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Dennis Serpone - Three obstacles to selling a restaurant... The 3 L's: Landlords, lawyers and leases

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It has become quite obvious that the food and beverage industry is seeing a turnaround. Just as the seasons have evolved from the cold and snowy winter into a warming, comfortable, and bright spring consumer confidence is returning. Consumers are back to spending. Old habits die hard; they're back to flashing those credit cards. Those high end restaurants that survived the last couple of years are still seeing a brisk business. Additionally, many of the low end fast food places are doing exceedingly well although customer-counts are down, and in the mid-range, the casual-dining operators seem to be struggling. All categories have been effected by high oil prices, constantly higher commodity prices, and frivolous and questionable (to common sense) government regulations.

In today's market, for those owners who decided to sell, it's not always about not making enough money. There are a myriad of reasons why an operator puts his business on the market...tired of working long hours, wanting to spend more time with the family, partnership disputes, rising operating costs, increasing government regulation, desire for a bigger (or smaller) place, lease/landlord issues. Did I just bring up two of the three 'L's (landlords, lawyers, & leases)?

As a professional in the real estate industry you know how hard it is to find the right buyer and create the classic win-win deal. Those sometimes are the easiest to do. Once the deal is structured, now you have to deal with the 'arms-length' components...the landlord, the lease, and the lawyers.

The landlord sees an opening...you want to sell, you need his cooperation...what's in it for him? You're selling the business, his lease is a major part of what you're selling...he demands to be compensated also. Was the lease assignable? Doesn't matter, the landlord still can drag a deal along until someone yells "uncle"...and he is 'satisfied'.

The lawyers, as we know, are 'deal-makers' or 'deal-breakers'. Many times, because both parties need their legal expertise, the lawyers take on the cloak of an owner/buyer. They reinvent the deal according to what they perceive the deal should look like...even though they've never seen the facility.

You've hired an attorney to represent YOUR interest...the primary directive is to get the deal done quickly before the buyer or seller changes his mind. The problem is that lawyers work on volume and business transfers aren't difficult and subsequently don't bring much money to the bottom line...so many times they fall to the bottom of their priority list. Simple deals, a simple Purchase & Sales Agreement that should take a couple of hours to prepare, can take weeks. God forbid that there's a liquor license involved...now you're looking at months and months to close a deal.

Fortunately there are commercial real estate brokers who specialize in the sale of restaurants. With over 30 years representing buyers and sellers, developers and franchisors, New England Restaurant Brokers has helped thousands satisfy their needs. "When you have chest pains, you'd

run directly to a heart specialist. When your business is hemorrhaging, you need a restaurant specialist."

The seller takes an offer because it meets his minimum needs, the buyer buys because he's gotten a great deal, the landlord wins if he has a good tenant, and the lawyer wins because he made his client happy. Every deal has to be a Win-Win for everyone.

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