

A new implementation concerning the common costs at shopping malls

Atty. Yasemin Abdik

I. Introduction and legal framework

The concept of shopping malls ("AVM") has been defined within the Law on Regulation of Retail Trade no.6585 and the concerning law requires the arrangements for common costs at shopping malls to be regulated through the regulation.

Through the Regulation Regarding Amendments on the Regulation for Shopping Malls" (Amendment Regulation) enacted as of being published in the Official Gazette dated 30.12.2016 no.29934, certain amendments have been performed over common costs and safety services within the scope of the Regulation.

II. Post-amendment implementation

It can be observed that the Amendment Regulation ensured some changes over the clauses within Article 11 of the Regulation arranging the distribution methods and descriptions on shopping malls' common costs.

The first among these amendments is made on the first clause of Article 11 and it's related to the distribution of common costs for shared spaces. The distribution of common costs which is explained in details under "Annex-1" within the regulative arrangement provides optional ease to the parties through the Amendment Regulation and it's questioned that whether any method of cost distribution among the mall administration and retail stores resident in the mall is identified unanimously or not.¹ In the circumstance that any consensus could not be secured, pursuant to the arrangement introduced through the Amendment Regulation, the common costs are distributed on the proportion of retail stores' sale space to the malls' total sale space. Jointly cost sharing method is set to be implemented for maximum 5 years.

III. Conclusion

While the common costs were calculated by taking the distribution table as basis within the previous regulations, the cost sharing method based on a consensus between the tenants and the mall administration regardless of any distribution rate or coefficient calculation, in other words without any distinctions among tenants in terms of brand, field of activity, etc... is regulated through the latest regulation.

Even though the mutual understanding for the common costs is the aim of the latest regulation, outcome of such regulation can be considered as in favor of some tenants as well as against to some of them. In the circumstances where any consensus could not be ensured, distribution of common costs shall be realized by taking the square meter space as basis without any discrimination. At that stage, the parties observing an increase in their common costs could feel displeased and some complications may be encountered in relation to the payment of amounts required by that distribution.

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¹ Updates have been introduced on Implementations of Common Costs and Safety at shopping malls-Bilge Binay Kanat & Kaan Beylen

