

# Expert Interview with Matt Dillman of Moye White: Commercial Leasing Market in Denver (June 2022)

A Practical Guidance® Article by Matt Dillman, Moye White



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The commercial leasing market has cycled through a dizzying number of shifts since the beginning of the COVID-19 pandemic. First disruption; then (some) stabilization, but without a return to pre-pandemic norms as virus variants and changing approaches to work and recreation continue to influence the market.

Although certain trends and concerns seem near-universal (a fixation on force majeure clauses, for example), others are not an issue in every locale (concerns over traveling to the office by mass transit come to mind). To find out what's happening in the Denver market (and elsewhere in Colorado), Practical Guidance turned to Matt Dillman. A partner at Moye White, Matt has practiced in the Denver metro area for more than 20 years. He has expertise across asset types (including office, industrial, retail, hotels, restaurants, and mixed-use projects), with a specialty in commercial leasing. Matt's clients include some of the largest office landlords in Colorado, putting him in a perfect position to report on current leasing trends in the area.

For more leasing insights—in Colorado and beyond, see [Private Market Data: Commercial Leasing](#) and [COVID-19 and Commercial Leasing: Expert Insight Resource Kit](#).

## Market Trends

### Office Leases

**Q:** You do a lot of commercial leasing work in the Denver area, particularly office leasing. How is the office leasing market in Denver right now? Broadly speaking, would you say landlords or tenants (or possibly neither) have the advantage in negotiations and why?

**A:** The office leasing market in Denver continued its two-year trend of negative absorption, not in all submarkets, but in the vast majority. Generally speaking, there is an ongoing flight to quality. Landlords with newer, high-quality products in good locations are doing fine. That said, there is a lot of available space in many submarkets, and with owners anxious about rising interest rates, there are opportunities for tenants to negotiate favorable terms.

**Q:** Sticking with office leasing, are you still seeing ongoing effects of the COVID-19 pandemic, such as tenants looking for less space than pre-pandemic or seeking different sorts of amenities and/or floor plans?

**A:** Yes, we are. Many tenants still have not made a physical return to the office. In my clients' buildings, we've seen actual physical occupancy at approximately 35% of tenants working in the office on a daily basis at the beginning of the first quarter of 2022. My firm is a good example. We recently signed a lease to move into a new and smaller space that better fits our needs, even though we are in growth mode. With not everyone in the office daily, we plan to have shared office space and other programming. We are also planning

collaborative work areas. People have become used to the conveniences of working from home. Creating a cool and comfortable work environment is even more important than before.

**Q:** There is much talk of “remaking the office,” but there does not seem to be consensus on exactly what this looks like. At this point, have you seen landlords make significant and/or innovative alterations to physical space to entice tenants? If so, what sort of changes have you seen? Have landlords been largely bearing the cost?

**A:** This is all new. In general, we haven't seen landlords respond to the pandemic with major capital improvements to building common areas because there hasn't been enough time. Most landlords want to understand the new demands of tenants before speculatively investing in capital projects. That said, we are seeing an increasing number of office landlords doing spec suites and exclusive tenant amenities like specialty lounges for spec suite floors. Most of the innovation is in connection with tenant improvement projects as new leases and expansions are being negotiated.

### Other Lease Types

**Q:** We are hearing that the warehouse and industrial leasing market is hot right now. Are you seeing this in your practice? If so, what is happening? Are you seeing space that is not traditionally used in this sector repurposed for either short or long-term industrial or warehouse use?

**A:** Colorado warehouse and industrial leasing has been hot for several years. Vacancy rates are near all-time lows, and absorption rates are high. There is continued spec development for high-quality industrial development. As lease rates for industrial/warehouse space continue to rise, we are seeing commercial properties being repurposed for those uses.

**Q:** Finally, let's turn to retail leasing. What are you seeing in Denver and beyond? Are you seeing urban vs. suburban differences in the retail market? As with office space, there is much talk of remaking retail space, particularly with shopping malls.

**A:** In Denver and throughout Colorado, we're fortunate to have a robust retail market. More focus is on food and beverage and services than traditional brick-and-mortar retail. Probably the biggest challenge to retailers continues to be staffing, given our low unemployment.

## Lease Negotiations

**Q:** Right now, what would you say are the two or three most negotiated legal provisions in the commercial leases you are working on? Would your answer have been the same pre-pandemic? Either way, can you say a bit about why you think this is?

**A:** Generally speaking, lease negotiations haven't been that different than before the pandemic. Indemnities, releases, and securitization continue to be among the most heavily negotiated provisions. I think most of us have spent more time on force majeure provisions than we ever did in the past. With longer lead times for materials and longer governmental permitting time frames, parties need to be particularly thoughtful when negotiating rent commencement terms and penalties for late delivery.

## Looking Ahead

**Q:** Some investors seem optimistic about real estate and are looking to make smart investments—where do you think commercial leasing is headed? What tips do you have for investors looking to purchase CRE with the hopes of leasing to office tenants? Are there any timing issues that potential investors should be aware of right now?

**A:** I think this goes back to the flight to quality we discussed earlier. High-quality projects in good locations should continue to do well. It remains to be seen how lower-class buildings or lower-quality locations will do as our back-to-work policies continue to evolve. Interest rates are rising while inflation is increasing, which is causing a lot of uncertainty. There will be opportunities with owners who decide to sell instead of refinancing as existing loans mature.

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### **Matt Dillman, Attorney, Moye White**

With over 20 years of experience, Matt represents local and regional owners, developers, investors, and retailers in commercial real estate matters. Matt concentrates his practice on real estate acquisition, disposition, development, 1031 Exchange, and financing transactions, with a specialty in real estate leasing. Matt is experienced with many asset types, including office, industrial, retail, land, hotels, restaurants, mixed-use, and multifamily projects. Matt's clients include some of the largest office landlords in Colorado.

Matt is a deal-oriented attorney with a track record of obtaining excellent results for his clients. Client service, subject matter expertise, being business relevant, and attention to detail are the cornerstones of Matt's practice. Always looking out for his clients' best interests, Matt's relationships with his clients run deep. He knows his clients' business and understands his clients' objectives. As an advocate, counselor and friend, Matt makes things happen and is an integral part of his clients' business.

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