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# MONTREAL REAL ESTATE LEASING CONFERENCE

Tuesday, April 24, 2012 • Hyatt Regency Montreal

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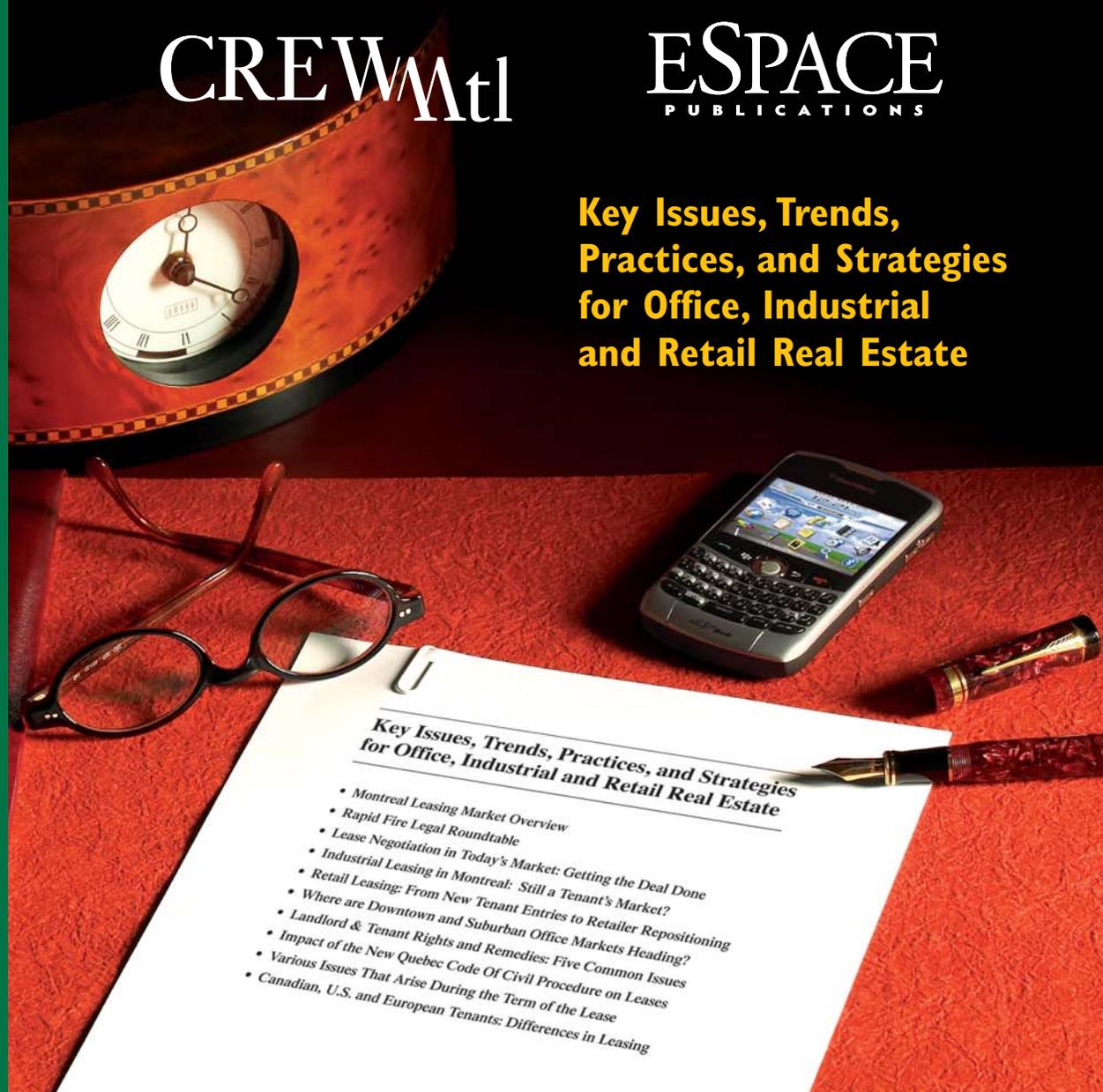
**Key Issues, Trends,  
Practices, and Strategies  
for Office, Industrial  
and Retail Real Estate**

## HOST

Andrew Cross

## PRESENTERS

David Azran  
Stéphanie Beauregard  
Mario Bédard  
Nathalie Bédard  
Marie-France Benoit  
Andrew Bissett  
Anne Boutin  
Richard Burgos  
Nathalie Caron  
Marise Chabot  
Steven Chaimberg  
Mireille Cloutier  
Philippe Colivas  
Robert Cressaty  
Chantal Desjardins  
Marie-France Desrochers  
Nancy Des Rosiers  
Luciano D'Iorio  
Louis-Martin Dubé  
Emilio Elisio  
John Faratro  
Paul Fischlin  
Eric Foster  
René Gauthier  
Robert Giglio  
Tom Godber  
Frederic Labrie  
Julie Lanteigne  
Luc Lavigne  
Danielle Lavoie  
Peter Macpherson  
James Papadimitriou  
Denis Paquin  
Richard Poirier  
Paul-Éric Poitras  
Dan Rejwan  
Laurent Roy  
Jason Silver  
Judy Taylor  
Céline Tessier  
Sam Tsoumas  
Renée Vézina  
Anne-Marie Williams



### Key Issues, Trends, Practices, and Strategies for Office, Industrial and Retail Real Estate

- Montreal Leasing Market Overview
- Rapid Fire Legal Roundtable
- Lease Negotiation in Today's Market: Getting the Deal Done
- Industrial Leasing in Montreal: Still a Tenant's Market?
- Retail Leasing: From New Tenant Entries to Retailer Repositioning
- Where are Downtown and Suburban Office Markets Heading?
- Landlord & Tenant Rights and Remedies: Five Common Issues
- Impact of the New Quebec Code Of Civil Procedure on Leases
- Various Issues That Arise During the Term of the Lease
- Canadian, U.S. and European Tenants: Differences in Leasing

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## TUESDAY, APRIL 24

7:15 a.m.

### REGISTRATION & CONTINENTAL BREAKFAST

8:00 a.m.

### HOW ARE THE MONTREAL OFFICE, RETAIL AND INDUSTRIAL LEASING MARKETS PERFORMING? HOW MUCH ACTIVITY AND DEAL FLOW CAN WE ANTICIPATE?



How much transaction activity has there been in the Montreal office, retail and industrial leasing market over the past twelve months? How would you describe deal flow and velocity in today's market? What are the current occupancy rates, rental rates, etc., and where are they heading? What are the anticipated absorption rates for 2012? What are the profiles of the tenants that are looking for space? How much of an emphasis is there on greener and more environmentally enhanced buildings in these market conditions? What is the outlook for the performance of the leasing markets Montreal in 2012 and beyond?

**Moderator:**

**Andrew Cross**, Publisher, ESpace Magazine

**Retail Market:**

**Frederic Labrie**, Director, Altus Group

**Industrial Market:**

**John Faratro**, Senior Vice President, Jones Lang LaSalle

**Office Market:**

**Tom Godber**, Senior Vice President, Principal, Avison Young Quebec

9:10 a.m.

### MORNING REFRESHMENTS

9:40 a.m.

### CONCURRENT SESSIONS (Select AA1 OR AA2)

#### SESSION AA1

### CIVIL CODE OF QUEBEC VS. COMMON LAW: WHAT MAJOR DIFFERENCES CAN AFFECT COMMERCIAL LEASES? HOW WILL THE NEW QUEBEC CODE OF CIVIL PROCEDURE IMPACT LEASES?



This session will examine the key differences between the Civil Code of Quebec and Canadian Common Law that can have implications for commercial real estate leasing. Some discussion will also focus on changes to the new Quebec Code of Civil Procedure. This session will bring some clarity to how all these differences and revisions can

affect the structure and interpretation of commercial leases in Quebec – from landlords' to tenants' rights and obligations. What lessons can be learned from case law and what recommendations should landlords, tenants, lawyers and brokers consider with respect to lease negotiations and drafting in the Montreal market? There will time set aside for the audience to ask questions.

**Moderator:**

**James Papadimitriou**, Partner, McCarthy Tétrault LLP

**Speakers:**

**Richard Burgos**, Partner, Lavery de Billy LLP

**Emilio Elisio**, Vice President, Legal Affairs, Ivanhoe Cambridge

**Renée Vézina**, Vice President, Legal, Oxford Properties Group

**Anne-Marie Williams**, Attorney, Audet Williams Inc.

#### SESSION AA2

### EMERGING TRENDS IN THE RETAIL LEASING MARKET: FROM NEW TENANT ENTRIES TO REPOSITIONING OF TRADITIONAL RETAILERS

This session will focus on some of the major trends and issues in the current retail real estate leasing market in Montreal from both the landlords' and the tenants' perspectives. Who are some of the new retailers poised to enter this market? How many traditional retailers are changing their merchandise mix, product lines and space requirements? One of the results is a blurring of retail lines between food and drugs, etc. How are some landlords responding to this trend? Why are there so many issues with exclusive use clauses? Are they poorly drafted or is it a function of market trends as retailers change their product offerings and reposition themselves? What impact do clauses in the master lease have regarding subleasing? What are the rights of the head tenant vs. the subtenants? How are mass transfers affecting the retail sector and what is and what isn't a mass transfer? How significant are any issues related to CAM costs?

**Moderator:**

**Danielle Lavoie**, Vice President, Client Services, Arcturus Realty Corporation

**Panel:**

**David Azran**, Director, Leasing, Cadillac Fairview Corporation Limited

**Nathalie Caron**, Director, Client Services, Oberfeld Snowcap

**Eric Foster**, Vice President, Leasing, Devimco Inc.

**Julie Lanteigne**, Lawyer, Real Estate Group, De Grandpré Chait LLP

10:45 a.m.

### CONCURRENT SESSIONS (Select BB1 or BB2)

#### SESSION BB1

### WHERE ARE THE DOWNTOWN AND SUBURBAN OFFICE MARKETS HEADING IN THE NEXT TWELVE MONTHS?



How has the office market performed in downtown Montreal vs. the outlying areas? How much unoccupied space is there currently on the market? Is there much subleasing activity? What are net effective rates heading at this time? What are projected long term rent trends? What will stimulate greater leasing activity? Which tenants are considering leaving the downtown core vs. those who are attracted to this location? What will likely happen in the remainder of 2012? How successful have landlords been as well as brokers on their behalf in rebranding or repositioning B and C class older office buildings vs. A space? How do landlords address the challenge of dealing with a tenant who is only in the market once every five or ten years? To what extent are any tenants pushing the demand for greener building environments? Is LEED certification a significant factor among tenants? What are the views of landlords in Montreal about greening their existing assets?

**Moderator:**

**Marie-France Benoit**, Director, Business Development, Altus InSite

**Panel:**

**Andrew Bissett**, Executive Vice President, Tenant Representation Services, Jones Lang LaSalle

**Peter Macpherson**, Senior Director, Leasing, Ivanhoe Cambridge

**Richard Poirier**, Senior Vice President, Leasing, Magil Laurentian Realty Corporation

**Dan Rejwan**, Director, Finance, Redbourne Realty Management Inc.

#### SESSION BB2

### LANDLORD & TENANT RIGHTS AND REMEDIES: FIVE COMMON DEFAULT SCENARIOS AND OTHER ISSUES THAT YOU NEED TO BE AWARE OF IN TODAY'S MARKET

Rights and remedies are an established common element of commercial real estate leases. They are at times contentious issues for landlords as well as to tenants. This panel will examine a range of issues beginning with five common default scenarios: what are the reactions of the respective parties; what makes sense; and how are litigators contending with these clauses where defaults occur. What are some sources of common conflict between a landlord and a tenant over special rights and how can they be avoided through the drafting process? Both landlords and tenants are trying to build flexibility and control into their leases. How can competing interests co-exist? How are litigators contending with these clauses where defaults occur? Learn how these issues are addressed from the perspective of a landlord, a tenant, and a litigator in today's market conditions.

**Moderator:**

**Louis-Martin Dubé**, Partner, Lavery de Billy LLP



**Panel:**

**Mireille Cloutier**, Lawyer, Fraser Milner Casgrain LLP

**Luciano D'Iorio**, President,  
Terramont Real Estate Services Inc.

**Céline Tessier**, Partner, McMillan LLP

**11:50 a.m.**

**INFORMAL LUNCHEON – NEW FORMAT!**

**MINI ROUNDTABLE DISCUSSIONS –  
WITH THE EXPERTS AND YOUR PEERS!**

Take advantage of this opportunity to participate in informal discussions on the dynamics of key legal issues, market trends, and transaction activity. Tap into the minds of experts, gain insight into proven strategies, and share experiences with your peers. You will have an opportunity to be part of one of the following small discussion groups that will be held as an extension of the luncheon. Choose from one of the following discussion topics:

1. Downtown Office Market
2. Suburban Office Market
3. Industrial Leasing Market
4. Strategies for Renewing Older Buildings
5. Retail Leasing Market Trends
6. Role of Social Media in Marketing and Leasing
7. The Continuing Debate Over Operating Costs
8. Green Buildings and Green Leases: An Update
9. Exit Strategies for Tenants and Landlords in This Market
10. Five Lease Clauses That Do Not Get Enough Respect

If your preference is to sit at another table, that is fine too! Several will be available for individuals to do their personal networking.

**1:00 p.m.**

**CONCURRENT SESSIONS (Select CC1 or CC2)**

**SESSION CC1**

**LEGAL, TECHNICAL & FINANCIAL ISSUES THAT  
CAN ARISE DURING THE TERM OF THE LEASE**

Changes that can arise during the term of the lease including subleasing, change of control, relocation et al. are prevalent commodities in the office, industrial and retail markets. It is important for both tenants and landlords to understand the key issues, the implications of all these changes, and their respective rights in the event of any of these situations. In this session, the panel will discuss various scenarios where changes arise during the term of the lease, how to deal with any related issues, and how to settle the matters in the best interest of both parties. Changes discussed will include:

- Technical issues (change of destination of part of building, change of use of premises, relocation, new owner, new tenant, change in the business of the tenant, etc.)
- Legal issues (change of control of tenant or owner, name change, change in laws)
- Financial issues (need for owner to compromise, for tenant to open up)

**Speakers:**

**Nathalie Bédard**, Partner, Donati Maisonneuve LLP

**Marise Chabot**, Commercial Real Estate Lawyer

**Nancy Des Rosiers**, Director, Real Estate Development, Yellow Group Inc.

**Judy Taylor**, Vice President, Leasing, Crofton Moore

**SESSION CC2**

**INDUSTRIAL LEASING TRENDS IN THE  
GREATER MONTREAL AREA: IS IT STILL  
A TENANTS' MARKET?**

The session will open with a brief overview of the demand side of the Montreal industrial market: logistics and warehousing vs. heavy uses. What are the major trends in this leasing market? What is the pace of deal flow? What are some examples of deals that have recently been completed? How does leasing compare in Laval and the North vs. the South Shore vs. the West Island and other submarkets? What type of space is becoming obsolete and what is not? How are industrial tenant requirements changing, and what recent landlord initiatives are addressing this demand? How have values of B and C buildings been impacted over the past year?

What does the future hold for these assets and other obsolete types of properties? What are the environmental challenges of dealing with contaminated sites?

**Moderator:**

**Paul-Éric Poitras**, Managing Partner, Quebec, NAI Commercial

**Panel:**

**Paul Fischlin**, Vice President, DTZ Barnicke

**Robert Giglio**, Director, Leasing,  
Bentall Kennedy (Canada) LP

**Jason Silver**, Director, Leasing, The Luger Group

**Sam Tsoumas**, Vice President, Leasing,  
Broccolini Construction

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TUESDAY, MAY 8, 2012 • HYATT REGENCY MONTREAL

(Simultaneous interpretation at all sessions for both Forums)

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**2:00 p.m.**

**CONCURRENT SESSIONS (Select DD1 or DD2)**

**SESSION DD1**

**UNDERSTANDING THE MAJOR DIFFERENCES BETWEEN U.S., EUROPEAN AND CANADIAN LEASES, PRACTICES, AND TENANT EXPECTATIONS**

This session will examine some of the most common differences in commercial real estate law and in leasing practices primarily with respect to Canada and the U.S. with some reference to European trends as well. When a Canadian landlord is negotiating a lease with a U.S. tenant, what are they potentially giving up? Discussion will focus on some of the key differences that can emerge in these lease negotiations and documentation. For example, a letter of intent is the preferred initial step, whereas in Canada an offer to lease is the most common practice. With respect to indemnities, of what does a Canadian landlord need to be careful? What happens if the guarantor is non-Canadian? The concept of distress is a common law right in Ontario but not across the border. Are U.S. tenants more likely to pursue rights of termination, self-help remedies and rent abatement? If that is the case, then how does a Canadian landlord finance their property when your tenant has termination rights? When the differences are very significant between their approach and Canadian practices, how do you resolve these issues? In the U.S. and Europe, tenants appear to have more clout because it is a much larger, more fragmented market with a very diverse cross-section of office, industrial and retail owners. The degree and level of sophistication can also vary considerably across the U.S.

**Moderator:**

**Denis Paquin**, Partner,  
Fasken Martineau DuMoulin LLP

**Speakers will include:**

**Anne Boutin**, Commercial Leasing Lawyer

**Philippe Colivas**, Partner, Holmsted & Associates

**Luc Lavigne**, Director, Client Services,  
Oberfeld Snowcap



**SESSION DD2**

**NEGOTIATING IN TODAY'S MARKET: HOW TO UNDERSTAND THE DEAL, RESOLVE KEY ISSUES AND CLOSE THE TRANSACTION. HOW ARE ASSET MANAGEMENT STRATEGIES AFFECTING LEASING STRATEGIES?**

What are the issues and sticking points when negotiating in today's market conditions and what are the arguments used to reach the middle ground? How do you determine NERs in this leasing environment? What are some of the major issues that being raised in negotiations today? What can be done to resolve these differences? Are there any particular creative ways to complete a successful transaction? How long should it take to finalize a deal? How are landlords responding to RFPs? Under what circumstances would an owner offer an inducement or allowance in this market? How is the increased entry of U.S. and other global firms into the Canadian market affecting negotiating strategies? How is risk being managed by the landlords and the tenants within the leasing process, e.g. tenant worthiness, covenants, security, landlord worthiness? How can leasing transactions and activities be influenced by, and differ among, various types of asset managers, e.g. an owner's view of risk and how it affects leasing, how important is tenant retention to building owners and managers vs. the asset manager, what practices do different owners follow in dealing with tenants during the life of a lease, and how do asset managers resolve differences in perspectives with leasing managers.

**Moderator:**

**Mario Bédard**, Senior Vice President,  
Quebec and the Maritimes,  
Bentall Kennedy (Canada) LP

**Panel:**

**Chantal Desjardins**, Founding Partner,  
Chantal Desjardins Law Office

**Robert Cressaty**, Vice President, Leasing &  
Advisory Services, Landmark Properties Inc.

**Marie-France Desrochers**, Senior Manager,  
Corporate Accounts, NFK Devencore

**Laurent Roy**, Partner, Gowlings LLP



**3:00 p.m.**

**CLOSING SESSION**

**RAPID FIRE LEGAL ROUNDTABLE: HOT TRENDS AND PUZZLING ISSUES IN 60 MINUTES**

A fast-paced session that will cover an assortment of "odds and sods" that people often experience in the leasing process and do not always fully understand. Each issue will be addressed by a legal expert in approximately five minutes, and a debate is sure to ensue with the other experts – and the audience. Among the questions that will be covered are the following:

- **Renewal Clauses, Tricks and Traps** – Renewal clauses have tremendous value for tenants, but how does a tenant make sure that its rights are properly exercised? What steps must be taken in the negotiation process? What happens if the parties cannot agree on the renewal rent?
- **"Make Good" Provisions** – What does it mean when a tenant has the obligation to return the leased premises in the condition they were in at the commencement date? If improvements were made to the leased premises, will the tenant have to remove them and restore the leased premises to their original condition? Would a lease renewal or a new lease provide an advantage to the tenant by pushing the base condition date forward? What if there is no proof of the original condition of the leased premises?
- **Dealing with the Outrageous Landlord or Tenant** – Surprise! There are limits to what the parties to a lease and their lawyers can foresee and try to protect against when drafting lease clauses. What do you do when you face a defaulting landlord or tenant who has a "sue me!" attitude and won't play by the rules?
- **How Tax Clauses Tax the Mind** – In multi-tenant properties, how are taxes to be apportioned to, and paid by, tenants? Does anybody really know?
- **A Clause You Thought Would Never Give You Grief** – The "Notice Clause", which provides address to which notices to the other party must be sent: (i) read it, (ii) live with it. The case of the landlord who did not want to hear that the tenant wished to exercise its option to cancel the lease.
- **What's the Use?** – The vagueness of the notion of "principal use" in exclusivity clauses was recently reaffirmed by the Court of Appeal. What does the Indigo case teach us about grey areas in leases? What is clear to lease geeks may not be clear to a judge. How do you ensure, without the benefit of cross-examination, that the lease reflects the true deal that the parties have made, and that the lease clauses are drafted in terms that are clear enough so that the "entire agreement" clause is not set aside by the Courts?

**Speakers:**

**Stéphanie Beauregard**, Attorney,  
Delegatus Legal Services Inc.

**Steven Chaimberg**, Partner,  
Lapointe Rosenstein LLP

**René Gauthier**, Partner, Gascon & Associates LLP

**4:00 p.m.**

**ADJOURNMENT**

**LE MONTRÉAL DU FUTUR – EXHIBITS OPEN**

**ANY QUESTIONS?**

Call: 1-888-806-7778 [www.realestateforums.com](http://www.realestateforums.com) and select "Montreal Leasing Conference"

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- 1. Register on-line** at [www.realestateforums.com](http://www.realestateforums.com) and select "Montreal Leasing"
- 2. Fax your registration** using a credit card:  
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- 3. Register by mail:**  
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10 Alcorn Ave., Suite 100  
Toronto, ON M4V 3A9*

**Accommodation**

Out-of-town registrants requiring accommodation, please call **Hyatt Regency Montreal** at 514-982-1234 or visit <http://montreal.hyatt.com>.

**Travel**

Porter airlines is offering the *Montreal Leasing Conference* attendees a 20% discount on all fare classes. Please book on line at [www.flyporter.com](http://www.flyporter.com) or call 1-888-619-8622 using the **promo code MREL12**.

**Refunds & Substitutions**

- REGISTRATION MODIFICATIONS (including delegate substitutions) made after Tuesday, April 17, 2012 will be subject to an administrative fee of \$50.
- REFUNDS will be provided for cancellations in writing prior to Tuesday, May 1, 2012. An administrative fee of \$75 will apply.

Please print legibly. For additional registrations from the same organization, please photocopy this form. **CONFIRMATION OF YOUR REGISTRATION WILL BE SENT BY E-MAIL. Deadline to register is April 17.**

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**PAYMENT INFORMATION**

(PLEASE CIRCLE YOUR CHOICES)

**APRIL 24  
HYATT REGENCY MONTREAL**

Please review the concurrent sessions in the *Montreal Real Estate Leasing Conference* program and circle your choices below. As space will be limited, seating will be on a "first come, first served" basis.

9:40 a.m.    **AA1** or **AA2**

10:45 a.m.    **BB1** or **BB2**

11:50 a.m.    **MINI ROUNDTABLE DISCUSSIONS**  
I would like to attend topic #: \_\_\_\_\_

1:00 p.m.    **CC1** or **CC2**

2:00 p.m.    **DD1** or **DD2**

**Montreal Real Estate Leasing Conference**

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- Please register me for *Le Montréal du futur Opening Ceremony & Reception April 24, 6:00 p.m. to 10:00 p.m.*

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