

Nobody Asked Me, But... No. 42

Remembering Jack Craver; An End to Mandatory Arbitration Clauses? World Record-Setting Hotels; Change in Rhode Island Franchise Laws; At Last: A Major Gaming Facility in the Catskills; Quote of the Month.

By Stanley Turkel, MHS, ISHC

1. Remembering Jack Craver- I remember my friend Jack Craver with pleasure and admiration. In his almost 50 years of experience in the hospitality industry, he managed The Mayflower Hotel (Washington, D.C.) and The Plaza Hotel (New York, N.Y.) He told me two wonderful stories about the Sonnabends:

(a) When A.M. Sonnabend owned and operated the 300-room Whitehall Hotel (including Henry Morrison Flager's former mansion) in Palm Beach, Florida, the local country clubs would not permit Jewish guests to play golf. Unwilling to accept this anti-semitic practice, A.M. purchased the Sun and Surf Club in Palm Beach to provide facilities where all guests were welcome.

(b) Jack said that the "Sonesta" name was first used in the Rib Room at the Roosevelt Hotel in New York by Resident Manager Charles Meredith White. He named the baked potato with sour cream and chives as the "Sonesta potato". Later when the Hotel Corporation of America built the Royal Sonesta Hotel in New Orleans, it was known as the "baked potato" hotel by hotel owners.

2. An End to Mandatory Arbitration Clauses?- In the recent past, I have written about the shortcomings of arbitration as a dispute-resolving format for hotel franchise agreements. (see Hotel Online 4/23/07 "Nobody Asked Me, But... No. 27"). In my estimate, mandatory binding arbitration protects franchisor interests while diluting franchisee remedies.

A recent issue of the Wall Street Journal reported that recent legislation, the Arbitration Fairness Act of 2007, is being reviewed by the Senate Judiciary Committee. The proposed legislation doesn't prohibit arbitrating a dispute, but it would prevent one party with greater bargaining power-typically the franchisor- from contractually forcing individuals into arbitration.

3. World Record- Setting Hotels

Tallest- the tallest hotel in the world is the Burj al-Arab in Dubai at 321 metres (1050 feet) which however will soon be surpassed by the nearby Rose Rotana Suites at 333 metres (1091 feet).

Largest- the hotel with the greatest number of rooms is the MGM Grand Las Vegas with a total of 6,276 rooms. In 2006, the Guinness Book of World Records listed the First World Hotel in Genting Highlands, Malaysia as the world's largest hotel with a total of 6118 rooms.

Oldest- According to the Guinness Book of World Records, the oldest hotel still in operation is the Hoshi Ryokan in the Owazu Onsen area of Komatsu, Japan which opened in 718.

4. IFA Successfully Lobbies Rhode Island to change Franchise Law-

The pro-franchisee website Bluemaumau.com recently reported that the International Franchise Association (IFA) has been successful in diluting the Rhode Island Fair Dealership Act that was enacted last year to protect franchise owners. Don Sniegowski, editor of BlueMauMau describes the new amendment as follows:

The Rhode Island Fair Dealership Act, the first state law of its kind since Iowa passed a fair franchise law in 1992, has several sections that the IFA targeted to change. Franchisors had been required to provide Rhode Island franchisees and dealers (a type of franchise owner) with a 90 days written notice before termination, cancellation or non-renewal of a franchise license and at least 60 days to cure or fix non-conformance to a franchise's (dealership's) operating standards unless it is a health problem in which the franchise owner or dealer has only 24 hours to cure it.

The new amendment that the IFA pushed shows such state requirements completely crossed out. However, according to the IFA insider newsletter, the law will now require "60 days written notice for termination, cancellation or non-renewal" of a franchise agreement and 30 days in which to cure any non-conformance issues. That is whittled down 30 days.

Despite lobbying effects and the successful passing of the amendment, the Rhode Island Dealership Act has remained largely intact.

David French, Vice President of Government Relations for the IFA told Blue MauMau, "The amendment has been passed by the House and Senate. We are

getting the bill ready for the governor's signature. I expect it to be on the glide path to completion within the next four or five days."

Besides granting franchise owner-operators a legal termination and cure minimum, the IFA stated that it was extremely uncomfortable with the act's description of franchisors as having "superior economic power and superior bargaining power in negotiations." Such description could be interpreted by Rhode Island courts in implementing the act.

The IFA would like to eliminate such state laws. "The IFA has an agenda to create a less regulatory environment for franchising," says French.

5. At Last: A Major Gaming Facility in the Catskill Mountain Region-

Governor David A. Paterson announced an agreement with the Legislature that will pave the way for the development of a major resort and gaming facility in the Catskill Region at the current site of the Monticello Gaming and Raceway. The program bill will lower the tax rate on gaming revenues in return for a one billion dollar investment, a commitment to increase education funding and the creation of 2,000 permanent jobs.

The investment will be made by Empire Resorts, Inc., which recently acquired from Concord Associates LP, a development group managed by Westchester developer Louis R. Cappell, the Concord and Grossinger's Resort Hotels and golf courses. This new Monticello project must be completed by January 31, 2011, and includes plans for the construction of a hotel, convention center, new racino, retail space and a parking garage. Additionally, at least one eighteen-hole golf course will be redeveloped.

"There was a time when the Catskills were the pre-eminent vacation destination on the entire East Coast. The beauty and majesty of the region has not changed, and this deal will help return the Catskills to their former glory, a destination spot," said Governor Paterson. "This agreement is a big win for Monticello. Sullivan County, and all of New York State. Government and the private sector have worked together to structure a deal that will at least double the amount of money for education that the State expected to generate from the Monticello Racetrack and to create 2,000 permanent new jobs."

6. Quote of the Month

“Man’s mind once stretched by a new idea, never regains its original dimension.”

Oliver P. Holmes

Stanley Turkel, MHS, ISHC operates his hotel consulting office as a sole practitioner specializing in franchising issues, asset management and litigation support services. Turkel’s clients are hotel owners and franchisees, investors and lending institutions. Turkel serves on the Board of Advisors and lectures at the NYU Tisch Center for Hospitality, Tourism and Sports Management. He is a member of the prestigious International Society of Hospitality Consultants. His provocative articles on various hotels subjects have been published in the Cornell Quarterly, Lodging Hospitality, Hotel Interactive, Hotel Online, AAHOA Lodging Business, etc. If you need help in negotiating a franchise agreement or with a problem such as encroachment/impact, termination/liquidated damages or litigation support, call Stanley at 917-628-8549 or email stanturkel@aol.com.

Stanley is available to speak at your company or organization meetings on these and other hotel-related subjects. Contact him at 917-628-8549 or email stanturkel@aol.com