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September 12, 2013

Ms. Susan Cosper
Technical Director
File Reference No. 2013-270
Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, Connecticut 06856-5116

Delivered Electronically
Subject: Leases Exposure Draft

Dear Ms. Cosper:

Simon Property Group (Simon) welcomes this opportunity to respond to the request for comments from the Financial Accounting Standards Board (FASB) and International Accounting Standards Board (IASB) (the Boards) on the Boards' Leases Project Exposure Draft (ED).

Simon is an S&P 100 company and the largest real estate company in the U.S. The Company currently owns or has an interest in 325 retail real estate properties comprising 241 million square feet of gross leasable area in North America, Europe and Asia. Simon is headquartered in Indianapolis, Indiana and employs more than 5,500 people worldwide. The Company's common stock is publicly traded on the NYSE under the symbol SPG.

Simon is strongly committed toward improving the relevance and usefulness of its financial reporting and routinely provides input on proposals issued by the FASB and Securities and Exchange Commission (SEC) both individually and through our membership in the National Association of Real Estate Investment Trusts (NAREIT).

We support the Boards' efforts to continue to develop high-quality accounting standards and understand the Boards' strong desire to progress towards a unified set of financial reporting principles. Differences between U.S. Generally Accepted Accounting Principles (GAAP) and International Financial Reporting Standards (IFRS) have existed for an extended period of time which has impeded the comparability of similar reporting entities around the globe. We believe that improved clarity over the accounting and reporting principles for global organizations could dramatically improve comparability and aid end-users of the financial information in their investment-making decision processes.

Executive Summary

We have spent considerable time evaluating the accounting for leases, the implications of a new Leases standard, and the opportunities to improve consistency in the application of reporting over this activity central to our operation. We applaud the Boards' progress made on its most recent Leases ED as we strongly support the dual reporting model (Type A and Type B). We believe the current ED clearly recognizes that leases of property are fundamentally and economically different from leases of equipment. As a result, the application of a single model Leases standard would not provide a workable financial reporting model to users of financial statements.

Further, we concur with the appropriateness of:

- the definition of a "lease" and the determination and reassessment of the "lease term,"
- the policy election for accounting for short-term leases,
- considerations with respect to variable lease payments and performance or usage based payments, and
- the criteria used to differentiate a Type A lease from a Type B lease (see further comments below).

Though we strongly support the current conceptual framework in the ED, there are a few remaining aspects of the ED we believe should be further evaluated prior to reaching a final consensus on a Leases standard as further discussed below.

1. Lessor and Lessee Accounting For Long-Term Land Leases/Reporting Under a Dual Method

Lessor Accounting: It is common in our industry for certain major tenant (or "anchor") spaces of an operating property to be leased to a tenant on a long-term basis (15-40 years) whereas in-line spaces are typically leased for a much shorter period (2-10 years). Under the currently proposed ED, the present value of the lease payments required under a long-term lease may represent substantially all of (or be greater than) the fair value of the land, and as such would be accounted for as a Type A lease under the "receivable and residual approach," whereas the in-line spaces would be accounted for as a Type B leases.

This conclusion is not intuitive given the underlying consumption principal which underpins the classification requirements in the ED. Under the consumption principal, when a lessee has the right to acquire or consume more than an insignificant portion of the underlying asset, the lessor will follow the receivable and residual approach. This model would be extremely complex for leases of a portion of an asset as it involves allocating a cost basis to the portion leased for purposes of computing a gain or loss on each individual lease. Further, the NAREIT comment letter has shown that this model is not workable for multi-tenant properties. Even further, a portion of an individual property would be derecognized from the balance where other retail spaces would be retained on the balance sheet. This would be a highly subjective allocation that would likely lead to wide variation in application. Additionally, this would represent a very divergent accounting model for spaces within the same property, with the same business model and for which a fee interest has not been passed to a lessee as the vast majority of leases at a particular property would be accounted for under the Type B model.

Lastly, the very nature of the asset itself (land) would seem to contradict the consumption model applied to the leased asset. If a fee interest in land that is non-depreciable does not pass to the lessee, then there is effectively no consumption. Certain leases are more consistent with financing arrangements as the value of the underlying asset is used up or consumed during the period of the lease. In contrast, in a long-term property lease, the presumption that the value is "used up" over the lease may not be the case as the underlying residual land value would still remain (if not appreciate) at the end of the lease term.

Lessee Accounting: With respect to lessee accounting for long-term leases, our position on the ED is similar to that of our observations on lessor accounting. It is common for real estate companies to lease land which is often times necessitated as the land is owned by a governmental or quasi-governmental agency. In these cases, the land is not actually available for purchase by the lessee and must consequently be leased to the lessee to encourage development and/or a return by the owner. The very nature of the arrangement is not that of a financing as there is no effective lease-buy decision made upon commencement of the relationship as would be the case in many structured equipment leases.

Under current US GAAP, land leases are considered operating leases unless it is probable that a purchase option will be exercised. If the accounting in the ED is applied, a vast majority of the payments made under the ground lease would be reported as interest expense. At the end of a ground lease, the lessee does not have title in the assets and the land has to be returned to the lessor in its original state. So at the end of the arrangement, a substantial amount of financing costs would be recognized for an arrangement in which the lessee will *never* have a fee interest in the underlying asset. Generally, it would seem that financing costs would be recognized when financing an asset that an entity does or will actually own and have effective title to during or at the end of the arrangement or for which an entity will consume a significant amount of the fair value of the underlying leased asset.

Suggestion: We believe a conclusion where there is linkage between the accounting model and business model of the lessor or lessee would better reflect the economics of the transaction and lead to less confusing and a more meaningful and consistent financial statement presentation for the users of our financial statements. Accordingly, we believe all leases of investment property from both the investor and investee standpoint should be considered Type B leases, including land. Consequently, it would be more appropriate for all spaces at a retail property to be accounted for under one model instead of the current suggestion that would have some leases accounted for under the Type A approach and some under the Type B approach. Accounting for spaces at a retail property under the two models would lead to financial statement user confusion, onerous financial statement preparer requirements and would not provide the reader further information.

Alternatively, a revision to the ED could be made such that a long term lease of investment property would only be identified as Type A if (1) the lease term is for the major part of the underlying asset's economic life AND (2) the present value of the fixed lease payments accounts for substantially all of the fair value of the underlying asset. By changing the "or" criteria to "and", long-term land leases would not automatically fail the 2nd consideration above and, consequently, the lease would be accounted for as a Type B lease which is more in line with the business model of the reporting entity and the underpinnings of the consumption principal itself.

2. Contracts Which Contain Lease and Non-Lease Components

One area which is not clear and for which further clarification and guidance is required relates to the recognition model to be applied to reimbursements of landlord's costs under both Type A and Type B leases.

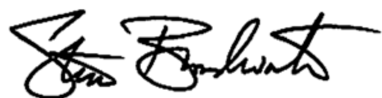
Real estate leases often contain certain non-lease and lease elements which may be comprised of reimbursements of landlord's costs associated with the landlord's property for items such as property taxes, insurance and common area maintenance (or CAM). These reimbursements may be separately and explicitly stated as part of a lease or may be included within the overall rental rate in a lease (such as in a "net lease" or "gross lease"). Typically, these reimbursements have annual or other periodic increases which are meant to offset underlying operating expenses in the year incurred by the landlord. Under the ED, if not separately stated, it appears these items may need to be separated from the lease elements of the contract, and allocated based on their relative observable standalone prices, if available, to each of the lease and non-lease components.

In the case of a gross lease, the tenant does not know the amount of these costs, nor would the tenant likely care. They are solely focused on their aggregate cost of occupying the space. None of these costs represent a *service* to the tenant or to the tenant's space and as such accounting for these reimbursements under the service and performance obligation based model of the expected revised Revenue Recognition standard would not accurately reflect the economics of the reimbursement. Conversely, from the lessor perspective, the risk and rewards are, among other things, evaluated based on the strength of tenant, location of the space and the attractiveness and other aspects of the respective market. These negotiations manifest themselves in tens of thousands of leases which management has determined to have varying degrees of risk and reward, each one of these negotiated on an individual lease basis. Attempting to account for such leases as if they contained common structures and economics would not be faithful to the business decisions and risk and rewards which ultimately drove the arrangements. Additionally, the subjectivity required for such an evaluation of the lease and non-lease component would be burdensome to both the lessor and lessee and would not result in a demonstrable benefit to the financial statement user community.

Suggestion: We believe leases should be evaluated in the legal form in which they were written unless there is a "disguised rent" component to the non-lease payment stream. In other words, gross leases and net leases would not need to be bifurcated into the lease and non-lease (or reimbursement) components by either the lessor or the lessee.

There has been considerable discussion amongst the preparer community in our industry as to how to interpret and apply the complex guidance in both the Leases and Revenue Recognition exposure drafts related to lease and non-lease components of a lease. Given the various types of leases, it is important that any final standard provide specific guidance so as to limit interpretation of what either should or should not be included in the calculation of lease payments and additionally under what model the recognition of reimbursements or other non-lease components should be accounted for. Accordingly, we would recommend the Boards include several examples in any final release which would address the myriad leasing structures within the real estate industry (gross leases, net leases, contingent/overage leases, separately stated CAM, real estate taxes, etc…). Providing straightforward examples will help eliminate inconsistency and divergent interpretation in the application of any finalized standard.

Very truly yours,



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