Page 1598 - 1617 **DOI:** *https://doij.org/10.10000/IJLMH.119848*

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 8 | Issue 3

2025

Green Leasing: A Global Perspective on Sustainable Property Law

TAMANNA[1] AND RAKSHA MEENA[2]

ABSTRACT

This research project delves into the concept of green leasing, an innovative and sustainable approach to property leasing that aligns with global environmental goals. As a relatively new concept, green leasing integrates eco-friendly practices into lease agreements, promoting energy efficiency, resource conservation, and environmental responsibility. This study explores the definition, legal framework, and role of green leases in property law, while examining their impact, advantages, and challenges on a global scale.

Through a comprehensive analysis of case studies, this project highlights the practical implementation of green leases and their influence on property law. It also investigates the potential for future reforms to address existing challenges and enhance the adoption of green leasing practices. The research maintains a neutral and objective stance, free from bias or prejudice, aiming to provide a balanced understanding of whether green leases should be widely adopted.

By introducing the fundamental principles of green leasing and evaluating its viability, this project contributes to the ongoing discourse on sustainable property management and offers valuable insights for policymakers, legal professionals, and stakeholders in the real estate sector.

I. INTRODUCTION

Green leasing has emerged as a key mechanism in property law to promote sustainability within the real estate sector. As environmental concerns continue to shape global policies, integrating sustainability obligations into lease agreements has become essential. A green lease establishes a legal framework where both landlords and tenants commit to environmentally responsible practices, including energy efficiency, waste management, and water conservation. This research project explores the legal framework, implementation challenges, and future prospects of green leasing, focusing on its role in sustainable property management.

[1] Author is a student at National Law University Jodhpur Rajasthan, India.
[2] Author is a student at National Law University Jodhpur Rajasthan, India.

 [ISSN 2581-5369]

The study begins by defining green leasing and its significance in property law. It examines how urban planning, resource management, and regulatory mechanisms contribute to the adoption of sustainable leasing practices. It then delves into the legal framework of green leases, analysing relevant legislation across different jurisdictions, such as India, the United States, the United Kingdom, Australia, and the European Union. The study also explores the role of property law in sustainability, contrasting traditional leases with green leases and highlighting legal mechanisms such as zoning regulations and financial incentives that encourage eco-friendly property management. Furthermore, the obligations and enforcement mechanisms within green leases are analysed, with case studies demonstrating successful models that integrate sustainability clauses into leasing agreements.

The research further addresses the challenges hindering the adoption of green leases, including legal ambiguities, enforcement difficulties, market resistance, and financial constraints. It explores possible reforms, such as standardized lease terms, the use of smart contracts, and the Energy-Aligned Lease Model in New York City, to enhance the effectiveness of green leases. Concluding with recommendations for policymakers, legal professionals, and real estate stakeholders, this study contributes to the discourse on sustainable property law, emphasizing the potential of green leases to drive long-term environmental and economic benefits.

II. OVERVIEW OF GREEN LEASE

A green lease is a contractual agreement for the conveyance of real property for a specified term, in exchange for rent, that establishes a relationship between a landlord and a tenant while incorporating environmental sustainability commitments.[3]

A. Importance of Sustainable Development in Property Law

Sustainable development seeks to balance economic progress, social equity, and environmental conservation to fulfil current needs without jeopardizing those of future generations. It fosters resource efficiency and innovation, addressing the limitations of land and natural resources. The rise of environmental awareness in the 1960s and 1970s underscored the necessity for public policy, regulation, and institutional frameworks to tackle sustainability challenges. Property law, particularly through green leases, plays an essential role in integrating sustainability into urban development, ensuring long-term ecological and economic stability.[4]

[3] Nathan A. Canova, Greening the Traditional Commercial Lease: Building a Case for Sustainable Commercial Real Estate through Economically Profitable Green Leases, 61 DRAKE L. REV. 883 (2013).
[4] Batty, Paradoxes of Sustainable Development: Property and Participation, 24 Prop. Mgmt. 207 (2006).

 [ISSN 2581-5369]

B. Key Aspects of Sustainable Development in Property Law

1. Resource Management and Property Rights

Sustainable development requires balancing private property ownership with environmental conservation to prevent excessive resource exploitation and ensure equitable access for present and future generations.

2. Addressing the Tragedy of the Commons

The "tragedy of the commons" (Hardin, 1968) describes the depletion of shared resources due to unrestricted access. Sustainable development emphasizes cooperation, regulation, and institutions to ensure responsible resource management.

3. Role of Cities in Sustainable Development

Cities, historically viewed as environmental stressors, now play a critical role in sustainability by promoting compact urban planning, mixed land-use policies, and efficient public transport to reduce ecological footprints.

4. Inclusion and Public Participation

Public participation in environmental decision-making ensures that all stakeholders, including marginalized groups, contribute to policies affecting their communities and surroundings.

5. Balancing Exclusion and Inclusion

Sustainable development requires a balance between private property rights, which protect resources, and collective action, which fosters public access and equitable use.

6. Urban Density and Environmental Efficiency

Higher urban densities lead to energy savings, reduced transportation distances, and lower pollution levels, making compact cities a key solution for sustainability.[5]

7. Economic Growth and Environmental Quality

The link between economic growth, energy consumption, and environmental health necessitates innovative policies that mitigate ecological degradation while promoting economic expansion.

8. Poverty and Environmental Sustainability

Sustainable development aims to reduce poverty by fostering environmentally responsible

[5] Id.

 [ISSN 2581-5369]

economic growth, particularly in developing regions.

9. Institutional Frameworks for Sustainability

Effective legal and institutional structures at local and national levels ensure long-term sustainability by promoting regulatory compliance and cooperative resource management.

10. Compact Cities and Quality of Life

Sustainable urban development enhances quality of life through efficient infrastructure, public transport, and reduced reliance on personal vehicles.

11. Global and Local Perspectives

Sustainable policies must address global challenges, such as climate change, while also considering localized solutions based on community needs.[6]

12. Long Term Resource Security

Ensuring resource security requires policies that promote trust, cooperation, and shared environmental responsibility among diverse stakeholders.[7]

C. Research Question: Can Property Law Be a Tool for Sustainability?

The role of property law in promoting sustainability is deeply rooted in how land rights are defined, allocated, and enforced. The way property rights are structured significantly impacts environmental conservation and economic viability. When privatization or market-driven land ownership consolidates property into fewer hands, it often leads to restricted access for traditional land users, disrupting their livelihoods and causing economic disparities. Historical examples, such as the Enclosure Movement in England, illustrate how privatization displaced local communities and limited communal access to natural resources.

In many cases, environmental externalities arise when landowners are not legally required to consider the broader ecological impacts of their property use. This can lead to air and water pollution, deforestation, and depletion of critical resources such as fisheries. Governments attempt to mitigate these issues through regulations, but legal resistance and enforcement challenges persist. Instead, property law can evolve to integrate multiple stakeholders into land- use agreements, balancing economic activity with environmental stewardship.

One effective legal approach is the introduction of partial interests in land, which allows different entities to hold separate rights to a single property. This method has proven successful in various sustainability initiatives, particularly in the United States. Programs

[6] Id.
[7] Id.

like the Conservation Reserve Program (CRP) incentivize farmers to set aside land for ecological preservation while receiving financial compensation. Similarly, the Wetlands Reserve Program (WRP) enables the permanent protection of wetlands through conservation easements, ensuring environmental sustainability without fully revoking private ownership.

These models highlight the flexibility of property law in addressing sustainability challenges. Rather than relying solely on strict regulatory controls, governments can encourage land conservation through financial incentives, stakeholder inclusion, and voluntary agreements. By leveraging legal mechanisms that accommodate both environmental and economic interests, property law becomes a powerful tool for achieving long-term sustainability goals,[8]

Hence, green leases demonstrate how property law can drive sustainability by embedding environmental commitments into real estate agreements, balancing private rights with collective ecological goals. By promoting resource efficiency, urban density, and stakeholder collaboration, property law becomes a vital tool for achieving long-term environmental and economic stability.

III. CONCEPT AND LEGAL FRAMEWORK OF GREEN LEASE

In the previous chapter, we discussed the green lease system. Now, we turn to the concept and legal framework in the agreements adopting the green lease system by the parties of the agreement.

Green leases incorporate sustainability clauses that enforce or encourage environmentally responsible behaviour in real estate transactions. They can follow two primary models:

i. **Paternalistic Model:** One party (landlord or tenant) imposes sustainability obligations on the other.
ii. **Cooperative Model:** Both parties mutually agree on environmental objectives, ensuring shared responsibility and accountability.[9]

A. Key Features of Green Leases

Targets and Benchmarks: These include predefined sustainability goals related to energy efficiency, water conservation, and waste reduction.[10]

Ecologically Sustainable Development (ESD) Regulations: Indoor air quality standards,

[8] Keith D. Wiebe & Ruth Meinzen-Dick, Property Rights as Policy Tools for Sustainable Development, 15 Land Use Pol'y 203 (1998).
[9] S. Michael Brooks, Green Leases and Green Buildings, 22 Prob. & Prop. 23 (Nov.–Dec. 2008).
[10] Majingo, Johnson Kampamba, Simon Kachepa, Milidzani, & Abednico Wadingalo, An Evaluation of the Relevance of Current Traditional Leases in Commercial Properties as Compared to Green Leases, at 54 (Nov. 29–Dec. 1, 2018) (presented at Lusaka, Zambia).

materials sourcing, and recycling policies are included.

Performance Standards: The lease outlines the methodology for measuring environmental performance.

Dispute Resolution Mechanisms: Provisions address conflicts regarding compliance with sustainability goals.

Environmental Management Plans (EMP) and Green Lease Schedules (GLS): These frameworks, commonly found in Australia, guide sustainable building operations.

B. Legal Basis: National and International Laws on Green Leasing India

While India lacks statutory mandates for green leases, laws such as the Energy Conservation Act, 2001,[11] and the Environmental Protection Act, 1986,[12] encourage sustainability.

Additionally, Section 108 of the Transfer of Property Act, 1882, imposes an obligation on the lessee to prevent waste and maintain the property in good condition, which can be extended to incorporate sustainability measures in green leases. This provision aligns with green leasing principles by emphasizing responsible land use, conservation of resources, and preventing environmental degradation,[13]

Section 108 is particularly relevant in the context of energy efficiency, waste management, and water conservation—key components of green leases.[14] By mandating that the lessee ensures the property is not subjected to unnecessary deterioration, this provision creates a legal foundation for landlords to include clauses that promote sustainable practices. For instance, a green lease could require tenants to implement energy-efficient fixtures, maintain waste disposal systems, and use eco-friendly construction materials to ensure compliance with this legal duty.

Furthermore, this section supports voluntary sustainability frameworks like IGBC (Indian Green Building Council) and GRIHA (Green Rating for Integrated Habitat Assessment), which set green building standards. By integrating these guidelines into lease agreements, landlords and tenants can uphold the principles of Section 108 while actively contributing to India's broader environmental objectives.[15]

While not explicitly drafted for green leases, Section 108 of the Transfer of Property Act

[11] Energy Conservation Act, 2001, No. 52, Acts of Parliament, 2001 (India).
[12] Environment (Protection) Act, 1986, No. 29, Acts of Parliament, 1986 (India).
[13] Transfer of Property Act, 1882, § 108, No. 4, Acts of Parliament, 1882 (India).
[14] Id.
[15] Id.

 [ISSN 2581-5369]

provides a strong legal basis for enforcing sustainability clauses within lease agreements.[16] The incorporation of this provision into green lease frameworks enhances accountability, ensures long-term environmental conservation, and aligns with India's national sustainability goals.[17]

USA

Green leases align with LEED and Energy Star standards. Energy-aligned lease clauses and cost-sharing provisions facilitate energy-efficient building improvements.

Australia

Regulations like NABERS and Green Star set energy efficiency and waste management targets, mandating sustainability compliance in lease agreements.[18]

United Kingdom & Europe

The Minimum Energy Efficiency Standards (MEES) in the UK require buildings to achieve an EPC rating of "E" or higher. The EU Energy Performance of Buildings Directive (EPBD) ensures compliance with environmental performance targets.[19]

Thus, green leases integrate sustainability into real estate agreements through legally binding clauses, fostering environmentally responsible behaviour. Supported by national and international laws, they promote energy efficiency, resource conservation, and shared accountability, aligning property law with global sustainability goals.

IV. ROLE OF PROPERTY LAW IN PROMOTING SUSTAINABLE DEVELOPMENT: A LEGAL PERSPECTIVE

In the previous chapter, we studied the concept and legal framework in the agreements adopting the green lease system. In this chapter, we will discuss the role of property law in promoting sustainable development through a legal perspective.

Property law governs land-use rights, ensuring sustainability through conservation easements and legal incentives. Recognizing partial interests in land allows multiple stakeholders to hold different rights to the same property, fostering environmental conservation alongside economic use. Programs like the Conservation Reserve Program

[16] Id.
[17] JoAnne L. Dunec, Book Review, 32 Nat. Resources & Env't 60 (Summer 2017).
[18] Dave Collins, Green Leases and Green Leasing in Theory and in Practice: A State of the Art Review, 37 Facilities 813 (2019).
[19] Janda, Kathryn B., Susan Bright, Julia Patrick, Sara Wilkinson & Timothy J. Dixon, The Evolution of Green Leases: Towards Inter-Organizational Environmental Governance, 44 Bldg. Res. & Info. 660 (2016), https://doi.org/10.1080/09613218.2016.1142811.

(CRP) in the US provide financial incentives to landowners for sustainable land use.[20]

Traditional v. Green Leases: A Legal Perspective

Traditional leases prioritize financial transactions without giving concern to any kind of sustainability commitments. In contrast, green leases integrate energy efficiency, waste management, and water conservation clauses, promoting long-term cost savings and reduced carbon footprints. However, green lease adoption faces barriers such as financial constraints and regulatory enforcement challenges.[21]

How Property Law Can Mandate or Incentivize Green Leases?

Property law mandates green leases through zoning laws, environmental regulations, and minimum energy standards. Economic incentives, such as tax benefits, grants, and carbon credits, encourage landlords and tenants to adopt green lease provisions. Sustainable property laws must also protect traditional land users in developing regions, ensuring fair access to resources.[22]

Hence, property law plays a pivotal role in advancing sustainable development by mandating green leases through regulations and incentivizing them via financial mechanisms. By balancing economic interests with environmental conservation, property law ensures equitable resource access and fosters long-term ecological stability.

V. GREEN LEASE OBLIGATIONS AND ENFORCEMENTS

In the previous chapter, we studied the role of property law in promoting sustainable development. In this chapter, we will discuss the obligations and enforcements of the green lease system.

A. Landlord and Tenant Responsibilities in a Green Lease

According to Brooks et al. (2008), there are two approaches to negotiating Green Leases with prospective lessees. The "paternalistic" approach involves prescribing sustainable clauses to the lessee, whereas the "co-operative" model fosters discussion on mutual objectives, liabilities, and obligations of both parties. A balanced dialogue regarding potentially complex Green Lease clauses could mitigate tensions associated with issues such

[20] Keith D. Wiebe, USDA Economic Serv., Room 4202, 1800 M St. NW, Washington, DC 20036-5831, U.S.A., Tel.: (202) 694-5529, Fax: (202) 694-5774.
[21] Majingo, Johnson Kampamba, Simon Kachepa, Milidzani, & Abednico Wadingalo, An Evaluation of the Relevance of Current Traditional Leases in Commercial Properties as Compared to Green Leases, at 54 (presented at the 29th Nov.–1st Dec. 2018 Lusaka–Zambia).
[22] Keith D. Wiebe, USDA Economic Serv., Room 4202, 1800 M St. NW, Washington, DC 20036-5831, U.S.A., Tel.: (202) 694-5529, Fax: (202) 694-5774.

 [ISSN 2581-5369]

as the "split incentive."[23]

Additionally, legislative compliance obligations influence lease agreements. For example, the UK's Carbon Reduction Commitment imposes regulatory duties on landlords, prompting a more rigid approach to Green Lease negotiations.[24] However, Collins et al. (2016) argue that legislative compliance alone may not be a primary driver of Green Lease adoption.[25]

B. Compliance Mechanisms and Legal Enforcement

Key compliance mechanisms in Green Leases include sustainability statements, environmental plans, and data-sharing clauses. These mechanisms establish frameworks for improving resource efficiency and environmental performance:

Sustainability Statement – Both parties express a commitment to enhancing energy efficiency.

Environmental Plan – Agreements to adopt policies that reduce emissions, energy use, and waste, often in good faith but sometimes legally binding.

Data Sharing – Obligations on landlords and tenants to exchange resource usage data, sometimes with confidentiality provisions.

Some leases explicitly impose obligations, such as "*to comply with the environmental plan*", while others provide flexibility by stating compliance should be "economic and practically feasible." Legal enforceability varies, with some clauses serving as non-binding good-faith commitments and others integrated as binding contractual terms.

C. Case Studies: Successful Green Lease Models

Corporate branding plays a crucial role in Green Lease adoption. Collins et al. (2016) emphasize that enhancing corporate identity is a strong driver for both landlords and tenants.[26] A notable example is Jones Lang LaSalle, a Chicago-based property management firm. Their marketing material promotes Green Leases as supporting sustainability objectives and enhancing tenants' corporate reputations. They appeal to potential lessees by

[23] S.M. Brooks, A. Counsel & L. Berlis, Green Leases: The Next Step in Greening Commercial Buildings, Paper Presented at the Green Real Estate Summit 2008: What Attorneys, Developers, Bankers and Regulators Need to Know (2008).
[24] Sarah Bright, Carbon Reduction and Commercial Leases in the UK, 2 Int'l J.L. Built Env't 218 (2010), https://doi.org/10.1108/17561451011087319.
[25] Collins, D., Junghans, A., & Haugen, T., Green Leasing in Theory and Practice: A Study Focusing on the Drivers and Barriers for Owners and Tenants of Commercial Offices (paper presented at the CIB World Building Congress 2016, Tampere, Fin., 2016).
[26] Id,

 [ISSN 2581-5369]

framing Green Leases as a reflection of industry leadership and vision.[27]

Another example could be Another example of a tailored approach can be found in the work of Energy and Technical Services (ETSL), a New Zealand-based global facilities management company specializing in Green Lease compliance. ETSL follows a holistic approach to Green Lease-oriented contracts, assisting with tenant improvements, waste disposal, environmental management plans, and compliance with sustainable regulations. Their promotional material highlights their commitment to ensuring that "both parties are meeting their obligations under the Green Lease".[28]

DLA Piper (2014) emphasizes the importance of leveraging Facility Managers (FMs) in implementing Green Leases. They recommend incorporating sample clauses that require landlords to immediately inform facility managers about Green Lease provisions to ensure sustainable use and compliance with negotiated terms. This approach helps streamline implementation and ensure adherence to sustainability commitments.[29]

Furthermore, Green Lease agreements often align with corporate social responsibility (CSR) goals, benefiting tenants by:

- Demonstrating CSR compliance and improving brand reputation.
- Encouraging building improvements that generate cost savings.
- Enhancing staff recruitment and retention through improved workplace environments.
- Facilitating better data collection on environmental and social performance.
- Strengthening relationships between landlords and tenants through collaborative sustainability efforts.

The evolution of Green Lease clauses demonstrates their increasing integration into property law. Early attempts at categorization, such as the Better Buildings Partnership (BBP) Green Lease Toolkit (2009), proved inadequate in fully capturing the variety of Green Lease provisions. Instead, clauses now fall into broader categories such as environmental performance obligations, yielding-up provisions, and energy performance certificates, reflecting the growing complexity and adaptability of Green Lease agreements.[30]

[27] Jordan, M., 10 Reasons for a Green Lease (Apr. 22, 2013),https://www.jllblog.com/greenblog/2013/04/22/10-reasons-for-a-green-lease (last visited Apr. 22, 2013).
[28] ETSL, Green Lease Process, ENERGY TECH. SERVS. LTD. (2016), https://www.energyts.com/index.php?option=com_content&view=article&id=35&Itemid=31.
[29] Dave Collins, Green Leases and Green Leasing in Theory and in Practice: A State of the Art Review, 37 Facilities 813 (2019).
[30] Id.

 [ISSN 2581-5369]

Hence, Green Leases represent a crucial intersection between property law and sustainability, offering both regulatory compliance and corporate benefits. Their success depends on well-balanced legal obligations, tenant-landlord cooperation, and evolving enforcement mechanisms to ensure long-term environmental impact.

VI. CHALLENGES PRESENT IN THE SYSTEM

In the previous chapter, we examined the obligations and enforcements of the green lease system. Now, we turn to the significant challenges faced by parties in the agreements adopting the green lease system.

A. Legal and Contractual Barriers

One of the key challenges in implementing green leases is the variability in their enforceability. While lease clauses are legally binding in principle, many clauses within green leases are intentionally structured as non-binding agreements. Case studies have shown that clauses committing parties to agree on an environmental plan often fall under "good faith" obligations rather than being legally enforceable. For instance, one case study found that most of these agreements were non-binding, and even Memoranda of Understanding (MoUs) were largely symbolic, with rare exceptions where legally binding MoUs were referenced.[31]

In Sydney Better Buildings Partnership (BBP) study, it was observed that green lease clauses that included clear remedial consequences for breach were relatively rare. Even in cases where such clauses were legally binding, their enforcement was often weak. Provisions requiring tenants to "exercise reasonable endeavours" or "cooperate" lacked specificity, making it difficult to establish breach and enforce penalties. In English contract law, the enforceability of such provisions remains ambiguous, further reducing their effectiveness. Research conducted through the WICKED project indicated that parties rarely seek legal enforcement of green lease clauses, even when a breach is evident.

Lease enforcement is also limited by practical constraints. For example, at the termination of a lease, landlords in the UK issue a Schedule of Dilapidations, while in Australia, a "Make Good" schedule is prepared. While these documents outline necessary repairs and compliance obligations, enforcement is dependent on several factors, and tenants often walk away without fulfilling all lease obligations.[32]

[31] Rowling, J. Can Dilapidations Be Improved? 1 J. Bldg. Surv., Appraisal & Valuation 106 (2012).
[32] Id.

Additionally, despite the role of leases as "local law" between landlords and tenants,[33] the relatively low ambition and enforceability of green lease clauses suggest that they serve more as symbolic agreements rather than having a material environmental impact. This is similar to the characteristics of Voluntary Environmental Programs (VEPs), whose impact has also been difficult to quantify.[34]

B. Economic Feasibility and Market Resistance

A major barrier to the adoption of green leases is their economic feasibility and the resistance from market participants. Tenants, in particular, express reluctance to undertake environmental improvements for two primary reasons. First, their interest in the property is typically short- term, and any long-term benefits from sustainability improvements would ultimately accrue to the landlord. Second, despite potential protections within lease agreements, tenants fear that sustainability upgrades could lead to increased rental costs, thereby negating any financial savings from reduced energy consumption.[35]

Despite these concerns, some tenants are making sustainability-driven changes where financially viable. These changes include increasing office occupation intensity, improving recycling practices, and implementing energy-efficient measures. However, these steps are typically limited to actions that do not impose significant financial burdens or require structural modifications to the property. Revenue savings and financial incentives remain the primary motivators for such tenant-led sustainability initiatives, rather than corporate responsibility objectives.[36]

Landlords also face challenges in financing green lease provisions. The Sydney Better Buildings Partnership (BBP) study examined various green leases and highlighted differences in financial structuring. Notably, the Sydney BBP model includes provisions that allow landlords to recover the costs of environmental improvements through service charges. However, these clauses face resistance in both Australia and the UK, where market reluctance to pass on environmental costs to tenants remains high.[37] The UK BBP green lease model, in contrast, does not include such provisions, limiting the scope for landlords to recoup investment costs.

[33] Michael P. Vandenbergh, The Private Life of Public Law, 105 Colum. L. Rev. 2029 (2005).
[34] J.C. Borck & Cary Coglianese, Voluntary Environmental Programs: Assessing Their Effectiveness, 34 Ann. Rev. Env't & Res. 305 (2009).
[35] Kathryn B. Janda et al., The Evolution of Green Leases: Towards Inter-Organizational Environmental Governance, 44 Building Res. & Info. 660 (2016).
[36] Id.
[37] Roussac, A. C., & Bright, S. Improving Environmental Performance Through Innovative Commercial Leasing: An Australian Case Study. 4 Int'l J.L. Built Env't 6 (2012).

 [ISSN 2581-5369]

A further economic barrier arises in rent review mechanisms. The UK BBP green lease model mandates that tenant-led environmental improvements should be disregarded during rent reviews, whereas landlord-led improvements may be factored in. Conversely, the Sydney BBP model considers NABERS ratings achieved by either party in rent adjustments. Such differences in approach further complicate the economic feasibility of green leases across different jurisdictions.

C. Lack of Standardization in Green Lease Agreements

There is no universally accepted definition of what constitutes a "green lease," leading to significant variation in contractual terms and sustainability commitments. Green leases range from minimal "light green" clauses, such as general commitments to sustainability cooperation, to "dark green" clauses that set specific environmental targets and performance metrics. The Sydney BBP study found that some green leases contained only a single, broad commitment to environmental collaboration, while others included multiple ambitious clauses aimed at achieving high sustainability standards.[38]

A comparison between UK and Sydney BBP precedent model clauses, as well as those used in Cases 1 and 3, revealed certain commonalities. For example, most green leases include a general commitment to improving environmental performance and require cooperation on data sharing related to sustainability outcomes. These leases also typically restrict tenants from making alterations that would negatively impact environmental performance and include provisions for issuing energy performance certifications (e.g., BREEAM in the UK, NABERS and Green Star in Australia). However, key differences exist in more ambitious clauses. The Sydney BBP model uniquely allows landlords to make environmental improvements and recover costs through service charges; an approach largely absent in the UK.[39]

The market adoption of green leases is also highly uneven. Studies indicate that green leases are more prevalent in office buildings than in retail properties. Within the office market, adoption is largely concentrated in prime properties within major central business districts (CBDs) of cities such as London and Sydney. For example, in Sydney, green lease adoption rates are approximately 80% in prime properties but drop to 60% in sub-prime properties (Case 4). In contrast, green lease adoption in smaller commercial properties and secondary markets remains limited, suggesting that broader market penetration is unlikely.

[38] Kathryn B. Janda et al., The Evolution of Green Leases: Towards Inter-Organizational Environmental Governance, 44 Building Res. & Info. 660 (2016).
[39] Id.

 [ISSN 2581-5369]

The motivations for adopting green leases also vary. While corporate social responsibility (CSR) considerations play a role, financial incentives such as lower operating costs are the primary drivers.[40] Buildings with sustainability credentials, such as BREEAM or LEED certification, may be more attractive to tenants, but these factors alone do not guarantee widespread green lease adoption.

D. Evolution of Stakeholder Roles in Green Lease Adoption

The development and adoption of green leases have reshaped the roles of key stakeholders, particularly landlords, tenants, and facilities managers. Traditionally, lease agreements were dictated by landlords in a "paternalistic" manner. However, green leases have introduced a "cooperative" approach, shifting lease development towards more balanced negotiations between landlords and tenants. This shift strengthens the feedback and negotiation mechanisms between stakeholders, aligning lease agreements with sustainability goals while maintaining commercial viability.[41]

For landlords, green leases present new opportunities for commercial promotion and differentiation in the market. The growing emphasis on CSR and branding in property management has forced landlords to reconsider how they present their buildings to prospective tenants. In turn, this has influenced the structuring of lease agreements, with landlords seeking to balance sustainability commitments with financial incentives.

Tenants in green-leased buildings also experience changes in their roles and responsibilities. Beyond their traditional obligations of rent payment and property use, tenants may now have legally binding commitments to operate their spaces in an environmentally sustainable manner. These obligations could include meeting energy efficiency targets, waste reduction measures, and compliance with broader sustainability standards.

Facilities managers (FMs) also see a strengthening of their role in green-leased buildings. They are increasingly responsible for ensuring compliance with sustainability provisions, managing data collection through sub-metering, and overseeing green procurement practices. However, challenges arise in cases where tenants outsource FM services for specific tasks, such as cleaning or maintenance. It remains unclear whether outsourced FM providers will be required to adhere to the sustainability mandates of the green lease or if this will lead to a dual-FM system, with separate responsibilities for landlord-managed and

[40] Collins, D., Junghans, A., & Haugen, T., Green Leasing in Theory and Practice: A Study Focusing on the Drivers and Barriers for Owners and Tenants of Commercial Offices (paper presented at the CIB World Building Congress 2016, Tampere, Fin., 2016).
[41] Dave Collins, Green Leases and Green Leasing in Theory and in Practice: A State of the Art Review, 37 Facilities 813 (2019).

tenant-managed services.[42]

VII. Future of green lease: way ahead for the system throughout the world

In the previous chapter, we studied the challenges faced by the green lease system. In this chapter, we will discuss the way ahead for this system throughout the world, focusing on the reforms and steps necessary to strengthen their functioning and effectiveness.

A. Recommendations for Strengthening Green Leasing Practices

One of the key challenges in the adoption of green leases is the lack of understanding among tenants. The research highlighted that tenants in the UK have limited awareness of what constitutes a green lease, primarily because these leases are a relatively new concept. This lack of knowledge has led to scepticism, as tenants fear that green leases may impose additional financial liabilities on them. Furthermore, the absence of a standardized set of terms for green leases discourages tenants from signing them, as they are uncertain about the obligations and benefits involved. Unless green leases are perceived as a tool to help tenants manage their occupation efficiently, they are likely to face resistance.[43]

A critical factor in overcoming this scepticism is the development of trust between landlords and tenants. The research revealed that distrust was a major barrier to the widespread adoption of green leases. To move forward, a shared understanding of the benefits and financial implications of such leases must be established. The real estate industry would benefit from deeper discussions on the typologies of green leases, ensuring that the concept is not solely associated with energy efficiency but also encompasses broader environmental and social impacts related to building occupation and management.[44]

B. The Role of Technology and Smart Contracts

The research indicated that while standard commercial leases do not inherently prevent sustainability initiatives, they also do not actively promote them. The success of green leases depends on both landlords and tenants being willing to adopt sustainable measures. However, many commercial leases do not provide tenants with sufficient incentives to invest in capital improvements that enhance environmental performance. Similarly, landlords often hesitate to undertake such improvements when the financial benefits, such as

[42] Id.
[43] Sarah Sayce et al., Greening Leases: Do Tenants in the United Kingdom Want Green Leases?, 8 J. Retail & Leisure Prop. 273 (2009).
[44] *Id.*

 [ISSN 2581-5369]

lower energy costs, primarily accrue to tenants.

A more effective way forward could involve introducing Memoranda of Understanding (MoUs) as a foundation for negotiating lease terms that provide financial and reputational benefits for both parties. The study found that tenants were particularly receptive to this approach, seeing MoUs as a practical step toward fostering collaboration. Additionally, the impact of the 2007 Commercial Lease Code, despite being advisory, demonstrated that non-mandatory agreements could positively influence behaviour. Following the research, the Better Buildings Partnership developed an MoU in 2009, further supporting the integration of sustainability principles in lease negotiations.[45]

Another significant finding was the need for improving and sharing sustainability metrics. Many tenants already collect extensive data on building operations, which could be leveraged to enhance cooperation between landlords and tenants. By sharing data, parties can develop benchmarking schemes to identify areas for improvement and foster collaborative sustainability efforts. The research concluded that establishing a national framework for data collection would be essential to drive this initiative. However, it is crucial that such a framework is developed within the real estate industry to account for the complexities of the UK market.[46]

C. Potential Reforms in Property Law to Encourage Sustainable Leases

The research found that regulations promoting environmental and social sustainability are likely to become more stringent over time. One example is the Carbon Reduction Commitment Programme, which is expected to significantly impact landlords and tenants in the near future. Additionally, Energy Performance Certificates (EPCs), which were initially met with scepticism, have been recognized for their potential to increase transparency in the real estate market and encourage landlords to undertake sustainability improvements.[47]

However, the findings suggest that if the government aims to drive substantial change, future regulations might include mandatory sustainability requirements. If this happens, the real estate industry must find ways to integrate compliance requirements into lease agreements without creating operational inefficiencies for tenants. A key recommendation from the study was that any new regulations should be designed with incentives rather than penalties, ensuring that tenants are encouraged to comply rather than burdened with

[45] Kathryn B. Janda et al., *The Evolution of Green Leases: Towards Inter-Organizational Environmental Governance*, 44 Building Res. & Info. 660 (2016).
[46] *Id.*
[47] *Id.*

 [ISSN 2581-5369]

additional liabilities. Furthermore, to ensure practical implementation, regulatory frameworks must be developed in consultation with key stakeholders in the property industry.[48]

D. Case Study: Energy-Aligned Lease Model in New York City

A notable example of how green lease provisions have been successfully incorporated into commercial leasing is the Energy-Aligned Lease model in New York City. As green lease provisions began appearing in Class A buildings, property owners who had already obtained or were in the process of obtaining sustainability certifications started including sustainability clauses in their lease agreements.[49]

A pioneering example of this approach was the lease agreement signed by the law firm WilmerHale with Silverstein Properties in 2011 for office space in 7 World Trade Centre. New York City Mayor Michael Bloomberg referred to it as a groundbreaking green lease agreement that incentivized energy efficiency (WilmerHale, Mayor Bloomberg Announces First Ever Lease for Commercial Office Space That Contains Groundbreaking Language That Incentivizes Energy Efficiency, Apr. 5, 2011). This agreement introduced the concept of the Energy-Aligned Lease, which was developed with the National Resources Defence Council (NRDC).[50]

The traditional lease model provides little to no incentive for landlords to invest in sustainability improvements, as operating expenses are typically passed on to tenants. The Energy-Aligned Lease model addressed this issue by creating a mechanism where landlords and tenants shared both the costs and benefits of energy retrofits. Under this model, the landlord invests in energy-efficient upgrades, while the tenant pays a proportionate share of the projected savings over the lease term. This "split-incentive" approach allowed landlords to improve their properties' sustainability while ensuring that tenants benefited from lower operating costs.[51]

Following the success of this agreement, other landlords in New York City began adopting similar sustainability clauses in their leases. The case of 7 World Trade Center demonstrated that with the right financial incentives and legal frameworks, landlords and tenants could collaborate to achieve sustainability goals while maintaining financial viability.In conclusion, a combination of structural reforms, timely appointments, enhanced

[48] *Id.*
[49] Richard J. Sobelsohn, Trends in Green Leasing: From the Early Days to Today, 30 Prob. & Prop. 40 (Mar./Apr. 2016).
[50] *Id.*
[51] *Id.*

independence, and proper jurisdictional clarity is essential for improving the tribunal system in India. These reforms will not only enhance the effectiveness of tribunals but also ensure that they serve their intended purpose—providing accessible, efficient, and impartial justice.[52]

Hence, by aligning financial incentives with sustainability objectives, green leases can benefit both landlords and tenants, ensuring long-term economic and environmental gains. Moving forward, policymakers, real estate stakeholders, and tenants must collaborate to develop legal frameworks that encourage sustainable practices while maintaining operational efficiency.

VIII. CONCLUSION

In conclusion, this study emphasizes the importance of a comprehensive evaluation of the green lease system to identify and address these challenges. The research underscores that while green leases hold immense potential in promoting sustainable development, several barriers must be addressed for their widespread adoption. A lack of understanding, limited incentives for both landlords and tenants, and regulatory uncertainty are some of the key challenges. However, by implementing reforms such as standardized lease terms, trust-building initiatives, integration of MoUs, improved data sharing, and incentive-driven regulations, green leases can become a powerful tool for driving sustainability in the real estate sector.

Green leases represent a pivotal intersection between property law and sustainable development, offering a structured legal approach to reducing environmental impact. This research highlights that while property law can incentivize green leasing through regulatory mandates and financial benefits, challenges such as market resistance and legal ambiguities persist. Successful models like the Energy-Aligned Lease in New York demonstrate that sustainability and profitability can coexist. Moving forward, integrating standardized green lease terms, leveraging technology, and refining legal frameworks will be crucial. With proper policy support and stakeholder collaboration, property law can be a powerful tool in advancing global sustainability goals.

*****

[52] *Id.*

 [ISSN 2581-5369]

IX. BIBLIOGRAPHY

Statutes

1. Energy Conservation Act, 2001, No. 52, Acts of Parliament, 2001 (India)
2. Environment (Protection) Act,1986, No. 29, Acts of Parliament, 1986 (India)
3. Transfer of Property Act, 1882, § 108, No. 4, Acts of Parliament, 1882 (India)

Other Authorities

1. Batty, *Paradoxes of Sustainable Development: Property and Participation*, 24 Prop. Mgmt. 207 (2006)
2. Collins, D., Junghans, A., & Haugen, T., *Green Leasing in Theory and Practice: A Study Focusing on the Drivers and Barriers for Owners and Tenants of Commercial Offices* (paper presented at the CIB World Building Congress 2016, Tampere, Fin., 2016)
3. Dave Collins, *Green Leases and Green Leasing in Theory and in Practice: A State of the Art Review*, 37 Facilities 813 (2019)
4. ETSL, *Green Lease Process*, ENERGY TECH. SERVS. LTD. (2016), https://www.energyts.com/index.php?option=com_content&view=article&id=35&Itemid= 31.
5. J.C. Borck & Cary Coglianese, *Voluntary Environmental Programs: Assessing Their Effectiveness*, 34 Ann. Rev. Env't & Res. 305 (2009)
6. Janda, Kathryn B., Susan Bright, Julia Patrick, Sara Wilkinson & Timothy J. Dixon, *The Evolution of Green Leases: Towards Inter-Organizational Environmental Governance*, 44 Bldg. Res. & Info. 660 (2016), https://doi.org/10.1080/09613218.2016.1142811
7. JoAnne L. Dunec, Book Review, 32 Nat. Resources & Env't 60 (Summer 2017).
8. Jordan, M., *10 Reasons for a Green Lease* (Apr. 22, 2013), https://www.jllblog.com/greenblog/2013/04/22/10-reasons-for-a-green-lease (last visited Apr. 22, 2013)
9. Kathryn B. Janda et al., *The Evolution of Green Leases: Towards Inter-Organizational Environmental Governance*, 44 Building Res. & Info. 660 (2016)

 [ISSN 2581-5369]

10. Keith D. Wiebe & Ruth Meinzen-Dick, *Property Rights as Policy Tools for Sustainable Development*, 15 Land Use Pol'y 203 (1998)

11. Keith D. Wiebe, USDA Economic Serv., Room 4202, 1800 M St. NW, Washington, DC 20036- 5831, U.S.A., Tel.: (202) 694-5529, Fax: (202) 694-5774.

12. Majingo, Johnson Kampamba, Simon Kachepa, Milidzani, & Abednico Wadingalo, *An Evaluation of the Relevance of Current Traditional Leases in Commercial Properties as Compared to Green Leases*, at 54 (Nov. 29–Dec. 1, 2018) (presented at Lusaka, Zambia). 9 Majingo, Johnson Kampamba, Simon Kachepa, Milidzani, & Abednico Wadingalo, *An Evaluation of the Relevance of Current Traditional Leases in Commercial Properties as Compared to Green Leases*, at 54 (presented at the 29th Nov.–1st Dec. 2018 Lusaka– Zambia)

13. Michael P. Vandenbergh, The Private Life of Public Law, 105 Colum. L. Rev. 2029 (2005). 17 Nathan A. Canova, *Greening the Traditional Commercial Lease: Building a Case for Sustainable Commercial Real Estate through Economically Profitable Green Leases*, 61 DRAKE L. REV. 883 (2013)

14. Richard J. Sobelsohn, Trends in Green Leasing: From the Early Days to Today, 30 Prob. & Prop. 40 (Mar./Apr. 2016)

15. Roussac, A. C., & Bright, S. *Improving Environmental Performance Through Innovative Commercial Leasing: An Australian Case Study. 4 Int'l J.L. Built Env't* 6 (2012).

16. Rowling, J. *Can Dilapidations Be Improved?* 1 J. Bldg. Surv., Appraisal & Valuation 106 (2012)

17. S. Michael Brooks, *Green Leases and Green Buildings*, 22 Prob. & Prop. 23 (Nov.–Dec. 2008).

18. S.M. Brooks, A. Counsel & L. Berlis, Green Leases: The Next Step in Greening Commercial Buildings, Paper Presented at the Green Real Estate Summit 2008: What Attorneys, Developers, Bankers and Regulators Need to Know (2008)

19. Sarah Bright, *Carbon Reduction and Commercial Leases in the UK*, 2 Int'l J.L. Built Env't 218 (2010), https://doi.org/10.1108/17561451011087319

20. Sarah Sayce et al., *Greening Leases: Do Tenants in the United Kingdom Want Green Leases?*, 8 J. Retail & Leisure Prop. 273 (2009)

*****