

## Leasing Insights: Use Restrictions

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In Texas, absent a specific restriction in the lease, broad, tenant-friendly rules apply to a tenant's use of its premises. Under Texas law, a tenant may use the premises for any lawful use, unless the landlord and tenant expressly agree to restrict the tenant's permitted use in the lease. A landlord may impose any restrictions to which a tenant is willing to agree. Care must be taken by the landlord in the language used in a lease to restrict a tenant's use of the premises. For example, if a lease merely states that a tenant "may use the premises for the retail sale of children's apparel," without any restrictive language, no restriction on the tenant's use is accomplished and the tenant may use the premises for any lawful purpose. The following is a list of words or phrases that could be included in the use provision to effectively restrict a tenant's permitted use: "only," "solely," and "for no other purpose whatsoever."

Additionally, a landlord must explicitly provide in the lease that the restrictions on use also apply to any subtenants and assignees. If the use restrictions are not expressly made applicable to subtenants and assignees, and the tenant enjoys broad transfer rights, Texas courts have held that the use restrictions contained in the lease do not apply to the transferees.

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