

## SHOPPING CENTRE LEASES

**S**hopping centre leases are often an altogether far more complex document and contain far more complex terms than some leases.

Some of the special issues to be aware of when setting up a lease in a shopping centre are:

- 1) Turnover information the tenant agrees to provide under the lease must be kept confidential and generally needs consent to be disclosed.
- 2) You may be required to contribute to the cost of advertising and promotion of the shopping centre.
- 3) You cannot be required to advertise or promote your own business.
- 4) You cannot be stopped from conducting business outside the centre.
- 5) The landlord cannot change the centre's trading hours without a majority of shops agreeing to that in writing.

## LEASE PREPARATION

**T**he costs of lease preparation can vary greatly and we actually include a clause later in this document to protect you from this. However it is typical for landlords and tenants to share the costs of lease preparation, but it is worth checking what is the norm in your area.

## FITOUT

**Y**ou will often be responsible for the cost of installing fixtures and fittings in the shop (the fitout). In shopping centres there is usually a standard of construction required for fitouts, which is described within a fitout manual.

Sometimes you may be responsible for some or all of the landlord's costs for preparing the shop for the fitout, known as "landlord's works". It is very important that you understand your obligations in this respect, as part of the negotiations. This is addressed later in this book.

## RENT

**R**ent is obviously one of your largest ongoing costs. Rent is normally paid monthly in advance.

Even if you have financial problems, you still must pay the rent and use the premises only for the business stated in the lease. If you sign a lease saying that you will keep actively trading in the lease period, you cannot simply close the shop and walk away without suffering some penalties.

## CHANGING THE RENT

**T**he lease should always state when and how the rent can be changed. If the lease says the rent is set at current market value and the tenant and the landlord cannot agree on a suitable rent increase, then a lease will normally provide for a process for a specialist assessor to determine the rent. This is addressed later in this book.

## OUTGOINGS

**O**utgoings are expenses of the landlord the tenant has agreed to pay under the lease.

It is important that the outgoings are well defined and are directly and reasonably related to the property being leased and attributable to the operation, maintenance or repair of the building in which the premises are located.

Lease related outgoings are usually big costs for a tenant. It is important that you understand these costs before signing a lease.

## KEY MONEY

**O**ften the taking of “key money” for a lease is illegal and a landlord may receive a heavy penalty if they ask for it.

Key money is either money or a benefit the landlord asks for to grant, renew, assign or extend the lease. Key money does not include paying a cash bond or giving a guarantee.

You should check with your local authorities about their position on key money.

## SECURITY

**T**he landlord may ask you for some form of security when negotiating a lease. This security may be:

- 1) A cash bond.
- 2) A third party guarantee, which is a promise by an individual to pay the landlord if you break the terms of the lease.
- 3) A bank guarantee, which is a promise by your bank to pay the landlord an amount up to an agreed limit if you break the terms of the lease. You usually have to give the bank some security to obtain a bank guarantee.

## REPAIRS AND DAMAGE

**L**eases usually state that you must keep the premises and equipment in good repair, but leases often do not state who must replace equipment when it breaks down and cannot be repaired. This is the cause of many disagreements.

To avoid this, the lease should clearly state the tenants and the landlords obligations to repair or replace equipment that the landlord supplies.

If a tenant has to replace equipment, they need to be sure that their lease is long enough for them to recover the investment.