



Relocating Restaurants

The challenges of this unique relocation

BY DARRYL ROOT, R/W-RAC

One of the most challenging and interesting parts of performing non-residential relocation services under the URA (Uniform Relocation Assistance and Real Property Acquisition Act of 1970) is the variety of businesses the relocation professional encounters. This variety gives the relocation agent insight into the particular traits of a diverse spectrum of manufacturing and service-oriented industries.

One of the more unique types of non-residential relocations is the displacement of a restaurant. By its very nature, the restaurant business is extremely competitive and the profit margins are not as high as in other industries. These issues become further complicated if the restaurant is part of a franchise that may have strict rules on where it can be relocated and how the new site must look and be furnished. This article will review common relocation challenges associated with relocating restaurants and outline some best practices to meet these challenges.

Scheduling

Because of the historically lower profit margins associated with food establishments, it is particularly important that the restaurant's downtime be reduced as much as possible. Scheduling issues and the displaced restaurant's particular needs should initially be addressed in the relocation planning documents required by 49 CFR 24.205. For example, is there a time of year that the restaurant does most of its business? Some restaurants do a larger share of their business during the seasonal availability of certain food items. Is there a way to meet the project schedule and avoid these times to reduce hardship on the restaurant?

Collaboration

After the relocation planning phase, the relocation professional should be actively coordinating with the appraiser. It is essential that the appraisers involved make clear delineations between real and personal property. Oftentimes, it may not be easy to decide what category certain common restaurant items fall into, such as grease traps. The relocation agent's input can help clarify these issues. Once the appraiser has made his or her decisions on which category is correct for an item, the results should be clearly communicated with the displacee. If the displacee is a tenant, the relocation agent can then coordinate with the acquisition agent to help confirm ownership of the personal property. Review of the lease and other relevant documents is important for determining ownership. If the tenant owns the personal property, there are different benefit options, such as direct loss of tangible personal property or substitute personal property. Choosing between these benefits may take some time.

Location

Similarly, the restaurant should be allowed enough time to find a suitable replacement site. Because of the extremely competitive nature of the industry and abundance of food choices, location is critical. Where is the restaurant's existing core customer base located? Are there other suitable sites available near existing customers? Do these other sites have adequate parking and accessibility? Is there proper visibility? Is there a large enough population base at the new site to support the restaurant? These issues can be addressed through the benefits offered under 49 CFR 24.303 (b). This provision provides that the agency can reimburse the displacee for:

Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of the Agency a reasonable pre-approved hourly rate may be established.

Marketing studies can be especially helpful to the displaced restaurant when it is operated as an individual franchise of a national brand. These national franchisors often have very strict rules on the proximity of one franchisee to another and closely regulate the interior and exterior look and construction of individual restaurants.

It is important to remember that such professional services must be actual, reasonable and necessary both in scope and price. The relocation professional should review both prior to the displacee engaging professional services.

Permits

Particular attention should be paid to the time needed by the food establishment to obtain necessary permits. These permits may include both zoning-related and operational permits. For example, if a conditional use permit or change of zoning is required for the replacement site, these expenses can be reimbursed up to \$2,500 under 49 CFR 24.301 (g) (17). Necessary attorney fees required to obtain such licenses or permits are also reimbursable up to \$2,500. Any anticipated attorney’s fees should be reviewed before they are incurred to ensure they are reasonable and necessary.

Operational permits such as health inspections and certifications can be reimbursed under 49 CFR 24. 301 (g) (11). This includes any license, permit, fees or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, fees or certification. It should be noted that this regulation does not include general construction permit costs that the restaurant may have in connection with the new site.

Inventory

Finally, before vacating the displacement site, the restaurant should be encouraged to reduce its remaining inventory of food and liquor as much as possible. Health regulations often prohibit the transfer of open or partially used food items to different locations. To mitigate loss, the restaurant should see if the food vendor is willing to take back some of the food items or give it a credit to help reduce remaining inventory. Timely reduction of inventory avoids expense and waste.

However, should there be food and alcohol items left prior to the move, a careful, final inventory of the remaining items should be taken. Once the extent of the remaining inventory is known, the displaced restaurant may want to take advantage of the direct loss of personal property benefit. The formula for this benefit states the payment shall consist of the lesser of:

- (i) The fair market value in place of the item, as is for continued use, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling prices.); or
- (ii) The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. (See appendix A, § 24.301(g)(14)(i) and (ii).) If the business or farm operation is discontinued, the estimated cost of moving the item shall be based on a moving distance of 50 miles under 49 CFR 24.301(g)(14).

As discussed, the restaurant will have to make a good faith effort to sell the items, unless the displacing agency waives the requirement. However, the reasonable costs incurred in trying to sell the items are reimbursable. These costs include advertising the sale and actually conducting it. After the sale, the restaurant should hand over all records to the displacing agency. The amount earned will be subtracted from the fair market value in place of the items and compared to the move cost to determine which is the lesser of the two alternatives in the formula.

But because of the perishable nature of food and applicable health laws, the sale may not be very successful. To further complicate matters, there are strict federal rules on the disposal of unsold alcohol. Therefore, the restaurant should document that it complied with all applicable health and disposal laws before, during and after the sale.

In Summary

There are a number of challenges to this unique type of non-residential relocation. By understanding and applying these and other best practices, the relocation professional can help make a restaurant relocation successful for both the business owner and the displacing agency. ⚡



Darryl Root is a Senior Right of Way Project Manager for HDR. He has been in the right of way industry for 25 years.