

# The Record BUSINESS

TUESDAY, JUNE 12, 2007

THE MARKETS  
DOW 0.57  
S&P 500 1.45  
Close: 13,424.96  
Close: 1,509.12

Stock listings: L-11

SECTION  
B

## ASK A LAWYER

# Don't sell ex-tenant's stuff right away

**Q.** What measures can a commercial landlord undertake to avoid liability for disposing of abandoned tenant property?

All too often, tenants move out of their leased offices or warehouses and leave behind equipment, trade fixtures or other property. Many landlords incorrectly consider this property to be abandoned by the tenant.

Before a tenant's property can be deemed legally abandoned, however, a landlord must first comply with certain statutory notice requirements. Even in situations where rent remains outstanding, a landlord cannot simply claim ownership of a tenant's property without having provided

notice to the former tenant with the necessary notice. Failure to do so may subject the landlord to stiff penalties.

The law requires landlords to issue written notices to former tenants with specific language explaining tenants' legal rights and responsibilities. Among other requirements, the notice must advise that if the tenant's property is not removed within 30 days, the landlord may sell or dispose of the property without consequence or further obligation to the tenant. If the tenant fails to respond to the notice, only then is its property considered legally abandoned. If the landlord is not in strict compliance with the statutory require-

ments, a tenant may sue its former landlord and recover damages equal to twice the value of its property, as well as legal fees and costs.

Navigating through the statutory notice requirements can be a challenge. Fortunately for landlords, if a written lease is in place that addresses the landlord's responsibilities regarding abandoned tenant property, the landlord is protected from both the statutory notice requirements and a potential claim for enhanced damages under the statute. To avoid the pitfalls of not complying with the statute, landlords are encouraged to obtain written leases with specific provisions governing the disposal of abandoned tenant prop-

erty. By doing so, landlords can eliminate the risk of litigation and exposure to substantial damage claims.

*Joseph Barbieri is an attorney in the litigation department at Cole, Schotz, Meisel, Forman & Leonard, P.A., the largest law firm in Bergen County.*

*Readers may reach him at jbarbieri@coleschotz.com. This is not intended to be legal advice which can be given only after the attorney understands the facts of a particular matter and the goals of a client.*

## LEADS

### A listing of new local businesses:

Company	Type	Address	Telephone
Professional Dealer Services	Aftermarket insurance	1200 MacArthur Blvd Mahwah	201-905-1630