

The Market for Retail Tenancy Leases in Australia:

Productivity Commission Draft Report: December 2007

The Directors of the LeaseWise Group Pty Ltd provide the following submission relating to the key questions faced by the Commission in the conduct of its inquiry:

1) Sales figures and other, “Confidential Information”

Information held by the Major Retail Lessors and not made available to Lessees continues to give an unfair negotiating advantage to Major Lessors.

We specifically draw the commission’s attention to the ongoing mis use of data provided by the Lessees to the Lessors in particular sales figures.

Our firm continues to see confidential sales figures used by Lessors and their agents against sitting tenants to back up their assumptions on what a tenant can afford to pay.

Sales figures are also used, as a matter of procedure, to attract new tenants to shopping centres.

I.E...

Leasing Agent, “I shouldn’t tell you this but this shop turns over \$\$\$\$ based on that the rent will be \$\$\$\$\$”

A clause in any retail lease should be void to the extent that the provision of sales figures from the Lessee to the Lessor is required

2) Lease Term.

Lessees require tenure to establish, build up, potentially sell and ultimately close a business.

A 5 year lease term is simply not long enough.

When you add the cost of the increasingly elaborate and often unnecessary fit outs the major Lessors insist on it becomes financially impossible to obtain finance to start or renew a lease

Minimum 7 year terms are now required

3) Security of Tenure

Lessee’s who fulfill ALL their obligations should be rewarded will automatic lease renewal.

The reason for non-renewal must be placed on Lessors who should show why a lease is not renewed.

If they cannot give good cause, based on simple performance criteria, a new lease must be negotiated with the sitting Lessee.

Security of tenure is vital to provide job security for employees and the economic benefits that will flow to the community from that.

Please contact the undersigned for clarification.

Peter Macaulay & Ange Kondos
Directors: The Leasewise Group