

## **YOUR LEASE - A LIFE SENTENCE OR A LIFE ANNUITY**

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A lease can make or break your business. It's a legal agreement that affects how, what, when, where and to whom you sell. It affects your bottom line and thus your ability to grow. Leases tie you into a business arrangement for many years and they can be your worst nightmare or your greatest asset.

A restaurant lease is unique and much more complicated than other business leases. This is due to the nature of our business. We require heavy investments in space development, specialized mechanicals such as plumbing, ventilation and lighting. We are bound by special codes for building and operation that must pass muster with zoning commissions, local building and health departments, and local, county, state and federal licensing agencies.

In order to amortize these heavy up front costs in development and leasehold improvements, restaurants require a long lease of at least 20 years optimum time. But the downside of a long lease is the liability you face for the total life of the lease rental.

There is no such thing as a solid verbal agreement even among relatives and friends. A restaurant lease is one of the most significant documents you will ever sign and you must be sure that *everything that has to be covered is in the document in writing.*

The responsibilities of each party must be detailed and spelled out exactly in unambiguous language. Landlords usually are experienced in knowing what they want in a lease as they are in the business of renting properties. Restaurateurs on the other hand are in the business of providing food and may have little experience in creating lease documents that are favorable to their business survival.

Signing a lease is like hiking in the Grand Canyon gorge. It can be a beautiful experience, but if you're not sure footed and know where you're headed, you may slip into a disastrous situation.

### **General guidelines for preparing a lease**

- A. Do your homework first. Know what you want.
- B. Be sure your business can afford the rental deal.
- C. Prepare a list of things you must have. These are deal breakers.
- D. At a preliminary meeting make detailed notes of all lease clauses that are agreed upon.

- E. Have the landlord prepare the lease agreement.
- F. Have your lawyer review the document for legal implications to you of each clause contained in the lease.
- G. Have a lawyer present when you sign the final document.
- H. Allow no changes after the lease is signed.

**Specific steps to follow in developing a lease**

1. Establish the limits you can pay in rental. Know your break-even point.
2. Allow at least 30 days or longer to conclude the lease. Don't be rushed into a lease by fear of losing the location.
3. Ask the landlord for everything you can possibly want.
4. Use your knowledge and research to set the limits of what you can pay in rent, Common Area Maintenance (CAM) charges, insurance coverage, real estate taxes and other common activities such as joint advertising.
5. Determine how large a security deposit you can give without impairing your start-up cash position.
6. Use your restaurant experience as a bargaining tool.
7. Use options and escape clauses to make your lease flexible.
8. Seek a lower start-up rental the first two years.
9. Be prepared to trade concessions for concessions.
10. Go over the final draft of the lease, point by point to make sure that everything you want is covered.
11. All final decisions should be yours, not an attorney's.
12. Have your attorney go over everything before you sign.
13. If you can't make the right deal, turn and walk away.

It's better to weep a tear over a bad lease that you have walked away from than cry buckets for years with a lease that's terrible for you.

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