



4 Ways To Help Tech Tenants Get Creative With Office Perks

Share us on: By **Andrew McIntyre**

Law360, Minneapolis (May 18, 2016, 4:35 PM ET) -- Technology companies in California are expanding the scope of their office amenities as they compete to lure top talent to their firms, but adding things like bocce courts to office campuses comes with considerable complications and insurance ramifications, lawyers say.

While outdoor sports pose one set of issues for tenants, other amenities like child care and wellness centers carry a different set of complications and sometimes require compliance with local, state and federal laws.

And even the question of whether an employee can bring a dog to work isn't as straightforward as it might at first seem, lawyers say.

Here, Law360 looks at four common aspects of creative office campuses that may pose issues for tenants:

Outdoor Sports

While indoor pingpong tables have for some time been a mainstay of many tech offices, companies have been adding outdoor sports such as bocce, and such outdoor amenities come with various issues, lawyers say.

Alcohol served during such games further complicates things. In the case of, say, serving beer during bocce, tenants may find they need additional insurance coverage.

"There may be additional insurance requirements ... with alcohol, outdoor patios, decks," said Stephen I. Berkman of [Paul Hastings LLP](#). "Landlords are happy to have [tenants] using them."

Landlords have their standard commercial policies but typically buy additional insurance based on the specific amenities at the properties, and they often offset those additional costs by charging higher rent.

And tenants typically indemnify the landlord for problems that may occur, meaning the tenants take responsibility.

“The landlord's going to make sure the tenant ends up paying,” said Pamela Westhoff of [Sheppard Mullin Richter & Hampton LLP](#). “The landlord's insurance costs are passed through as operating costs.”

The way most agreements are written, if, say, an employee gets hurt playing bocce ball, the employee will generally have a workers' comp claim but no claim beyond that, Westhoff said.

Dogs

Many workers at tech companies have now come to expect that they'll be able to bring their dog to work, and in order to facilitate that, companies have to make sure they have a series of pertinent rules and regulations in place.

Agreements between landlords and tenants need to make it clear where the dogs are allowed to be, which elevators they may take and what responsibilities the employees have when it comes to cleaning up after their dogs, lawyers say.

“Dogs are kind of where everyone's headed,” said Elizabeth J. Wilgenburg of [Allen Matkins Leck Gamble Mallory & Natsis LLP](#). “There's a lot of different approaches that landlords take on the dog issue.”

Westhoff said there was recently a complaint at a project she's been involved with regarding a Rottweiler snapping at someone in an elevator.

And lawyers say lease agreements need to spell out how such situations are to be handled.

“We now have a dog section that talks about where you can take your dog to ... not taking

them up regular elevators,” Westhoff said. “Part of the creative office concept involves bringing dogs. You have to have some rules.”

Michael H. Liever of [Orrick Herrington & Sutcliffe LLP](#) said his firm also now has a standard dog clause.

“Tenants insist on it,” Liever said.

Child care

Tech employees are also showing increased interest in having child care facilities onsite, which presents various regulatory issues for tenants.

“The areas that I’m seeing that are the most legally intense are child care and wellness centers, and fitness centers,” Berkman said, of the various amenities millennials are seeking.

Of those, child care has particular issues. Child care, for one, can require a conditional use permit, and in some cases a city permit.

And if medical services are being offered, there are considerations as to whether there’s medical waste on the property.

Such amenities may also be subject to state regulations and may require outdoor play areas in order to be compliant.

“The tenant is directly responsible for the compliance,” Berkman said. “They are most likely contracting with a third party.”

Child care also presents heightened security concerns, Berkman said.

Bike Storage

While millennials have for some time been wanting secure bike storage at their homes, tech employees are increasingly wanting to also have the option to stow their bike at their workplace during the day, and tech tenants have to negotiate terms of where in the building

bikes can and can't be.

That includes provisions both for ground-level storage as well as agreements that allow employees to take bikes in certain elevators.

“One thing that's really important to tech tenants is alternative transportation,” Wilgenburg said. “The tenants like to get involved in the lease in the earlier stages so they can have input.”

The issue of bike storage and various other amenities is driven in part by whether a building is multi- or single-tenant. Companies that have an entire building may pay for tenant improvements to build out a secure bike storage area, while such improvements are more complex if the building is leased to multiple tenants.

And while it may be expensive to add secure bike storage, tech companies are often more than willing to spend on that amenity, as they see it as an investment to help lure the best and brightest minds to their company.

"Companies are paying higher rents because of the HR benefits of these types of spaces, and the landlords want the higher rents," Berkman said.

--Editing by Jeremy Barker and Patricia K. Cole.