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Voluntary Recognition of Unionized Labor in a Resort with Leased Food and Beverage Outlets

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VOLUNTARY RECOGNITION OF UNIONIZED LABOR IN A RESORT WITH LEASED FOOD AND BEVERAGE OUTLETS

by

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Abstract

The food and beverage industry in Las Vegas gaming resorts has rapidly been moving towards a lease model where independent third parties operate outlets. This is in comparison to the past where resorts operated such outlets with their own employees. Food and beverage operations in resorts have always been labor intensive, requiring the need for large numbers of employees to run properly. As food and beverage operations in resorts are heavily intertwined with organized labor, it warrants a look into the changing aspects of the relationship due to this new leasing trend. This includes the long held practice of gaming resorts voluntarily recognizing union representation of employees. This presents the ideal opportunity to look into the interactions between continuing the practice of voluntarily recognizing, and the trend of continued restaurant leasing. Included in this is an evaluation if discontinuing the practice of voluntarily recognizing union representation would increase lease values of food and beverage outlet spaces.

Part One

Introduction

The Las Vegas food and beverage industry labor is highly unionized. This is not a concept that is unique to just the industry in the Las Vegas area, as unionized labor in the food and beverage industry is commonplace in the United States within hotel properties. A key difference is that union representation has been on a rise in Nevada, despite reduction in union membership across much of the country (Bureau of Labor Statistics, 2014).

Meanwhile, Las Vegas casino properties have increasingly moved towards leasing food and beverage outlet space to outside operators. This trend shifts the operation and ownership of these outlets to third parties. In this shift, the third parties are often branded with notable culinary backing, including the use of celebrity chefs or chain restaurants. These leased outlets are thought to be able to use the celebrity and chain restaurant brands to leverage higher prices for menu items and higher traffic than if the casino property were to operate the space themselves. This trend has also been coupled with a relative lack of new casino openings in recent years, as no new property construction has started since the opening of Cosmopolitan in 2010.

Purpose Statement

The purpose of this professional paper is to explore the economic issues that can arise from hotel/casino properties subleasing food and beverage outlets to outside vendors in a union environment. While the traditional model was for the Culinary Union and Bartenders Union to provide an incentive for new properties to voluntarily allow union representation, the new model of leasing out food and beverage space to outside owner/operators may provide an incentive for new resorts to not allow voluntary allow representation. This goes against union tradition of increasing membership to include most new properties without the use of an election. An analysis can be applied to understand the potential economic impacts and unforeseen ramifications of leasing out owned and operated food and beverage outlets that were unionized, to outside operators not operating under a union contract.

Justification and Rationale

Subleasing out of food and beverage outlets is increasingly becoming the norm in many hotel properties. This is done to cut costs on the part of the property owner, and to shift operations to what are typically branded food and beverage outlets. Most importantly, it also improves the profitability of the space. These branded outlets are either chain restaurants; or have celebrity chef endorsements and ownership. However, in the process it creates an issue where food and beverage outlets that were under a union collective bargaining agreement when owned and operated internally by the properties are being sidelined for new operators. This creates problems if contracts with the union put specific limitations on dealing with leasing out of food and beverage space. These may include but are not limited to forced employment interviews with soon to be laid-off union members, and increased union pressure to allow representation. Any constraints on restaurant lessee present an increased cost for the operators. All of these diminish the economic value of the potential lease. These items are all important to consider prior to entertaining the option of voluntarily allowing union representation at new properties as a calculated move to avoid organized labors' attempts to disrupt the workplace. The economic value of eliminating the threat of work stoppages and the accompanying bad publicity must be weighed against the economic loss of lessees being willing to pay less for the opportunity to lease space in a unionized environment. Thus, the benefits of an employer's voluntary recognition of a union may be outweighed by decreased lease value of its food and beverage space.

Importance of the Study

This paper is intended for the use of managers/decision makers in the industry considering the possibility of voluntarily recognizing union representation. This move should be carefully considered in new resort environment if plans are for leasing of food and beverage outlets. If this move of opening a property solely with leased food and beverage is one a resort's management wishes to take, managers will need to consider breaking from the trend of voluntary union recognition prior to opening.

Limitations of the Study

While the use of non-unionized or unionized labor is a factor in the evaluation of the value of allowing leased food and beverage outlets, there are others that can have a potential impact as well. This can include the underlying productivity and talents of the staff, demographics of the target customer market of the hotel property, and risk associated with celebrity branding. Employers may find the benefits of voluntary recognition greatly outweigh the risks associated with such a move. Also, unions can still obtain representation by traditional methods without voluntary recognition. All of these are possible considerations a resort needs to take into account when weighing the advantages and disadvantages of leasing food and beverage operations to outside operators. This paper also will only be looking at leasing in the food and beverage outlets, not including any other areas of a hotel property that might be unionized. This area of leasing of food and beverage outlets is also a new area in comparison to long running industry practice of properties operating the outlets themselves. The literature available will from a relatively current time period, not allowing for the study of any long term effects on this trend.

Definition of Terms

Certain words used in this paper can have ambiguous definitions depending on context or use as they are used across various industries. This definitions list is provided as a way of clarifying the use of these key words as they are frequently used throughout the paper.

Food and Beverage- Refers to a department with hotel operations tasked with providing and running operations that provide items for consumption by guests (Goldman & Eyster, 1992).

Outlet- A food and beverage establishment located within another venue, such as a resort or hotel (Goldman & Eyster, 1992).

Celebrity Chef- A chef who has popularity or notoriety among the general public, and can often bring a branded restaurant concept under their own style of cooking. These chefs might be considered celebrities solely for their culinary feats, or due to celebrity status from cooking shows or cook books (Sieroty, 2012).

UNITE HERE- Union of Needletrades, Industrial, and Textile Employees, and Hotel Employees and Restaurant Employees International Union. It is the main union in the hospitality industry covering everyone from housekeepers to food and beverage employees. This union has two local affiliates in Culinary Union, Local 226, as well as Bartenders Union, Local 165 (Pantaleo & Walters 1998).

Culinary Union, Local 226- Local Las Vegas union representing employees in the food and beverage industry. Typical work positions that fall under this union would be servers, hosts, kitchen workers, and dishwashers. It is commonly shortened to just Culinary Union in articles and in everyday language. It is the largest of all the UNITE HERE affiliates in the United States (Pantaleo & Walters 1998).

Bartenders Union, Local 165- The bartenders' equivalent of Culinary Union, Local 226. It includes apprentice bartenders, or bar-backs in addition to bartenders. The union typically negotiates in conjunction with its larger sister organization the Culinary Union under the same Local Joint Executive Board. It is also a member of UNITE HERE (Pantaleo & Walters 1998).

National Labor Relations Board- This United States independent governmental agency commissioned with administering the National Labor Relations Act, as well as governing elections for union representation amongst labor in workplaces. This is done through either National Labor Relations Board elections held at the request of labor in a workplace, or voluntary recognition agreements (Britannica, 2015).

National Labor Relations Act of 1935- The National Labor Relations Act is the labor law affirming workers' rights to unionize as well as the process as to which it should take place. Included in the law are the regulations under which a union can be recognized. Under the law it also spells out what employees, employers, and unions are allowed to do and what is disallowed (National Labor Relations Board, 1935).

Voluntary Recognition Agreements- An agreement by employers that must be voluntary, and willingly allow union representation amongst employees. This is typically done through the use of a card check agreement, where employees signify support for representation by a specific union. It is the preferred method by the Culinary Union for gaining representation of employees (Benz, 1998).

Collective Bargaining Agreement- A contract negotiated between management and unions representing the duties and responsibilities of respectively ownership and labor at a company (Benz, 1998).

Single Employer and Joint Employer Doctrine- This legal concept deals with legal precedents where liability and responsibility on the part of a separate employer is possible. Joint employer doctrine is “when separate legal entities have chosen to handle certain aspects of their employer-employee relationships jointly” (Pospis, 2013)

Part Two

Literature Review

Introduction

Food and beverage operations in hotel gaming resorts have historically been given lower priority of precedence in the view of other departments, chiefly gaming operations (Pantaleo & Walters, 1998). The prospect of simply breaking even on food and beverage operations has long been the central theme to operations with an afterthought given to actually making a profit off of these operations (Pantaleo & Walters, 1998); (Rappole & Strate, 1997); (Rowe, 1990). This is in large part because hotel gaming resorts' core functions, and expertise, is in accommodation and gaming operations. This has been changing as properties are bringing in restaurant operators to either lease space, or as a management contract. Hotel properties are finding benefits to outsourcing certain responsibilities traditionally operated in house as it increases overall efficiency (Tufts 2014). The situation of outsourcing has allowed for mutually beneficial partnerships between the properties and independent restaurant operators, where F&B operations are outsourced to a company with restaurant operations as a core competency (Goldman & Eyster, 1992). Las Vegas Strip casino resorts frequently use organized labor in owner-operated food and beverage outlets (Kraft, 2009). A trend in leasing outlet space to outside operators could present an opportunity for resort operators to evaluate if unionized labor should be voluntarily brought in at all.

Restaurant Leasing

History of Restaurant Leasing in Hotels

Outsourcing restaurant spaces to specialized operators for food and beverage outlets is not a new trend to the hotel industry nationwide, or even internationally (Espino-Rodríguez &

Padrón-Robaina, 2004); (Diaz-Bernardo, 2009). Non-gaming hotels initiated the trend years ago in 1949 (Rappole & Strate, 1997). Westin was one of the first hotel companies to extensively seek outside restaurant operators, having invited the chain Trader Vic's to operate at multiple properties (Rappole & Strate, 1997). Hotels found that the leasing formerly self-operated restaurant space to outside operators worked well for both parties (Tufts 2014). In doing so, hotel operators found they were left unburdened by the responsibility of operating a department that was not their core competency, while restaurant operator were left with a captive market as well as lower capital costs (Goldman & Eyster, 1992); (Sieroty, 2012). Hotel operators also gain increased recognition and reputation from an outside operator, as hotel operated restaurants have historically been thought of as poorly run in comparison to stand alone locations (Hallam & Baum, 1996); (Gonzalez, Llopis & Gasco, 2011). This is an image problem on the part of hotels, as self-operated restaurants frequently need "reconcepting," or changes to adjust for poor performance. (Rappole & Strate, 1997); (Sieroty, 2012). This leads to inconsistencies that a branded restaurant can help solve for struggling hotel operated food and beverage spaces. The public views popular restaurateurs as worth celebrating, and are often elevated to the level of local celebrities.

Las Vegas resorts have historically taken the route of offering products such as hotel rooms, food and beverage, and entertainment as loss leading amenities in the hope that it would drive additional revenue on the gaming floor (Tufts, 2014). According to the Las Vegas Review-Journal, in recent years, resort ownership has taken the changed approach of contracting out these previously loss leading amenities to specialized operators in return for greater rewards. One of the first chefs credited with bringing the concept of high end restaurant leasing to resort properties is Wolfgang Puck with the opening of Spago at Caesars Palace. Since the opening of

Spago, Wolfgang Puck has opened seven other Las Vegas locations. He has also since been follow by the likes of Mario Batali, Gordon Ramsey, Bobby Flay, Hubert Keller, and Emeril Lagasse (Sieroty, 2012). These restauranteurs often become anchor tenants of the hotels attracting clientele that would ordinarily not consider a self-operated restaurant as a dining option. This includes being able to attract local clientele that would ordinarily not frequent dining options located in hotel properties (Main, 1989). Restauranteurs often find themselves in a situation where they are now brand partners with their respective landlord resort properties creating "almost a brand for a neighborhood", requiring a unique symbiotic relationship that do not exist with stand-alone restaurants (Sieroty, 2012). In the most recent hotel opening of Cosmopolitan in 2010, it was noted in construction that specific emphasis was placed on building prime locations for the future restaurant outlets in mind. Expected tenants include restaurants and chefs from a diverse domestic and international background (PR Newswire, 2005). In order for these two groups to want to continue, and expand on this trend as they have been doing, there must be motivational reasons. These chiefly are in the form of monetary or financial reasons.

Lessees' Financial Reasons for the Trend

According to Goldman & Eyster, capital costs for property and buildings are one of the largest upfront costs to restaurants. Being able to take these costs from a fixed upfront cost that is payable whether the restaurant is successful or not, to a monthly payment is attractive to restaurant operators (Goldman & Eyster, 1992). Setting up shop in a hotel also allows for restaurant operators to have access to high-margin catering and banquet business from hotel customer traffic, which is highly desirable (Goldman & Eyster, 1992); (Hallam & Baum, 1996). Some casinos resorts have been taking the rare step of providing financial incentives, or special financing of restaurant concepts to lessees instead of traditional bank lending as a way of securing highly sought after chefs or brands. Lessee can also leverage the existing brand power of the host resort, as a form of reducing overall marketing expenses (Sieroty, 2012). A casino provides a restaurant with a large market of captive potential guests, especially if there is a large portion of convention guests at the resort (Hallam & Baum, 1996).

Lessors' Financial Reasons for the Trend

Lessors view the ability to lease out space as a way to maximize cash flow, as it eliminates having to run the establishment at a potential loss in exchange for rent payments from a reputable operator with minimal chance of default (Hallam & Baum, 1996); (Lamminmaki, 2011). Successful restaurants also provide an opportunity to raise the economic value of the restaurant space, as well the overall hotel as it raises the potential asking price for per square foot if the hotel is ever sold (Lennhoff & Reichardt, 2011). Payroll costs for a hotel operated restaurant are also typically five to ten percent higher than the average restaurant. Despite this full service hotels seek to cater towards offering three meals a day even if all meal periods are not profitable. This is due to a quality or brand standard is often associated with having a full service restaurant available for all three meal periods (Chaudhry, 1993); (Hallam & Baum, 1996). Lessors also look to shed their exposure to volatile demand that can come with operating food and beverage spaces in a seasonal setting such as resort properties (Lamminmaki, 2011).

While it has been the trend in the industry for resorts to have restaurant outlets leased to outside operators, a few resort companies have gone the opposite route of canceling their already existing leases (Goldberg, 2011). The notable example of this is Station Casinos, a historically nonunion local's casino company. An initial decision was made in leasing out of the food and beverage outlets across multiple properties in the period when the company was going through bankruptcy proceedings. After emerging from bankruptcy, the company decided to end the leases and resume greater operational control of the food and beverage products. Recently however, at the end of 2014, Station Casino resumed the model of leasing out the food and beverage spaces with many in house owned and operated restaurants closing down. This was in a move to further drive profits at the individual properties, as well diversify product offerings to the guests (Stutz, 2014). However, this move also takes place shortly after intense unionization efforts on the part of the Culinary Union in getting Station Casino food and beverage employees to join (Snel, 2013). There will now be significantly less union eligible direct employees of the company, as many are now working for individual restaurant operators. In this process of hospitality firms have been seeking to provide services only in areas they have core competitive advantages in, allowing for firms to outsource to third party operators (Gonzalez, Llopis & Gasco, 2011). For Las Vegas casino resort properties, this core competitive advantage would be focusing operations on the historical profit center, the gaming floor (Sieroty, 2012). This is similar in concept to hotel properties elsewhere in nongaming locales focusing on the lodging, or rooms divisions as being the primary profit centers when leasing out food and beverage space to outside operators.

Alternatives to Leasing

The main alternative to outright leasing of space to an outside restaurant owner and operator is the use of management contracts. As stated by Brennan, this is where the property retains control of the space and restaurant, and instead contracts out the operations to a third party. This method is not commonly used as both the property and the restaurant operator prefer the lease model (Brennan, 1987). Hotel properties prefer leasing as it frees the hotel entirely from involvement in operating the restaurant while providing for the opportunity for larger rental agreements. Most management companies also focus on institution types of food service, such as hospitals, universities, and assisted living facilities (Brennan, 1987). Restaurant operators are looking to maintain full control over their operation, as it comes with the potential for large sales numbers and growth that management contracts typically do not allow for as they are negotiated on a flat fee (Brennan, 1987); (Goldman & Eyster, 1992); (Hallam & Baum, 1996).

Murphy and Murrmann wrote about another alternative to leasing of space to an outside restaurant operator is the concept of employee leasing. The concept involves an operator completely outsourcing all staffing needs to an outside company, like a temporary staffing agency who provides the workforce. Everything from benefits to hiring is done by the outside firm. While this has been done at hotels, it typically is only done for specialized situations, such as single event catering requiring extra staff. As the hotel would still own the restaurant, this method runs into issues of dealing with unionized labor since most collective bargaining agreements specifically disallow this practice (Murthy & Murrmann, 1993).

Value of Restaurant Space

An important aspect to the consideration of hotel gaming resorts allowing restaurant space lease deals with lessors achieving maximum value for their space. When a hotel has been operating the F&B outlet initially, then leases out to an outside party, valuations often end up being for significantly less than later leases after a successful restaurant is in operation (Hallam & Baum, 1996); (Goldman & Eyster, 1992). This is due to rents typically being calculated not only on fair market value of the space per foot, but also in consideration for percentage of operator's cash flow (Goldman & Eyster, 1992). Newly established restaurant operated spaces have the uncertainty of not having past examples of potential cash flow in that exact space with a successful establishment. Recently one Renaissance Hotel in Phoenix, Arizona gave away the opportunity for applicants to a benefit program for restaurant startups to receive prizes including a free lease for six months, valued at over fifty thousand dollars. This former space was occupied by a low return coffee shop franchise that was owned and operated by the hotel's own employees (Arizona Central, 2014). Leased outlets often end up as franchise of a well-known brand with upward of thirty percent of retail sales coming from franchises, contributing a high ticket price than otherwise non-franchised sales (Diaz-Bernardo, 2009). According to Lennhoff and Reichardt, average hotel occupancy and length of stay on property in a given day are also a determining factor in valuations of hotel space. As a majority of diners will come from within the property, it makes sense for restaurant lessee to be most attracted to high volume locations. It is even more beneficial if these guests are the type that will spend an extended period of time on property, or have some reason to not leave the resort such as with convention guests. Intellectual and intangible property is a determining factor in evaluating a property's value (Lennhoff & Reichardt, 2011). Much of this stems from requiring a similar investment on the part if a new property were to be established. Intangibles can include reputation, work force, or contracts (Lennhoff & Reichardt, 2011). As valuable intangibles increase the overall value of a hotel, it would also seem logical a lack of costly or negative intangibles in comparison to competitors would also be of value to a hotel. These intangibles could also include restrictions placed on operators by union contracts, such as the stipulations in Article 29: Subcontracting and Subleasing, of the Culinary Union Collective Bargaining Agreement. In the section, it is stated "the Employer and the Union may enter into a memorandum of understanding concerning the operation of any food and beverage venue by a third party," as well as "the provisions of this agreement shall apply to such venue until such memorandum of understanding is signed." These stipulations put into the contract seem to reflect a union position that approval by the union needs to be granted prior to allowing a third party to operate a food and beverage venue (Collective Bargaining Agreement, 2013).

Union Involvement

History of the Culinary Union

Union participation in gaming resorts' operations has significant implications as most food and beverage labor in the Las Vegas Valley is represented by one sole union; the Union of Needletrades, Industrial, and Textile Employees, and Hotel Employees and Restaurant Employees International Union. This union is common referred to as UNITE HERE (Benz, 2006); (UNITE HERE, 2015). The union is composed of two local affiliates, the smaller Bartenders Union, Local No.165, and larger Culinary Workers Union, Local No. 226 (Pantaleo & Walters 1998). The Culinary Workers Union, Local No. 226, or as it is commonly referred to as the "Culinary Union" is the largest affiliate member of UNITE HERE (Culinary Union, 2015) The last citywide Culinary Union strike took place in 1984, and provided what is widely regarded as a defining moment in shaping the future of the union (Franklin, 1993); (Kraft, 2009). During the 1984 strikes, casino operators took the stance of continuing to operate during the work stoppage, and had detrimental effects on union membership with six casinos' employees voting to disassociate as well as enrollment dropping from 25,000 to 15,000 (Franklin, 1993). The 1990's had union strikes as well, including one of the longest in United States history at the Frontier going over six years before a change in ownership brought about the signing of a union contract (Kraft, 2009). The last strike authorization vote by Culinary Union employees took place in 2014, when many of the Downtown Las Vegas casinos operated without a union contract extension during negotiations (Fox 5, 2014).

American Federation of Labor and Congress of Industrial Organizations is a federation of over one hundred various independent unions, including UNITE HERE from the hospitality industry. Amongst the other industries it represents are a large cross-section of unionized labor in the United States. Some of other associated unions are the American Postal Workers and the American Federation of Teachers. It represents the biggest group of unionized employees in the United States with over twelve million union employees (Britannica, 2015).

Unions flourish in industries that have growing numbers of employment, and in the U.S. economy service-sector jobs have been on the rise for an extended period of time (Benz 2006); (Waddoups, 2000). This is supported by Bureau of Labor Statistics data on a state level that Nevada has continued to have growth in both the numbers of people in the food and beverage industry as there are now 134,000 food preparation and serving employees in the Las Vegas, as well as increasing union representation among the workers in the industry from twelve percent in 2005 to fourteen percent in 2013. Many occupations within the food and beverage industry have multiples of the national average for employment numbers, with three times the bartenders and nearly four times the chefs and head cooks (Bureau of Labor Statistics, 2014). This was achieved after a period of fifty percent growth in a few short years in the early 1990's with the development of the megaresort, a trend started by the Mirage and continued to this day (Benz, 2006).

Culinary Union's Objectives

The Culinary Union has stated that the organization looks to organize employees; however it looks to do so by ways other than representation elections. Organization of employees typically instead involves the use of methods such as the single employer and joint employer doctrine, as well as seeking voluntary recognition from the employer (Pantaleo & Walters 1998)

(Waddoups, 2000). The Culinary Union also seeks to keep the constant threat of unionization at nonunionized companies, as the threat of union action has been shown to raise overall wages of even nonunion employees reducing the difference the union needs to negotiate for at each contract renewal (Neumark & Wachter, 1995). Unions look to increase membership as any increase should lower the ability of employers to substitute nonunion labor. The inability of employers to substitute nonunion labor at a minimum should increase union bargaining power (Freeman & Medoff, 1981); (Waddoups, 2000). Any trend in the hospitality industry that could disrupt union membership is therefore considered a threat, and observed very closely. The union's negotiating power comes from the volume of employees they can bring to negotiate with one employer, as many of the casino resorts will often have thousands of employees under union contracts at one single time. When contracts for all of these employees come up for negotiation all at once, possibly across even multiple resort properties, the unions hold large amounts of leverage over employers (Benz, 1998).

Reasons for Culinary Union's Success

Much of the Culinary Union's success in spite of declining union membership across the nation in all industries comes from a set of unique characteristics to the Las Vegas Valley area that are not as easily repeatable in other locations (Benz, 2006)

Culinary Union's rise closely tracks an extended period of labor shortages in the local market, leading to high union density and increased leverage over operators. Operators often openly accepted the union as a tool for providing a steady and growing workforce (Benz, 2006); (Jackson, 2006).

The industry heavily focused upon a growth strategy that consisted solely on building new hotel casino resorts. The gaming industry made itself highly vulnerable to disruptions due to work stoppages as labor took on an ever increasing part of the operations of the gaming corporations. These work stoppages around the times of new property opening can cost millions, providing an incentive for both parties to quickly come to an agreement. (Benz, 2006).

The Culinary Union has embraced an at the time radical way of increasing membership by placing pressure on hotel gaming resort operators to voluntarily recognize union representation for their employees. This is possible due to the bargaining power and relationships, both politically and within the industry, the union has been able to maintain due to its size. The Culinary Union uses voluntary recognition as the exclusive method, with limited exceptions, as the sole way of unionizing (Benz, 2006). According to the Culinary Union, the last resort to voluntarily recognize the union was SLS Las Vegas, when it reopened at the site of the now closed Sahara casino. This property has a history of unionization however, as the Sahara had unionized labor in multiple departments including food and beverage for much of its existence. Prior to recognition at SLS Las Vegas, Aria Resort and Casino was the last property to voluntarily recognize the union (Culinary Union, 2015). Aria Resort and Casino is directly owned by MGM Resorts International, a gaming company that largely has unionized food and beverage workforces.

National Labor Relations Act

The National Labor Relations Act is the labor law affirming workers' rights to unionize and establishing the process by which it takes place (National Labor Relations Board, 1935). Included in the law are the regulations under which a union can be recognized. Under the law it also spells out what employees, employers, and unions are allowed to do and what is disallowed (National Labor Relations Board, 1935). Of interest to this paper, unions are not allowed to lawfully force neutral independent parties to stop doing business with an employer currently engaged in a union dispute (Pantaleo & Walters, 1998). While unions have attempted these tactics in the past, they still remain unlawful (Benz, 2006). Recent examples include Culinary Union pressure on businesses such as Ultimate Fighting Championship in association with Station Casinos, a nonunion gaming company (Snel, 2013). Ultimate Fighting Championship and Station Casinos are both majority owned by Lorenzo and Frank Fertitta (Snel, 2013). The key becomes that the independent party must remain neutral, even if they are doing business with the employer engaged in a union dispute. A legal way unions look to gain recognition is through filing unfair labor practice charges with the National Labor Relations Board. These can involve alleged unfair labor practice charges that the union discovers, and decides to act on behalf of employees seeking representation. The union will often arrange for current union members to perform tasks that could place employers in possible unfair labor practice territory. These include sending members with union identifying identification, such as uniforms or lapel pins, to apply for jobs. If the members are not called back for interviews or hired, unions will often file unfair labor practice charges with the National Labor Relations Board. This is a legal method that places large costs on employers to prove the alleged practices did not go on (Benz, 1998).

Single Employer and Joint Employer Doctrine

In dealing with union contracts in a resort that has leased restaurant space, single and joint employer doctrine is one of the biggest issues for property owners and operators. Single employer doctrine deals with the concept that if two entities, such as a restaurant and a hotel, both have a single employer. Any labor contract that exists for the one, such as the hotel as a whole, could exist for the other, such as the restaurant as well per the National Labor Relations Act (Pantaleo & Walters, 1998). This is different than joint employer doctrine, where it becomes more difficult for unions to assert that a labor contract should apply to both. Joint employer doctrine involves employers having separate legal entities, but handling some functions jointly (Pantaleo & Walters, 1998). These functions could be security or valet services being handled by one company, such as the landlord or hotel. As long as the operator of the restaurant space is reimbursing the company providing these shared services they can be treated as independent entities. A restaurant operator leasing space would often fall under independent or joint employer doctrine. This would enable restaurant operators to negotiate with the union on their own behalf. Restaurant operators would have fewer employees than an entire hotel would have, as well as being fragmented amongst multitudes of different operating companies on one property (Pantaleo & Walters, 1998). Unions would view these operations as harder to unionize due to fragmented nature of those they are trying to organize, along with the number of individual companies they would need to negotiate with (Benz, 2006). The Culinary Union and Bartenders Union have had difficulties in expanding outside of the gaming resorts, as they represent very few employees in other establishments (Pantaleo & Walters, 1998).

Voluntary Recognition Agreements

According to Pantaleo and Walters, voluntary recognition agreements are a concept where an employer willingly allows representation of the workforce. Employers can willingly recognize unions once significant evidence points to a majority of employees want union representation. This evidence can be in various ways, such as a majority of employees are already union members, a petition signed by more than half the employees, or a neutrality agreement (Benz, 1998). In the Las Vegas market this typically involves a neutrality agreement being put into place prior to opening of a resort property (Pantaleo & Walters, 1998). This process skips the National Labor Relations Board election process, and instead simply asks workers for a “card check” signifying support for union representation along with indication of which is the preferred union. This process can only be done with entirely voluntary employer participation, and except for one instance has been the exclusive method by the Culinary Local 226 and Bartenders Local 165 unions (Benz, 1998). The alternative to voluntary recognition agreements is for union representation to be certified through a National Labor Relations Board election process. An employer cannot legally bargain with a union that is not certified to be a representative of the employees. This provides an incentive for employers to choose a voluntary recognition method, as they have more control over which union is ultimately chosen to represent workers (Benz, 2006). Unions are bound by a requirement of being legally certified prior to representing employees as well. The National Labor Relations Board election process is rather lengthy with designated polling procedures. These procedures include, but are not limited to; specific polling places, designated representatives from both sides, as well as representative of the National Labor Relations Board being present through the entire voting process (Benz, 1998). According to Kraft, this method is rarely used in a hospitality setting as it undesirable for both the unions and employers. It is so undesirable that between both the Culinary Union and Bartenders Union, it has only been used a handful of times in the past in the Las Vegas market. (Kraft, 2009). The collective bargaining agreement for the unions can also stipulates a “trigger agreement” where all further new properties owned by the same employer will also go about this method (Collective Bargaining Agreement, 2013); (Benz, 1998). This method that the local unions are considered pioneers of, has allowed for the explosive growth in membership in comparison to declining union membership numbers nationwide (Jackson, 2006). Much of the willingness on the part of hotel gaming resorts to voluntarily recognize the union comes from megaresorts looking to avoid public relations issues stemming from union action. These resorts took on a more family friendly aspect with providing non-gaming amenities, and public relations issues were not desired for harm to a changing brand image (Benz, 2006).

Part Three

Introduction

The food and beverage industry in Las Vegas is currently undergoing a trend of independent restaurant operators taking over greater responsibilities from resort operators in the form of leased food and beverage outlets. In doing so, resorts are shifting a model that has largely been in place for decades upside down as these food and beverage outlets were previously self-operated by the resorts. While this trend is not new to the United States, it is a newer development to the Las Vegas market. This changing environment to a leased based model can create issues with employees, specifically organized labor relations. As Las Vegas has unique characteristics to the union environment, it warrants a look to see how organized labor and restaurant leasing will interact.

Results

Resorts in a position to lease out restaurant outlet space to outside operators can benefit from looking into how this move will affect relations with organized labor. With the use of organized labor comes higher costs on the part of operators, and this can have an impact on the expected value of a restaurant lease. Resort owners and operators would benefit from carefully taking this into consideration in lease negotiations. However, the process should start prior to that, as newer casinos such as Cosmopolitan are being designed specifically with the plan of maximizing dining space. This is in comparison to previously when gaming floors were given the highest consideration of importance. As it would make the most sense to lock in potential values of leases at their highest, this would include eliminating factors lessee would see as undesirable or harmful to their operations. One of these based on the findings in this paper would be the presence of organized labor.

The advantages of refraining from voluntarily recognizing the union from the stand point of the resort leasing to a restaurant operator are as follows:

As operators historically have had lower wages and benefit costs with nonunion labor versus unionized labor, they would see any possibility of a lower chance of labor costs as worth paying high lease costs for. This should hold true up until the cost of the increase in the lease becomes more than the savings from the labor costs.

The process of not voluntarily recognizing the union pushes the responsibility of negotiating with unionized labor to individual restaurant operators. As individual restaurant operators are fragmented across multitudes of companies, they are not as easily targeted by unionization public relations issue that a large gaming company would have to deal with.

This move of not voluntarily recognizing allows for the possibility of reassuming control of the outlets later on, and not having unionized workforces. Voluntary recognition of the union could always be done at a later date if the resort property feels there is a benefit after resuming self-operated food and beverage functions.

The disadvantages of voluntarily recognizing the union from the standpoint of the resort leasing to a restaurant operator are as follows:

Resorts will be exposed to the associated bad publicity that comes along with a tenants having labor disputes. The resort is ultimately the one with the name that will be most hurt in this situation as news articles will be published listing the location of the restaurant.

Considerations need to be made for food and beverage functions that could possibly still stay in house, even if all outlets are outsourced. These include room service, and catering functions. These employees will still be eligible unionization with the Culinary Union. One solution to fix this would be to outsource room service and catering completely to the on property restaurant operators. This could provide a twofold solution in also being able to charge more for leases if a guaranteed additional revenue steam will be provided to lessees.

Limitations

While the current research into hotels leasing out restaurant venues points to this being a profitable trend for both restaurant operators and hotel owners, research is lacking in a few key areas to firmly solidify this result for the Las Vegas market. The trend started first outside the Las Vegas market, much of the current research on restaurant leasing deals with non-gaming hotel properties in other areas of the country. Logically it would seem to be the case that much of the data for leasing would hold up in the Las Vegas market as well, since hotels in other locales and casinos in Las Vegas considered for a period of time food and beverage operations to be a loss leader. However it would be beneficial to have firm data supporting this theory. This limits data that can be drawn from only academic sources in regards to the Las Vegas market, instead requiring the use of newspapers, government databases, and magazine articles to provide the most up to date material in regards to restaurant leasing. Research on unionized labor in Las Vegas was less of a limitation. The unions in the city are heavily studied for being one of the few nationwide with steadily increasing membership, as well as for innovative tactics in collective bargaining.

Implications & Recommendations

Recommendations from this research would consist of chiefly two parts, recommendations for future research and managerial recommendations. Both are of importance as this is a practical field of research with relevance in both an academic setting and within the hotel industry.

Recommendations for Future Research

As previous touched on in limitations, this field would benefit from continued research to further broaden the current knowledge on the subject. This future research would ideally look into Las Vegas specific data being gathered. While this would be a benefit to the demonstrating likely outcomes in the Las Vegas Valley, it would also help to solidify the connection to the existing research on the industry outside of Las Vegas. The positive news is that at least one resort has opened where a majority of its food and beverage functions were leased out, so reliable data should be available in the coming years.

Managerial Recommendations

Based upon the information previously presented, management of resort properties should look at, if voluntarily recognizing the union prior to opening is the best move. This is in a scenario with the intention to lease the food and beverage venues, from opening day. Evidence points to an economic impact on the value of the lease if union representation is involved for an operator. While joint employer doctrine points towards operators of leased space not having to follow union contracts signed by resort ownership, unions can still look to impose stipulations by pressuring resort ownership. Keeping relations with labor uncomplicated is always ideal, as labor is often the highest single expense for operators.

Conclusion

Relations with labor groups in resort properties will always be a complicated and delicate area of expertise for managers. Organized labor presents the potential of adding an additional cost to operators, and as such should be weighed against the benefits of voluntarily recognizing union. While operators can be forced into a National Labor Relations Board election, it does not mean that voluntary recognition of unionized labor has to be rule as it is entirely voluntary. Resort operators should weigh the potential advantages and disadvantages voluntarily recognizing unionized labor, and discuss these issues with restaurant operators. It can become a proposition of restaurant operators are more than willing to pay for higher costs in the lease if the net benefits from lower costs elsewhere are greater.

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