

## **Permitting and Code Compliance issues in Austin**

These stories were collected by the Austin Independent Business Alliance (AIBA) as samples of issues with the City of Austin. These are seven stories out of thousands. In documenting these stories, I contacted businesses that had expressed frustration to AIBA to ask them to write a short paragraph and go on the record with their incident. What I found was most would not for fear of retribution by city staff. This, in itself, became a larger issue. Some businesses tried to write anonymously but realized that they could be identified by the details of their situation and could not afford the exposure to retaliation. This is a sad statement. We cannot enjoy a thriving local business community, or the economic growth this could provide, when our businesses are afraid of the city.

Locally owned businesses represent 73% of all business in Austin. Most of their contact with city departments is with permitting and code compliance. The difficulties encountered in these departments is often their only interaction with local government. We must do better than to place roadblocks before local business and make their existence more difficult.

I hope these stories help to bring about change.

Rebecca Melancon,  
Executive Director  
AIBA

### **Local restaurant**

We are in the restaurant business and have operated many locations in the Austin market for nearly 10 years now (over \$8M in revenue, and 300 employees in Austin). We have had difficulties with the City before with construction permitting, but nothing like we have experienced in our most recent store. We entered permitted in early November, and here we are now in late January still without a final permit for construction. This should not take longer than 4 weeks, but we are past 10 already (and we are paying for an expeditor), so I don't know how bad it is for others without one.

We have and will continue to incur additional costs because of the City of Austin – we are now paying rent per month without sales revenue and if we do not get our permit in the next week, we will incur additional GC costs because of timelines in our contract. Additional costs for our company are frustrating and unplanned, but the bigger picture

that really bothers me is that our City is short sighted in that each week we are delayed, they are losing tax revenue and we cannot create jobs. That makes no sense in a business world and could easily be fixed by simply adding more resources, whether full time or contract, to the bottlenecked areas within City permitting.

Thank you!

President, name withheld

### **Sugar Mama's Bakeshop**

My name is Olivia Guerra O'Neal and I am the owner of Sugar Mama's Bakeshop. I always say that the City of Austin does not support small business, it's the people in Austin who do. We are currently in the permitting stages of our new location and the City of Austin permitting department is once again fraught with misinformation, constant requirement changes and a lack of continuity between departments.

One of the instances we are currently experiencing is as follows. We are unable to afford to build out a full kitchen, so we chose to build out a space where we could sell our baked goods and use our original location as a commissary. Before we submitted our building plans, we verified with Industrial Waste that since we were doing no cooking at our new location, we would not need a grease trap. Industrial Waste required us to submit a signed letter stating we would not be cooking or baking at our new location. As an aside, grease traps are extremely costly, and not necessary for a space not doing cooking, and are one of the main reasons we chose not to build out a commercial kitchen. Once we submitted our plans, unsurprisingly, Industrial Waste changed their minds, which is typical of plan reviewers at the City of Austin. Not only is this practice unprofessional, but it's tremendously expensive for a small business owner to constantly revise on the permit reviewer's whims, and causes a lot of monetary and emotional distress. Industrial Waste actually said that they don't care if we aren't cooking, what if we "went behind their backs and turned it into a kitchen and they didn't know, or, another tenant moved in, we should have a grease trap in case of future tenants." I find this stance offensive and shocking. First, the insinuation that I as a small business owner would sneak around and lie to permit reviewers to avoid a grease trap, and secondly that a small business who is already putting all of their financial resources on the line should have to pay for something a future tenant should, or should not do. "Word on the street" is that we are being made an example of because while we are in effect a coffeeshop and other coffeeshops in Austin are not required to have grease traps, there have been a few unscrupulous owners, we are being used as a

scapegoat.

This is just a typical example of what a small business owner has to go through in permitting, and this last minute change of heart by Industrial Waste will cost me several thousand dollars of changes to plans and plumbing, as well as long term costs for grease trap pumping for something my business does not need. I had hoped to open some additional businesses, but doubt that it will be in Austin Texas the next time I do.

Olivia O'Neal, Owner  
Sugar Mama's Bakeshop

### **Discount Electronics**

We need remote permit applications and an app that allows inspections to be requested from a smart phone. We need faster response and guaranteed inspection time. Think Dominos '3 Hours or you pass'. If the inspector fails to show up at the assigned time or the wait is more than 3 hours after you request the inspection you get an automatic pass.

Higher up front fees and no fee for reinspect. Paying the teacher to fail the student is setting the system up for failure.

All projects with a total cost of \$1,000,000 or less need to be approved in 7 days. There is nothing that can't be done in 168 hours.

Half the inspectors need to work on all holidays except for Christmas. No 5 day weekends.

Rick Culleton, Owner  
Discount Electronic

### **Wheatsville Food Co-op**

Our experience with the city on permitting issues over the past couple years has been VERY painful.

Every permit took 2-3 times longer than was promised or expected.

A single permit for 2 additional refrigerated coolers at our store took 8-10 weeks or possibly longer (it's been long enough that I can't recall for sure. Honestly, we try to forget!)

Permitting for our second store was also very difficult and took 3-4 times longer than expected.

We submitted our plans was on 11/26/2012 and the permit for the store work was released on 4/2/2013, more than 4 MONTHS in permitting with VERY little unusual stuff with our project. It was in an established plaza (i.e. not new construction).

I may have a little more than this, but this is a start.

Dan Gillotte, General Manager  
Wheatsville

### **Local Shop**

My unnamed small business tried to do a small, straightforward improvement through a local supplier ready to pull the proper permits and get the work done within a few days. The tangle he was confronted with at the city stunned him, since he had been through this process many times before. After many trips and hours wasted, he gave up on permitting and the improvement remains undone.

Name withheld

### **Tacodeli**

In approximately 2002 - 2003, the original Tacodeli location on Spyglass Drive was experiencing exponential growth. The restaurant was only about 750 square feet, and we were desperate for more space.

Since we could not expand the interior of the space, we opted to increase the exterior common area by expanding and leveling the patio. We contacted the city and shared our plans with them. Our goal was to make sure that our plans were feasible and that we'd be able to afford the project.

After a lot of back and forth with the city, we received a permit (site plan exemption) to construct the patio. Several weeks and about \$15,000 later, we had completed the project and added a couple hundred extra feet to the outdoor area of the center.

The extra space was a big benefit to all users of the center, and it helped us continue to grow the business.

About 18 months later, a health inspector conducted the periodic inspection and informed us that our patio was not in compliance with city codes and that we'd have to close or remove it. This was unusual, because we'd (1) received approval from the city to do the project, and (2) since it's completion, we'd had several inspections and no one raised any objections.

This particular inspector alleged that we had built the patio without the proper approvals, and that even though we'd depended upon the advice from the city, it basically wasn't his problem. He warned us that we'd have to close / remove the patio

as soon as possible.

At this point, we hired local attorneys to resolve the issue and the city eventually agreed that the patio could remain, but it was a time-consuming, expensive exercise for a small, local business to endure.

Eric Wilkerson, Co-owner  
Tacodeli

### **Amy's Ice Creams and Phil's Icehouse**

Code Enforcement- When the funding was brought up to expand Code Enforcement from one commercial person and one residential person to what it is now, I became concerned that we were going to turn neighbors on each other and the Code Enforcement Officers were going to look for things to write tickets for. This is what is happening as well as competitors "ratting" out their competition. Here is an example:

We built the South Lamar Amy's/Phil's on the former Time Auto and previously Dan's Hamburgers site. I received 5 visits from Code Enforcement and one from the State Dept. of Health about asbestos. The first visit was complaint driven that the permit was not properly displayed. I showed the officer the permit and asked where he would like me to display it. The walls were being rebuilt and there were no windows. His suggestion was a Real Estate box. I told him that it would be easy to steal it and then I wouldn't have a permit. Visit 2 was about site plan and whether we were eligible for an exemption. Visit 3 was about the noise generated from excavating for the grease trap. Visit 4 was about whether the plans were on site and finally visit 5 was about the truck I was using to stage the construction from. We used one of the Amy's panel trucks to store materials, equipment and the things we needed to complete the remodel; including the plans and the permit. The officer came out and said we had an illegal, off premise sign. I told him although the truck was wrapped with the Amy's logo it was a truck. I showed him it started and ran, had the proper registration and inspection sticker. He told me it was still a sign and I had to remove it. I told him it was a truck and we needed it to complete the remodel. I insisted he call his supervisor, which we did. The Officer was not going to budge, it was a sign in his book. It was a truck in mine. Finally, I offered to move the truck away from Lamar and point it North and South, so it would not face Lamar. Then, it would be a truck. I asked the officer who was calling in these complaints, he told me he could not tell me. I found out later through the grapevine that it was in fact a competitor.

Permitting- I have had plans rejected so many times I do not know where to start. I'll keep it simple and tell of the time my plans were rejected by the Fire Dept because it did not state on the plans that the address needed to be above the door in 8 inch vinyl letters where it could be read from the street. Of course, as a person who has built 25 buildings in Austin I know this, it's part of the Field Fire Inspector's checklist. My plans were rejected, the architect corrected the omission, my plans had to be resubmitted, a

fee was charged and one month later I got my permit. This is essentially a typo and could have been hand corrected on the plans, if that was possible.

I hope we are moving towards a solution oriented system where the reviewers work with the businesses to make things work efficiently. The culture needs to change to a problem solving one from a “road block” culture.

Steve Simmons, Co-owner  
Amy's Ice Creams