

RETAIL TRAFFIC

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Retail Tenants Team Up in Attempts to Win Concessions

By Elaine Misonzhnik

In an attempt to win concessions from shopping center owners and managers, retail tenants at some properties across the country are bolstering their hand and banding together in united fronts with shared demands.

The logic of the strategy is that by coming together, tenants bring greater power to the negotiating table. It also prevents one tenant from getting a worse deal than other retailers at a center. Lastly, retailers can employ joint tactics—such as withholding rents—if the concessions they want do not materialize.

Steve J. Lurie, partner in the real estate practice of the Los Angeles-based law firm Greenberg Glusker, says he's seen a recent proliferation of these kinds of alliances. For example, a number of store operators at the Plaza Retail Collection, the retail portion of the famous New York City hotel, have reportedly approached the hotel's landlord, El-Ad Properties, as a group to ask for lower rents. Spokespeople for the company would neither confirm nor deny the report.

However, real estate experts warn that landlords aren't powerless in these scenarios. In fact, they have their own set of tactics to break such alliances. Lurie himself has worked on a number of similar cases recently, representing the landlord. Most of the time, the landlord wins out, he notes.

"I don't think it is advantageous for tenants to negotiate collectively," says Ivan Friedman, president and CEO of RCS Real Estate Advisors, a New York City-based advisory firm that specializes in helping retailers manage their real estate portfolios. Landlords have shown some willingness to provide concessions in recent months. But it's not the same approach for all tenants. Landlords are more willing to work with retailers that are struggling but will likely rebound when the economy improves.

However, they don't want to end up propping up a weak retailer that has a bleaker outlook or give rent breaks to those who don't genuinely need them.

"You may have one tenant who is close to filing Chapter 11 and another one who is financially sound," Friedman says. "The landlord may have different views of each tenant. He may value one more than the other as it relates to a given property. In general, I don't think going to landlords as a group is a good idea."

One tactic landlords use for breaking alliances is by offering concessions to some of the retailers in exchange for their cooperation and confidentiality, says Matthew Bordwin, managing director and national co-head of the real estate services team in the Melville, N.Y. office of KPMG Corporate Finance LLC, a middle-market investment bank. (Working with tenants on lease restructuring is one of the team's key competencies.) To make sure the deal stays secret, the landlord can request that any concession agreement written into the lease features a confidentiality clause, adds Lurie.

"People who just got a concession are very reluctant to do something that can jeopardize it," he says.

One exception to the rule might be newly completed projects. Since many retailers have provisions in leases that allow them to delay or refuse store openings, the project's owner might have no choice but to accept new terms if several tenants threaten to pull out at once.

"The threat of not ever opening your store is a serious threat," says Lurie. "Because of the synergy in a shopping center, you need your tenants to open."

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