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When The “Benefit Of The Bargain” Breaks Down: What Can A Landlord Recover In Damages From A Breaching Tenant When The Lease Remains In Effect?

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Historically, a lease agreement is both a conveyance of an estate in real property and a contract between the landlord and tenant that is made in consideration of rent. However, in recent years the primary consideration of many commercial lease agreements has moved away from periodic rent payments to non-monetary obligations secured by the contract, including the tenant’s agreement to build significant improvements on the leased property and increase the value of the owner’s land over time. In conjunction, lease contracts have increased in complexity and scope, adding more rights and obligations while extending the standard lease term from years to decades.

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