

**ENTERTAINMENT CENTER
LEASES THEATER, RESTAURANT
AND OTHER IDIOSYNCRATIC ISSUES
I.C.S.C. LAW CONFERENCE
ORLANDO, FLORIDA**

BY

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I. PARKING/SITE PLAN AND SIGNAGE ISSUES

A) Parking - Theater usually requires 1/3 seats; Restaurants 1-4; Most Retail 1-5; issues as between the 2 uses.

Empty seat factor

Compatible use

Operating differential

Employee parking

Valet Parking

Site Plan - Because of parking and visibility issues both Restaurants and Theaters want same control.

Changes to the parking field

Access to the Center

Sight lines and visibility

Security and lighting

Dumpster - garbage-odor issues

Soundproof

Fire exits

Signage - Most theaters will require their own pylon - most restaurants will require a panel on pylon or their own monument signs.

Verify local zoning codes for maximum signage

Consolidate applications with Landlord and other tenants

Beware of "maximum" signage clause

II. USE CLAUSE ISSUES

It is critical that this clause be addressed with precise specificity.

THEATERS

How many auditoriums

How many seats

What type of films

What type of foods and other retail

Fast food - popcorn - drinks - candy

Apparel - videos - cd's-video games

RESTAURANTS

Trade Names

Concept

Menu or ProductsSeats

Liquor and Licensing issues

Sports Bar - video-TV issues

Lunch vs. Dinner

III. OPERATING COVENANT/GO DARK/KICK OUT ISSUES

Because of the large investment in tenant improvement allowance the landlord will typically require operating covenants.

OPERATING COVENANTS

Full term

Specific time

Change of use

Co-tenancy issues

Define with specificity - tie in to use clause

number of screens

four wall deals

breakfast-lunch-dinner

most favorable nations clause

GO DARK PROVISIONS

Notice of intention to close

Landlord Recapture Rights

KICK OUT

1) Purchased Kick out

Cotenancy Kick out

First Run Kick out

IV. EXCLUSIVES AND RESTRICTIONS

The uses and exclusives among entertainment center tenants are highly regulated and expected.

Main use exclusives

Carve outs for Theaters

IMAX - IWERKS

Live theater

Foreign film "art house"

Carve outs for Restaurants

hours of operations

fast food vs. table service

menu items

percentage of sales definition

Ancillary Uses - Theaters

Popcorn and candy

Other food items

Square footage restrictions
Radius Restrictions

TENANT IMPROVEMENT ALLOWANCE ISSUES

Many theaters and restaurant operators require the landlord to provide a shell at its cost, and to also contribute towards the cost of the tenant's improvements.

CALCULATION OF ALLOWANCE

Lump Sum

Based on Square Footage

PAYOUT

In Draws

At End

GUARANTY OF AVAILABILITY

LANDLORD PROTECTIONS

Lien Releases

As Built

Opening

Payment of Rent

Termination of Notice of Commencement

Architects Certification

C/O

VI. ASSIGNMENT AND SUBLETTING ISSUES

Both theaters and restaurants, given the volatility and uncertainty of their businesses, seek broad assignment and subletting rights.

ESTABLISH STANDARDS

Number of operating units or screens

Geographic presence

Bulk or single transfer

Years of experience

Net worth/credit rating

Reputation/Branding

RECAPTURE RIGHTS

Landlord ability to recapture

Payment of unamortized tenant allowance

Sharing in Excess Profits

VII. COMMON AREA ISSUES

Because of the unique character and nature of their operations theaters and restaurants create a variety of common area issues not typical in the standard shopping center.

Trash Removal

Parking Lot Lighting

Parking Maintenance

Security Issues