

Tenancy woes likely to remain

NATIONAL: Independent clothing and footwear retailers say they feel more isolated than ever after a government report failed to address what they claim are the bully boy tactics employed by many shopping centre landlords.

The comments follow the release of a report from the Productivity Commission which snubbed calls from small retailers for reforms to equip them with more bargaining power when dealing with shopping centre owners.

Despite acknowledging small retailers often had problems with their landlords over such issues as occupancy costs, churning and "unconscionable conduct", the commission found overall the market was working "reasonably well".

"Hard bargaining and varying business fortunes should not be confused with market failure warranting government intervention to set lease terms and conditions," the report noted.

While submitters to the report identified a myriad of tensions between shopping centre lessors and retail tenants, the commission pointed the finger back at tenants stating that in some cases small retailers were simply unaware of what they were getting themselves into. It noted in some instances retailers had taken out business loans exceeding the term of the lease, tenants

had franchise agreements beyond the length of their lease and tenants were working on the assumption that a new lease would automatically be offered.

"Many of the perceptions of shopping centres' 'misuse' of negotiating power stem from a lack of understanding or acceptance that the business model of a retail shopping centre is fundamentally different from traditional retail strips," the report said. "Retailers who sign a lease in a large managed shopping centre without realising that the 'rules of the game' are very different, are at a disadvantage and can be seriously disappointed, if not financially devastated. Retailers who do understand the shopping centre model, and work within it, can prosper."

The commission has recommended improved disclosure and information to help ensure tenants are made aware of their legal obligations along with a voluntary code of conduct, overseen by the Australian Competition and Consumer Commission, to govern landlord behaviour. However fashion retailers spoken to by *Ragtrader* say the report does not go far enough to redress the imbalance of bargaining power held by landlords.

Jeanswest national property manager Kay Regan said one of the biggest hurdles facing retailers was the extreme rental increases requested by landlords and the expectation that high occupancy costs were sustain-

able. Regan described existing legal protection for tenants as "fairly ineffective" as major landlords worked hard to find ways around available legislation to lessen its impact.

"The legislation is designed to assist both tenant and landlord however there are various sections of the legislation that are questionable. For example the supply of sales figures to landlords affects most [yet] is of no real benefit to the retailer. It can be quite the opposite given landlords can often use the information to gauge the maximum level of rent they believe a retailer can afford to pay. The landlord has no obligation to reciprocate by providing foot traffic information to justify their rent."

Peter Pitt, the director of national footwear retailer Hype DC, said nothing demonstrated the imbalance of bargaining power more effectively than the rent differential between majors and specialists.

Pitt, whose privately owned company operates 19 leased sites across the country, said it was common in major shopping malls for department stores and supermarkets to pay rents per square metre that were one tenth of the rate paid by small specialist shops in the same mall.

Lessors justified this on the basis the centre wouldn't have been built without signing the major tenant, the major tenant

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Hard bargaining: Retailers disagree with tenancy findings.



GREAT PAIR 17

Belinda Smart profiles a Melbourne footwear brand walking tall.



TIGHTLY KNIT 18

Ragtrader traces the evolution of one of Australia's most high profile fibres.



FIRST IN CLASS 46

Tracey Porter speaks with the graduating class of 2007.

NEWS BRIEFS

MARINA MOVES

GOLD COAST: Marina Mirage in the Gold Coast has announced two new staff members to head the shopping centre's \$300 million redevelopment. The group has appointed Dean Baker to the role of centre manager while Mark Selvey has been named operations manager. Formerly with Queensland Investment Corporation Baker has spent 14 years in similar roles while Selvey has experience in facilities management. The first stage of the redevelopment is due for completion early November.

TORSTAR WIN

SYDNEY: Public relations agency Torstar Communications has just won the Kookai PR account after a competitive pitch. It will be responsible for repositioning the brand within the Australian market and the launch of a new Paddington concept store due to open next month. The agency currently represents a range of fashion clients including Alex Perry, Jayson Brunsdon, and Rose and Ruby. The agency was responsible for the successful launch of Myer spring/summer 2009 collection in Sydney late last month and are championing the UK launch of Leona Edmiston's UK flagship store due to open late October.

LINKING THE CHAIN

NATIONAL: The chairman of the Australian Supply Chain and Logistics Association has put out a call for expressions of interest from those interested in contributing to a fashion industry supply chain special interest group. David Doherty said turbulent business and economic conditions, and rapid globalisation of supply chains and technology developments meant many Australian TCF wholesalers and retailers were failing to compete on a level playing field. Those interested in contributing to the group or learning more about supply chain efficiencies should contact Doherty at ceo@sclaa.com.au

DOT AND BEYOND

MELBOURNE: Dorothy & Evelyn has taken its proposal for a online vintage store out into the real world. The store, founded by buyer Rebecca Post, has opened a flagship outlet in Melbourne's St Kilda to complement the store's continually growing range. Other labels to be stocked by the Barkly Street boutique include Indigo, Olga Berg, State of Georgia and Ebony Eve. For more: 03 9804 1011.

CHOO TO CHADSTONE

MELBOURNE: Luxury accessories chain Jimmy Choo is heading to Melbourne. The news, which follows the opening of its first Australian boutique in Sydney in January, will see the brand open a stand-alone boutique in Chadstone Shopping Centre. The store will be managed by Valiram Group, which also operates the Sydney store and others in Singapore and Malaysia. Chadstone was recently named Australia's best performing shopping centre by industry magazine *Shopping Centre News* in its annual 2008 'Big Guns' survey.

Witchery: Among those aiming to be crowned Fashion Retailer of the Year.



Awards attract strong retail mix

SYDNEY: Apparel and accessory chain Witchery is set to join others including national menswear chain Industrie, womenswear chain Esprit and denimwear group Jeans West in battling to take out the top gong in the 2008 TNT Ragtrader Fashion Retailer of the Year Awards.

Now celebrating its fifth year, the awards seek to recognise and reward the best of the best among Australia's fashion retailing elite. In all there are six awards up for grabs this year including best menswear, womenswear and childrenswear retailer as well as best under-20 chain and over-20 chain retailers and best department store.

The illustrious list of past winners include such innovators as General Pants, Target, David Jones, Harrolds, Gorman, Feathers, David Lawrence, Andiamo, Mariana Hardwick, Arthur Galan, Portmans and Peter Alexander.

Supported by a host of sponsors including naming rights supporter TNT Fashion Express, gold partner AMP Capital Shopping Centres and silver sponsors Trak Recruiting, Dada & Co and Kaideepeel, the awards have also attracted a host of great independents with Blondies, Dirty Pretty Things and Cactus Jam among those in the mix. The awards process allows for third party nominations from leading suppliers or from individual retailers.

Ragtrader publisher Helen Davies said some of the industry's brightest lights had agreed to stand in judgement of the lead contenders in the awards. These include Karen Van De Meer from online apparel site Style Hunter, Stephen Mahoney of Australian Wool Innovation and Glynis Traill-Nash of the *Sun Herald*.

In order to help separate one chain independent store from another judges will follow a strict criteria taking into account such things as first impressions, store layout, customer service, breadth and depth of employee training, marketing, advertising and promotions, and business and operations.

Winners of the awards will be announced during a glittering cocktail function at Sydney's Museum of Contemporary Art on Wednesday November 26. Tickets are on sale now for \$80 plus GST. To purchase get your booking form at ragtrader.com.au or contact Jessica Havard at Two De Force on 02 9281 8788 or email Jessica@twodeforce.com.au

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leases thousands of metres and the major tenant "attracts" lots of shoppers to the centre, he noted.

"The reality is that the 10:1 rent differential arises purely because the major tenant is in a strong negotiating position when entering into lease terms and the small specialist shop is not. Each of the lessors' justifications for a 10:1 differential could be turned 180 degrees.

"[It could be argued] the centre wouldn't have been built without the hundreds of small specialist shops because if the lessor had to rely only on the rental paid by the major tenant the project would not be feasible." If the lessor had to negotiate the lease terms for a new centre with all specialist shops as a single group, there would not be a 10:1 rent differential between major tenants and specialists, he said.

Independent store owner Brandon Conway said shopping centre landlords needed to show more flexibility when dealing with prospective tenants.

Conway, who has operated his business for 17 years, said tenants were faced with a huge capital outlay - often upwards of \$200,000 by the time things such as bond and shop fittings were factored in - yet it was frequently only the

tenant who lost money when the resulting venture failed.

"My feeling is that shopping centre owners are happy when the lease is signed; what happens to the tenant after that is for the tenant to sort out. The landlord should show a little more compassion and be more flexible when confronted with difficult economic times. They could recognise that through no fault of the tenant, he is faced with a downturn in sales that cannot be absorbed without the help of the landlord. More could be done to help distressed tenants rather than the attitude of, 'pay or we can discuss an exit strategy'."

Conway said there would be less conflict between lessors and tenants if landlords abolished all outgoings as a separate charge.

The rental should be gross with all extras included, he said.

"I am sure that all tenants would be happy with an all inclusive rental and let the landlord pay his own expenses for repairing and running the property. It would be easy for the government to legislate for this and would be one less irritation for the tenants."

Conway said while the current arbitration system was not perfect, it still

provided an avenue that both parties could access without onerous costs. However, the voluntary code of conduct recommended by the commission would only work if both parties showed mutual respect, he said. Large shopping centre landlords approached for comment did not return calls by the time of press.

However, developer Theo Onisforou, a retail property owner responsible for both the Paddington Intersection and Bowral Intersection retail strips, agreed the suggestion of an inclusive rental package would increase transparency and assist both parties.

Onisforou said he was staggered by the number of "seemingly intelligent people" who did not understand that the rent quoted in negotiations did not usually include add-ons such as marketing levies and other maintenance.

"I prefer a gross rent, I don't like chasing people for money. It's easy for [Westfield founder] Frank Lowy, but much harder for smaller operators."

Onisforou said he did not believe a voluntary code of practice would improve the relationship between landlords and their tenants as voluntary codes were "not worth the paper they're written on".

Tracey Porter