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COUNSELORS



Sandwich Shop Leases

INDUSTRY-TARGETED RETAIL LEASING UPDATE



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Whether you call them Hoagies, Heroes or Grinders, here are some key lease issues that sandwich shops operators need to think about:

- **Permitted Use:** Your permitted use clause limits what you can do in your premises. It should be broad enough to cover any changes you want to make to your menu or concept.
- **Radius Restriction:** Retail leases typically contain a “radius restriction,” which limits how close a tenant may have another location to its premises (e.g., no other location within 5 miles). Sometimes these restrictions are imposed on the tenant under the lease, as well as any party controlling, controlled by or under common control with the tenant. In some cases a tenant’s existing sites (or those of the tenant’s subsidiary or affiliate) may well trigger a default under the clause.
- **Franchise Issues:** Franchisees have additional issues to consider. Make sure that changes to your concept or use that your franchisor may require are permitted under the lease. Also make sure the franchise agreement prevents the franchisor from setting up another franchise within the area covered by the radius restriction. Franchisors may also have other provisions they require in your lease, such as the right to take over your business should you decide to terminate your franchise.
- **Exit Strategies:** It is a good idea to think of exit strategies. Can you sell the sandwich shop without first getting approval of the landlord? Similarly, does the lease permit you to add or remove investors without prior landlord approval, even if there is no change of control or management of the business operations?
- **Outdoor Seating:** Consider permitting, maintenance and insurance issues that concern the outdoor seating area.



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