

# **Legal Considerations for the Small Business Person**

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You have heard the old joke that given the choice between hazardous waste dumps and lawyers most states would pick the waste dumps. Sad, isn't it, that our legal system, more specifically those who represent our system, have such a poor reputation? No doubt the legal profession has a PR problem, deserved or not, and apparently one for which they haven't found the solution. But let's face it, we can't live with them, can't live without them!

So the question for the small business person is, "If they are so bad, do we need them?" Unfortunately the answer is yes, we do need lawyers. "Why?" you ask; because we live in a litigious society. As a business owner this means you are a target; make a mistake, let your guard down, make a remark that is out of line, misread a document and bingo, the threat of legal action. It is the best get rich scam in town! So be prepared because I can guarantee you that during your business life you will need a good lawyer to protect your assets.

From the beginning of creating your business you are faced with legal issues. Purchasing, obtaining financing, getting zoning and/or planning approval for a business is just the tip of the iceberg.

Let's look at a typical business cycle. You start full of vim and vigor, intensely excited by the prospects of owning and operating your own business. You decide on a piece of property or a business and want to make an offer. You ask your real estate rep if your use for the site is permitted, if it has the correct zoning. They say yes, so you decide to make an offer. You get this enormous stack of paperwork from the broker and are stunned by the mumbo jumbo of the documents. You're no dummy, but all of a sudden you feel somewhat inadequate; you slug through the papers, throw your hands into the air and yell for help! At this point, if you don't have a lawyer, you need to find one, but where? And what type?

If it is just a question of acquiring real estate and putting together basic incorporation documents, a general practitioner should suffice. Unfortunately in this world of specialists you will probably have better luck with a practice that has several disciplines. A great source for legal information is the web. I would suggest you try [www.lawyers.com](http://www.lawyers.com); this is a terrific web site with endless amounts of readily available information on just about any topic you could think of. Once you have identified your needs and found an individual or firm with which you are comfortable, you can start loading them with assignments. Remember lawyers bill by the hour, so be sure that you are very specific about what you need. Every time you call, write or visit, the clock is running. It's like a very expensive self-serve car wash; don't dilly dally, write a list, ask the questions, get the answers, and go.

If you are building a car wash, your attorney will play a major role from the day you find the site until you wash your first vehicle. It is important to note that in the pecking order of desirable businesses, car washes are somewhere below pet crematoriums, adult sex shops and used car lots. Oddly enough banks, law firms and other professional practices are near the top! I guess they appear more sophisticated and therefore more desirable. In any case, because planning board approval is not a given, your attorney will strongly recommend that you have several contingencies in your offer that relate to zoning,

#### Planning Board and Financing Approval

After reviewing and giving the blessing on your purchase documents, making sure that there are no restrictions or environmental issues, you will acquire the property and create your site plan. Once you have gotten good direction from the city planners and engineer, you will present this to the planning board for approval. This is a critical step where you will assemble your team of experts. If you are a corporation, you must be represented by an officer of the court. The knowledge, reputation, and rapport that your attorney either has, or does not have, with the community may well spell success or

failure for your project. It should be obvious that many more individuals play a role in obtaining your approvals, but the lead guy, besides you, is your attorney.

Assuming that you get the green light to proceed, you are now looking at a raft of legal documents. Vendors, architects, contractors and other professionals will ask, or want you, to sign a contract. In addition, if you finance your business you will be asked to sign everything over to the banks.

By now you're probably asking yourself "Who needs this aggravation?" If you want to play in the game, the aggravation and angst go with the territory. So suck it up, don't get too irritated and, as for those items that are legal in nature, give them to your attorney; that's why they make the big bucks! Remember Bill Clinton and the word "is." Only an attorney could have found a way to redefine a two letter word and not be guilty, so don't play amateur lawyer. The costs are too great. An important piece of information here is to remember that attorneys are paid to see the glass half empty. Lawyers aren't paid to make business decisions. They are paid to give you sound legal advice so you can make the decisions.