

Regulation



Perhaps you have heard that the Trump administration has promised to cancel 10 federal regulations for every new regulation proposed. They believe regulations have interfered with the economic progress of the United States. There is nothing in the Constitution about regulations or the bureaucracy that creates them. There are certainly laws, which are something else. Regulations are a result of the administrative bureaucracy that exists on many levels, federal, state, and local. Not only do unelected bureaucrats create regulations, but they also interpret and enforce them. Recently, the Supreme Court has said “no more.” Because of over-reach, the Court said they will do the interpreting, not the bureaucrat. There are even international regulations which countries may or may not follow.

In my opinion, we are overregulated. I base this opinion on experience which I relate here. My first experience with overregulation was a tax audit when I was in my 20s. I didn't deduct anything as I was for the first time receiving a paycheck from a hospital employer. However, someone with a different name but the same Social Security number had reported income, and the IRS wanted money from me for this other person. I spent many days and hired attorneys to prove that this was not my income. Even after the IRS accepted my proof of identity, they continue to send bills, including interest and penalties for five years. I was not a fat cat. My gross income was no more than \$20,000 per year, and the fine was \$175,000.

As my income increased, I faced another IRS audit. At this time, I had significant income, but was not utilizing an accountant, as my prior accountant was in jail for not reporting income or filing for 10 years. Instead, I used TurboTax. I was audited for four consecutive years. In addition to determining that I had not kept all paperwork for every deduction, I excluded one paycheck reported on December 31 unintentionally. The audit was in person with many meetings, and I was represented by a tax audit specialist. The specialist was a joke. He drove the auditor crazy because he was constantly coughing, sneezing, complaining of headaches, and changing the subject. In fact, he pointed out several suspicious items that even the auditor had not found, such as a grocery bill deduction. I don't believe I did anything wrong, except for not documenting every single expense. I paid a significant bill to resolve the matter, which was basically a settlement so that I could get on with my life. It is obvious to me that the regulations related to taxes are ridiculously burdensome and complex, creating a whole industry whose sole job is to diminish taxes paid. The guy who just works for a living and does not keep good records will end up getting screwed.

The necessity of keeping records, whether true or not, became especially evident during the Covid epidemic when the government was handing out money hand over fist without any verification. All it was required was an accountancy statement listing employees and payrolls. Self-employed businesses or businesses without payroll were not eligible, although many fraudulent companies offered to get government money that did not require repayment. I contacted one, just to verify my suspicion. I was self-employed with no payroll. The company offered to create a fictitious payroll which they guaranteed could pay off hundreds of thousands of dollars. I hope these fraudsters will be held to account.

Covid was another regulatory nightmare. The only law invoked was the “emergency power act” enabling politicians to set rules to protect the public health in an emergency. The CDC and other governmental agencies are largely controlled by the pharmaceutical industries and the drug and vaccine companies took full advantage. Without any scientific proof other than preliminary studies conducted by drug companies, the CDC and Covid Task force issued “recommendations” such as vaccine requirements, a bad drug list, masking, social distancing, and sheltering in place. Local governments initially adopted these recommendations blindly by invoking emergency powers. Whereas authoritarian (Democratic) states continued lockdowns and closed schools for 2 years, the freer Republican states discontinued mandates after 2 months. Proof that the draconian measures failed is subsequent data showing no difference in outcomes. This is true even for country analysis. Except Africa was largely spared, perhaps due to widespread use and availability of hydroxychloroquine and ivermectin, drugs debunked by big pharmacy because these drugs were cheap generics with no potential for profit. Not only did Covid regulations prove to be destructive to American society, especially low-income kids kept from school, but they destroyed the reputations of government, media, and the medical establishment. Censorship of the truth to convince citizens to follow government regulation in the name of preventing misinformation has branded evil upon the “experts” and “science.”

When I was in my early 20s, I took a sabbatical and traveled from Boston to the Bahamas in a 45-foot sailboat. I was chastised several times for anchoring in private areas or forbidden areas. I never caused any problems, but there were regulations. The Coast Guard boarded my sailboat multiple times, usually for the purpose of checking for drugs. Often this was extremely inconvenient, such as time in the Carolinas when the winds were 50 mph and hurricane warnings had been issued. I was rushing to get to a protected marine, but the Coast Guard had to look for drugs. Another time, I ran aground in New Jersey and asked for towing assistance from the Coast Guard. They claimed that they would not render assistance unless there was risk of life, limb, or property. Because my boat was not sinking, they did not consider helping.

I oversaw orthopedic radiology in Miami and at the request of the surgeons with whom I work closely I rolled an ultrasound machine into a pediatric clinic which was assessing hip dysplasia. I did not obtain administrative approval. I did find out that administrative approval was a 1-to-2-year process at minimum. This was at an academic center that purported to offer state-of-the-art diagnosis and treatment. Ultrasound evaluation of hip

dysplasia was a proven diagnostic technique without any radiation exposure. Additionally, it provided immediate and dynamic hip anatomy information that could be used immediately by the orthopedic surgeon for treatment, if necessary. I was chastised and eventually terminated for doing the right thing, but not the right way, the so-called proper bureaucratic way. I learned later that the main concern of administration was the absence of billing codes and financial reimbursement for what I was doing for free.

I owned property which was adjacent to wetlands. This area was laden with poison ivy, to which I was extremely allergic. I tried to control it with herbicides, unsuccessfully. Eventually, I decided to fill in the area and create a garden and barbecue area. A neighbor (who I had never seen or talked to) reported me to the town conservation commission. A representative from the State Department of Environmental Protection came to review the site. She stated that the presence of poison ivy indicated that this area had previously been disturbed. She could not verify whether it had been designated as wetlands, but stated it was 100 feet from adjacent wetlands and therefore protected. She could not give a good reason why it was protected and why I had committed a wrongful act. Nevertheless, the town had a hearing at which I presented my case. They determined that I had violated the law which protected wetlands and 100 feet therefrom. Therefore, I was ordered to excavate the garden and barbecue area for which I paid \$75,000 and plant various certified wetland plants. I was required to hire a wetland engineer and for an additional expense of \$35,000, I became compliant.

Wetland laws and regulations are relatively new development, presenting obstacles for any development nearby. The definition of a wetland has recently been narrowed by the Supreme Court, thankfully. Previously, any land with poor drainage that retained water or became damp could be classified as a wetland. However, the original laws pertaining to wetlands related to the preservation of waterways, not swampy areas with no connection waterways. The Supreme Court recently clarified this necessity for a connection to a waterway in the defining of a wetland. The area for which I had been fined, by the Supreme Court's definition, was not a wetland. It was bureaucratic overreach resulting in overregulation and impingement on the right to enjoy private property.

As a developer and landlord, I faced nonsensical regulation. I attempted to offer affordable rents to poor tenants but received no appreciation and the regulations made this impossible! Some indigent tenants are products of criminal activity or drug abuse, and

these guys are credible liars, having learned how to use the system which enables them. Tenants sometimes fail to pay for legitimate reasons. Liberal jurisdictions such as Massachusetts tend to give more credibility to tenants over landlords. Health regulations are employed to avoid paying. I once discontinued cable TV service in an apartment and the judge ruled that this interfered with the tenants' right to enjoy their apartment. In another example, the tenant sliced holes in screens which is a health code violation attributable to the landlord.



I offered free shelter to abused women. I attempted to cooperate with the state sanctioned organization. I found that this organization that sought public donations received massive state funding to the tune of \$500/night/person. Non-residents were not eligible for funds, so they had no objection to me housing them, which I did. Upon research I learned that the regulations for receiving state funding were onerous and expensive. For instance, 24-hour security guard is required in addition to a 24-hour medically trained supervisor and educational programs. The building itself had to be handicapped accessible with triple locks, window bars, and hidden location. I received letters of appreciation from occupants but hate letters from the approved organization. Charity was not easy due to the regulations.

Recently, I have constructed a commercial office building. The permitting approval of this project, simple as it was, took over two years. Fortunately, I was not in a rush. Here are some of the delays. To access the property, because it is on a state road, the state highway department is required to render a permit. Because of a supposed backlog, this can take up to one year, which it did. The area of a parking lot came within 100 feet of designated wetlands. Additionally, the National Heritage foundation, a state organization to protect endangered species had designated part of the parcel as within a protected zone. There is a raised railroad bed between the stream, from which a 500-foot zone had been demarcated for a wood turtle (not endangered but “of concern”) that had been reported 50 years previously. To enter my property, the wood turtle would be required to climb a steep 30-foot bank, cross the railroad, and descend 20 feet. The conservation commission therefore required a turtle protection plan. After researching the wood turtle, I drafted a turtle protection plan and submitted it to the state. They responded positively and suggested a few additions. The town however was outraged that a professional biologist had not been hired for site assessment, drafting the plan, and for the weekly monitoring that was required. A barrier fence was required as part of the plan. The conservation commission inspected this fence several times. Each time, they required additional barriers, above and beyond what was required in the approved plan. They did not like me personally constructing the barrier.



The building department also created many hurdles. The building had a basement area for private use. The building department required a bathroom in the basement as well as a handicap ramp. We revised the plans so that this is not mandated. As the original plans included affordable housing on a second floor, the building department required a sprinkler system which necessitates water tanks and a separate well to be constructed, making any additional residential construction unaffordable and therefore defeating the purpose. When the plans were revised to eliminate the residential portion of the project, the building department then stated that this represented a significant change and required re-permitting that required appearance in front of the planning board and the conservation commission, even though we were doing less and not more. The committee did agree at one point, but the secretary of the committee contacted the town attorney who decided that the secretary was correct, and that proper procedure required submitting the diminished plans de novo to the town.

The building has now been constructed, and another issue has arisen concerning a sign that was constructed according to the plans. Apparently, neither the building department nor the planning board which had approved the project was aware of a zoning bylaw which required that signs be set back from the front property line 40 feet. The effect of this is that the sign would be invisible and serve no purpose. We are now required to appear in front of the Zoning Board Appeals Committee and plead that they will allow the sign as constructed and as previously permitted in error to stand.

There is no question that we live in a regulatory environment. Even constructing a swimming pool on one's property requires a permit. Having a campfire could require a permit. To cut down a tree in certain locations might require a permit. Additionally, the bureaucracy that enforces regulations fails to remember that its purpose is to serve the public's well-being, health, and welfare. Instead, it enforces regulations as if a religion without any application of common sense and consideration for taxpayers. In short, it has been my experience that they are a pain in the ass who serve no public purpose. If they were fired; life, liberty, and The Pursuit of Happiness would be a reality.

