

Site-specific disclosure is critical to mitigating risk in franchising

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Many franchisors may not be aware that there is a requirement to disclose certain information that is considered specific or unique to a particular franchise grant, resale, or renewal process if that information is material and is known by the franchisor at the time of disclosure. This is referred to as site-specific information (SSI).

While the nature and level of detail of the SSI that must be included in a franchise disclosure document (FDD) may vary, it is likely that at least some basic site-specific information should be disclosed in all FDDs issued in a province where franchising is regulated in Canada.

Which provinces regulate franchising in Canada?

There are six Canadian provinces that have enacted legislation that regulates franchising: British Columbia, Alberta, Manitoba, Ontario, New Brunswick, and Prince Edward Island. In these provinces, the franchisor needs to disclose certain information to its franchisees and prospective franchisees in a FDD that is provided to the franchisee candidate before they enter into the franchise agreement or pay any consideration related to the franchise.

The FDD must follow a certain format and include prescribed information in addition to all "material facts" that would reasonably be expected to have a significant impact on the value or price of the franchise to be granted, acquired or renewed, or the decision to acquire the franchise and therefore, would impact a prospective or existing franchisee's investment decision in respect of entering or remaining in the franchise network for the upcoming term.

What is site-specific information and what's the penalty for failing to disclose?

The exact nature and detail of SSI that must be disclosed will depend on the SSI the franchisor is aware of at the time of disclosure. Examples of SSI that should be included are leasing information, location information, protected territory, key performance requirements and candidate specific fees.

The internal process required to coordinate, approve and disclose SSI can often discourage franchisors and lead to non-compliant disclosure practices, which may expose franchisors to significant liability. Recent case law on this topic suggests failure to disclose certain material SSI may indeed give rise to the full two-year rescission remedy. [For more information about site-specific requirements and developments](#) in case law, the following article provides a comprehensive overview.

It is considered a best practice to include an SSI exhibit in all FDDs and to set up standardized

processes within your organization for customizing each FDD for each prospective/existing franchisee with all SSI that is a material fact and is known by the franchisor at the time of disclosure and prior to execution of the franchise agreement.

Tips to make sure SSI is included in your FDD:

- Coordinate with your sales team members, operations and, if applicable, legal teams to determine known SSI at the time of disclosure
- Streamline processes for franchisee data retention, update for upcoming term, and internal approvals
- Establish a templated SSI exhibit and automate population of the SSI exhibit using simple mail merge or document automation software. See our previous article on [streamlining document generation](#).
- Consider a franchise disclosure and contracting automation solution, such as Osler Dash. Whether you're in the process of updating your disclosure practices or looking for ways to streamline and standardize processes and information sharing within your organization, it is important that your FDDs are complete, accurate and delivered efficiently. If you need help with improving your current disclosure practices, our franchise disclosure and contracting solution might be right for you. Osler Dash automates your franchise disclosure and contracting through an easy to use, interactive platform.

Have questions? [Find out how Osler Dash can work for you.](#)