

Fair Franchising Is Not An Oxymoron: No. 3
AAHOA's 12 Points of Fair Franchising

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In 1998, the Asian American Hotel Owners Association identified a set of standards called the 12 Points of Fair Franchising by which to judge the actions of franchise companies. Now, nine years later, AAHOA has updated the 12 points and has embarked on a survey of franchisors to assess their compliance with these fair franchising standards. In this Hotel Interactive article, I highlight Points 3 and 4.

Point 3: Minimum Performance & Quality Guarantees:

Franchisors should issue minimum performance guarantees to franchisees regarding the occupancy levels of their brand name hotels, and the number of reservations that will be delivered through the franchisors' reservations systems.

Franchisors also should commit to maintaining a certain level of quality in the franchise system, including, for example, the key characteristics of each brand name, the public image and reputation they will develop for each brand name, the minimum number of hotels they will maintain under each brand name, and the amount and type of advertising they will employ for each brand name.

Thus, if a franchisee's hotel is not able to maintain certain occupancy levels over a designated period of time as discussed in Fair Franchising Point 1 above, or if the franchisor allows the quality of a particular brand name to decline, the franchisee should be able to terminate the franchise agreement without penalty.

Turkel Comment:

In other words, if the franchise company fails to produce a sufficient number of reservations to reach a pre-determined occupancy level (break-even point), the franchisee can terminate the license agreement without liquidated damages.

Point 4: Quality Assurance Inspections/ Guest Surveys

Franchisors should have the same standards for each of their facilities operating under a specific brand name in the franchise system. Franchisors also should conduct their quality assurance (QA) inspections in a fair, reasonable and unbiased manner, and use their best efforts to prepare QA reports that are accurate and complete.

If a franchisee fails a QA inspection and is given a punch list of items to repair, correct, or change, the franchisee should strive to complete all of the items on the punch list in a timely manner. During the subsequent re-inspection of the facility, the franchisor should only seek to confirm that, in fact, the franchisee has completed all of the items on the punch list. If so, the franchisor should give the franchisee a passing grade. During the re-inspection of the property, the franchisor should not create an entirely new punch list of items that were not previously mentioned, or give the property a failing score for items that were not included on the original punch list.

In the event of a dispute concerning a QA inspection or low scores arising from guest survey cards, franchisors should establish an appeals process whereby a franchisee can appeal the decision of an inspector, or challenge the low scores it received from the guest survey cards. In connection with the appeals process, the franchisee should be able to present evidence that it is in compliance with the standards of the hotel brand, or request that the director or supervisor of the franchisor's quality assurance department personally visit the property and re-inspect the facility to ensure it is satisfying the necessary standards.

Commentary: Franchisors should use their best efforts to work with, educate and train franchisees who have received one or more failing QA inspections, or low scores arising from guest survey cards, to ensure the franchisees understand and are doing whatever is necessary to cure the failing QA inspections and/or improve the scores, and thereby avoid problems in the future.

In the interest of fair franchising, a franchisor should not terminate a facility based on one or more alleged failing QA inspections, or as a result of low scores from guest survey cards, unless and until each of the following has occurred:

- The franchisor has thoroughly analyzed the facts and circumstances concerning the failing QA inspections reports, and/or the low scores from the guest survey cards, and evaluated whether there are any valid reasons that the property received such failing grades or negative comments on the survey cards at the time they were issued; and
- The franchisee has been given a reasonable opportunity and an adequate amount of time to cure any failing QA scores, problems with the property, and/or improve the guest survey scores; and
- The director or supervisor of the franchisor's QA department has personally visited the property, and has issued a written statement verifying that the facility is not in compliance with the standards of the hotel brand and should be terminated.

Turkel Comment:

QA inspections should not measure against arbitrary and one-sided standards. Inspectors should help, not hinder the curing of failed QA inspections. Their objective should be to enable the hotel to improve physically and operationally.

My book-in-progress “*Great American Hoteliers: Pioneers of the Hotel Industry*” will be published at the end of 2007 by McFarland & Company, Publishers, Jefferson, N.C. You can reserve an autographed copy by sending me an email at stanturkel@aol.com.

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