

**Intermountain Health Care vs. Southern Xposure
In Murray City**

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**Negotiation and Interviewing
Group Conflict Deliberation Project**

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Introduction

Managing conflict within a community requires negotiation skills from both sides and a necessity to get to the root of the issue. For Southern Xposure and Intermountain Health Care (IHC) the negotiation process that has been taken regarding a disputed lease agreement, has now forced both parties away from a win-win situation.

The community conflict surrounding Murray City, although seemingly minimal, continues to separate the evolving economic growth from the culture of yesteryear. With the development of the Intermountain Medical Center and its modernized surrounding businesses, the Murray community is attempting to change its economy as a whole. Standing in the way of the desired changes and future progress lays the conflict involving these two third-party business organizations.

Southern Xposure sits on a stretch of State Street around 5300 South in what used to be a disreputable part of the Salt Lake Valley. Times have changed and the area is now a growing commercial site anchored by a large hospital complex being built by Intermountain Healthcare. Southern Xposure has been in this location for over 20 years. They re-signed their lease in 1999 for a 15 year term. The lease is now owned by IHC and has eight years remaining. Kent Bangerter, who owns the establishment, lives in Utah during the winter and Alaska in the summer. In a prominent location at the center of Salt Lake Valley, the establishment does a bustling business especially on weekends and over the lunch hour. It is properly zoned for a Sexually Oriented Business (SOB), and it is near a state liquor store, which has agreed to change location at IHC's request.

The conflict began when IHC purchased the land, and the lease, from the previous owners of the site in December 2000. Primary concern was the juxtaposition of a sexually oriented business with family oriented businesses.

History

Murray City was once just a smelter site that evolved into a mining town. It was home to blue-collar workers with working class ethics. The environment was typical of mining towns of the western-expansion phase of U.S. history with saloons and bordellos. The central location of Murray City made it a prime location for the transition from an agricultural society to an industrialized society. In 1869 the smelter expanded into a true industrialized industry. The giant smokestacks, which stood until 2000, were a landmark that epitomized Murray's identity. As the city became more residential in order to house the workers of the smelter, more commerce moved into the area. Today, thanks in large part to the construction of Intermountain Healthcare's large hospital complex, Murray City is a thriving suburban area with a booming commercial center.

The city has endeavored to remain neutral in the conflict. Conservative Mayor Dan Snarr, now in his second term, has had extensive interaction with both parties. He has been a key party in the mediation of the conflict, although he will not directly influence the outcome

The Church of Jesus Christ of Latter-day Saints (LDS Church) originally created the hospital system. Timeline follows:

Divestiture (1970 to 1975)

As LDS Church membership grows around the world, the Church reassesses many of its activities in Utah and the U.S.

In 1974, the Church decides hospitals are no longer central to its mission. Although the hospitals might be sold for as much as \$250 million, the Church decides to donate its 15 hospitals as a system to the Intermountain community. Citizens representative of this community are asked to create a secular, not-for profit organization to own and operate the hospitals on behalf of the people of the Intermountain West.

1970:

The LDS Church consolidates its hospitals under the Health Services Corporation, directed by Dr. James O. Mason.

1974:

Cresap, McCormick, and Paget, a consulting firm hired by the LDS Church to evaluate options regarding its hospitals, recommends the hospitals be divested as a system, rather than individually. On behalf of the Church's First Presidency, Presiding Bishop Victor L. Brown arranges to donate the hospital system to the community by establishing Intermountain Health Care as a not-for-profit, secular, community-based organization. Following a long tradition of community hospitals, IHC is organized as a "voluntary" health care system, governed by volunteers.

1975:

IHC is officially founded on April 1. Original hospitals: Bear River Valley Hospital; Cottonwood Hospital; Cassia Memorial Hospital and Medical Center; Fillmore Hospital; Fremont General Hospital (St. Anthony, Idaho); Garfield Memorial Hospital; Idaho Falls Hospital; LDS Hospital; Logan Hospital; McKay-Dee

Hospital Center; Primary Children's Medical Center; Sanpete Valley Hospital; Sevier Valley Hospital; Star Valley Hospital; Utah Valley Hospital.¹

In the late 1990's, IHC decided that as part of its strategic plan the valley needed a new central valley hospital that could become a Class 1 Trauma Center. LDS Hospital was not a convenient location for this business. They purchased the 43 Acres of land at 5300 South State in Dec. 2000 that was to become the future home of the Intermountain Medical Center. In 2000, prior to their purchase the American Smelter and Refining Company (ASARCO) took down the landmark smokestacks. The groundbreaking for the new center was in 2003.

SouthernXposure re-signed their lease for their business in 1999. At the time, that area of Murray City was very blue collar and still retained the remnants of its mining town environment. The city had properly zoned the site to allow for an SOB or Sexually Oriented Business to operate. Kent Bangerter, a resident of Alaska, owns the business. It is essentially a strip-club, but does limit the Xposure of its 'girls' to that allowed by Utah State law. The city acknowledges that it is a "clean" business, meaning it complies with all required regulations and requirements of a business in the city including fire code, tax procedures, non-smoking, and appropriate security. Murray City counts on the income from DUI's given around the club.

Conflict Identification and Issues

Context from Intermountain Health Care's point of view:

What: The removal of Southern Xposure from their campus.

Who: IHC and Southern Xposure. IHC will help Southern Xposure relocate. IHC will try to get them evicted. IHC will use any and all means to get them off the property.

¹ 2004 Annual Report, Intermountain Health Care; Page 25, Historical Timeline

IHC won't be happy if they stay. IHC won't renew their lease agreement. IHC won't delay their opening of their hospital complex nor relocate. The hospital complex is scheduled to open late December 2007.

Why: Cost of action: legal costs, controversy in the community.

Cost of inaction: Southern Xposure stays until lease ends. IHC management is unhappy.

What/How: Responsibility for negotiation lies with the IHC legal team under the direction of the Intermountain Urban Central Region's Regional Vice President, H. Gary Pehrson, and the CEO of Intermountain Healthcare, William H. Nelson. Implementation of any plan will be decided by the Executive Council of the Urban Central Region.

The heart of this conflict is an age-old issue: a business, SouthernXposure, is operating in an area that is zoned for and welcomes *that kind of business*. New neighbors move in and upgrade the neighborhood. They want the old *distasteful* business to move.

The issues are that SouthernXposure is in a good location and business is booming. They have easy access from the Interstate and State Street; they are located within a short drive of most areas of the valley. Their location is well known with high visibility. Due to the controversy it has become more of a landmark with increased interest surrounding it. IHC offered a land grant for relocation of Southern Xposure near the freeway, with reasonable benefits including sign visibility from I-15, and a potential of 300,000 clients every day. Bangeter proposed a \$1 million settlement for relocation of his business. IHC declined his offer.

Intermountain Healthcare objects to their presence on land that they own and are transforming into a family-oriented health care campus.

Intermountain Medical Center (IMC) will be built with a "park" around it complete with walking trails, resting benches, shady areas and open grass. The intent is to provide a peaceful,

restful area for ambulatory patients and family members of patients to remove themselves from the stressful environment of a hospital. Their belief is that the presence of a strip club with its Vegas-style sign may impact this vision in several ways: It may be visually disturbing and/or uncomfortable; It is a stark contrast to the intent of the park; The business attracts clientele and loiterers that may be of a questionable nature; It might impact the Xposure to potential criminal acts; The presence of intoxicated patrons leaving the establishment may offer increased health risks as they cross hospital grounds and “relieve” themselves in various ways; The presence of intoxicated persons may be disconcerting and/or potentially confrontational with hospital guests.

Intermountain Healthcare is run with LDS Church standards. They are reacting in a way that is consistent with those ideals. Imagine how the LDS Church would treat the situation if they wanted to build a temple on that site.

One of the main points of the conflict is the lease agreement between IHC and Southern Xposure. IHC investigated any grounds to terminate the lease that they could come up with. All terms of the lease were in good standing and legitimate until Southern Xposure missed two lease payments. They did eventually pay them, but they were late. Due to the conflict being in current litigation, the exact details of this situation are not yet public record, nor will either party comment. Of these two checks, IHC actually cashed one of them-accepting the payment. The current court case revolves around these two checks and whether or not there is precedent set by the accepting of one to provide just grounds for using the other as cause for termination of the lease agreement.

Although the true conflict is that IHC wants the exiting business, Southern Xposure, to leave because they object to their presence, legal precedence works against them. Three years ago IHC sued Southern Xposure in hopes of terminating the lease. The current conflict between

them has now gone to the Utah Supreme Court, and there is nothing more that IHC can do at this time to expedite Southern Xposure's lease end date.

There has also been a precedent set saying that usually the court will side with the contract signers:

Though the details of the lease agreement between Southern Exposure and the former owner are not part of public record, there have been many precedents set down for similar cases. In December of 1974, the National Advertising Company entered into a lease agreement with a prior owner (Murray City) of a property which is now owned by a Murray city family. The NAC had an advertisement sign on the family's property, in which the NAC had signed a term of lease with Murray city.

'The NAC signed a lease that was from February 1, 1975 to January 31, 1985. However, following the lapse of the initial term, the lease renewed for an additional ten years and ran thereafter from year to year, unless the lessor terminated the lease by February 1 of the subsequent year, with at least sixty days written notice given to the lessee.' The Crawfords and Murray City then took the NAC to court trying to state that the NAC had breached the contract and had damages because of the breach of contract (they lost money). After losing their case in the lower courts the Crawfords appealed to the Utah Appeals Court. The courts decision was that the NAC had not breach the contract and would not have to remove the advertisement or pay for damages. In 1996, the Crawfords informed the NAC that they would be starting construction on the sight and the NAC would be forced to take down the sign.²

In the opinion set down by the court, the judge stated that a term of lease is binding and can not be broken due to a few late payments.

² National Advertising Company v. Murray City Corporation/ Crawfords

Southern Xposure has no plans to comply with the demands of IHC, and will most likely wait until the end of their lease to begin thinking about moving their location to an alternative site. They may not be willing to accept a monetary settlement now to avoid losing face.

Communication Process and the Conflict

XII What is next for the process

1. SX could be out in the next year or the next 8 years
2. The IHC facility will be up and running beginning partially in the winter of 2006 and completely running in winter of 2007

Other thoughts:

1. Communication that is had between both parties is (not a life and death situation) although it is in litigation to solve the lease matter
2. Murray City cannot create a Law to re-zone because of businesses existence and the fuss for local.
3. Is there a win/win situation? How can be resolved? Would moving SX negatively effect business and its consumers?

Because of the current litigation between the two parties, communication has been limited to the representative legal teams for each side. None of which is public record. Very little communication has actually occurred between the parties at least from the public perspective.

Intermountain Healthcare has used positional pressure tactics by refusing to negotiate. They have taken an intractable stand wherein they want Southern Xposure to move. They have also confused the negotiation process by making an offer to help Southern Xposure relocate without changing their bottom line of wanting them gone. IHC has also made extreme demands requiring that Southern Xposure move with no consideration of or interest in the economic or social cost to Southern Xposure if they do move.

Intermountain Healthcare launched a psychological war with Southern Xposure. They have maligned the industry as a whole being very careful to avoid libel or slander. They have engaged the community to be their mouthpieces. IHC has manipulated the media to report their

side of the story while making the Southern Xposure side seem unreasonable and immovable in their position. IHC is playing on the LDS angle and dominant Utah conservative culture to highlight their perception of the immorality of this industry and Southern Xposure specifically.

Negotiating parties can take either a digital or analog approach.³ This digital vs. analog thinking and speaking have created and maintained the conflicts surrounding both parties. During the limited communication the two parties have engaged in, they have taken a strictly digital approach to the proposed resolutions. In the case of Intermountain Healthcare they have said “either you move or we take you to court.” In the case of Southern Xposure they have said “either you give us \$1 million or we stay.”

A more dynamic approach would be to use an analog way of thinking and speaking in which IHC could say “we’ll allow you to stay to the end of your lease term and we will expect that the area be cleaned up and beautified.” Details of this scenario could include removing or replacement of the Vegas-style sign, repave the parking lot, clean up the rest of the lot, tear down existing dilapidated buildings, fix the flooding problems, exterminating rodents and other vermin, and helping to control possible crime and loitering issues.

From the standpoint of Southern Xposure their analog statement could be “we’ll move to a new location, and you help us with the relocation.” Details could include finding a mutually acceptable location, helping defray the costs, and contribute to advertising the new location.

Recommendations for Conflict Resolution

Even though the conflict has already escalated to the point of going before the Utah Supreme Court, once the decision has been made and one side or the other wins, the two parties could go back and begin negotiations again.

³ Kellett and Dalton in Managing Conflict in a Negotiated World; Page 104

Assuming that IHC is not successful in terminating the lease, a qualified mediator could work both sides to find a more mutually acceptable agreement.

The mediator could use the strategy of separate the people from the problem, focusing on interests not positions, inventing options for mutual gain, and insisting on using objective criteria.⁴

Separate the People from the Problem

The problem goes deeper than the moral and social issue of having an SOB near a world-class hospital campus. The real problem is the security and health risk of the proximity of the two diverse establishments. Issues that should be addressed include the cross-over of patrons and the influence of the SOB on the environment of the hospital campus.

Focusing on Interests, Not Positions

Intermountain Healthcare's interests are for the health and safety of their patients. The real issue is not the moral objection to a Sexually Oriented Business. Southern Xposure's interests are location and financial viability.

Inventing Options for Mutual Gain

Eventually Southern Xposure will have to change locations. They might as well do so while Intermountain Healthcare is willing to help with the process of relocation.

Insisting on using Objective Criteria

The position, size and strength in the community of Intermountain Healthcare should not influence the outcome. Nor should the type of business that Southern Xposure runs be a consideration on the outcome.

⁴ Fisher and Ury, Getting to Yes, Negotiating Agreement Without Giving In, Second Edition

Our recommendation for Best Alternative to Negotiated Agreement (BATNA) for each party is as follows:

Intermountain Healthcare

- Acknowledge that Southern Xposure will be there for eight more years.
- Help make the business look more presentable in the meantime so that it is not such a stark contrast between what is there and what they want it to look like.
- Clean up the area, landscape, help with improvements to the property in order to fit in with surrounding community development.
- Build a physical barrier between the business and the campus to avoid incidental contact.

Southern Xposure

- Start looking for a new place.
- Get the best deal for their new location.
- Consider inflation.
- Negotiate early vacancy in exchange for help in relocating.

Conclusion

There doesn't seem to be a good win/win outcome. Either BATNA involves compromises that neither party will be happy with or consider acceptable. Eventually Southern Xposure will be forced to relocate. With Murray City continually evolving from a blue-collar to an exemplary commerce center anchored by a world-class hospital campus, there is little room for a sexually oriented business to remain in the heart of this economic change. As with most growing and modernizing cities, this type of business will eventually be relegated to the

outskirts. The best hope for any negotiation between the two parties is to smooth the transition and make it more comfortable and profitable for all involved parties.

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