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Background

The articles I said I would write in this series will cover the importance of leases, structuring leases, and various aspects to do with a lease.

I do not have sufficient space to cover rent and hence a number of shorter articles are needed.

In broad terms what is rent? Following on from our simple definition of a lease contract, rent is the money or “consideration” the tenant pays a landlord for granting use or occupation of a property.

In simple terms rent = rent. An amount of money. Rent can also = rent + outgoings + promotion monies to cover operating expenses and promote a shopping centre.

For a business person or shopping centre owner (or anyone), the rent is a monthly or an annual sum eg. \$2,000 per month or \$24,000 per annum.

Many people say “My rent is \$200 per square metre” (“\$/M2”). One should always calculate rent (gross rent with outgoings) back to an annual sum, and more relevant, relate it to the level of business (sales) that one can achieve another article.

The problem with rent or disproportionate rent

Many people believe that paying too much rent is solely “the tenant’s problem”.

If considered in isolation, it can be true, however, when considered collectively, it becomes an industry problem. From our research, we know it is a national problem.

This transcends across the industry and impacts on all stakeholders including financiers, shareholders, our legislators, the franchise industry, etc.

Now Governments think it will go away. It will not. I have written before, that sometimes Government intervention is necessary for the good of an industry. That was in the mid-90s!

I have monitored retail rents insofar as rent relates back to store productivity (sales) by measuring occupancy costs (total rent) as a percent of turnover since 1993/94.

Overall specialty shop retail rents have increased significantly without regard for corresponding increases in sales i.e. 8 to 10% on average to 20 to 25% plus.

In effect disproportionate rent “rantalizes” the business has eroded and or caused business returns to decrease or even become negative.

Shopping centre landlords state “everyone is trading well, you are trading poorly” or “sales are up, traffic is up, what is your problem?”, however to understand the “problem” of disproportionate rent is not just a tenant’s problem, it transcends into a national problem.

How this has occurred and the consequences?

Disproportionate rents occurred when aggressive leasing practices were started by a few individuals in the industry; then the practices spread.

The belief is that one can increase rent without regard to store and centre productivity (corresponding trading levels) and that the “value” of the landlord’s property increased proportionately with rent increases.

Other industry practice has included increasing the size of shopping centres, profiting from developing the same centres, partaking in partial shop fitting, jamming more like businesses into common areas (i.e. kiosks), allowing casual mall trading even in conflict with sitting retail businesses, etc. and derogating the grant of the initial lease.

The formula has been carried out with short leases offered, participants having their business (investment) linked to the family home and renewals offered with ongoing increments. Landlords have held all the power at lease negotiation time including having significant information about rents, turnover levels, etc. business owners had nothing.

Some models include franchised businesses, whereby franchisors have become part of the process, which see business owners capital "churned" through the system. The business stays in occupation as long as there is sufficient capital. When that runs out, so the next "victim" becomes part of the cycle.

Even determining valuers whose services are engaged by state governments aid and abet process, although in most instances outcomes are better to curb rampant increments.

The most important consequence of all this is that the industry and the investment class has significant "structural imbalances" within it. In order to restore the balance between landlord and tenant interests in my opinion it would take at least two five year lease "cycles", but only with government intervention and enforcement of legislation with lease and rent dispute resolution mechanism to assist with lease renewals.

Conclusion

The failure by collective Governments (state and federal) despite being fully informed, including the consequences of the industry's behaviour to aid and abet this industry is pathetic.

Proper intervention is long overdue.

In my next article we will look at "market rent" and how much rent one should pay.

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