



THE CITY OF KEY WEST

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Departmental Protocols for Regular Inspections and Tenant Maintenance Notifications in Leased Commercial Properties

Protecting Asset Value, and Aligning with
Standard Industry Practices for Repair Responsibilities

SENIOR PROPERTY MANAGER

1. Introduction

The Property Management Department has implemented a structured program of regular inspections across all commercial properties under lease to identify tenant maintenance and repair issues and to provide timely, documented notice to tenants requiring them to perform necessary repairs in accordance with their lease obligations. This white paper describes the specific measures adopted by the Department to fulfill these responsibilities, ensure consistent lease compliance, and maintain the condition and value of the leased assets.

Leases for the Department's commercial space generally obligate tenants to maintain the interior and non-structural elements of their premises and to repair any damage caused by their use or negligence. Historically, certain leases have also required tenants to perform structural repairs. However, this provision is not customary in commercial leasing and property management. The Department is systematically removing tenant obligations for structural repairs from all new leases and lease renewals. The inspection and notification protocols outlined herein support this transition by focusing oversight clearly on tenant responsibilities while aligning the Department's practices with prevailing industry standards for the allocation of repair obligations.

2. Background and Industry Context

In commercial real estate leasing, repair and maintenance responsibilities are allocated between landlords and tenants according to the specific terms of each lease, the type of lease (e.g., gross, modified gross, or triple-net), and established industry norms. Across the majority of commercial leases particularly those involving multi-tenant buildings landlords customarily assume responsibility for structural repairs to the building's core components. These typically include the roof, foundation, exterior walls, load-bearing structural elements, and other items that constitute the building shell or envelope.

This allocation reflects fundamental principles of ownership and risk management. Landlords own the underlying real estate asset and therefore bear primary responsibility for preserving its long-term value, structural integrity, and marketability. Structural repairs are generally classified as capital expenditures rather than routine operating costs; they involve significant, infrequent investments that extend the useful life of the property and are best managed by the party with long-term ownership interest, access to financing, and specialized expertise. In multi-tenant properties, structural issues often affect common areas or multiple occupants, making centralized



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coordination by the landlord more practical and efficient than delegating such work to individual tenants.

Industry standards and customary lease drafting practices further support landlord responsibility for structural items. Broad or ambiguous “maintain and repair” covenants imposed on tenants are frequently interpreted not to include major structural work unless the lease explicitly and clearly shifts that obligation. Even in triple-net leases, where tenants assume a broader range of operating expenses, major structural repairs and capital replacements are commonly retained by or negotiated back to the landlord to avoid disputes and align with the economic realities of asset ownership. Requiring tenants to perform structural repairs is atypical in standard commercial practice and can create practical challenges, including mismatched incentives, potential delays in critical repairs, and complications during lease negotiations.

By contrast, tenants are customarily responsible for the interior, non-structural maintenance of their leased premises, routine upkeep of systems within their control, and repairs arising from their specific use or negligence. The Department’s inspection and notification program is designed to ensure enforcement of these tenant obligations while supporting the removal of non-customary structural repair requirements from future leases. This approach promotes clearer responsibility allocation, reduces the potential for disputes, and maintains consistency with long-established commercial leasing norms.

3. Inspection Program

In conjunction with Port and Marine Services and City staff, inspections of commercial property under lease take place annually on or about the commencement of each lease year during the term of the lease. Inspections will include visible conditions, storefronts, interiors, and tenant-controlled systems with conditions reported on a standardized checklist. Identified conditions will be categorized between Tenant or Landlord responsibility.

4. Notification and Follow-Up Procedures

Identified conditions falling under the obligation of the Tenant will be reported to the Tenant in writing with required remedies and timeline for completion of repairs. The timeline will be recorded in the City’s property maintenance software, tracking the required schedule with reminders sent to staff regularly until repairs are complete and the work order closed. Should Tenant fail to complete the required repairs, the lease provides a process for exercising its default remedies to enforce compliance, which will be initiated after a reasonable amount of time has passed without compliance.

Identified conditions that fall under the obligation of the Landlord will be addressed at the Department Director level for further investigation if a suspected structural issue is detected or to initiate repairs if of a routine nature.



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5. Benefits and Rationale

- Maintained Property Condition
- Preserving Property Value
- Lease Compliance
- Minimize Disputes and Liability
- Improved Tenant Communication
- Focusing Oversight on Tenant Obligations

6. Conclusion and Recommendations

The Property Management Department has established and maintains the program of regular inspections and systematic Tenant notifications to identify and address maintenance issues in leased commercial spaces. These measures ensure consistent compliance with lease obligations, preserve the physical condition and long-term value of the Department's properties, and demonstrate proactive asset management. By focusing inspections and notices on Tenant responsibilities for interior, non-structural, and use-related repairs, the program supports clear delineation of duties and minimizes potential disputes. The ongoing transition to remove non-customary Tenant obligations for structural repairs from new leases and renewals further strengthens this framework. Aligning our lease language with prevailing industry standards under which landlords retain responsibility for structural elements such as the roof, foundation, exterior walls, and load-bearing components reflects sound risk allocation, and improves tenant relations.

Recommendations

1. Continue the current inspection frequency, standardized checklists, and notification protocols across the entire property portfolio.
2. Fully implement the removal of tenant structural repair obligations in all new leases and renewals, with appropriate communication to tenants and internal teams.
3. Maintain documentation of all inspections, notices, and resolutions to support lease enforcement and potential audits or disputes.

In summary, the Department's inspection and notification measures, combined with updated lease terms, provide a solid foundation for effective property management. Continued adherence to these practices will protect asset value, ensure regulatory and contractual compliance, and support the Department's overall objectives.