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It's a WashMu! Landlords Fear Gaping Spaces as F.D.I.C. Mulls Nuclear Option

It's not easy transforming the demonized landlords who homogenized New York City streets with a seemingly endless supply of storefront banks into sympathetic victims. But the federal government, rarely the achiever of the impossible, has done just that.

Here's how. As *The Observer* reported last month, the F.D.I.C.'s October agreement with JPMorgan Chase and Washington Mutual allows Chase to pick and choose which of the city's 148 Washington Mutual branches it will keep. Chase will then turn over the rejects to the F.D.I.C. But here's the kicker: According to sources, the F.D.I.C. can then simply terminate the leases of those rejected branches, all contractual obligations void. Though, Andrew Gray, an F.D.I.C. spokesman, indicated that landlords should not entirely give up hope on some form of compensation.

"The landlord could file a claim against the general receivership and would then become part of the general creditor class," he said, referring to the legal entity made up of WaMu liabilities not acquired by JPMorgan Chase. "There is some money in the WaMu receivership. ... I'm

not going to speculate on the size of payments. We'll see once those contracts are worked through."

That's not how these things normally work, according to Jonathan Mechanic, chairman of Fried Frank's real estate department.

"If a tenant files for bankruptcy, then the landlord has a cap on his damages equal to the greater of one year's rent or 15 percent of the rent of the remaining lease term not to exceed three years," Mr. Mechanic said. Precisely put.

Needless to say, WaMu's bankruptcy, coupled with the F.D.I.C.'s lack of rent obligations, have left city landlords, many of whom invested hundreds of thousands of dollars in luring WaMu into retail spaces, feeling screwed. What better Christmas present than an empty retail space in the middle of a recession!

Francis Greenburger, chairman and CEO of Time Equities Inc. and owner of 2554 Broadway, will not be sending the F.D.I.C. a thank-you note. About five years ago, Mr. Greenburger's firm spent more than half a million dollars wooing WaMu, which ultimately took more than 3,000 square feet at his building's 96th Street corner. The



branch has about five years left on its 10-year lease.

"We're anticipating that Chase gives [our WaMu branch] back to the F.D.I.C., and then the F.D.I.C. gives it back to us," Mr. Greenburger said. "Chase has a branch directly across the street.

"We're in the middle of a recession, the worst recession since the Great Depression," Mr. Greenburger glumly pointed out. "It's going to be difficult to find a tenant."

Thomas Eschmann feels his pain. Mr. Eschmann owns 1379 Sixth Avenue, an 18-story building with a WaMu occupying 3,800 square feet at its 56th Street corner.

"I think I'm going to make it a car wash," quipped Mr. Eschmann, as he eyed, through his office window, the two-story Chase across the street. "I think [WaMu is] going to be out by September."

That's quite an ugly surprise for Mr. Eschmann, who thought he had WaMu locked in place through July 2015, when the bank's 10-year lease expires. But he isn't wallowing. "We're probably going to start marketing the space next week," he said. "We hope to be able to find someone at the same rent. In this economy, we'll see if it happens."

At least Mr. Eschmann has some sense of what's coming. Most landlords we spoke with had no idea what the future would bring.

Eric McPhee, who manages 1221 Madison Avenue for Orsid Realty Corp., said the status of the WaMu there remains up in the air.

Rubin Margules, the managing owner of 20 Avenue A, is similarly in the dark. "They're paying their rent, no interruption," Mr. Margules said. "I'm keeping my fingers crossed."

So, too, is Kenneth Kahn, who owns 835 Broadway. "We're about the only [bank] in Union Square in that area," Mr. Kahn said. "I'm hoping."