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Lisa Nagele-Piazza (00:00)

Welcome to The FP 5: Five Things for Your 9-to-5. We help employers make sense of the fast-moving world of workplace law and compliance by breaking down topics into five parts. I'm Lisa-Nagele-Piazza from the Fisher Phillips Content team.

When a company decides to expand into a new part of the United States or start operations in the US for the first time, one of the biggest decisions it will make is where to go. There's a lot more to that decision than finding an available building or figuring out which state offers the biggest tax incentive. You need the right workforce, you need the right infrastructure, and you need to understand the legal and regulatory environment. Ray Perez joins us today to walk us through five things companies should consider when choosing their next US location.

And Ray is the perfect person to talk about this because before joining Fisher Phillips, he spent nearly 30 years in-house at Honda, where his work included manufacturing operations, government and community relations, compliance, negotiating incentive packages for new plants, and major expansions. Ray, thanks for joining us today.

Ray Perez (01:07)

Yeah, it's great to be here. Thank you.

Lisa Nagele-Piazza (01:09)

Our first thing for today: the cheapest site isn't necessarily the right site. And Ray, when a company first decides we need a new location, where should that process actually begin?

Ray Perez (01:21)

I'm going to be approaching this mostly from a manufacturing perspective, but similar things apply. I think key things that they want to start with first is to truly understand the why. Why are we doing this? What is driving this decision and making sure everyone's on the same page with the why, and what are the driving factors?

Second, who are your decision makers? You know, in a manufacturing setting, the people sitting around the table, first of all, you need to have operations people, they need to know what their needs are, what makes a successful location. And when I say operations, I'm including logistics and manufacturing, those kinds of things are included. Obviously, I think you need to have some legal or administrative folks who understand the workforce issues. So you're going to have, a major component of that is understanding what your needs are, what level your needs are. And then another one people often don't think about, but I think is important, especially at this day and age, are the corporate communications or your media relations folks. Right from the start, they should be engaged in the process to understand what's driving it and then how to position this growth in a positive way right from the start.

Lisa Nagele-Piazza (02:30)

Yeah, that's really good point. And then so when should this process start? How far in advance should a company be thinking about location?

Ray Perez (02:39)

If you're building a new site, you should absolutely be looking at this at least two years, if not more, before you want to launch. A lot of that is just, people don't appreciate there's the negotiation time with the different states, if you're negotiating incentives. That doesn't happen quickly. It typically takes a couple months. And then you've got permitting processes. If you need to get air permits or water permits, whatever you may need, those take several months.

So that's even before you can start breaking ground, you gotta have your permits in place. Then there's construction, you know, eighteen months, whatever it might take, or longer. And so you can see where you can very quickly get into two years or more, before you, you know, hit that launch and you say we're ready to start producing or working this site.

Lisa Nagele-Piazza (03:30)

And for our second thing today, utilities and logistics can kill a great looking deal. A property can look perfect on paper and still fail the operational test. So one of the insights that we're discussing today, which listeners can find in our show notes, identifies utilities in particular as a potential deal breaker. So let's say I find a site that looks perfect. It's a great location, it's a good price, plenty of land. What could I discover during the due diligence process that would just make me walk away?

Ray Perez (04:04)

Yeah, you know, the list is endless of the things that can be deal breakers. I bet one that people don't think about until it's too late sometimes is water. Is there a capacity of water in the area? You know, is it well water? Is there a surface water operation? Can it handle the volume of water you need at peak times? Again, talking manufacturing here, that's a huge issue. And then, it's your wastewater. Is there a publicly owned treatment works that can handle your waste flow? Are you going to overwhelm a nearby stream?

Those are things that, you look at a site, and that's one of the challenges in in site selection is you'll see. You'll have a hundred acres. Wow, they look great, but there's not utilities that feed that or that can you can get your water needs or your wastewater needs. So that's one of those utility things that people don't think about automatically. It's why you want to have those operation people on that team initially who can say, "Yeah, we're gonna be using millions of gallons of water and disposing millions of gallons. Can this place handle it?"

Lisa Nagele-Piazza (05:08)

Yeah, for sure. You know, and I also think about like electrical capacity. So why is that such a big issue right now?

Ray Perez (05:15)

Yeah, it's huge. And you know, with a lot of things that are happening nowadays, electrical usage and demand is critical. And it's not just, "They've got a plant that can serve our needs." Well, can it handle your peak needs in the middle of summer when everybody's running their air conditioners? Can they handle the needs that you have to keep your plant running? So you want to get into questions about peak needs. What are their peak demands?

The other thing is "Who are the competitors, or who are the other entities, I should say, who might be using that same supplier?" So what are their peak, what's their profile look like? Are they going to be demanding high usage at the same time you are? And so you need to understand what the environment looks like. And you know, a great example with the situation of looking at a location and then thinking it looks great, and then finding out that another entity was planning a large expansion that you didn't know about. So they were leveling their usage when

you thought that usage was going to be there for you. Now you're competing with somebody else for that usage. So that's a big ...

Lisa Nagele-Piazza (06:13)

So it takes some investigating.

Ray Perez (06:16)

You gotta do the work.

Lisa Nagele-Piazza (06:17)

And then I'm also thinking about like access to suppliers being important, customers, the infrastructure that's there, like highways, if you need ports, you know, or even just like making sure there are direct flights to other international or national locations that you operate in.

Ray Perez (06:36)

Logistics is always a huge driver. Again, I'm speaking from a manufacturing point of view. You got to get your parts to you. And so you need to have a good highway system. You need to have a highway system that has a good exit ramp that can handle a flow of trucks coming in and out. I've looked at locations, they look great, but the bridge, the access road going from the highway to your location, the bridge was 50 years old. It could not handle the traffic that was going to happen with bringing in loads and delivering your finished product from the location. So you've got to really look at those logistics issues, not just on a map, but go and put your feet on the ground and take a look around. Same with rail, same with air, you mentioned flights back and forth, depending on how coordinated your operations are, you're going to want to get people in and out of there to other locations quickly. And they can't drive three hours to an airport and then take a seven-hour flight someplace. You've lost a whole day.

Lisa Nagele-Piazza (07:28)

For sure, absolutely.

Ray Perez (07:30)

You really want to look at those things and just understand what are your needs, what makes your operations go.

Lisa Nagele-Piazza (07:35)

Yeah, and I heard you speak on this topic recently and one thing that I had never thought about was local emergency services. Why is that so important?

Ray Perez (07:45)

Yeah, again, for a manufacturer, let's say you've got a plant that's huge, and it's got a five story bay with smokestacks and things going out of it. And you've got a local fire department that has a ladder that only goes up twenty feet. So now you've got a fire in the top of your building, how are they going to get to it? What do they, you know, what resources do they have to respond? Are they available 24/7? If you're operating 24/7, if you have a medical emergency, is there someone there who can respond at 3 a.m.? So you want to ask, what services do you have? What do you have? You know, there's the hazardous waste cleanup. If there's a truck that overturns in, you know, in your loading bay, are there facilities and are people trained on how to do chemical cleanup? Those are kinds of things that you need to understand. You'll either need to provide them yourself internally, or you can rely on the local community.

Lisa Nagele-Piazza (08:41)

And our third thing for today, your workforce might be the most important site selection factor. And this is where the topic really becomes an employment law and HR issue. So how do you figure out, Ray, whether the community actually has the workforce you need?

Ray Perez (08:57)

Data, data, data. You cannot get enough information. And it's, you know, some places will look, you'll say, "Well, they've got a relatively higher unemployment rate." Well, that might be an unemployment rate that relates to people who don't have high school diplomas. It could be a lot of factors in there. You really need to understand your needs, your workforce needs. For example, do you need maintenance technicians? Those are individuals that can be critical to an operation, and they might be experiencing extremely low unemployment, there might be a high demand for them in your area. That could really impact your operations. So you want to make sure you understand your needs as well as how do those needs relate to the actual workforce: college degrees, two-year degrees, high school diploma, break it down by the categories of workforce that you need and whether or not that's available in the area.

Lisa Nagele-Piazza (09:47)

Yeah, so if you're an international company entering the US, what are you most likely to misunderstand about the US labor market?

Ray Perez (09:57)

People are mobile in the USA and they'll move for a dollar an hour or fifty cents an hour. People will move. I think there's a tendency sometimes with some of the international manufacturers, international organizations I've worked with, they tend to think, we're a great place to work. It's, you know, we've got a good place. We can afford to go a dollar lower per hour than maybe the regional area because we're such a good company and a good place to work. And the reality is no, for that dollar, some people will actually go and work at the fast food locations rather than work at your location. So you've really got to think about being competitive for these workers and constantly being in that competitive fight to get workers.

Lisa Nagele-Piazza (10:41)

You're listening to the FP 5. I'm Lisa Nagele-Piazza, and we're here with Ray Perez. Ray is an attorney with Fisher Phillips and works with companies on site selection and incentive packages. You can find links to our site selection checklist and our step-by-step site selection guide in this episode's show notes.

Our fourth thing: the location you choose will determine the workplace law environment you inherit. So let's take two sites that are basically equal from an operational standpoint, but let's say they're in two different states. Like I think about, California being completely different than Texas, let's say, or Florida. How much weight should companies give the local labor relations environment? You know, I mean, there's a lot of things to talk about in terms of workplace laws, state and local laws, but also there's the union activity to consider.

Ray Perez (11:33)

Absolutely. You need to understand the nuances of the area you're going to work in. A great example would be often most employers really struggle with leaves and how easy it is to take leaves. You want to understand the local leave laws in an area versus your other options that you're looking at. So it's a priority to understand for your

workforce what are the key drivers. You mentioned the, call it third-party activity that might be happening in the area. That's absolutely a concern. Whatever your approach is to it, it's a factor you'll need to deal with in terms of resources dedicated to managing those issues in one location versus another. So every bit of information you can know about the true workforce environment is critical, and it's a factor in the determination.

Lisa Nagele-Piazza (12:21)

Yeah, absolutely. And even if you have remote office workers, whether you're manufacturing or not, if you have one employee in California, sometimes you're covered by certain laws in California. Now all of a sudden you're like, well, I'm not in that state, but you are.

Ray Perez (12:37)

Yes you are.

Lisa Nagele-Piazza (12:39)

Welcome to California.

Ray Perez (12:41)

Yeah.

Lisa Nagele-Piazza (12:43)

Now, what about the litigation climate? Should that be part of the analysis here for businesses?

Ray Perez (12:50)

You want to be able to understand what that environment's going to be like. I've seen areas where there might be a very aggressive plaintiff's counsel, and every matter that comes into them, they'll ask questions to possibly elicit other types of employment actions that they know the local judiciary is going to be more favorable for. So you really want to understand what's the environment, what are the drivers, who is or what are issues that this area is competing with? That also includes looking at the legislative process. Are there things on the books that could impact you, not just this year, but are things coming down the pike that could impact you in a year or two?

Lisa Nagele-Piazza (13:28)

You know, when I think about manufacturing, I also think about workplace safety and workers compensation. What other state specific obligations should businesses be thinking about before choosing a location?

Ray Perez (13:42)

Yes, particularly in the labor and employment arena, leave coordination. That is huge. And that varies greatly from state to state. Some of the other things that we're seeing that can have real impacts now are the requirement for transparency when you're competing. You know, what laws are out there impacting how much information you need to provide on salaries or compensation when you're advertising for positions. That can be completely different from one location to another and when you're trying to recruit you want to make sure you don't make those fundamental errors right off the bat.

I think other things that can differ state to state is, workers' comp is a huge area. In some states, frankly, they can be very employee friendly, and in other ones they're very employer friendly. And you need to understand those

processes. Again, it goes to how much internal resources do you need to commit to these issues? And that's something you may not have planned for and you need to think about that.

Lisa Nagele-Piazza (14:37)

Yeah, absolutely. So for an international company, are there aspects of US federal, state, or local laws that tend to catch executives by surprise?

Ray Perez (14:49)

I think you just hit it right there with the question, which is this varying mosaic of laws. When you've got state, local, and federal laws. Oftentimes you'll have executives and they've been briefed on the federal law. Somebody's told, you know, they know Title VII, they know wage and hour. But then when they come, they suddenly find out, "Wait a minute, there's a whole state regime that covers these things." There's states. And so I think the biggest surprise I see, particularly from the labor and employment arena, is the complexity of the laws and the varying nature of the law. There tends to be an idea that, well, it's the United States, it's all one thing. Oklahoma's going to be the same as Alabama. And they find out, no, they're very different. And that can factor into their decision making.

Lisa Nagele-Piazza (15:34)

So our fifth thing for today, incentives can help you choose between good sites, but they can't rescue a bad one. And by incentives, we mean things like tax abatements, investment credits, job credits, grants, and workforce development support. So how much should incentives like these, Ray, drive decisions on location?

Ray Perez (16:01)

You framed the question perfectly in that if you've got a location that's not going to work from you from an operational or a logistics, it's going to be very difficult to have incentives that are going to make a difference, particularly tax incentives. Now, having said that, they're absolutely crucial. You know, when you're talking hundreds of millions of dollars in tax abatements over the course of the project, that can really change the difference on whether a location is profitable or not for you.

So my advice is always to understand what abatements are out there, what tax incentives are out there, calculate that in, and those are very important. But then almost take those and put them off to the side and just say, "Okay, those are out there. They're gonna be there." And typically there's not a whole lot of negotiations over those. Those tend to be statutorily mandated based on your level of investment, number of employees, that kind of thing. There's some things on the fringe. The things what we call, those are sort we kind call those in the in the business, those are non-discretionary. That's sort of, you're either qualifying for them or you don't.

Where you need to put your focus is what I'd call the discretionary ones. And say they've got a weak water plant or you know, a sewer plant that is not functioning well. Well, part of the negotiation might be putting dollars in at the state level to improve that community asset. And that's one of the points that we strongly emphasize is looking at things that help the community, not just you. So if you can come in, and you, I mean the employer, if you can come in and say, "All right, let's get investment involved in this location to improve the publicly owned treatment work, to make the effluent better, to make the local streams better," everything improves because of the company's presence there. That's a win-win for everybody. And so if you can do that, those really work well and it makes sense. If things are looked at, "What can we get? What's the best for our location?" You know, that's great. It's gonna work for you, but you're not really winning over friends down the line there, so ...

Lisa Nagele-Piazza (18:03)

Yeah, I like that positive framing and outlook, absolutely.

Ray Perez (18:07)

You obviously want to be successful, you obviously want to get a good return on your investment, but you want to see, okay, how can you be a good corporate citizen in the long run as well?

Lisa Nagele-Piazza (18:15)

Yeah, so let's talk about state and local economic development officials. Tell me a little bit about that and when you should bring them into the process.

Ray Perez (18:24)

Get them in as quickly as possible. They're gonna have, as I mentioned before, the data. They're gonna know a lot of what's in, and they're gonna know the sites. They can, they know what's out there. They know what's available. These folks are professional. They're very good at their jobs. They know how to work the systems. And one of the things I always tell clients, and most people would realize this, you always wanna have at least two different locations in two different states that you're looking at. Whether or not you're serious about the other one or not, you've always got to have that. Some states require a competitive process in order to award incentives. But even if they don't require it, it really helps for obvious reasons. If they know, "Well, if we don't get a good deal here, we can always go to state B. There, we're talking to them as well." So you want to keep both of those engaged and working to give you the best deal possible. But that's what you negotiate. So you're typically negotiating with these local economic developers as well as the state economic developers. Most states have those two levels and you're really typically sitting in the room negotiating. There'll be the team on the one side, the state and local, as well as the company officials on the other side.

Lisa Nagele-Piazza (19:37)

Yeah, and I also wanted to talk about incentive clawbacks. Can you talk about what that means and maybe how a company can get itself in trouble if it overpromise?

Ray Perez (19:47)

Originally when you talked about, let's say twenty five, thirty years ago, callbacks were not a thing. Basically states, you would just negotiate and get the deal. And then there were some deals that actually fell apart. Once the company got in, let's say they promised that they were gonna hire thousands of workers and they ended up only hiring a few hundred. States looked at that and said, "You know, we're losing out here. We've gave all these incentives and now we're not getting the jobs we were looking for."

So they've started in most agreements now, you'll see a clawback provision. And what that means is you set a target. Let's say you're going to hire a thousand employees in four years. If you don't hit that target, then they'll reduce the amount of incentives. Typically, the tax incentives or the abatements that would have been paid out over the future, they may cut those back and you'll see a reduction in those. So the number one thing I usually tell clients is definitely, definitely underpromise and over deliver. If you think you're gonna hire a thousand, but you're not quite you know, maybe if the market turns down on you, don't say you're gonna hire a thousand, go with 500. And then if you hit 750 or a thousand, it's win-win for everybody.

Lisa Nagele-Piazza (20:55)

Yeah, that's a really important point.

Ray Perez (20:57)

You don't want to be in that situation where you're in a dispute with the community and you're negotiating over clawbacks as opposed to maybe your next future expansion, what can you get in the next expansion?

Lisa Nagele-Piazza (21:09)

Absolutely. Before we wrap up, what is the biggest piece of advice that you would give to business leaders that are just starting out this relocation or site selection process?

Ray Perez (21:22)

Start early. You know, you never have enough time, it seems like. So I would start early. I would build your team with the expertise you need early, understand your whys early on, and keep those in focus. They can easily get kind of lost in the ebb and flow of negotiations and things and what you're looking at, but know why you're doing this and what's gonna drive success for your operations.

Lisa Nagele-Piazza (21:50)

All right, Ray, so this is the part of the episode where we get to know you a little better in five questions. Are you ready for them?

Ray Perez (21:57)

I'm ready.

Lisa Nagele-Piazza (21:58)

So you spent nearly thirty years at Honda. What kind of car are you driving now?

Ray Perez (22:02)

I've got an Acura MDX.

Lisa Nagele-Piazza (22:05)

Excellent. And I'm sure your time with Honda took you to Japan a lot, are you a window or an aisle seat person?

Ray Perez (22:14)

100% aisle seat.

Lisa Nagele-Piazza (22:16)

Why is that?

Ray Perez (22:17)

You know, I like the extra room and I sometimes feel a little claustrophobic when I'm on the inside and if I need to get out, I hate interrupting people and it just makes it easier to come and go.

Lisa Nagele-Piazza (22:27)

Yeah, I'm the same way. You know, when I was younger, I was all about the window seat and I would just fall asleep for the whole flight, no matter what, as soon as we took off. But these days I am all about the aisle. So what's a movie you could rewatch any time?

Ray Perez (22:41)

I would say The Blues Brothers.

Lisa Nagele-Piazza (22:43)

That's a good one. I like that one too.

Ray Perez (22:46)

I love it. I can always watch that one.

Lisa Nagele-Piazza (22:48)

Perfect. Are you an early bird or a night owl?

Ray Perez (22:51)

Definitely night owl.

Lisa Nagele-Piazza (22:52)

Yeah. Me too. I always find I like, I do like quiet mornings, but I'm just so much more productive at night. I like to work at night and get my thoughts together when everybody else is sleeping. Yeah.

Ray Perez (23:04)

My family knows not to even talk to me before nine o'clock. If they do, I'll just kinda growl at them and move on, so ...

Lisa Nagele-Piazza (23:11)

We're alike in that way for sure. And the fifth question: what's one thing your colleagues would be surprised to learn about you?

Ray Perez (23:18)

I think it's that I'm a Gilligan's Island trivia expert.

Lisa Nagele-Piazza (23:23)

Oh really? What's something interesting about the show that most people wouldn't know?

Ray Perez (23:28)

Let's see. The professor's name, the character's name is Professor Roy Hinkle.

Lisa Nagele-Piazza (23:36)

That's great. I always like, speaking of claustrophobia, that show always kind of made me a little claustrophobic 'cause I'm like, oh my goodness, they're never getting off this island.

Ray Perez (23:47)

As a kid that never even occurred to me. I just thought, “Okay, they're on the island, I guess that's where they are.”

Lisa Nagele-Piazza (23:51)

Yeah, it's a fun show. That's all the time we have for now. Thanks again for being on the show, Ray.

Ray Perez (23:58)

Thank you. It's a pleasure to do it.

Lisa Nagele-Piazza (24:01)

And thank you for listening to the FP 5. If your organization is considering a new location or expanding its US operations, we've linked our site selection checklist and our step-by-step guide in this episode's show notes. We'll see you next week.

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