How Can Your Brokers Represent Your Best Interests If They Are Beholden to Landlords?

In part one of this series, we looked at dual agency representation (in which commercial real estate brokers represent both tenants and landlords), and we posed this question: How can you fairly serve two masters that have such different agendas? After all, landlords try to secure the highest rates and yield the fewest concessions, while tenants seek the lowest rates and the most concessions.

The fact is that in traditional agencies, brokers have a fiduciary responsibility to the landlord, so conflicts of interest are inevitable. In dual agency situations, brokers often lose their objectivity, and tenants then lose their advantage.

Why Is Dual Agency Representation So Common?
With the stakes so high in Corporate America, it's curious why the dual agency approach is still so prevalent and why more companies don't insist on working with a tenants-only firm. There are several reasons why the roots of dual agency run deep:

- Commercial real estate brokerage was founded in the late 1800s to facilitate property owners in the sale and leasing of buildings and property management.
- These firms started to market their services not only to landlords but also to tenants; many relationships formed years ago have remained intact without critical examination.
- Within the last few decades, tenant-only firms emerged as companies began to recognize the need for exclusive representation. While tenant rep firms continue to gain market share, landlord brokers find financial incentives in more traditional firms, where as much as 80% of the revenue comes from landlord versus tenant representation.

What Are Additional Concerns about Dual Agency?
Among the many issues related to conflicts of interest are the following:

- Dual agency brokers are always beholden to landlords either because they are clients of their firms or they want to get future listings from these landlords; in contrast, tenant rep firms cannot be compromised. Their only allegiance is to tenants.
- Many of the larger traditional agencies are publicly traded and under tremendous pressure to close transactions and show profits. But what is good for these firms may not be good for tenants.
- While some firms claim they have a separate division to represent tenants, we have seen that this "wall" is flimsy, since all profits flow to the same source.

Our advice to companies? Question whether doing business as usual is still working for you. Address any potential conflicts with your service provider. And consider partnering with a tenants-only firm, preferably one with experienced senior advisors, integrated corporate services, and global affiliations.

It's true that dual agency dates back many years. But going back even further, we offer this adage from the Bible: No man can serve two masters.