Calculating Rentable Area*", solves the problems noted above and, notably, it also provides users with a choice between two methods of measurements: Method A, the Legacy Method; and Method B, the Single Load Factor Method.

Method A – The Legacy Method

The Legacy Method is very similar to the 1996 Version except that it creates additional definitions and substitutes others. It provides additional categories of space which are treated in ways that are intended to avoid the problems identified above. There are separate definitions of building amenity areas (i.e., food service facilities, concierge areas, building conference rooms, daycare facilities) which add a convenience for all occupants of the building and not just the

occupants on a single floor but which operate and are used in ways similar to tenant occupied space, and building service areas (i.e., boiler rooms, main floor lobbies, building electrical and mechanical rooms, fire control rooms, etc.) which enable all occupants to work in the building and which do not, generally, need the benefit of floor common areas. The building amenity areas on a floor do receive an allocated share of the floor common areas (which are referred to in the 2010 Version as floor service and amenity areas) but the building service areas do not receive an allocated share of the floor common areas (i.e., the floor service and amenity areas). Accordingly, when the building amenity areas and the building service areas are apportioned to all of the usable areas (referred to in the 2010 Version as occupant areas) in the building, it is only the building amenity areas and not the building service areas that include an allocated portion of floor common areas (i.e., floor service and amenity areas). This means that the tenants on a particular floor where there are building service areas receive, through application of the floor R/U ratio (referred to in the 2010 Version simply as the R/U ratio), the full burden of the floor service and amenity areas on the floor and no portion of the floor service and amenity areas which would otherwise be allocated to building service areas is passed on to other tenants of the building through the building R/U ratio (referred to in the 2010 Version simply as the R/O ratio).

The problem of storage areas is dealt with simply by creating a new category of space occupant storage which is excluded from the rentable area of the building.

Method B – The Single Load Factor Method

Method B, the Single Load Factor Method, allows a single gross up ("load factor") to be applied to all occupant areas in the building. The result is that, regardless of what floor a tenant is on, its occupant areas is grossed up by the same factor as the occupant areas on every other floor in the building. Use of this method should allow for more effective marketing and administration of

leases. Also, since a single load factor, or gross up factor, is used throughout the building under Method B, and since under this method occupant storage areas are also excluded from the rentable area of the building, the problems identified in connection with the 1996 Version that are solved under Method A are also solved under Method B.

In order to establish a single load factor applicable on all floors of the building, Method B introduces a new class of space, base building circulation. It assumes that base building circulation exists on all floors whether they have multiple occupants or a single occupant. Base building circulation is a hypothetical corridor and/or lobby identified for each floor regardless of occupancy or physical conditions. It is the minimum path necessary for access and egress to and from the Occupant Areas, stairs, escalator and elevator, rest rooms, janitor closets and water coolers, required refuge areas, life safety equipment and building service, and amenity areas. The same hypothetical base building circulation is allocated proportionately to all floors using a single load factor. Similarly, the total of building common areas (i.e., building service and amenity areas) is allocated proportionately to all occupant areas using a single load factor.

The 2010 Version also makes provision for capped load factors so that a building owner, wishing to make its building more marketable, may cap the load factor for all occupant areas within the building.

Drafting Tip

When using the new 2010 Version, it is essential to identify whether Method A (the Legacy Method) or Method B (the Single Load Factor Method) is to be used. A recommended citation would appear as "*2010 BOMA Office Building Standard, Method A*" or "*2010 BOMA Office Building Standard, Method B*".

It is also important to note that this new standard is not intended to be used to measure retail buildings, industrial buildings or multi-unit residential buildings. Separate measurement standards for retail and industrial buildings have been published and are available from BOMA.

THE NEW STANDARD FOR RETAIL BUILDINGS

Officially, the new standard for retail buildings is referred to as follows: "*Retail Buildings: Standard Methods of Measurement (2010)*". For convenience, it is simply referred to in this paper as the "**Retail Standard**". Landlords of retail buildings have, almost invariably, developed their own methods of measurement for space and, not surprisingly, there are numerous variations. However, there is some consistency in the industry and many landlord versions of the method of measurement for retail space are similar to the following:

> "**GLA**": the area measured from, (a) the exterior face of exterior walls, doors and windows; (b) the exterior face of interior walls, doors and windows separating Rentable Premises from Common Elements; (c) the exterior face of interior walls that are not party walls, separating Rentable Premises from adjoining Rentable Premises; and (d) the centre line of interior party walls separating Rentable Premises from adjoining Rentable Premises. GLA includes interior space even if it is occupied by projections, structures or columns, structural or non-structural, and if a storefront is recessed from the lease line the area of the recess is included within the GLA of the Premises. The dimensions of Rentable Premises that are a kiosk will be determined by the Landlord.

Fundamentally, the Retail Standard is not very different from the one set out above. The Retail Standard uses the term "Gross Leasable Area" and not "Rentable Area" and does not apply load

factors or gross up factors which are used in the Office Standard. The concept of grossed up usable area to establish the rentable area of a space and apportioning pro rata shares of floor common areas or building common areas or amenities is not used.

The main purpose of establishing the Retail Standard appears to be to eliminate, wherever possible, grey areas. It provides precise definitions and numerous illustrations to clarify concepts and measurement methods. As is the case with the Office Standard, charts and step-by-step calculations, accompanied by illustrative diagrams, are employed. Careful analysis of the Retail Standard indicates, however, that there is still work to be done before the objective is achieved. The attempt is laudable but, in the writer's view, more work will be needed before the Retail Standard is generally regarded as an improvement over the "home grown" standards of most landlords.

Gross Leasable Area

Gross Leasable Area is defined in the Retail Standard as follows:

> **Gross leasable area (GLA)**: The total enclosed floor area designed for the exclusive use of an occupant, including any basements, mezzanines, or upper floors. For each occupant, it is generally measured from the centerline of partitions that separate adjacent occupants, from the measure line on the exterior surface of exterior enclosures, from the lease line at common areas, and includes the full thickness of all other enclosing walls. No deduction is made for columns, any structural elements of occupant voids are within GLA.

Each of the underlined words has its own definition. Most of these defined terms are straightforward and do not require any comment. However, it is useful to explain that the

measure line is a "horizontal line on the outermost structural or architectural surface of the exterior face of the exterior enclosure of a given floor of a building. …" Overhangs, projecting pilasters or columns, awnings, eaves, etc. are ignored where they protrude beyond the exterior face of the exterior enclosure. The lease line is a "horizontal line forming a perimeter that encompasses all the constructed elements of a given occupant space. The lease line is normally the centre line of any common party walls, the corridor face of any adjacent common corridor, or the exterior face of any walls that form the exterior enclosure, or the storefront lease line as defined by the landlord. If no specific dimensional definition is provided by the landlord, the storefront lease line shall be established by the leading edge of the neutral pier or mall bulkhead above. …" Non-structural protrusions, including eaves, cornices, canopies, awnings, sills, ledges, etc. are ignored.

An occupant void is a "floor opening between two or more adjacent floors created by removal of occupiable floor area by or for the occupant that would otherwise be included in the exterior gross area or construction gross area of the floor."

Following are several observations that should be considered in dealing with the Retail Standard definition of gross leasable area or GLA.

It should be noted that a major vertical penetration, defined as a "floor opening in excess of 1 square foot … that serves vertical building systems or vertical occupant circulation functions", unlike occupant voids, is excluded from GLA. Typically, in landlord drafted definitions of GLA, there is no deduction for any floor openings.

The Retail Standard includes a chart (the "Space Type Chart") which indicates the various defined categories of space that are included or excluded from GLA. The chart indicates that

mezzanines and restricted headroom space defined as a "portion of an occupiable area that does not meet the requirement of the International Building Code for minimum ceiling heights" are included in GLA; however, where GLA is calculated in accordance with the Retail Standard, both mezzanines and restricted headroom space areas are required to be identified.

The calculation of GLA does not, in any way, differentiate between space used for office purposes, storage space or space used for retailing. Note, also, that basement space and second floor space even with no access to a mall are not treated any differently from ground floor space in the calculation of GLA.

Ancillary space is defined as "any areas which are leased to, or by agreement are used exclusively by, an occupant in addition or surplus to the GLAs defined in this standard as represented on the Global Summary of Areas. Ancillary space shall be designated for the occupant's exclusive use (like GLA) but may not increase GLA, exterior gross area or construction gross area that are defined in this standard." Examples of ancillary space include:

- outdoor patio areas and exclusive seating areas serving a specific food service occupant within the common area of a shopping centre,
- un-enclosed garden centres,
- automotive display or storage lots
- stock yards or fenced compound for home improvement stores or similar retail occupants.

Some of the diagrams and examples illustrating measurement methods need further clarification. For example, in the definition of lease line, it is stated that, if no specific dimensional definition

is provided by the landlord, the storefront lease line is to be established by "the leading edge of the neutral pier or mall bulkhead above." There is no definition anywhere in the Retail Standard of "a neutral pier" or a "mall bulkhead". They are technical terms, the meaning of which can only be guessed at by the average lay person. Also, in illustration number six contained in the Retail Standard, which is intended to illustrate a Storefront Lease Line, the lease line is shown at the **back side** of the mall bulkhead and the **back side** of a neutral pier and there is no reference to the "leading edge of the neutral pier or mall bulkhead above" in the illustration. For some reason, the illustration of a Storefront Lease Line seems to be the reverse of what is provided for in the definition.

In the typical landlord drafted definition of GLA that is set out above, it is provided that "if a storefront is recessed from the lease line, the area of the recess is included within the GLA of the premises." The same effect is achieved for storefronts fronting on a mall by the definition of lease line which, in the absence of a landlord's specific dimensional definition, indicates that the lease line is established by the leading edge of the neutral pier or mall bulkhead. However, where a storefront faces a parking area, as would be the case in many retail strip centres, the lease line is the exterior face of any walls that form the exterior enclosure, unless the landlord provides a specific definition to the contrary. This means that the recessed area of a storefront facing a parking area would not form part of the GLA unless the landlord provided a specific definition to the contrary.

The Need for Weighting Factors

Typically, particularly where regional malls or enclosed shopping centres are concerned, various categories of space are either excluded from the denominator in a proportionate share formula or are weighted. Generally, storage areas are excluded, and office, mezzanine, basement and other

areas that do not have direct access to a mall are weighted at 0.5. Kiosks are often weighted by multiplying their GLA by 2 on the theory that customers shopping at a kiosk use mall space while they are shopping and the kiosk can, therefore, generate extra sales from a smaller space than that utilized by an in-line store. Similar weighting factors would need to be applied to GLA as measured by the Retail Standard. In addition, it can be expected that, if the Retail Standard is used, a weighting factor should be applied to restricted headroom space, or restricted headroom space might be excluded altogether.

Conclusion

It should be apparent that, before parties agree to use the Retail Standard, careful analysis of that standard is necessary and further clarification and modification of the Retail Standard would, in many cases, be necessary before it was suitable to the parties. The new Retail Standard is useful and helpful in that it attempts to provide consistency and transparency in the calculation of GLA in retail buildings but further refinement of the standard will need to take place. In the meantime it needs to be handled with care.