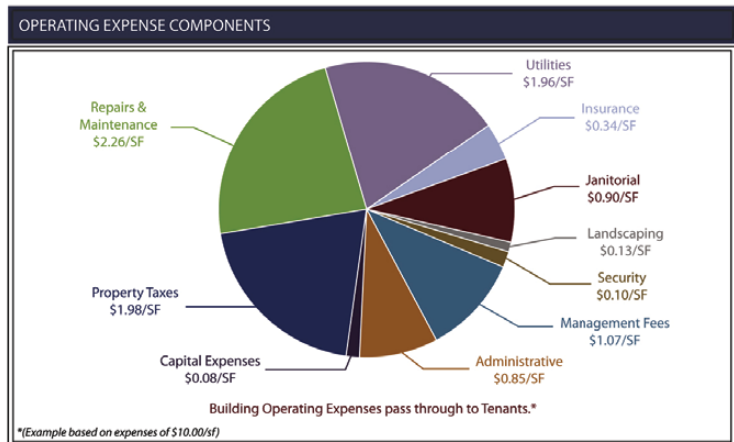


# OPEX: The Hidden Expense

*It pays for tenants to scrutinize landlord operating expense statements*

by Jeffrey G. Shepard, Co-founder & Principal, CresaPartners

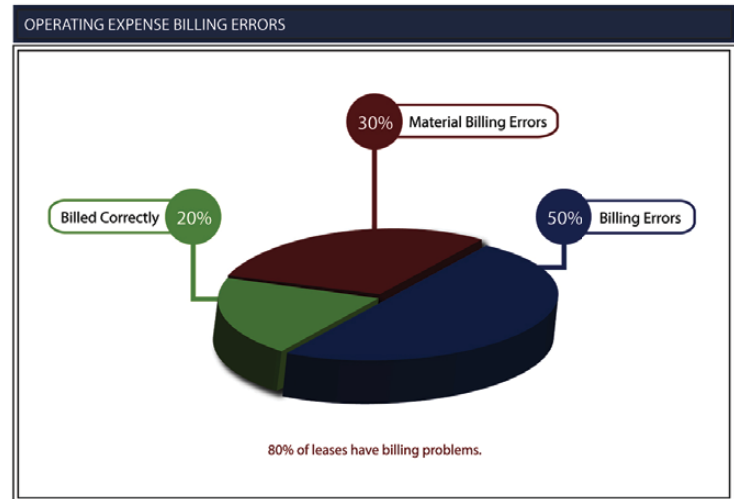
Commercial leases include charges for normal operating expenses such as taxes, utilities and ongoing maintenance, with tenants paying for these expenses on a monthly basis either as part of the lease rate or subject to a separate billing. At the end of the year they receive an annual operating expense reconciliation statement (OPEX) which confirms actual expenses.



## Scrutinize your OPEX statement

The OPEX statement is basically a "true-up" of the actual versus budgeted costs. When you receive this document, *take a close look*. Confirm whether or not the charges are appropriate. You typically have 60-90 days to react and respond.

In spite of everyone's best efforts, there are often mistakes within these documents aside from possible mathematical errors. Most landlords issue their reconciliations based upon the "standard" lease, and your lease may deviate from that standard. *In fact, approximately 80% of leases have billing errors.*



## OPERATING EXPENSE COMPONENTS

### What should tenants know?

A well-negotiated lease document will clearly define allowable operating expenses, detail proper accounting treatment, and specify which costs are not allowed to be charged to the tenant.

Over the course of the lease, these adjusted operating expenses can become a significant expense that should, at the very least, be reviewed and justified. Note that there is enough gray area in calculating operating expenses to warrant the existence of businesses that exist for the sole purpose of auditing these costs for tenants.

### When should tenants be concerned?

Often, the best way to ensure accuracy is to request that your real estate advisor perform a preliminary "desktop" audit. The first indicator of a billing error is an excessive percentage increase over your last year's operating expense statement. With the exception of taxes, your insurance, utilities, repairs and maintenance (based on the

age of your building) normally escalate less than 5% per year. Anything above this number requires further clarification. If you reach a double digit increase, an explanation is due.

The following issues are often predictive of errors and overcharges:

- ◆ Transfer of the property to a new entity. New owners will often implement their own accounting practices and methodologies. In the event of a refinance or sale, it is not uncommon to experience significant clerical mistakes because the new owner did not read your Lease properly.

- ◆ Substantial capital improvements made within the past year. If improvements have been made to the building during the year, pay very close attention to make sure that the treatment of your operating expenses is recorded according to generally accepted accounting principles (GAAP).

- ◆ Increased vacancy in the building. Vacancy frequently leads to errors and overcharges as a result of the landlord's process of projecting the building's expenses to reflect what they would have been at full occupancy (commonly referred to as a "gross up").

### What does an experienced advisor do for you?

An experienced advisor will request documentation to confirm budgeted vs. actual expenses incurred and perform a preliminary "desk-top" audit at no charge. This preliminary "desk-top" audit will reveal issues requiring further evaluation. With this knowledge you can decide whether to proceed with a Detailed Analysis and Resolution of Claims.

We welcome your call to schedule a meeting for a preliminary consultation.



## THE LEASE AUDIT PROCESS



## JEFFREY G. SHEPARD

Jeffrey G. Shepard, co-founder and principal of CresaPartners Orange County, has extensive experience managing and negotiating large office and industrial leases, building sales / purchases, build-to-suit projects, and land sales / purchases. With more than 25 years experience in commercial real estate, he has focused 21 years of his career on tenant advocacy for clients across the United States. He has negotiated and structured over 5.7 million square feet of transactions valued at more than \$1.6 billion for a number of national, regional and local companies.



Clients include TestAmerica Laboratories, QLogic, D-Link Systems, Intersil Corporation, M86 Security, Cooley Godward LLP, among many others.

Jeff attended Williams College and graduated magna cum laude with a Bachelor of Arts in Economics. He also attended UCLA Anderson School of Business, where he was Valedictorian and graduated summa cum laude with a Masters of Business Administration - Real Estate Finance & Accounting.

Jeff serves on the Board of Directors for CresaPartners Orange County and is also the Chairman of the Board for the Orange County Child Abuse Prevention Center. He has also served on the Board of the Access Executive Network and the Pegasus School in Huntington Beach.

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## CresaPartners

CresaPartners is North America's largest corporate real estate advisory firm that exclusively represents tenants. The firm specializes in help-

ing corporate space users make wise real estate decisions while reducing occupancy costs.