



# Powerful guidance on all aspects of commercial leasing

The Harvey Haber Collection



# Successfully negotiate your commercial lease agreements

## The Harvey Haber Collection

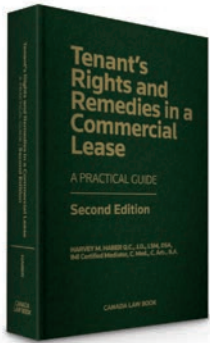
Find comprehensive guidance on all aspects of commercial leasing in a selection of titles by renowned property leasing lawyer Harvey Haber. **The Harvey Haber Collection** brings together a wealth of authoritative insight, discussion and strategies to help you with the precise drafting of a commercial lease that both sides will understand and accept.





**New Edition**  
**Tenant's Rights and Remedies, A Practical Guide, Second Edition**

Editor-in-Chief: Harvey Haber, Q.C., LSM



**Order # 804725-67710 \$131**  
 Hardcover approx. 560 pages  
 November 2014  
 978-0-88804-725-0

Before entering into any leasing situation, turn to **Tenant's Rights and Remedies in a Commercial Lease: A Practical Guide, Second Edition**. Understand the legal considerations that underpin the clauses used in commercial leases when negotiating and drafting contracts.

This unique collection of 27 articles, written by 45 experienced practitioners, discusses in depth a commercial tenant's rights and remedies and how to use them. Contributors are concise and to the point in detailing the important issues on each topic so that you thoroughly understand your client's rights from a legal standpoint.

**Sets out how to sidestep the pitfalls and protect your client's rights**

This authoritative work alerts you to the circumstances that are likely to arise in undertaking a commercial lease, aided by numerous real-life examples, important case references, and helpful hints and tips. Various topics are analyzed from the commercial tenant's perspective that you will find invaluable when negotiating and drafting contracts. As well, a plain-language explanation of legal terminology for the commercial tenant clarifies concepts such as:

fundamental breach, breach of the covenant for quiet enjoyment, waiver of subrogation, a non-disturbance agreement, subordination and attornment.

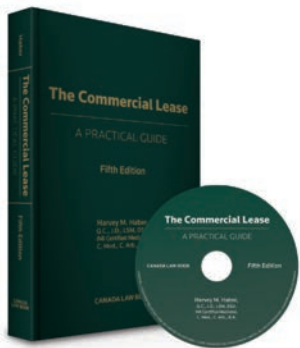
**New in the Second Edition**

- New articles on the following topics:
  - Transfers of lease, assigning, subletting and change of control
  - Fundamental breach of the contract: the Supreme Court of Canada decision in *Tercon Contractors Ltd. v. British Columbia (Transportation and Highway)*
  - Damages arising from a tenant's default – the duty to mitigate
- Updates by commercial leasing experts on all the topics covered in the previous edition to reflect the current state of the law on:
  - Franchising
  - Exclusive clauses
  - Distress as a remedy
  - Mandatory operating clauses
  - Guarantee and indemnity agreements
  - Arbitration and mediation



## The Commercial Lease: A Practical Guide, Fifth Edition

Harvey Haber, Q.C., LSM



**Order # 804664-67710 \$195**

Hardcover + CD-ROM  
approx. 770 pages  
September 2013  
978-0-88804-664-2

The modern commercial lease can be overwhelmingly complex and sophisticated, and the court's approach towards solicitor negligence unyielding. As yesterday's tried-and-true precedent becomes tomorrow's errors-and-omissions claim, how can you keep up? **The Commercial Lease: A Practical Guide, Fifth Edition** makes it simple.

Revised and updated, this edition adds even more commentary in the same useful format and practical, clear-cut style that many have come to depend on. Whether you're in the process of understanding, negotiating or drafting a commercial lease, you can trust this industry classic to point you in the right direction every time.

### **Fast, accurate answers to your commercial leasing questions**

In the back of the book is a wholly Canadian precedent commercial lease, giving you jargon-free insight on how to draft and manage certain clauses. This precedent lease and six notices are also offered on the companion CD-ROM to speed the drafting process.

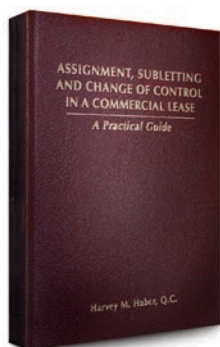
This book includes numerous changes that update the lease and case law from the Fourth Edition, and answers the following questions:

- Is a tenant's share of realty taxes based on an "assessed share" or a "proportionate share"?
- Is a tenant responsible to repair underground storage tanks and fuel lines?
- Does "completely net free" really mean completely "net free"?
- Does "repair" mean "replace"?

### **Includes both the landlord's and tenant's points of view**

Any number of disputes may arise between the landlord and tenant. This Fifth Edition helps you prepare for them, setting out additional cases and numerous new comments on the practical problems of commercial leasing – from both points of view. This could involve space in a shopping centre, office, warehouse or industrial development. Whichever your perspective, you'll want this hands-on resource by your side.





## Assignment, Subletting and Change of Control in a Commercial Lease: A Practical Guide

Editor: Harvey Haber Q.C., LSM

**Assignment, Subletting and Change of Control in a Commercial Lease: A Practical Guide** shows you how to successfully negotiate these complex terms and how to use them to your advantage. The collection of informative articles is written by 12 of Canada's most highly experienced professionals in the field, including Harvey Haber.

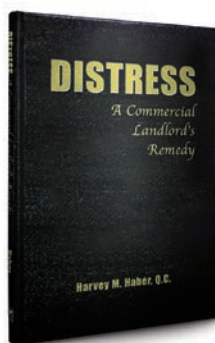
The guide is written from the perspectives of both the landlord and tenant, and offers an inside look at how effective negotiations can be assured on either side of the commercial leasing venture. With its mix of case law, sample forms, expert commentary, and practical guidance, this valuable resource brings clarity to a complex subject.

### Topics include:

- The landlord's assignment, including the transfer of a landlord's rights, obligations and remedies
- The remedies when a landlord unreasonably withholds consent to a transfer
- The lease as security, including the competing interests of the landlord and the tenant's secured lender
- The impact of the use clause on an assignment, subletting or change of control
- Amalgamations as an assignment of the lease
- Lease assignments and insolvency
- Subletting – tricks and traps
- Commentary on a landlord's form of sublease
- The rights and obligations of the parties after an assignment of the lease

**Order # 804372-67710 \$98**

Hardcover approx. 225 pages  
September 2002  
0-88804-372-4



## Distress: A Commercial Landlord's Remedy

Editor: Harvey Haber, Q.C., LSM

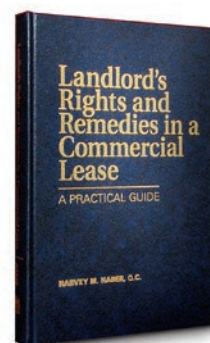
Gain practical advice on using the remedy of distress under the Ontario *Commercial Tenancies Act* without the potential of liability. Virtually every aspect of the law and the practical considerations involved are discussed in this collection of easy-to-read articles by 15 expert contributors, including Harvey Haber.

**Distress: A Commercial Landlord's Remedy** provides a clear understanding of:

- What steps to follow to correctly distraint (seize)
- Who should distraint
- What traps to avoid
- The distinction between an irregular distress and an illegal distress
- What priorities supercede a distress

**Order # 804364-67710 \$90**

Hardcover approx. 200 pages  
February 2001  
0-88804-364-3



## Landlord's Rights and Remedies in a Commercial Lease: A Practical Guide

Harvey Haber, Q.C., LSM

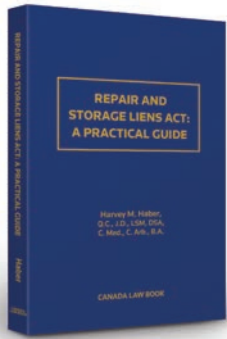
What are the various rights and remedies available to a landlord when a commercial tenant defaults under its lease? **Landlord's Rights and Remedies in a Commercial Lease: A Practical Guide** answers this question and also includes many helpful leasing hints for the commercial landlord.

The book explains:

- Issues that must be considered before exercising the landlord's rights and remedies
- Problems associated with rights and remedies
- Practical considerations for determining which remedy or remedies to use
- Mediation, arbitration, and other alternative dispute resolutions

**Order # 804228-67710 \$94**

Hardcover approx. 300 pages  
June 1996  
0-88804-228-0



## Repair and Storage Liens Act: A Practical Guide

Editor-in-Chief: Harvey Haber, Q.C., LSM

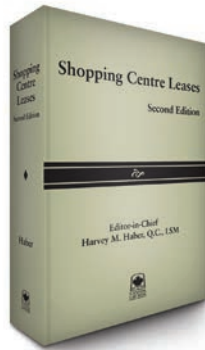
With **Repair and Storage Liens Act: A Practical Guide**, you save considerable research time locating the authoritative advice you need to assist with legal work involving commercial property and automotive repair environments as they relate to the *Repair and Storage Liens Act* (RSLA). This resource covers such details as:

- Storage lien legislation across Canada
- The interaction of other legislation
- Analysis with respect to government creditors, providing an interesting perspective on priorities
- The new and expanding use of this legislation for legal professionals
- The impact of bankruptcy and insolvency on the RSLA
- The standards required to assure statutory compliance
- Commentary on related reported and unreported case law, including: *General Electric Capital Canada Inc. v. Interlink Freight Systems Inc.*, *Eby v. Pitkin*, and *Toronto-Dominion Bank v. Di Felice et al*

Handy sample forms are included to ensure you follow the correct steps under the Act, whether acting for a lien claimant or the party against whom the lien is asserted. **Repair and Storage Liens Act: A Practical Guide** is a valuable new reference for all legal professionals dealing with commercial property matters, and automotive repairer's lien rights, including lawyers, bailiffs, paralegals, educators, commercial landlords and property managers, and automotive repairers.

**Order # 985213-67710 \$124**

Hardcover approx. 230 pages  
December 2012  
978-0-7798-5213-0



## Shopping Centre Leases, Second Edition

Editor-in-Chief: Harvey Haber, Q.C., LSM

Take advantage of the expertise of Harvey Haber and 50 other top commercial leasing practitioners in Canada. This compendium of articles and precedents covers all aspects of commercial leasing including:

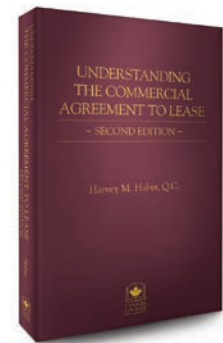
- Technology and telecommunications concerns
- Pandemic preparedness for building owners and managers
- Insurance for shopping centres
- Leasing aspects of the franchise relationship
- Transfers of lease, assigning, subletting, and change of control
- Operating costs and other additional rents in a commercial lease from a landlord's and tenant's perspective
- Agreements to lease, letters of intent, and term sheets

**Shopping Centre Leases, Second Edition**

includes numerous precedents to help you draft your own agreements and a Table of Cases to help you locate the decisions you need.

**Order # 804477-67710 \$214**

Hardcover approx. 1100 pages  
December 2008  
978-0-88804-477-8



## Understanding The Commercial Agreement To Lease, Second Edition

Harvey Haber, Q.C., LSM

Protect your interests while making the best deal possible with **Understanding the Commercial Agreement to Lease, Second Edition**. This title guides you through the deal-making process with precedent agreements, commentary, and case law to help you avoid making costly mistakes.

Designed for anyone interested in commercial leasing, the book is written as a precedent agreement to lease that:

- Enables you to customize your own leasing circumstances from the precedent provided and put concepts into context
- Guides you through each term step by step, with numerous practical tips
- Describes what to include in the agreement from the side of the landlord and the tenant

The book expounds on the differences between the formal lease itself and the binding agreement to lease; lease provisions that reflect the impact of e-commerce on leasing; and changes to the Ontario assessment and property taxation system.

**Order # 804439-67710 \$110**

Hardcover approx. 450 pages  
May 2006  
978-0-88804-439-9



## About the Author

**Harvey Haber, Q.C., J.D., LSM, DSA, IMI Certified Mediator, C. Med., C. Arb., B.A.,** is a lawyer, author, mediator, arbitrator and consultant named as one of Canada's most frequently recommended property leasing lawyers by the *Canadian Legal LEXPERT Directory*. He is the recipient of numerous honours and awards. This includes the 2005 Osgoode Hall Law School Alumni Gold Key Award for exceptional professional achievement in the field of commercial leasing; the Law Society of Upper Canada's highest honour in 2002 - the Law Society Medal for outstanding service within the legal profession; and the Ontario Bar Association's top honour in 2000 - the Award for Distinguished Service.

Mr. Haber is a senior partner in the Toronto law firm Goldman, Sloan, Nash & Haber LLP and is the author of several Canada Law Book publications on commercial leasing as well as numerous articles in both Canadian and American manuals, journals and newsletters. He is a Roster Mediator of the Ontario Mandatory Mediation Program - Toronto, a Chartered Mediator of the ADR Institute of Canada and Arbitrator, and an Executive Member of the Alternative Dispute Resolution Section of the Ontario Bar Association. He is a guest lecturer for the Law Society of Upper Canada, the Canadian and Ontario Bar Association and the International Council of Shopping Centres. He has specialized in commercial leasing for over 42 years.

