



Negotiating a good RETAIL LEASE

A little knowledge can be a useful thing – and a lot of information even more useful – when you are trying to negotiate your retail tenancy with landlords. But that’s easier said than done in many instances, as leasing information expert, **Simon Fonteyn**, outlines in this review of information sources

I AM SURE it is no surprise to retailers that the rent you pay and the lease terms you enter into can have a huge impact on your profit and can be the difference between success and failure. With annual base rent increases built into most leases at an average range of between 4 – 5 per cent and promotion levies and outgoings on top of that, negotiating the correct rent upfront is critical. To successfully negotiate, market knowledge is power in this game.

You need to enter rent negotiations equipped with knowledge about the current retail rental market such as:

- What businesses with similar permitted uses are paying and their lease agreement terms
- What was the previous use for the shop and any history relating to that shop
- What are the demographics of the area
- Is the centre subject to redevelopment or refurbishment
- Who are the anchors of the centre and when do their leases expire and do the anchors complement or compete with your service/product
- What is the average occupancy cost (ratio of total rent/total sales) for your business in this centre

My company, Leasing Information Services, analyses publicly registered data in the States where this is available. In Victoria, Western Australia, South Australia, and Tasmania, the data is not publicly registered so market information is very hard to obtain.

The lack of uniformity in registration of retail leasing data between Australia’s

States has created a template for the desegregation of information by landlords, to the extent where comparative rental analysis is very difficult. To combat this, larger chain retailers are sharing leasing information to aid them in rental

negotiations. However, Leasing Information Services has identified that smaller independent operators, who do not have established retail networks, are extremely vulnerable to significant rental increases. ▶

NSW Section 15 of the <i>Retail Lease Act</i> requires registration of all leases within one month of stamping.
VIC Requirement to notify the Small Business Commission of the commencement, parties to the lease, expiry and option. Information is not publicly available and does not include any rents and areas.
QLD Under Section 64 of <i>The Land Titles Act 1994</i> (Qld), a lease may be registered and the landlord holds its interest subject to the registration of leases within the lot or part of the lot. The majority of retail leases are registered in Qld.
ACT A lease may be registered under <i>The Land Titles Act 1925</i> (ACT).
WA A lease for a term of more than 3 years may be registered under Section 91 of <i>The Transfer of Land Act 1893</i> (WA).
NT There are no circumstances in which a lease must not be registered.
SA There is no requirement for any lease to be registered.
TAS There is no requirement for any lease to be registered. There is no requirement to register a lease under <i>The Land Titles Act 1980</i> (TAS). A lease for a term of more than 3 years may be registered; however a term for less than 3 years is not registrable.

Table 1 The current disparity between the States in terms of registering retailing leasing information.

For retailers in States where registered data is available, information portal www.leaseinfo.com.au, a database of registered leases, can be used to gather leasing information to better negotiate rental terms. leaseinfo.com.au covers shopping centres and retail strips in NSW, Qld, Victoria and the ACT. It includes information such as base rents per square metre (so retailers can compare across centres and sectors), lease terms, turnover rent percentage, annual rent review increases and demographic information.

For retailers in States where gaining access to registered leasing information is almost impossible, I suggest accessing leaseinfo.com.au to see what is happening in your category in other States and to take this issue up with your relevant Minister for Small Business. It is imperative that State and Federal Governments look at improving information flows within the retail sector via a uniform lease registration system,

which allows for comparative rental analysis across sectors and States.

leaseinfo.com.au is continuing to work with organisations and companies to access and provide information about State disparities to members to ensure a level playing field for all retailers in Australia. ●



Simon Fonteyn is Managing Director of Leasing Information Services which is a leading supplier of online retail leasing information maintaining a database of over 20,000 registered leases from shopping centres, bulky goods outlets and strips in NSW, QLD, Victoria and the ACT. It provides competitive leasing information to assist retailers to negotiate terms. simon@leaseinfo.com.au

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