



# Overcoming Seven Key Landlord-Tenant Hurdles to Make Ambitious Carbon Reductions a Reality

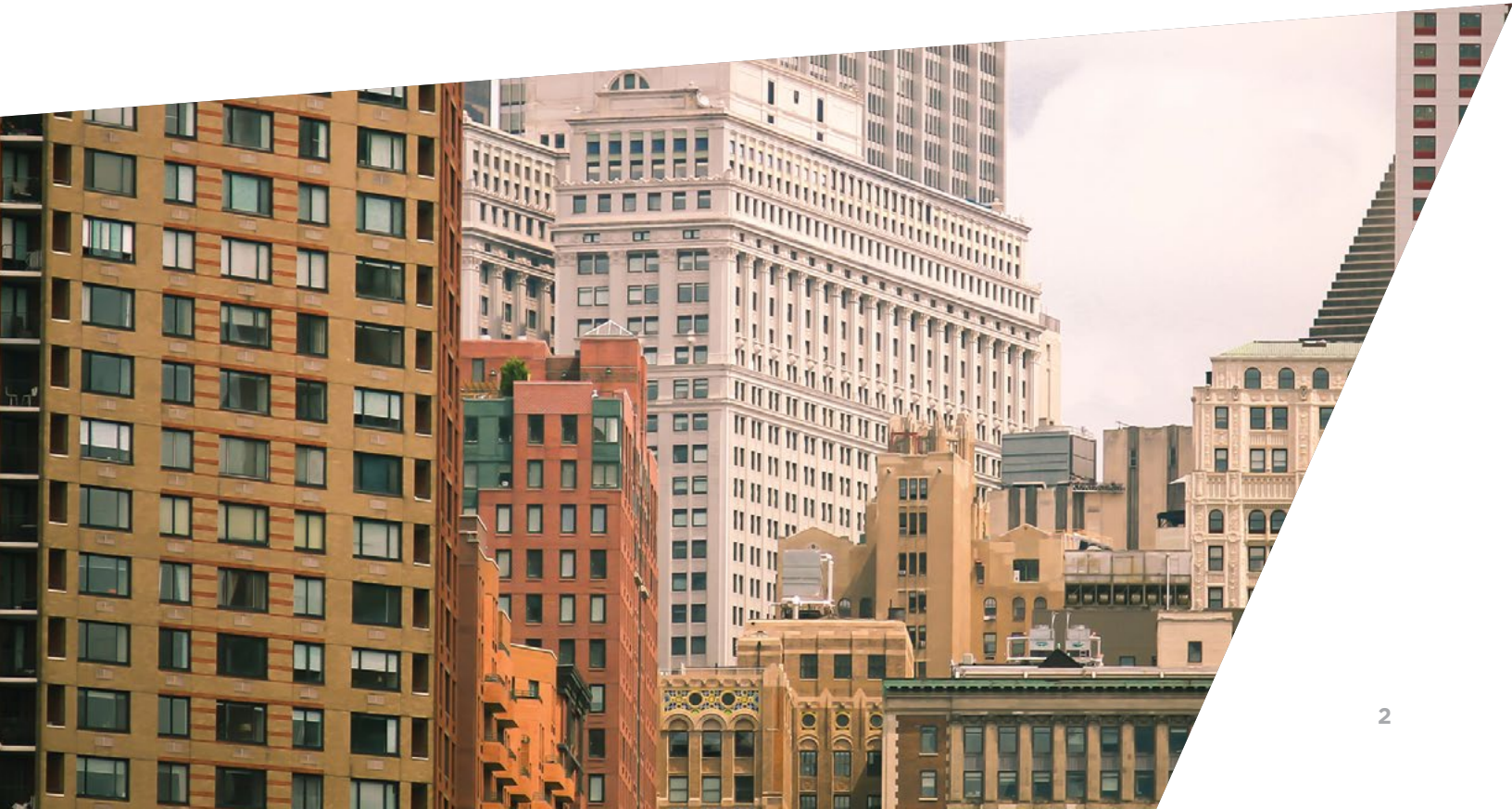


## Landlords and tenants signing a lease and then going their separate ways on building operations is a thing of the past.

New York City's Local Law 97 (LL97)—the most ambitious carbon reduction policy for buildings in the U.S.—is one of the first laws in the country to require significant whole-building reductions of carbon emissions. The reality is that with tenants controlling up to 70% of energy use in buildings, achieving the energy savings envisioned by New York City, as well as other cities, can only occur through transformative landlord-tenant relationships that put a premium on collaboration to drive down carbon pollution in buildings and secure win-win business outcomes.

During Climate Week 2019, the Institute for Market Transformation (IMT) hosted an event in partnership with the NYC Mayor's Office of Sustainability and the New York State Energy Research and Development

Authority (NYSERDA) to discuss challenges and opportunities around LL97. There, we engaged 50 leaders representing building owners, tenants, trade associations, nonprofits, and the NY Green Bank. Together, we identified key hurdles and associated next steps to forge productive, mutually beneficial relationships between landlords and tenants that can substantially drive down carbon emission in buildings and make compliance with the new legislation easier to achieve. While commercial real estate decision makers in New York City will certainly benefit from proactively addressing the seven key hurdles and five potential solutions identified by event participants, professionals who influence building energy use in leased space across the country can also benefit from the pathways being explored in New York City.



## A New Wave of Leasing Practices Will Emerge

Buildings account for almost 70 percent of New York City's carbon pollution. Recognizing this, LL97 (passed as part of the Climate Mobilization Act in 2019) requires greenhouse gas (GHG) emissions from large buildings to be cut by 40 percent by 2030 and 80 percent by 2050. The policy addresses most buildings over 25,000 square feet and phases in caps on GHG emissions starting in 2024.

Landlords and tenants in buildings of all sizes in New York City and across the U.S. should focus on this critical issue: LL97 places sole responsibility of compliance on the shoulders of building owners. In order to improve building performance to meet LL97's carbon caps, building owners and operators will need to partner with their tenants to execute equitable solutions that drive down energy use and associated carbon emissions. The days of landlords and tenants signing a lease and then going their separate ways on building operations are essentially over.

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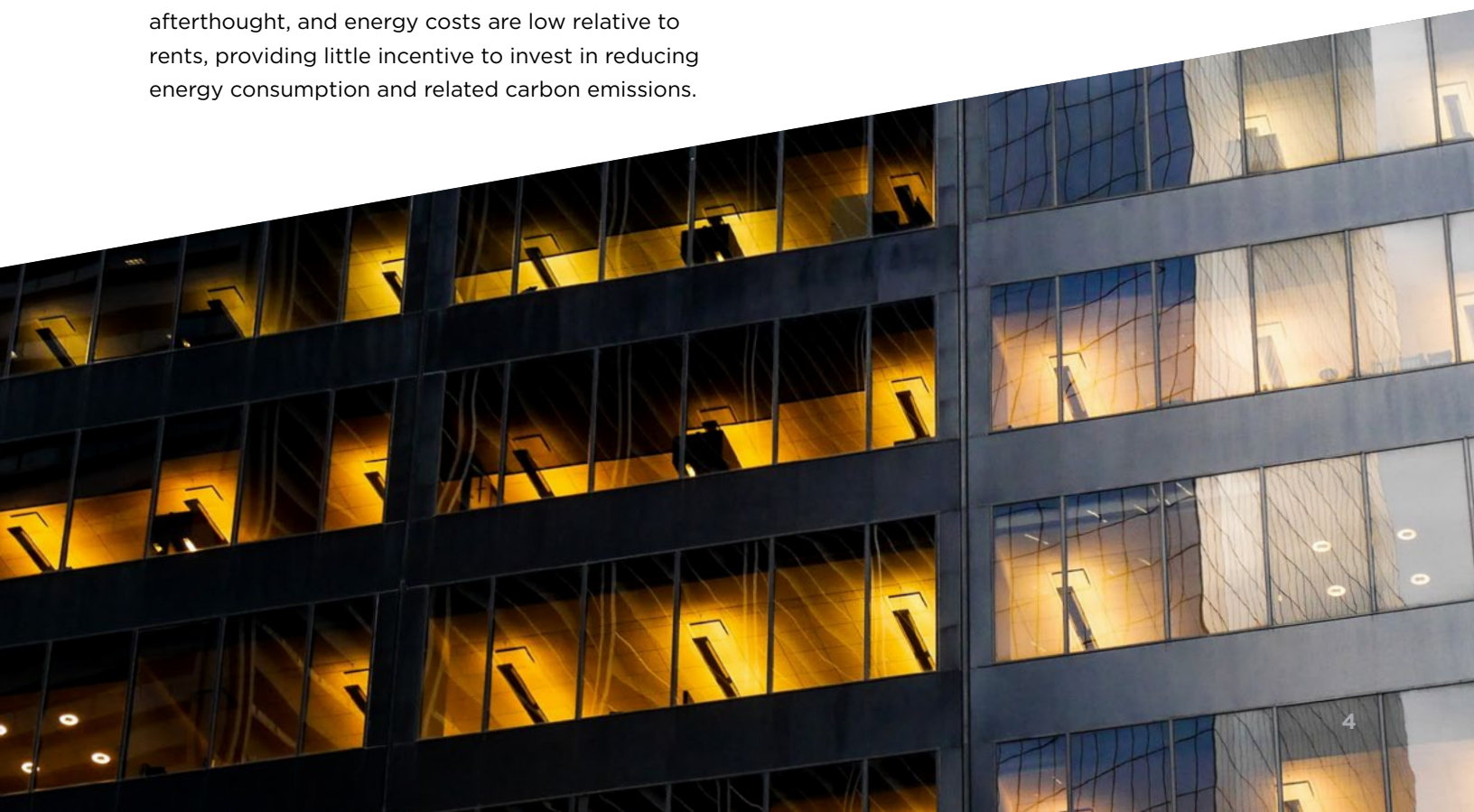
To learn more about the specifics of LL97, read IMT's blog, "[New York City Passes Bold Bill to Slash Buildings' Climate Impact.](#)" and visit the [Urban Green Council's website](#) to download its resources.



## Seven Landlord-Tenant Hurdles to Significant Carbon Reductions

Local Law 97 (LL97) will place the landlord-tenant relationships under new pressures. These pressures, however, could be transformed into opportunities, starting with how information is shared between both parties at site selection through the legal documents that finalize the deal and support the on-going relationship, and down to the interaction between the property manager and tenant staff. While these encompass many different, complex interactions, here are seven key landlord-tenant hurdles in leased space that are inhibiting greater adoption of energy efficiency and potentially standing in the way of better building energy performance and carbon reductions.

- 1. Typical lease negotiations pay little attention to large-scale carbon savings.** Significant roadblocks exist in typical lease negotiations. Fast-paced transactions are often prioritized and the speed at which leases are pursued can be at odds with including energy efficiency in the agreement. Integrating energy efficiency is typically an afterthought, and energy costs are low relative to rents, providing little incentive to invest in reducing energy consumption and related carbon emissions.
- 2. Misperceptions hamper productive conversations.** Most landlords perceive that tenants do not care about energy efficiency. However, many tenants companies are, in fact, interested and willing to work with landlords to reduce energy. Because there is not one dedicated tenant organization that can collect and consolidate feedback and prioritize areas of sustainability alignment and concerns, the landlord community is left guessing.
- 3. Contacts are not established and maintained for long-term collaboration.** Landlords are challenged to find an effective approach to engage tenants on energy efficiency on a consistent basis. Although a tenant company may express the desire to drive efficiency within their space, the effort a landlord or property manager must go through to identify and maintain a tenant champion for energy efficiency can add significant work to ensure a proactive and collaborative relationship.



4. **Conversations are not inclusive.** Executing due diligence before signing a lease with key experts, such as architects and engineers, to examine how base building equipment and tenant operational needs can integrate with efficiency in mind is not standard practice, missing the opportunity to explore solutions that can optimize leased space performance and contribute to whole-building carbon reductions. Post occupancy, building operators and tenants do not participate in ongoing communications, missing out on a tremendous opportunity to work together to improve whole-building performance.
5. **Mid-lease energy efficiency improvements are highly uncommon.** Tenant capital improvement dollars are typically only allocated for new construction and build-outs planned at lease signing, which makes it more challenging for tenants to invest in improvements mid-lease, as well as for

landlords to initiate discussions outside of the traditional lease cycle. While tenant improvement is often part of renewals, it is usually at a far lower amount than at lease inception.

6. **Good faith tenant efforts can negatively affect carbon reductions.** Tenants who increase occupant/workspace density as a strategy to reduce their environmental footprint can actually negatively affect a whole-building carbon reduction strategy as energy use per square foot increases.
7. **Alternative financing mechanisms are overlooked.** Most tenants are unaware of various financing options that can fund energy efficiency improvement projects without drawing on tenant capital budgets. Examples include utility incentive programs, on-lease financing, and tenant improvement dollars for efficiency projects.



## Five Strategies to Achieving Dramatic Savings

The landlord-tenant relationship has long been widely perceived as adversarial, but research from IMT's [Landlord-Tenant Energy Partnership](#) finds landlords and tenants are more motivated than ever to work together. Some of the motivating factors include complimentary corporate priorities, setting environmental goals, attracting the best talent, and reducing operational expenses. The will is there—it is a matter of finding the best approach to partnering between both parties.

For an example of many of these tactics in practice and the associated benefits to both a landlord and tenant, see [White & Case case studies](#) from NYSERDA.

As uncovered during discussions in New York City, the challenges above can be addressed with the following actionable steps executed between landlord and tenant.

1. **Landlords should drive carbon emissions awareness with their tenants.** Building owners have a greater responsibility than tenants to share how their buildings are performing and how that affects carbon emissions. In New York City, it is imperative that owners start an open dialogue with tenants directly addressing whole-building performance as it relates to LL97 carbon reduction targets. Without this dialogue, there is risk that tenants may not grasp the role they play in complying with carbon caps set in 2024, 2030, and 2050. This three-step process begins with internal awareness about how the building is operating.



**Step 1.** Landlords can perform an energy audit and pursue retrocommissioning to obtain a more detailed breakdown of energy data, recommendations on operational improvements, and a list of energy efficiency improvements to plan for short- and long-term capital funding needs. (In New York City, this is required by Local Law 87.) Landlords can consider working with a specialized engineering consultant to develop an execution plan.

**Step 2.** If a city has a building labeling law such as New York City's Local Law 33, landlords can consider using this information to bring awareness to tenants about what a Building Energy Efficiency Rating (or similar sort of label) means, how performance is being addressed through energy efficiency investments and operations, and how the design and operations of tenant spaces contribute to the letter grade.

**Step 3.** Before communicating to tenants how whole-building efficiency is directly influenced by tenant use, landlords can calculate the building's carbon intensity (metric ton of carbon dioxide per sq. ft.) and energy use intensity (EUI, or energy used per sq. ft.). [ENERGY STAR Portfolio Manager](#), a free, online tool, can generate both a 1-100 energy performance score, as well as generate a building's carbon intensity. Owners may want to consider seeking help from a professional engineer or trusted energy efficiency advisor to make calculations and ensure accuracy.

Marketing the efforts described in the three recommended actions above will place building owners in a good position to have an open dialog about the importance of operating an efficient building and the value to the overall efficiency through tenants design and operations of their space. Owners can consider sharing their plan when a future tenant is visiting the building, during lease negotiations, and in ongoing communications throughout the length of the lease. Integrating this with talking points can help communicate the importance of this information to brokers, property managers, and legal counsel.



2. **Landlords and tenants should prioritize energy efficiency before lease terms are set.** Starting a dialogue early, before lease negotiations, about long-term energy efficiency strategies for the building and how tenant design needs can be met, will help develop a plan that drives down energy use and aligns landlord and tenant priorities.

Tenants of all sizes can benefit from the assistance of the building engineer to help inform how to design and build efficient spaces. As landlords are the ones in the business of operating a building, they are best suited to lead on this. Tenants should facilitate a meeting with the landlord's engineer and the tenant's engineer before design development begins. This is an important step to gaining insight into how the tenant space can be optimized to use less energy use over time.

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Integrating the expertise of the building engineer with the tenant architect and engineer before the lease is signed can uncover efficiency opportunities, inform lease language, and identify new funding sources that can result in highly efficient tenant spaces working in concert with base building systems.

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Merging landlord and tenant priorities requires some level of translation by consultants. Consultants, much like architects and engineers, have unique insights into efficiency opportunities that exist for projects that might be left off the table if they are not part of initial conversations. Tenants' priorities are likely to consist of providing a healthy work environment that attracts top talent, drives up employee productivity, and reduces sick days.

Translating how the priorities above are frequently inherent in an energy-efficient space and how they can be integrated into an efficient design is best orchestrated by including an architect at this stage. The architect will know how engineering recommendations will be integrated into design development and executed during construction. Examples may include: incorporating smart technology in meeting spaces to only run HVAC and other technology when in use, installing ENERGY STAR-certified equipment, and deploying smart strips that cut phantom plug loads at night.

Tenants should ask the architect on the project about continued support services that offer post-occupancy performance evaluations to ensure post-occupancy energy use aligns with estimated energy calculations and models during design development. This evaluation should be shared with the landlord and checked on a frequency established by both parties (i.e. annually) to ensure both the space and building are operating as designed over the length of the lease.

Integrating higher standards of efficiency in leased space may cost more than originally budgeted by tenants, but if explored at an early stage before lease terms are set, alternative financing could help prevent tenants from rejecting high-performance solutions into the build-out of their space. Fortunately, there are various incentives available from NYSERDA and utilities serving New York City that can help with implementing energy efficiency into tenant spaces by offering rebates for soft and hard costs of efficiency measures. On-bill financing is also an alternative a landlord can offer to tenants to fund efficiency improvements during initial fit-out, at renewal, and mid lease. This form of financing is added to the tenant rent and stretched out over the length of the lease.

Landlords exploring how to work with tenants who have a higher occupant density than other tenants consider this: Tenants who have adopted occupancy/workplace density do not follow traditional thinking in workplace planning. They are creating work spaces that are designed to increase collaboration, creativity, productivity, and flexibility. These tenants are also likely to deploy more advanced technology to help manage the needs of this type of office arrangement, and may be more open to partnering



with the landlord to explore how to further integrate innovative solutions in operational efficiency and technology to achieve a more efficient space despite the increase in density.

3. **Landlords and tenants should transform all leases to green, high-performance leases.** Transform traditional lease forms into high-performance lease documents that incorporate and prioritize energy efficiency by optimizing use of base building equipment (i.e. HVAC) and frequent check ins to measure and improve building and tenant energy use. To learn more about this in practice and examples from the field, visit [www.greenleaseleaders.com](http://www.greenleaseleaders.com).

Consider employing specialized legal counsel to help draft language that addresses efficiency needs starting with the Letter Of Intent through the development and signing of a lease. Attorneys will play a significant role in incorporating thoughtful drafting of lease language and achieving win-win scenarios throughout the long-term landlord-tenant relationship.

Building operators should also be consulted when determining lease language related to operations. They are on the ground monitoring and improving building performance, and can offer insights on lease clause language outlining pathways to optimal efficiency operations. This process establishes

upfront the roles, responsibilities, and expectations of both parties to improve and maintain a building's energy use.

The only way to know how to encourage tenants to reduce energy usage is to understand how much energy is being consumed and how it is being used. This can be achieved in two ways. The first is through interval data provided by a submeter. If a space is not already submetered, start by installing one. The second way is through ongoing evaluation of the tenant space. Incorporate lease language that sets operational priorities and responsibilities between landlord and tenant and outlines how tenant energy consumption will be evaluated by performing simple equipment and operations energy audits with a certain frequency through the duration of the lease. Provide language in the lease as to how the recommendations from the audit can be financed (example: Landlord will pass through utility incentives to pay for efficiency upgrades, Landlord will offer on-lease financing to tenant for efficiency upgrades that will be added on to the cost of rent spread out over the duration of the lease or landlord offers improvement dollars, etc.).

Similarly, tenants should add language in the lease that asks the landlord their ENERGY STAR score and/or provide a progress report on the performance of the building on a recurring frequency (monthly, quarterly, annually).



4. **Landlords and tenants should establish ongoing communication to achieve sustained energy savings.** Designate key building operations personnel responsible for frequently communicating with tenants regarding whole-building performance and energy improvement plans, as well as assisting tenants with continuous energy reduction support.

Property managers are charged with protecting the value and integrity of their assets and can be the most effective communicators between landlord and tenant in presenting solutions for increasing asset value, reducing energy demands, and capturing cost savings benefiting both landlord and tenant.

Continuous, deep energy savings in tenant spaces may require outside help from the local utility or an energy consultant. They can perform light or deep energy audits evaluating how and where building systems and operations can be improved. These recommendations in turn can be evaluated by the landlord and tenant to explore an execution strategy.

5. **Landlords should create a tenant association for each building.** For building owners managing numerous leases, creating a tenant association offers an opportunity to develop an integrated efficiency strategy by outlining how all parties must work together to optimize building performance and meet

local regulatory requirements equitably. Through a tenant association, tenants can voice concerns and explore solutions together, distributing responsibilities amongst the tenants and working with the building operators to optimize building energy performance.

Landlords can provide brokers with talking points that communicate this unique offering and how this form of engagement provides a framework for the landlord to hear from their tenants. It also offers a way for tenants to be included in whole-building solutions that benefit all tenants.

Task a property manager to lead or help coordinate and manage meetings with tenants on a regular basis, communicating to the landlord key takeaways and explore equitable solutions.

A tenant association is generally made up of a group of neighbors, in this case tenants, who work collectively to improve working conditions. This will require an attorney to interpret and translate in lease terms more broadly by developing a set of lease clauses that apply to all tenants—Language that views tenants as an integral partner in operating a high-performing building, sets guidelines, roles and responsibilities for landlord and tenant to meet new local mandates.

New York City's building performance standard is creating a ripple effect in how landlord-tenant relationships must evolve to a much more collaborative partnership to be able to drive down carbon in buildings. Applying the five strategies identified above will deliver sustained building efficiency, as well as deeper and more meaningful landlord-tenant collaboration that sets both parties on the path to healthier, more efficient, and carbon neutral future.

IMT is actively engaged in ongoing discussion with cities and building owners and tenants, continually exploring how these recommendations can be executed in practice. If you're interested in pursuing a strategy above and would like assistance getting started, contact IMT at [energypartnership@imt.org](mailto:energypartnership@imt.org)

# Resources to Help Landlords and Tenants Improve Collaboration

The following resources exist to help landlords and tenants tackle the challenges and harness the strategies identified in this document.

## National Resources from IMT

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### BuildingRating.org

This website, maintained by IMT at [www.buildingrating.org](http://www.buildingrating.org), is an online database of building performance policies. Visitors can learn about policies in specific jurisdictions and compare policies across the U.S.

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### Green Lease Leaders Recognition Program and Resources

IMT's Green Lease Leaders recognition program (run in conjunction with the U.S. Department of Energy at [www.greenleaseleaders.com](http://www.greenleaseleaders.com)) recognizes forward-thinking companies and real estate practitioners who break down barriers to high-performance buildings by revolutionizing leases to incorporate energy efficiency and sustainability. The program aligns with the U.S. Environmental Protection Agency's [ENERGY STAR for Tenants](#) recognition program, and offers two levels of recognition (Silver and Gold). Tools available include:

- [Reference guides](#) for tenants and landlords to help identify and document green leasing best practices and to earn recognition as Green Lease Leaders.
  - An [online lease assessment](#) that helps tenants and landlords quickly determine opportunities for improvement.
  - [Case studies](#) and tip sheets for taking action.
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### The Landlord-Tenant Energy Partnership Efficiency Toolkit

This toolkit from IMT's Landlord-Tenant Energy Partnership gives landlords and tenants a curated set of essential strategies and key questions they should start asking to act on energy efficiency today, no matter the business focus or interests. The toolkit is a non-linear, step-by-step guide offering six strategies and 16 action to optimizing energy efficiency and maximizing savings.

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## New York City-Specific Resources

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### Building Energy Exchange

The Building Energy Exchange (BE-Ex) is a center of excellence dedicated to reducing the effects of climate change by improving the built environment. BE-Ex accelerates the transition to healthy, comfortable, and energy efficient buildings by serving as a resource and trusted expert to the building industry.

BE-Ex hosts educational forums, technology demonstrations, and professional training programs to effect change in the building industry by advancing progressive discourse on high-performance, low-carbon buildings.

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### NY Green Bank

A division of NYSERDA, the NY Green Bank is developing an innovative financing program that will cover 100% of the costs of energy efficiency improvements installed by commercial tenants, whether as part of the initial fit-out of leased space, renovations upon lease renewal, or retrofits during the lease term. The loans are structured to begin yielding positive cash flow for tenants as soon as the improvements are installed and operating. A broad and flexible range of energy efficiency measures is eligible for financing. With these new Green Bank loans, commercial tenants will be able to eliminate the upfront costs of energy efficiency upgrades, achieve quick financial returns and satisfy the growing demands of customers, employees and investors for greener operations.

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### NYC Carbon Challenge for Commercial Owners and Tenants

The NYC Carbon Challenge is a voluntary leadership initiative and public-private partnership between the NYC Mayor's Office and leaders in the private, institutional, and non-profit sectors who have committed to reduce their greenhouse gas (GHG) emissions in support of citywide climate action goals. The Mayor's Office provides programmatic support and resources to assist participants in their efforts to reduce energy usage and associated GHG emissions. Participants are recognized, promoted, and celebrated for their progress in the program as they pursue different energy efficiency improvements, efficient on-site generation, and sustainability initiatives.

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### The NYC Retrofit Accelerator

The NYC Retrofit Accelerator is committed to helping every building in our city ensure a cleaner and more energy efficient future. Its High-Performance Retrofit Track gives building owners and tenants the opportunity to become a leader in energy efficiency and will develop a customized capital plan that will achieve at least 40% energy savings. The Accelerator's **New Construction** Track partners with architects, engineers, developers, and contractors to create buildings that both mitigate their impact on our planet and can adapt to future climate risks and an evolving energy landscape. This program was specifically designed to support the real estate industry to prepare for upcoming energy code changings, design to meet energy performance targets, and construct low-carbon buildings.

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### NYSERDA Commercial Tenant Program

NYSERDA's Commercial Tenant Program seeks to help tenants who are looking to make their office spaces perform at their best but are unsure where to get started. It provides up to 100% of the cost to do an energy analysis of tenant office spaces, offering both Basic and High-Performance tracks to guide tenants in improving the comfort, efficiency, and productivity of their work environment.

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Institute for Market Transformation | [imt.org](http://imt.org)