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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

4 Real Estate Considerations For Banks In An Online World

By **Andrew McIntyre**

Law360 (February 7, 2020, 6:20 PM EST) -- As banking continues to shift from brick-and-mortar buildings to the internet, banks — many of which lease their space — are evaluating just what physical footprint is best, and lawyers say keeping a few points in mind during discussions with landlords is crucial during the process.

While the move away from physical banks has similarities to the shift from retail stores to online shopping, banks have certain unique considerations, such as vaults and ATMs, that factor in heavily when questions of downsizing or repurposing are on the table, according to experts.

And the shift to online banking could proceed at an even faster clip than the parallel retail shift, given that consumers generally don't need to see or feel their money, unlike, say, shoppers for clothing.

"Brick-and-mortar banks are declining in importance," said Neisen Kasdin of Akerman LLP. "Millennials are doing most or all of their banking online. It's only when you get to baby boomers that you see people do all their banking in person, and even that's changing."

Here, Law360 looks at four real estate considerations for banks as they weigh their options amid a changing banking landscape.

Vaults Could Be a Liability

Many banks across the country are seeking to leave their brick-and-mortar branches by ending their leases early, but lawyers say the presence of a vault on-site complicates that process, as landlords may not allow such early terminations because of the issue of dealing with the vault.

Tony Natsis at Allen Matkins Leck Gamble Mallory & Natsis LLP said that the vault is the biggest expense for landlords that repurpose a property after a bank leaves. And depending on how the vault is integrated with the rest of the building, the change could require serious renovations, Natsis said.

"You [may] have to deconstruct the structure," Natsis said. "Repurposing is tough."

But if a bank leaves at the end of its lease, the landlord may be on the hook to deal with the vault, and that's where tenant removal obligations in leases come into play. Bank tenants often aren't under an obligation to remove such features of a building when they leave, which is something for landlords to consider when drafting lease agreements for new branch locations, lawyers say.

There can, though, be creative uses for vaults after banks leave, according to Kenneth Fields at Greenberg Glusker Fields Claman & Machtinger LLP.

“They’ve left the large door as an architectural feature,” Fields said of some landlords who've repurposed a space after a bank leaves.

But while such staples of old bank buildings can create architectural intrigue as part of new uses, they generally cause problems, lawyers say.

Natsis said vaults make the situation tough for both sides: It’s hard for a bank to get out of a lease with a vault on the premise, and while a landlord may want a new tenant, it’s hard for the landlord to reconfigure the space.

“It’s bad news for the tenant and bad news for the landlord,” Natsis said.

Landlords May Allow Downsizing

While banks may not have luck negotiating with landlords to end their leases early, many are having success striking deals to give some of the space back to the landlord, lawyers say.

Landlords may divide the space such that the bank retains half and a new tenant takes the other half.

“If the landlord has a use, it’s inexpensive to split these branches,” said Russell Bornstein, a broker at Colliers International who has done various bank deals in Florida.

Bornstein said Miami-Dade County’s bank branches used to have roughly 6,000 square feet, while nearby Broward County used to have branches with between 4,200 and 5,400 square feet. Now, new branches in South Florida typically have between 3,000 and 3,500 square feet, he said.

And while banks like Chase are opening new branches of that size, many banks are trying to get to that footprint by staying in part of their current space.

Kasdin, who is on the board of directors at City National Bank, said he expects to see more instances of banks giving back some of their space to the landlord and the landlord leasing out that portion to another tenant.

And when it comes to finding a tenant for part of the space, landlords often have luck with retailers, since many banks are in high-traffic areas like street corners.

“They’ll shrink down their spaces,” said Kasdin, speaking about banks in general. “The long and short of it is the need for branches has decreased and the size of branches has decreased.

ATMs May Pose Problems

While vaults pose one set of issues when it comes to ending leases early and repurposing spaces, ATMs can pose another.

Lawyers say banks may or may not be required to remove ATMs when they end their leases, which could influence a landlord’s decision whether or not to grant an early lease termination.

“On the way in [during lease negotiations], that’s something a landlord wants to address,” Fields said of the ATM removal issue.

Removing ATMs is costly for landlords, and doing so often leaves a large hole in the building, which complicates things further and adds to the renovation bill.

One way banks like Charles Schwab and First Republic are getting around the ATM liability issue is by not having their own ATMs, instead covering the fees for their customers to use other banks'

ATMs.

And banks that are opening up new branches are typically putting in fewer ATM drive-through lanes, in part due to lack of available space.

Bornstein said ATMs “are not as mandatory” as they once were.

“Banks used to require four to six drive-through lanes,” Bornstein said. “Now, if we get three, we’re happy."

An Experiential Approach Could Be Key

Brick-and-mortar malls have sought to create a more experiential environment as a way to lure shoppers who might otherwise go online, and some elements of that idea could also be useful for banks, lawyers say.

Capital One has taken that approach to the max, integrating banking with coffee shops and, in somewhat of a co-working approach, even encouraging patrons to spend some time at its branches doing work.

"It’s a very unique use,” Fields said of Capital One's model. "It’s another revenue stream and a more personal relationship.”

More broadly, Fields said bank layouts are aiming for a more personal feel, with more desks for meetings with customers and fewer tellers behind glass.

And there’s also been a shift toward opening small branches in supermarkets, which gets branches in areas with heavy foot traffic.

“When new supermarkets open up, banks are taking smaller spaces inside those locations,” said Robert McPeak with McDonald Carano LLP, noting that many of those bank branches are open seven days.

All of these changes are in the name of creating a more experiential approach to banking, which has become a buzzword in the brick-and-mortar retail space as retailers also struggle to compete with millennials’ migration to the internet.

“Capital One has done a great job," Fields said. “I think we’re going to see more of that."

--Editing by Alanna Weissman.
