

DILAPIDATIONS CASE STUDIES

CASE STUDY

Tenant Make-good Offer: \$15,000

Negotiated Settlement: \$300,000

Property: Warehouse / Office premises (circa 1,200m² GFA)

Location: Northern Suburbs, Sydney, NSW

Lease: Dated June 1998 for 5 year term although Tenant had been in occupation for 10 years. Internal repairing covenants only, excluding fair wear & tear.

Instruction date: Late April 2003 (1 month before lease expiry)



Dilapidations Report

SGA Property Consultancy - Chartered Building Consultants, was instructed by the Building Owner's Representative to prepare a schedule detailing the end of lease repairs (Dilapidations) as the Tenant was disputing an initial 'one page' list of repair works.

Within one week of instruction SGA had reviewed the lease, inspected the property and prepared a schedule of budgeted costs.

As with many similar properties and tenancies the property had been extensively fitted out and poorly maintained over the 10 years of occupation by the tenant.

It was therefore critical not only to evaluate the condition of the property as it presented now, compared to at occupation, but also evaluated against lease terms, statutory and case law obligations, present construction methodologies and costs to define the tenants make good obligations.

The initial report highlighted \$230,000 plus professional fees and GST make good obligations, and was the solid base for negotiation with the Tenant.

Negotiation

The claim against the tenant was strongly contested and SGA Property Consultancy as Chartered Consultants was instructed to represent the Landlord against the Tenant and their team including legal advisors. The Tenants full and final offer at this stage was \$15,000.

The negotiations carried out by SGA on behalf of the Landlord lasted 5 months and addressed all facets of the remedial works including: lease obligations, case law, property condition and cause, repair methodology and cost, was successfully negotiated in the favour of the Landlord.

Result

A final settlement of \$300,000 was agreed to make good the property and the works were carried out to ensure the property was presented to its best when re-leased and the value of the asset maintained.

The settlement included 100% of the original SGA claim, plus fees incurred and three months loss of rent, with the landlord thereby recovering all of their costs associated with this exercise and bringing back the property to a condition to maximise market rentals, and asset value.

The Landlord was extremely satisfied with the performance of SGA, whose fees were based on a performance percentage basis, (RICS guidelines) and fully recoverable from the tenant.



CASE STUDY

Tenant Make-good Offer: \$45,000

Negotiated Settlement: \$330,000

Property: Office premises (circa 2,800m² total GFA)

Location: North Sydney, NSW

Lease: Dated June 1999 for 5 year term although Tenant had been in occupation for around 12 years. Internal repairing covenants only excluding liability for carpet, decorations, painting or fair wear & tear.

Instruction date: April 2003 (3 months before lease expiry)

Dilapidations Report

SGA Property Consultancy – Chartered Building Consultants, was instructed by the Building Owner's Managing Agent to prepare a schedule detailing the end of lease repairs (Dilapidations), as the Tenant was relocating to a new HQ at lease expiry.

Following review of the premises and the lease, SGA determined that due to the lease repairing covenants the Tenant was primarily responsible for removal of their fit-out and any damage caused during such work. Although there was no expressed obligations to repair carpet, decorations or ceilings SGA assessed such repairs would be warranted following the removal of the Tenants fit-out & equipment.

SGA calculated the Landlords claim to be circa \$400,000 plus Professional Fees & GST.

As there was only one month before the lease expiry we needed to review the lease, inspect the property and prepare the schedule (with budget costs) in 1 week.

We discovered that the property had been occupied some 5 years before the lease date, had been extensively fitted out (before the lease date) and had not been regularly maintained during the lease term (seized windows, block drains, worn finishes etc.)

Our report cost the Landlord \$3,000 excl. GST – which was included in the Landlord's claim.

Negotiation

The Landlord's claim was initially ignored and SGA was instructed to negotiate the resolution of the Dilapidations. The Tenant decided to handle the negotiation in-house with assistance on cost advice from a local Quantity Surveyor (QS).

The negotiations awaited the Tenants final relocation date as they held over their lease until their future premises could be secured. Once this was confirmed they entered into negotiation. As the Tenant was advised by a QS the negotiations were primarily quantitative driven without proper emphasis on the interpretation and obligations of the lease being considered.

Result

Six months after the schedule was served a settlement was achieved of circa \$330,000 inclusive of GST. The Tenant also removed a significant amount of the agreed fixtures and fittings, thus creating more marketable space, and maximisation of future rental value.

This settlement equates to approximately \$118 m² - considering no expressed liability was included in the lease for carpet, ceilings, decoration and painting this was considered a remarkable settlement for the Landlord.

The Landlord was extremely satisfied with the claim. SGA services were undertaken on a performance percentage basis fee (RICS guidelines) and the delay to resolve the claim did not penalise the Landlord.

WHAT TYPE OF SCHEDULE?

Interim Schedule – during the term of the lease

Schedule: Prepared at anytime during the lease to primarily identify Tenant maintenance issues including general disrepair, security works, painting, decoration, cleaning of property / rainwater goods / drains, servicing of plant, motors and systems. Fees and other costs may be attributable.

Outcome: Repairs undertaken by Tenant or potentially by the Landlord through the outgoings.

Value: Maintenance of Asset (at Tenant's cost).

Terminal Schedule – prior to lease expiry

Schedule: Prepared prior to lease expiry, detailed schedule considering repair and yield up works required. Schedule will generally include removal of partitions, fit out, fixings and property. Repairs will generally extend to make good of floor coverings, carpets, ceilings, painting, general maintenance and cleaning. Fees and other costs may be attributable.

Outcome: Cash settlement for the Landlord or Tenant makes-good property .

Value: Property repaired / Settlement contribution towards refurbishment / repair / upgrade works.



SYDNEY

Level 2
120 Clarence Street
Sydney NSW 2000
Australia

P: +61 2 9299 2988
F: +61 2 9299 5288
E: syd@sgaproperty.com

MELBOURNE

Suite 301 North, Level 3
350 Collins Street
Melbourne VIC 3000
Australia

P: +61 3 9670 6737
F: +61 3 9670 2357
E: melb@sgaproperty.com

AUCKLAND

Suite 2, Level 4
99 Queen Street
Auckland
New Zealand

P: +64 9 368 4888
F: +64 9 368 4988
E: nz@sgaproperty.com

BRISBANE

Level 30 AMP Place
10 Eagle Street
Brisbane QLD 4000
Australia

P: +61 7 3303 8691
F: +61 7 3303 8445
E: bris@sgaproperty.com

PERTH

Level 28
140 St Georges Terrace
Perth WA 6000
Australia

P: +61 8 9278 2793
F: +61 8 9278 2525
E: perth@sgaproperty.com

HONG KONG

Level 39, One Exchange Square
8 Connaught Place
Central
Hong Kong

P: +85 2 3101 7352
F: +85 2 3101 7353
E: hk@sgaproperty.com