

Tips for Negotiating Contracts in an Even Tougher Seller's Market



*Barbara Dunn
Barnes and Thornburg LLP*

Do you remember back in school getting your first lesson on economics: supply and demand? That simple, but critical, principle is alive and well in the hotel industry. With business travel back on the rise, there is great demand (fortunately) for hotel rooms by both individuals and meeting groups. At the same time, the supply of rooms at full service hotels has shown little growth. Thus a great lesson in supply and demand: limited supply of hotel rooms plus increased demand in hotel rooms equals a “seller’s market” in many destinations.

Negotiating hotel contracts in a seller’s market can be a challenge so it is important for meeting professionals to note some of the developments in hotel contract negotiations and the related tips.

- **Option Dates** – Option dates matter! While in years past meeting professionals would often rely on the fact that the option date listed in the contract by which the group had to return the signed contract was very flexible and could easily be extended. But in today’s market, it is important for meeting professionals to understand that when a hotel salesperson tells them that they have another group waiting on a second option, it is not just sales talk – it is likely true. So meeting professionals should be conscious of the option dates and, if not achievable, ask the hotel to extend the option date in writing.
- **Room Block** – Don’t forget to include language to permit an increase in the room block at the group rates. With demand high, hotels may offer the group additional rooms outside of the room block but those rooms will likely be offered at a rate higher than the group rate. As such, meeting professionals should try to include language in the contract which permits the group to increase its room block up to a certain percent of its current block at the group rates provided there are still rooms available.
- **Room Block Attrition** - The margin of error is getting thinner! With groups used to seeing generous slippage percentages such as 20%, those percentages are getting smaller

because of increased demand at the hotel. Meeting professionals should ensure that they are very comfortable with the contracted room block even before factoring in the percentage of permitted slippage.

- Concessions – Carefully review your concession list! Meeting planners were accustomed in buyer’s markets to receive lots of complimentary concessions with no strings attached. But today, in a seller’s market, the concessions offered are leaner and the offering also comes tied to a contingency that the group use a certain percentage of its room block (often a higher percentage than the room block attrition provision) or else the hotel can withdraw some or all of the concessions. If the group is unable to remove the contingency, meeting professionals should include language which provides that any withdrawals or adjustments to concessions would have to be mutually agreed by the parties.
- Function Space – Yes, you are seeing double – double-booking of function space that is! With demand high, hotels are fitting groups in wherever they are able and sometimes, that can mean the space the group had contracted for its event was also promised to another group. As such, it is critical for meeting professionals to include language in the contract which lists each function room by name and provides that the hotel cannot reassign any of the function rooms without the group’s prior written consent. If, despite such language, the hotel cannot accommodate the group in function space as contracted, the group has the right to seek monetary damages associated with securing alternate space.
- Cancellation by Hotel – No hotel would ever cancel its contract for my meeting, right? Wrong. In a seller’s market, more and more hotels have opted to take more lucrative business over currently booked business. It is not personal – it is just business. Yet groups finding themselves in these situations often find it all too personal and all too expensive to secure an alternate location for its meeting. As such, meeting professionals should include language in the contract which permits the group to recover monetary damages and attorney’s fees as a result of the hotel’s breach.

While the resurgence of the meetings and hospitality industry is a very good thing for our economy, meeting professionals should ensure that their group is not left out in the cold when it comes to their hotel contracts. As always, hope for the best but plan for the worst!

Barbara Dunn is a Partner with the Associations and Foundations Practice Group at Barnes & Thornburg where she concentrates her practice in association law and meetings, travel and hospitality law. Barbara can be reached at (312) 214-4837 or barbara.dunn@btlaw.com.

This article shall not be considered legal advice. In all cases, groups should consult their legal counsel.

©Copyright 2015. Barbara F. Dunn, Esq., Barnes & Thornburg LLP. All rights reserved under both international and Pan American copyright conventions. No reproduction of any part may be made without the prior written consent of the copyright holder.