

Talking Leases #3

Make good: question the landlord as to the 'make good provisions' that they would see as appropriate on the property you are trying to lease. You need to think of this potential and establish the rules in written form and in the lease prior to any tenant taking up an interesting occupying.

The 'make good' component must be well worded within the lease document so that you collect any monetary compensation easily and restore all the occupancy issues which the tenant has done to the property during their term and occupancy. All things must be 'made good' correctly so as to reduce the cost of the landlord in any rectification of the premises prior to new occupancy.

The 'make good' will involve a number of issues and include things such as floor coverings, wall treatments and surfaces, ceiling treatments and structure modifications, air conditioning reconfiguration, electrical reconfiguration, lighting reconfiguration, directory reinstatement, and many other things. Thinking in advance regards the provisions of 'make good' allows the landlord to see your professionalism in the leasing process. Leasing is just not about doing a deal, but rather providing an investment package which will perform well for the investor over the duration that they require cash flow. That's where you are the professional to structure the process.

Fitout controls: be very focused on controlling the tenants fit out through some type of manual or fitout agreement. This document is signed prior to the tenants getting the keys to the premises and after they have paid their rental. For those who you who are unaware, **the golden rule in lease occupancy is to ensure that the keys are not passed over until the lease is signed and the rental is paid.**

Returning to the subject of fit out, it is quite important to control the trades people that are doing the work for the tenant. If you leave these people uncontrolled, they will invariably upset other tenants that are in occupancy in the same building through excessive dust and noise. Therefore the fit out agreement or fit out control manual is quite a powerful document and applies timeframes and controls on the contractor whilst they build the new tenancy. This is actually an important professional service which you can apply to your leasing practices.

Permitted use: for those of you who are unaware, permitted use is different from exclusivity and can be used in a lease to ensure that the tenant operates within certain business practices and to a certain business type. In other words you can prevent the tenant from selling coffee when they were originally intended only to sell ice cream.

Exclusivity is not used very much in the leasing sense, but permitted use is far more desirable. With permitted use under the terms of the lease the landlord reserves the right to amend the types of products and business which the tenant provides on the premises. Therefore permitted use is quite flexible and allows the landlord some control into the future.

As an alternative the use of exclusivity is something that you could give in a lease to the tenant however that exclusivity will prohibit anybody else within the same property selling the same product into the future. Exclusivity is not a useful business strategy on a lease document normally from a landlord perspective.