



Part 2

Best Practices for Green Leases

A green lease encourages or requires certain behaviors and commitments from both the landlord and the tenant to improve energy efficiency and/or reduce the environmental impact of a building. This requires collaboration.

As discussed earlier, green lease provisions are rarely mandatory, but are becoming more common in several jurisdictions.

In some green leases, the environmental goals and obligations are set out in the lease agreement. In other jurisdictions, such as Australia, it is not uncommon for parties to agree on an environmental management plan that is outside the lease proper with its own grievance procedure.

In the Netherlands, tenant-landlord agreements on sustainability issues can be included in a letter of intent (LOI) attached to the lease. The use of an LOI is suitable if the landlord and the tenant want to make agreements on sustainability issues without mandatory provisions. Some jurisdictions, including the United Kingdom, use a Memorandum of Understanding (MOU).

Setting out green lease clauses in a lease agreement, whether as part of the main contract or as a rider or schedule, makes the clauses more mandatory. In several instances, there might be clauses that deal with matters discussed in the following pages.

(a) Allocation of costs

Perceived costs associated with green leases are not always appropriately apportioned between landlords and tenants.

Most commercial leases are either gross leases or net leases. In a gross lease, the landlord pays operating expenses and charges tenants based on the size of the leased area. This does not encourage tenants to be conscious of their utility consumption. On the other hand, in a net lease where utilities are charged to tenants based on consumption, landlords are not encouraged to spend on green projects, as it is the tenants who will enjoy the decreased costs. In such a case, the landlord would try to pass the costs of green projects to the tenants. The tenants, however, might be wary of paying the costs because the project might underperform, causing the projected benefits to not be completely realized.

In many jurisdictions, landlords have to consult with the tenant before introducing green initiatives, and the tenant will have to agree to pay additional fees. The ideal situation is that the tenant's occupancy costs decrease because the additional fees will be lower than the decrease in utility bills.

If the fee paid by tenants is fixed and based on the expected return from the green initiative, tenants might be protected by any of the following mechanism:

1. An inclusion of a yearly cap on fees
2. A spread out of the fees over the life of the green project
3. A requirement for the landlord to shoulder 50 percent of any excess utility costs if the expected savings from the green initiative are not realized

One solution is a variable fee based on the realized energy-savings. In this scheme, both the landlord's and the tenant's interests in the success of the green initiative are high and would encourage them to use and operate the property sustainably. The tenant is assured that his occupancy costs will not rise if energy cost savings are disappointing. It is, however, essential that the agreements be concrete, measurable and can be monitored.

Another option is for the parties to agree on a rent discount should the tenant be able to reduce its utility consumption because of the implementation of green initiatives.

New York has developed model lease language that solves this issue for gross commercial leases. Under the Energy Aligned Clause, the landlord is able to recover the costs of the green project based on predicted savings. To protect the tenant from underperforming projects, a “performance buffer” caps the landlord’s cost recovery to 80 percent of the predicted annual savings. The payback period is extended by 25 percent so the landlord will be paid back in full.

In several jurisdictions, landlords might also take advantage of several incentives for sustainability projects. In some New South Wales local government areas using Environmental Upgrade Agreements, building owners can access financing to undertake environmental upgrades. The loan is repaid to the financier via council rates. Belgium has a range of financial support mechanisms including subsidies, interest-free loans and tax reductions for works, renovations or construction projects that will improve the sustainability of buildings. The same is true for Canada and Singapore, which have a number of grants and financial incentives for building efficiency upgrade projects. On the other hand, the Netherlands has its Green Deal program, which does not provide grants but offer seed capital, loans or tax breaks to green projects.

(b) Metering/data collection and reporting

Metering/data collection and reporting are common provisions in green leases. Having usage information makes tenants more conscious of utility costs and usage patterns. Metering also provides data to check whether performance targets are met. An additional advantage is that leakages or short-circuits can be easily identified. Thus, it is essential in verifying whether a sustainability investment is viable.

For this reason, some jurisdictions, like San Francisco, require landlords to regularly report utility usage. In Australia, tenant utilities are required to be metered separately. It is also standard in Germany for tenants’ heating, water and energy consumption to be metered, recorded and settled as part of the annual service charge reconciliation each calendar year. According to the German Heating Costs Ordinance, appropriate meters must be installed, unless this is not possible due to the age of a building.

In Ukraine, utility payments (i.e., electricity, water, heating, sewage, etc.) are usually paid by the tenant based on the meters installed in the leased premises. The obligation to install separate utilities meters is usually imposed on a tenant and is carried out at the tenant’s expense. Most lease agreements for office or trade center premises require the disclosure of information on utility consumption. Usually, a lease agreement gives a tenant the right to inspect invoices and receipts relating to the utility payments received by the landlord from any relevant utilities supplier. Information obtained during such inspection is confidential.

Singapore’s Building & Construction Authority (BCA) provides a “services calculator,” which is a simple spreadsheet-based calculator, to help tenants calculate electricity consumption in the design. The landlord is required to install metering to monitor building energy usage such as lighting, receptacle (plug) loads and ACMV systems. The landlord is also required to provide private metering to the tenant and weekly/monthly monitoring of major base building water uses such as cooling towers, common toilets and irrigation.

In Italy, where the market standard is for tenants to execute supply contracts directly with utility providers, some regional governments, such as Lombardy's, have begun requiring condominiums that provide heating to adopt a metering system that measures heat consumed by occupants of each unit.

Some certification standards require these reports as well. One of Australia's green rating tools, NABERS ENERGY, specifies rules for collecting and using data, which include a minimum frequency for meter reading.

The United Kingdom's Better Buildings Partnership ("UK BBP") suggests the use of advanced metering technology that can automatically send data on a half-hourly basis to both landlords and tenants.

In several model green lease clauses, landlords and tenants are required to share all data and relevant information on utility consumption.

Here are more clauses that might be considered in relation to metering, data collection and reporting:

1. Green leases may specify areas where the building needs to be monitored (per tenant, floor, cooling installation, lift, pantry, etc.).
2. Arrangements may be made to properly measure, register and periodically exchange relevant utility consumption and waste production data. In case of several tenants, sub-meters may be required. Digital or smart meters are preferred as these enable short interval data analysis and might show patterns in energy use.
3. Landlords should be entitled, with prior notice to tenant, to read meters in the leased premises.
4. For leases where the tenants install their own meters, tenants may be required to share their metering data with the landlord.
5. Green leases should specify when reports should be prepared and who will draft them. In many instances, the building administrator/manager performs this task.
6. Parties may also agree that within six weeks after the end of each calendar year, the landlord will give the tenant an overview of the building's total energy consumption during the past year. In case of a multi-tenant building, the landlord may compare the tenant's energy consumption with that in other comparable units in the building. Regular landlord-tenant consultations may be held to discuss possible complaints, ways for the tenant to cut energy consumption and the landlord's possible procurement of durable goods. The purpose of the consultations is to improve the eco-friendliness and sustainability of the premises. During these discussions, the parties may inspect the premise's electric and technical installations and equipment.

(c) Charging utilities according to consumption

In leases, a landlord may charge utility costs either on a per area basis or by consumption. Green leases typically require tenants to pay utility costs based on actual consumption. In this instance, tenants may be able to decrease utility costs by using cost-efficient systems and processes.

This is also a natural consequence of having sub-meters for every tenant and regular collection and sharing of information from the meters.

It is also important to note that in several jurisdictions, such as Germany, the Czech Republic and Mexico, there are instances where tenants directly enter agreements with utility providers. In this arrangement, utility providers would deal with tenants and have access to meters for billing. This option sometimes suits all parties better, as a third party will be neutral in case of any landlord-tenant dispute.

In instances where utilities are charged on a per area basis, the landlord might require the tenant to avoid the unnecessary use of resources.

(d) Building use and occupation

In several jurisdictions, green leases require tenants to use, occupy and maintain the building in a manner consistent with agreed sustainability goals and targets.

This may also be included in the internal rules of condominiums or buildings.

In instances where green certification is agreed upon by the parties, both landlords and tenants are obligated to use, occupy and maintain the premises in order to meet the certification requirements and/or maintain the said certification.

It is also recommended that tenants agree to ensure that their employees observe sustainability.

In Singapore, the BCA Toolkits propose that the landlord and tenant commit to managing, operating and occupying the building and premises to promote environmental sustainability through energy-efficiency improvements, positive behavioral changes and healthy practices.

(e) Building operation, management and maintenance

Most of the time, a landlord contracts third parties to help with the operation, management and maintenance of the structure. For instance, cleaning or janitorial services are most commonly outsourced. Whether or not the landlord is in charge of operating and/or managing the building, the person in charge must comply with the sustainability standards specified by either the internal guidelines or the certification requirements given by any certifying institution.

In some green lease models, cleaning contractors are required to comply with the green strategies of the landlord and the tenants. This may include the following:

1. Use of earth-friendly or non-toxic (natural solvent-free and hydrocarbon-free) cleaning products and equipment
2. Use of green products for public health measures (e.g., pest control)
3. Scheduling cleaning times to minimize the use of lighting and other resources while ensuring minimal disruption to the business and operations of the tenant
4. Enforcing non-smoking rules
5. Prohibiting the use of paints or other material harmful to the environment
6. Using water appropriately for landscaping or cleaning
7. Providing training to cleaners

8. Choosing environmental-friendly options when there is more than one possible cleaning method
9. Requiring each cleaning contractor employee to comply with the green strategies

These clauses may also be made to apply to tenants' cleaning contractors if they are allowed to clean their own premises.

In Germany, if tenants are obliged to comply with green strategies, such as to use only earth-friendly products, they will be given some discretion, such as to choose between products considered equally earth-friendly. Otherwise, the clause might be invalid. The respective clause should also explicitly state that the tenant agrees to pass on these obligations to cleaning contractors.

In Singapore, pursuant to the BCA Toolkits, certain best practices are recommended, including the following:

1. The landlord will be entitled to operate, manage and maintain the building to achieve/retain the relevant BCA Green Mark certification standard. Both the tenant and the landlord are required to collaborate to set and review targets in an Environmental Management Plan.
2. All maintenance contracts should specify that paints, sealants, cleaners and adhesives are low in Volatile Organic Compounds (VOC) in all areas under the control of the landlord and are certified under the Singapore Green Label Scheme (SGLS) or, alternatively, are Singapore Green Building Council (SGBC) products.
3. The landlord must ensure that the building is haze-resilient with fresh air treatment or other strategies to minimize exposure to fine particulates (\geq PM 2.5). The landlord must also install monitoring systems to ensure optimal thermal and indoor air quality to SS 554:2009 or later standards. It should also regularly test ventilation and air-conditioning systems for contaminants. Indoor CO₂ levels compared to outdoor CO₂ levels must not exceed 700 parts per million measured in accordance with SS 554: 2009 (or later) or an equivalent standard.
4. Tenants should require cleaning contractors to use only SGLS - or SGBC-certified cleaning products or approved equivalents. They must also ensure that contractors comply with elements of the Environmental Management Plan applicable to it. Tenants must also ensure that the cleaning contractor understand and are trained in the maintenance of any specialized green facilities, such as waterless urinals.
5. Pest control measures must specify non-toxic, non-hazardous treatments to indoor and outdoor plants.

Green leases, may also take a cue from the new Tivoli area (Immo Bam) and the Abbatoir in Anderlecht (ORG) in Brussels, which encourage biodiversity in gardens.

(f) Fit-outs, alterations, maintenance and replacement of equipment

Fit-outs and alterations should always be consistent with the structure's environmental goals and targets and must not adversely affect any existing environmental performance certificates. In most jurisdictions, these generally require landlords' prior approval.

In securing the landlord's approval, tenants might be required to undertake the following:

1. Submit specific descriptions and detailed plans made by a professional for fit-outs and/or alterations to the property. The BCA Toolkits propose that the landlord provide the tenant with a Tenant Construction and Fit-out Manual and procurement guidelines, which include sustainable materials schedules and green specifications, and identify materials not permitted in the building.
2. Obtain new certifications, such as an EPC in the UK, if alterations make it necessary to do so.
3. Submit a statement indicating how the proposed fit-outs or alterations are consistent with environmental goals and targets.
4. Use only construction materials that will not negatively impact energy savings. In the Netherlands, the tenant can use only sustainable materials and construction techniques when undertaking alterations or additions to the premises. Sustainable materials can include bamboo, certified wood, natural stones, recycled materials, linoleum, cork and plates of wood fibers.
5. Compensate the use of harmful materials with other measures that will ensure a building's carbon neutral characteristic.
6. Recycle or reuse as much as possible any waste created to minimize the amount of landfill waste.

Landlords are usually allowed to refuse a request for fit-outs or alterations if the proposed plans are not consistent with environmental targets or if the tenant's works are incompatible with the intended sustainability or other requirements of any certificate for the building.

In the Netherlands, it is also usual for green leases to stipulate the following:

1. At the end of the lease term, the tenant will not remove alterations or additions that benefit the sustainable character of the premises unless requested by the landlord. If modifications have to be removed, this will occur in an environment-friendly manner. If this is not possible according to the landlord, the tenant will refrain from making the alterations and/or additions.
2. During refurbishment of leased premises, recycled and eco-friendly materials will be used as much as possible. If energy-consuming devices are being replaced, the tenant is required to choose designs that comply with the available highest category of sustainability and eco-friendliness.

(g) Environmental Management Plan/Sustainability Manual

In some jurisdictions, provisions on building sustainability are found in a separate Environmental Management Plan or in a Sustainability Manual. Having this in a separate document gives parties the flexibility to undertake the following:

- ✓ Have a separate procedure for revising environmental goals, standards, methods of measurement, etc.
- ✓ Have a separate enforcement process for non-compliance with the environmental management plan or sustainability manual

An Environmental Management Plan or a Sustainability Manual might include the following:

- ✓ Environmental targets
- ✓ Acquiring and maintaining certifications
- ✓ Strategies for managing the building's energy and water consumption
- ✓ Strategies for minimizing and dealing with waste
- ✓ Materials to be used for fit-outs, alterations, etc.
- ✓ Limits on the use of electricity, water and other resources
- ✓ Strategies for encouraging employees to use sustainable modes of transportation

In some jurisdictions, environmental requirements may be included in the house rules (under a section usually named Sustainability/Environmental Management), or as a schedule or annex to the lease agreement. This is the case in Canada and in the Czech Republic.

In Germany, these manuals/handbooks may be subject to the same legal requirements as the lease agreement itself. The content of these manuals/handbooks might also qualify as so-called standard terms and conditions.

On the other hand, France requires landlords to attach an Environmental Annex to any lease agreements with premises for office and retail use that have a surface area of more than 2,000 square meters. This annex requires the landlord and the tenant to exchange information regarding waste processing operations and the energy characteristics and performance of the leased premises. This is in addition to the performance diagnostic of the building, which must be attached to all lease agreements.

The manual might be provided to the tenant at the start of the lease. It is important for the lease to specify whether the manual will be mandatory.

(h) Green projects

Technology related to sustainability has advanced rapidly over the past years. Landlords and tenants should be able to take advantage of new products and systems that would help lower the consumption and/or costs of energy, water and other utilities. Possible improvements might include technologies not available when the lease was signed.

However, for landlord-initiated projects, it should always be made clear who would shoulder the costs and who would enjoy the benefits.

In the UK, the tenant is allowed upon the landlord's consent to carry out alterations that would cut water or energy consumption. The landlord may not withhold consent unless the alterations will adversely affect the systems or services in the structure. This is also true in Australia, provided the changes are consistent with the landlord's fit-out guidelines.

On the other hand, rent abatement vis-à-vis renovation/restructuring by the tenant is quite common in Italy. It goes without saying that this method could represent an effective method for redistribution of costs and provide advantages in reducing energy consumption in leased units.

(i) Lighting/other energy saving equipment

Under a green lease, a tenant is supposed to use lighting in the most efficient and economic manner. Thus, green leases encourage the use of energy-efficient products, such as compact fluorescent lamps or LEDs and daylighting sensors. The lease agreement might contain a provision stating that the tenant will be obliged to use specific products (e.g., LEDs) and/or materials that are known to be sustainable. The lease can either expressly name approved products or exclude products that contain harmful materials or substances.

The landlord might also require tenants to: (i) use electric devices that switch off when not in use or (ii) install fixtures that allow the use of energy-efficient tubes, lamps or light bulbs.

In the Czech Republic, shopping centers may require their tenants to dim lighting outside operating hours and may set a maximum permitted level of lighting intensity per square meter. Green leases in the Netherlands go a step further, requiring tenants to ensure that lighting will be switched off outside of office hours.

Most certification programs, such as LEED and BREEAM, require specific types of products and appliances in order for buildings to be certified. These include, among others, certain types of light bulbs, and high-efficiency electric storage water heaters. In commercial leases in Poland, it is common for the landlord to manage the lighting of the entire building. This is especially true for BREEAM- or LEED-certified buildings.

In Singapore, landlords are required to use only energy-efficient and environmentally responsible luminaries such as LEDs, low-power T5 fluorescent tubes or compact fluorescent luminaries. On the other hand, tenants are also required to adopt a watts per square meter (W/m²) lighting power budget for offices or retail spaces. (8 W/m² or below is recommended for a typical office, 9 W/m² or below for a typical meeting room and 30 W/m² for a typical retail unit.)

The UK BBP also recommends the undertaking of periodic energy audits. A review of energy consumption would help identify problems, measure the success of green initiatives and may help set objectives.

(j) Obligation to use energy from renewable sources

Green leases might include provisions that require the use of energy from renewable sources.

Some contracts might mandate renewable energy sources for specific needs like heating or cooling. Some leases might also require a specific percentage of energy from renewable sources and might even go to the extent of specifying what renewable sources are.

It is to be noted, however, that energy from renewable sources might be more costly than those from traditional sources. Thus, it is customary to package this requirement with incentives to be more acceptable.

Most energy certified programs grant points depending on how much energy comes from renewable resources. For example, the US Green Building Council establishes a minimum renewable energy percentage table that awards points depending on the percentage of renewable energy the building consumes. If, for instance, 1 percent of the building's energy consumption comes from a renewable energy source, the building receives 1 point; if 13 percent of the building's energy consumption comes from renewable energy, the building will receive 7 points.

In Mexico, even though implementation is not mandatory, according to NMX-AA-164-SCFI-2013 “Sustainable Building - Criteria and Minimal Environmental Requirements” (“NMX”), all sustainable buildings must satisfy at least 10 percent of the total energy demand with renewable resources.

Making ordinary electricity consumption more green by using renewable energy sources is an important component of green leases in the Netherlands. Sustainably generated electricity is given a certificate or guarantee of origin. It is also possible to oblige the tenant to enter into an energy contract for exclusively green energy, where the ultimate goal is to have its own sustainable energy generation (SDE+).

(k) Water

Water conservation is another key factor for sustainability. Systems such as plumbing fixtures, grey water recycling and retention, and use of storm water are ideal for water conservation. They benefit both landlords and tenants by lowering water usage and saving costs.

Water consumption savings might also be achieved by making small adjustments to water consuming elements. Such adjustments include installation of water-efficient toilets, dual flush toilets (3/6 liters), anti-dripping taps, sensor taps, water-efficient taps, waterless urinals, urinals with presence detectors or dishwashers with energy labels A or B equivalent.

In Singapore, water-efficient fittings rated Excellent under the Water Efficiency Labelling Scheme are required, and the landlord must also submit a Water Efficiency Management Plan to PUB on an annual basis.

In Taiwan, the EEWH evaluation system takes water conservation, including water saving, grey water recycling and hygienic instruments, among others, as a key factor for sustainability. The water content of the ground site is also an independent indicator for the ecological purpose in the evaluation of a green building.

A green lease might include a provision requiring the use of any of these strategies. It also might include an obligation for the tenant to detect leakages in the water network and immediately report them to the landlord for repair. The use of non-potable water might also be encouraged, as is the use of drought-resistant plants requiring minimal irrigation. Tenants might also be required to limit annual average water consumption to a specified number of liters per person per day, excluding the consumption within the base building such as the standard washrooms provided and maintained by the landlord.

The UK BBP recommends periodic water audits and regular leak inspections. A water audit will assess the water consumption and related equipment in the building. Similar to an energy audit, a water audit would help identify problems, measure the success of green initiatives and may help set objectives.

(l) Waste management

In green leases, landlords and tenants ideally should establish a solid waste management plan that mandates specific standards for both. Recycling plays an important role in this plan. Landlords might establish storage for waste to be recycled, or provide separate receptacles for trash and recycling.

Some leases have only a general statement that requires landlord and tenants to agree on a waste strategy. On the other hand, other leases require specific provisions such as the following:

- ✓ Proper segregation of wastes
- ✓ Shared waste management program for the building, including shared recycling and waste management facilities among tenants (and in some instances, neighboring buildings)
- ✓ Waste collection systems where the landlord provides all supplies
- ✓ Waste audit
- ✓ Storage for recyclable materials

The obligation to segregate and recycle waste properly is a typical provision in German green leases. In addition, parties might agree that some consumables (e.g., toner cartridges) must be returned to the manufacturer to ensure that the goods will be re-used.

Green leases in the Netherlands go a step further by encouraging “digital working” as much as possible. This entails discouraging employees’ paper use. Concrete measures to foster this can include limiting the number of printers.

In Singapore, landlords might be required to undertake the following:

1. Engage a waste contractor to provide recycling program and measures for buildings with tenants. The Green Lease Toolkit also proposes that the landlord implement an agreed minimum waste diversion rate per year.
2. Regularly monitor and report tenant operations to identify ways to eliminate waste and maximize recycling, and to conduct an annual waste audit.
3. Provide centralized waste strategies for recycling, such as facilities that are easily accessible and dedicated for separate storage and collection of organic wastes, recyclables (e.g., paper, cardboard, plastic containers, glass and metals), toner cartridges, light tubes, batteries, computers and other electronic devices.

It is to be noted that some of these strategies might be void in some jurisdictions.

In Italy, waste is classified either as “urban waste” (waste from households or from businesses that have the same quantity and quality of waste as households) or “special waste” (waste from businesses).

Urban waste is managed exclusively by the municipality through a concessionary, and costs are charged to each occupier. Therefore, tenants must dispose of their waste through the concessionary and pay the relevant service.

Special waste is managed by the relevant producer (i.e., the tenant), through qualified and authorized contractors. In case the landlord intends to handle tenants’ special waste, the same would need to be authorized, which means that it would need to be enrolled in the Register for Environmental Operator as a waste dealer/ broker or waste transporter or waste treatment plant. Managing waste without relevant authorization can result in administrative and even criminal sanctions.

(m) Shared Suppliers

A green lease might also include a clause on the choice of third parties to supply services to the building or its tenants. The clause might require third

parties to be suitably qualified, use materials consistent with the environmental goals of the parties or the Environmental Management Plan/ Sustainability Plan.

Landlords might also provide the tenant an option to choose third-party suppliers, such as third-party metering or third-party recycling services. In Mexico, in order to comply with the “green mortgages” program, one must acquire certain equipment from designated third-party suppliers.

In the Netherlands, green leases can also include provisions that need to be met by possible suppliers of different services to single- or multi-tenant buildings. Such minimum requirements can include the use of sustainable materials and practices in line with the stated tenant-landlord goals.

(n) Certification requirements

In setting out sustainability goals and targets, some parties agree on certification from third parties. In some instances, as when the building is new, the landlord uses the certification to market the property.

To become certified under LEED, BREEAM or any other organization that certifies environmental practices, the individual or entity must continuously comply with all requirements and guidelines established. Otherwise, non-compliance might terminate such certification. This may include green certifications of specific products to be used in the property. Some of the most commonly used and respected green product certifications are: (i) Energy Star for energy-consuming products; (ii) Watersense for showerheads, urinals, faucets and valves and (iii) Greenseal for paints, adhesives, windows, etc.

Although it is not mandatory for a green lease to require certification, experience has shown that such certification requirements are important because they establish a baseline for the property to remain certified.

Where certification is required, it is good practice to include clauses that would require the following to be done:

- ✓ Identify the green rating tool to be used.
- ✓ Set a time by which the certification should be achieved.
- ✓ If certification is to be maintained, obligate the parties to do their part in maintaining the certification.
- ✓ Specify instances when certifications or targets may be modified.
- ✓ Specify remedies if certifications are not acquired or are lost.

When the certification of a building is required, a higher duty of care or certain representations and warranties may be introduced in the lease agreement or relevant documents between the landlord and the tenants.

If no certification is to be acquired, the parties can set their own sustainability targets and specify how and when these targets will be measured.

In regard to remedies, the tenant might be entitled to reduce the rent or terminate the lease if the intended certification is not acquired or if the building loses its environmental certificate. Furthermore, both parties might be obliged to ensure that maintenance and repair works or other construction works and alterations do not impact certification.

(o) Alternative Transportation

With the rising cost of fuel and pollution attributed to transport, some green leases now require the landlord to provide bicycle storage, indoor showers for cyclists, spaces for other sustainable modes of transport and even electric vehicle charging points.

The building regulation of some Italian municipalities, such as Milan, requires condominiums to provide bicycle storage when possible. In Spain, an electric vehicle recharging station for private use may be installed in the building's parking garage. If a tenant wants to install a recharging station, he or she must not only gain the landlord's prior consent but that of the building's owners association. The cost of such installation will be paid by the tenant, unless the parties agree otherwise.

Landlords and tenants might also provide shuttle services to public transportation hubs or offer free or discounted public transportation tickets for employees. In Amsterdam, companies, such as IBM, PwC, Mexx and Atradius, have established a shuttle bus to the nearest metro station (i.e., Metro Station Henk Sneevlietweg) to encourage employees to use public transportation. Baker & McKenzie's support center in Manila also provides a shuttle bus service for its employees.

Tenants might also make arrangements to encourage employees to carpool.

(p) Building Management Committee

The organization of a building management committee (or a Green Building Management Group as suggested by the UK BBP) would help provide a forum for communicating, consulting and recording environmental matters, including the implementation of green lease provisions or the Environmental Management Plan. The committee should have landlord and tenant representatives. In organizing a building management committee, the following must be clarified:

1. The composition of the committee, including how members are added, removed or replaced
2. Objectives
3. Powers
4. Frequency of meetings

The Building Management Committee might also undertake the following:

1. Gain access to all data discussed in paragraph (b) above.
2. Ensure that all parties comply with agreed sustainability obligations.
3. Enforce remedial measures for non-compliance.
4. Review goals in respect to intended sustainability on an annual basis and propose improvements accordingly.
5. Share best practices in green leases.

Building management committees are an important factor in green leases because they foster better relationships between tenants by collaborating, checking and addressing needs or problems that arise. This is also true in resolving discrepancies on equipment that tenants or landlords might be using or in addressing waste or other environmental matters. Management committees can make decisions by consulting the environmental

management plan and by coordinating solutions for circumstances that arise.

In its Green Tenancy Driver for Office Buildings, the Hong Kong Green Building Council encourages the organization of a Green Office Tenancy (GOT) Committee. Composed of representatives of the landlord, the tenants and the property manager, the GOT Committee is tasked to collaborate and work together in carrying out the following:

1. Setting environmental objectives
2. Reviewing regulations and good practice
3. Reviewing building data
4. Reporting and continuous improvement

(q) Remedial Measures

In drafting green leases, it is important to decide on remedies for non-compliance. These clauses will enable landlords and tenants to cooperate with one another in rectifying issues.

If the green lease provisions are part of the main lease, remedies might be too harsh if they permit lease termination, rent reduction or the right to rectify non-compliance and charge the cost to the defaulting party.

To prevent this scenario, the Australian government has developed a dispute resolution model in its template Green Lease Schedule. Under the model, parties are required to perform the following:

1. Raise the issue with the building management committee.
2. Issue a written request for formal discussions or remedial measures if the issue is not settled by the building management committee.
3. Have 15 days to agree on a remedial action.
4. If the parties do not agree, appoint an expert to decide the remedial action. The expert will decide the issue, including payment. The expert's decision is binding.

Because it might also be difficult to prove damages resulting from non-compliance with green clauses, parties might also agree on predefined contractual penalties, which sometimes may be used only for the realization of further sustainability measures.