



RAISING THE BAR

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Franchise Agreement Provisions You Should Expect to Negotiate When Entering into Non-Traditional Locations

- Chelsea Severson
- Maral Kilejian
- Jonathan Koudelka

Today's Discussion

- Non-Traditional Venues/Benefits/Complication
- Negotiated Provisions
- Registration Considerations
- Practical Considerations

Non-Traditional Venues – Why Negotiate?

- What is a Non-Traditional Venue?
- What are the benefits?
- What are the complications?

Non-Traditional Venues

- A venue where the primary purpose of a customer's visit to the venue is for something other than purchasing goods from a franchised location.
 - Airports
 - University Campuses
 - Military Bases
 - Stadiums

Benefits of NTVs

- Captive Market
 - Higher sales (NTD: Getting figures on this)
 - Less competition for same customers
- Visibility
 - National/international exposure
- Rapid Growth
 - Ability to convert real estate in hand

Complications of NTVs

- Barriers to Entry
 - RFP Process (Qualifications, Expense)
 - Venue Idiosyncrasies (Security, Legal Regime)
- Higher Costs
 - Construction (4x vs. Street Costs – LAX \$1200/sq ft)
 - Rent (20%+ of Gross Revenues)
 - Labor (Cost, Unions, Strict Employment Requirements)

Which Provisions Must Go?

- Franchisor's Perspective
- Franchisee's Perspective
- The Provisions

System Standards

- System Standards
- Advertising/Promotions/Pricing

Territory – Site Selection

- Site Selection
- Exclusivity
- Captive Markets
- Lease Riders

Term and Termination

- Lease alignment
- Landlord control (NTD: MSY, Chick Fil A)
 - Beginning of term: construction phasing, venue delays
 - Termination: recapturing space, airline relocation
- Refurbishment obligations
- Holdovers/extensions

Fees and Expenses

- Major Fees
 - Ad Fund
 - Local Marketing
- Open Ended Language
 - System Fees
 - Training Fees
 - Architectural
- Supply Chain Language
 - Exact Match
 - Commodity

Other Terms

- Limits on personal guaranties
- Renewal Terms
- Mutual Indemnification

Negotiation Tactics

- Franchisor Tactics
- Franchisee Tactics
 - Act as educator
 - Make reasonable requests
 - Use leverage where necessary

Registration Considerations

- California
 - Notice of Negotiated Change
 - Can you exempt out of this requirement?
 - Otherwise, statute vs. regulation

Practical Considerations

- Process
- Recordation and Retrieval
- Managing Disparate Franchise Agreements

Recordation and Retrieval

- The Sales Process
- Documentation
- Storage and Retrieval

Managing FAs

- Franchisor – Franchisee Relationship
- Operations
- Confidentiality Breach

Recap

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