

Retail Lease Negotiation Tips: 45 ways to reduce occupancy costs & risk

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1. **Eliminate Personal Guaranty.** The Landlord can look only to the Tenant entity in case of default.
2. **Eliminate Spouse from Guaranty.** The Landlord can look only to the individual guarantor, and may not be able to attach assets that are owned jointly between spouses.
3. **Limit Personal Guaranty to a fixed time period.** The guaranty expires after said period.
4. **Limit Personal Guaranty to a fixed dollar amount.** This creates a maximum cap for which the guarantor is liable.
5. **Obtain cancellation clause at any time, if Tenant makes a penalty payment.** Tenant can pay a penalty to Landlord and terminate the Lease, rather than be responsible for the entire term.
6. **Obtain cancellation clause after a certain timeframe.** Same as above, but only available after a defined time frame.
7. **Obtain cancellation clause based on possible future problems, such as parking, loss of anchor tenant, expansion needs, loss of major contract, etc.** Tenant has right to cancel Lease if certain acts occur that are detrimental to Tenant's occupancy.
8. **Eliminate or modify Non-ASSIGNABILITY of Lease.** Make assigning the Lease to a partner or purchaser of the business a possibility.
9. **Increase the broadness of the Use Clause.** Allows Tenant flexibility in how it operates its business, with the ability to add or delete products and services.
10. **Use less lease term and more option periods.** Shortens the length of Tenant's liability while still giving Tenant option to remain long-term if Tenant so desires.
11. **Obtain as many options as possible with the longest terms possible.** Gives Tenant control over the space; protects against increasing rents and gives Tenant possible value in sublease situations.
12. **Limit Common Area Maintenance ("CAM"), Property Tax and Insurance increases to a certain percentage or "cap" per year.** Limits Tenant's potential liabilities.
13. **Eliminate space substitution (relocation) clause.** Transfers more control from Landlord to Tenant, prevents Landlord from relocating Tenant without Tenant's consent and compensation.
14. **Pay Operating Expenses based only pro rata share of total property's square footage, without offset for anchor tenants or vacant space.** Ensure Tenant pays only Tenant's fair share (pro-rata) of operating expenses.
15. **Eliminate management fees as part of Operating Expenses.** Reduces Operating Expenses and protects Tenant from overcharges by Landlord.

16. **Cap management fees in Operating Expenses.** Also reduces Operating Expenses and protects Tenant from overcharges by Landlord
17. **Obtain the right to audit Operating Expenses.** Protects Tenant against Landlord overcharges.
18. **Define very precisely what is included in Operating Expenses (No advertising, no management over ride, etc.).** Also protects Tenant against Landlord overcharges.
19. **Increase grace period for late payment of rent.** Gives Tenant additional time prior to penalties.
20. **Decrease Late Fee Penalty.** Lowers Tenant's potential costs.
21. **Reduce events of default.** Lowers Tenant's risk of defaulting on Lease.
22. **Increase time allowed to cure Tenant's defaults.** Gives Tenant more flexibility in their remedies.
23. **Reduce Landlord's remedies of Tenant's default.** Limits Landlord's options.
24. **Decrease required Insurance amount.** Lowers Tenant's cost.
25. **Limit Landlord's ability to lease adjacent spaces to parking intensive neighbors.** Prevents Tenant from facing a parking problem.
26. **Obtain a broad exclusivity clause.** Reduces Tenant's competition potential.
27. **Retain ownership rights to interior furniture, fixtures and equipment.** Allows tenant to retain more of its assets.
28. **Shorten Landlord's rebuilding period in event of damage to premises.** Forces Landlord to put Tenant's space back in operable condition sooner.
29. **Obtain right to rebuild for Tenant.** Gives Tenant the option to do its own repairs if Landlord is too slow.
30. **Obtain right to offset rents against Tenant repairs.** Allows tenant to do repairs, and offset the cost against rental payments.
31. **Obtain option or right of first refusal on adjacent space.** Allows Tenant to expand into adjacent space.
32. **Obtain an option to buy building.** More relevant to smaller properties, this gives Tenant the option to purchase the property.
33. **Obtain first right of refusal to buy building.** Allows Tenant to purchase the property at the same price and terms that a third party offers.
34. **Make joining the Merchant's Association an option, not mandatory, on retail space.** Reduces Tenant's expenses.
35. **Have Landlord guarantee HVAC, electrical and plumbing equipment for a period of time.** May reduce Tenant's expense.
36. **Have Landlord guarantee Indoor Air Quality ("IAQ"), and agree to testing on a regular basis.** Clearly define work performed to improve IAQ to be a Capital Improvement, and not subject to reimbursement by Tenant. - Protects Tenant against Indoor Air Quality problems.

37. **No percentage rent on retail Lease.** Reduces Tenant's expenses and bookkeeping obligations.
38. **No limitation of retail trade area.** Gives Tenant full ability to expand wherever Tenant sees fit.
39. **Obtain a guarantee of signage use.** Assures Tenant will obtain and retain desired signage.
40. **Make sure property's Rules and Regulations cover potential problems, such as neighboring businesses that use too much parking, make too much noise, create obnoxious fumes, operate non-synergistic businesses (pawn shops, bingo parlors, strip joints).** Makes Tenant's occupancy more trouble-free.
41. **Secure right to terminate the Lease if a major anchor tenant vacates the premises.** Allows Tenant to relocate depending on relevant circumstances.

OUTSIDE OF THE LEASE ITSELF:

42. **Use a good mapping system to determine demographics and competition in surrounding area.** Insures that Tenant is picking the right site, and there will be sufficient business for profitability.
43. **Talk to existing tenants about sales activity, parking, crime, etc.** Makes sure Tenant is not getting into a bad situation.
44. **Research the rental market for information on past and current deals.** Makes sure Tenant is achieving a fair rental rate and other terms and conditions.
45. **Retain an experienced professional to guide you through the process.** Allows business owner to concentrate on his or her business, without need to learn the commercial real estate industry and market once every three, five, seven or ten years.

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