

I quit, the bureaucrats had beaten me

By Charles Hugh-Smith, 13 August 2015

"For many years, many of my friends and family who have come to my home and experienced my cooking, have told me that I should "open a restaurant". Of course, I took this with a grain of salt since many people say this exact phrase, to many other people. There are a lot of people who are able to create very delicious meals.

About five years ago, there was a restaurant for sale, not too far from my home and business. I thought about buying the restaurant, but at that time, the economy was not doing well and I wanted to take a wait and see attitude before I committed to anything. Eventually, the restaurant closed down and a different type of business opened up in the space that had been a restaurant. That business went under in the middle of 2014 and I decided it might be time to open a retail food establishment in the space that used to be a restaurant. How hard could it be?

I signed a lease with the property owner for his 1000 square foot space. I contracted with a general contractor and designed the restaurant floor space on a CAD program I have on my office machine.

Having boot-strapped two seven figure companies from the ground up over the past 25 years, I knew all of the permits needed in order to open a regular business. First, I had to have my attorney file for incorporation in my state. Then, I secured my FEIN (Federal Employer Identification Number) from the IRS, opened a bank account, got my sales and use tax permit (to collect sales taxes) from the State and contacted the person at the state level who is responsible for food establishments at the state level. The department that handles such things is the Nevada Health Department.

I would need to pay additional fees

The inspector who is responsible for my geographic area (since I live in a sparsely populated county, we don't have a county health department) at the state level told me that since the space had not been a restaurant for a few years, I would need to pay additional fees the first year and my endeavor would be treated as a "new" retail food establishment. The cost was an additional \$500, but that's just the way it is. The property already had a grease interceptor (1500 gallons), floor drains, a mop sink, air exchanger on the roof and was mostly plumbed. I'll get back to this later.

I submitted plans to the state contact person and was told that my symbology was not standard for the plumbing and electrical. The suggestion was made that I seek the services of an architect. Very well. I did. I found an architect who has done some restaurants in the area and we got to work. I submitted my floor plan to him, which he said was very detailed and seemed to use the space to its maximum potential. However, he did mention that if I were going to serve one single person as a dine-in customer, I would have to have at least one ADA compliant

bathroom. The space had two existing bathrooms that were ADA, but not the latest version. So, those would have to be upgraded. Next, he told me that if I served, in-house, I would need to provide two ADA compliant bathrooms. I was going to remove one of the ADA bathrooms, so I could have more seating, but if I had more seating, I would need two bathrooms. Catch-22.

I would need to expand the hallway

My architect submitted to the state for review and was told that I would need to expand the hallway. That means that the current hallway walls would need to be completely gutted, with plumbing removed and drains moved.

I guess it really did not matter though, since according to the State of Nevada, I was required to have EIGHT (8) sinks in my 1,000 square foot space. I needed two bathroom sinks (which I had), one dirty sink with three wells, clearly labeled "wash, rinse, sanitize"; this sink needed to have two side-boards of not less than 18 inches etc. I also had to have one prep sink, with a wand facet, one dedicated mop sink, two hand wash stations (that could not be near any other sinks) and a bar sink for smoothies. This meant I had to have an extra floor drain put in, while the others needed to be moved. Great. 8 sinks. Cost to bring the plumbing to code and provide engineered drawings and system? \$20-25 thousand.

After six revisions to the plans (to make the state happy), I finally gave the plans to a general contractor. He sent it to his electrical and plumbing sub-contractors. They informed the general that due to code issues, they would have to quote an engineered HVAC system that provided balanced air for the replacement needed by the hood exhaust. The hood exhaust would need to be tied into the HVAC, so that my customers would be in an environment that met the state standards for air quality. OK. The plumber also said that I needed a brand new, engineered waste pipe system, one that could only be installed by jack hammering the entire plumbing system, since the state was requiring a detailed drawing of the pipes in the floor, and since it was put in before they had these requirements, they would want it all dug up and put into a plan. Great. Engineered HVAC cost? \$40,000 (even though the place seemed to work fine for 25 years with an evaporative cooler and a gas heater).

New EPA compliant transformers

Next, I was told that since I would need a 200 amp electrical service panel (which I knew), the power company would have to replace the transformer on the pole outside, since new construction (the buildings are 30 years old, but hey, it's a restaurant) requires new EPA compliant transformers. The power company fee alone would be 12-15 thousand dollars. Cost to upgrade electrical to code? \$20,000, including power company costs to install EPA approved transformer.

Next, I was told that I would have to have the gas pipe dug up, jack hammered and replaced with a larger diameter gas line. This would be \$20,000 or so dollars. The reason is, of course,

that the new code requires a minimum pipe diameter for gas; even though I was only going to have one appliance on gas; the range. Everything else is electric.

Keep in mind that all of this was taking time. In point of fact, from the time I signed the lease in late December, until just this past week, I was doing nothing but getting my paperwork ready and trying to comply with government mandates. Essentially, I spent 7 months trying to not only figure out what I needed to do, while I was paying rent and utilities, but I also spent many hours trying to figure out the complexities of what the state required.

Each person has to take a Food Handler Course

For instance: Each food establishment is required to have at least one Food Service Handling Manager. Each person who serves or prepares food has to take a Food Handler Course. The manager course is about 500 dollars, when all is said and done. The food handler course is about half of that. This is an annual fee.

Aside from what I was being required to do for the construction, the state also required the following:

- A complete list of vendors. Said vendors must be USDA certified wholesale food suppliers. No farmer's markets, supermarket or home grown.
- A complete menu, listing calories of each ready-made product.
- A sample of my labels for prepackaged product showing nutritional data, ingredients, warnings about any allergens (peanut etc).
- My estimate of how many employees I thought I would need (so they can tax me on each employee, annually, something the county does too)
- Certificates for any employees who would be handling food, including any managers. My Federal EIN and my State tax ID.
- Complete plans, contractors, amount of estimated business (so they can PRE TAX me on estimated sales taxes)

The statutes for retail food are about 500 pages thick

It just goes on and on. The law in Nevada is called the Nevada Revised Statutes, or NRS. The statutes for retail food are about 500 pages thick. That's just the codes that cover food. This does not cover the building, electrical, plumbing and service codes (such as ADA compliance, handicap parking, etc.)

So, I quit. They beat me.