



# WHO KILLED BILLY BAXTER?

## PETER BUCKINGHAM REPORTS ON THE RECENT BILLY BAXTER'S CASE...

A recent decision in the Supreme Court of Victoria should be sending some franchisors into shock, and give some current or ex franchisees a sniff that justice may be in the air, in certain circumstances.

In a unanimous decision, a previous decision was reversed into the franchisee's favour, with \$1.22M damages awarded.

The case revolved around the Glenelg Billy Baxter's restaurant, which was opened in 2004. The franchisee claimed he was told sales should be around \$1.3M, and this definitely did not eventuate.

For many years we have campaigned that some franchisors apply little logic to the most important number in a new site evaluation – The Sales Revenue Forecast. Whilst we deal in an 'inexact' science, history has shown that some data based evaluation will always be better than the 'wet finger in the air' estimate, and if challenged, there should be some statistical base from which the Sales Forecast was derived.

### WHO KILLED BILLY BAXTER?

The court decision was critical of the franchisor's representative, Mr Phillip Mauviel, and his comparison to another store, which turned out to be incorrect. But really, we should ask what

were his instructions, and what did he have to work with?

Senior Management obviously had allowed Mr Mauviel to represent them in securing the franchisee, but had they done any analysis to support such predictions? The answer seems to be NO.

Statistical analysis does allow some justification in making a forecast, and whilst this was not a large chain of restaurants, some learnings must have been available as to what made the good ones work, and why some were performing poorly.

### THE ADVANTAGES OF HAVING A PROCESS

As Billy Baxter's found out, the cost of a demographic and modelling study is cheap compared to the worst case scenario of losing a major court case. From a positive view, we would hope that by doing a Market Analysis project, you make factual and statistically based decisions, and it is not a cost, rather an investment.

I have spoken for years that from to my oil industry background, it is all about having a process that needs to be followed, by all concerned. The process will assist in identifying good opportunities, and will make you double check locations where you may feel it is good, but the model shows it may not be.

The final major benefit of a site selection process

is that you should have a record of what has been done. If legally challenged, inevitably there are many grey areas that will be tested in Court, but the one you NEED answers to is "Based on what information did you select or approve the site in question?"

If your answer is docile, and along the lines of it felt good, or my gut instinct told me it would work – start practising signing your signature on the settlement cheque.

### SUMMARY

Franchisors, if you understand the drivers of your business, have a process in place for site selection and follow that process, the risk of losing this type of case will diminish. The costs of a demographic or market analysis will be a small investment compared to the risk, let alone the Executive stress that can occur.

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