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REDEVELOPMENT TOOLS: Creating and Recreating Urban Centers

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This article describes a number of the agencies, entities, and legal tools and techniques that are used today to redevelop or create urban centers of population and commerce.

Municipalities are enabled by state law to adopt land use plans and regulations and allowed, in carefully prescribed ways, to provide land, infrastructure and financial incentives to developers to accomplish the redevelopment of urban centers. Various state and federal laws and programs provide tax benefits and other financial incentives that aid urban revitalization. These techniques were used traditionally in cities and a few villages in the 1960s and 1970s when significant federal and state subsidies existed. They are being adapted today to different circumstances and being applied in deteriorated and underdeveloped areas in cities, villages, developing suburbs, and rural areas.

Developing Suburbs

The Town of Haverstraw's well-considered plan for the redevelopment of Letchworth Village, former site of a state hospital for developmentally disabled patients, successfully introduces redevelopment law to a developing suburb. Haverstraw is located on the waterfront of the Hudson River in Rockland County and has a population of 33,811. Haverstraw's multi-year effort was undertaken using a legal technique normally reserved for urban settings, New York's Urban Renewal Law. Haverstraw purchased the site of Letchworth Village from the Empire State Development Corporation, a New York State public benefit corporation that, among other things, manages the privatization of state-owned facilities.

Haverstraw raised $3.3 million by issuing municipal bonds to purchase the site, prepare a blight study and develop the initial conceptual plan. Haverstraw drew statutory authority to use public money to purchase the property and subsequently sell it to a developer from Urban Renewal Law. Urban renewal is a program or project established by a municipality for the redevelopment of a blighted area using financial incentives and a public-private partnership. Typically, urban renewal begins with the adoption of a redevelopment plan for a blighted area and involves acquisition of parcels in the area, demolition of some buildings, the selection of one or more qualified developers and the sale of parcels to those developers, subject to a redevelopment agreement. The municipality can clear the land, replan, rehabilitate, and reconstruct the area under Article 15 of the New York General Municipal Law.

A blighted area is an area that contains substandard or deteriorated buildings or land uses that impede redevelopment. Blighted areas may include parcels that are undeveloped or inappropriately developed. The existence of some buildings in the area that are not substandard does not preclude its designation as a blighted area. Haverstraw created an Urban Renewal Board and charged it with conducting a blight study. The Board did a complete inventory of the 17 buildings on the site and concluded that 58.5 percent had some degree of blighting due to their deteriorated condition. The study concluded that Letchworth Village was “blighted,” which justified an urban renewal designation.

Next, the town's consultants prepared a conceptual land use plan that was used to market the project to potential developers. An urban renewal plan is a detailed plan for the redevelopment of each parcel of land in a formally designated urban renewal area used to govern the future land uses, infrastructure, and building in the area and to select qualified and eligible developers to develop all or part of the area. The plan called for a mixed-use development that combined senior housing, retail, commercial and office elements, and a new community center. The town then issued a request for proposals, selected a developer that would build according to the town's plan, and sold the site to the chosen developer under the strict terms of a land disposition agreement. Haverstraw reinvented urban renewal in a developing suburban area and without the benefit of federal or state funding in order to control its future development and ensure that the community's needs were met.

Constitutional and state legislative standards prevent state and local governmental agencies from giving land, infrastructure and other public assets to private entities or providing special tax benefits or exemptions to them. When the purpose is the provision of affordable housing, job creation or the redevelopment or economic development of certain designated areas, however, such benefits may be provided to the private sector when it is determined that the public will benefit. The purpose of these incentives is to induce the private sector to create benefits for the public that are not financially feasible without the assistance.

Financial Incentives

Through the use of local development corporations, industrial development agencies, enterprise communities, empowerment zones or “Empire Zones.” the municipality can offer the developer financial incentives such as brownfield liability relief, brownfield tax credit, and real property tax relief including payment in lieu of taxes and tax increment financing. Industrial development agencies can acquire land by eminent domain, issue tax-exempt bonds to provide low cost financing and participate in sale and lease-back arrangements to pass along their partial exemption from real property taxes to development companies. Municipalities can also provide incentives in the form of developer agreements, vested rights, generic environmental impact statements, and the construction of infrastructure to reduce the initial cost of the project to the developer.

The city of New Rochelle used its industrial development agency to provide incentives and cost benefits to the private sector to rebuild its dilapidated downtown. An industrial development agency is a quasi public entity that accomplishes industrial development goals by offering financial incentives to attract, retain, and expand businesses within its jurisdiction. It can acquire and sell land, issue tax-exempt bonds and provide technical assistance for qualified projects, which may be eligible for a variety of financial incentives from the federal and state government. The proceeds of tax-exempt industrial development agency bonds can be used to reduce the cost of financing eligible projects. These entities can be established by local and community governments under General Municipal Law; Article 18-A.

New Rochelle wanted to stimulate the local economy by broadening the tax base and creating jobs. In order to accomplish this, the city worked to bring an entertainment complex to the depressed downtown area. The New Rochelle industrial development agency purchased the parcels that now contains New Roc City from the New Roc Association and then leased the site back to the association for 25 years with an option to purchase for $1 at the end of the term.

Payments in Lieu of Taxes

The development agency's maintaining ownership of the property made available several benefits, including a mortgage tax exemption, sales tax exemption on all materials acquired for the development, and a payment in lieu of taxes. Such payments are a form of tax abatement authorized by General Municipal Law § 874 and Real Property Tax Law § 412-a by which a municipality exempts a developer from taxation on the increased value of the property due to development. Instead, a developer pays a certain percentage of the tax that would normally be assessed. This percentage will usually be graduated in such a way as to increase over time. New Roc is required to pay $1 per square foot, an amount substantially below the normal tax rate. The payment in lieu of taxes is based on an incremental 14-year phase out. For years 15-25, New Roc will pay 100 percent taxes on the fully assessed value of the property. Without these financial incentives, the redevelopment of New Rochelle's downtown would not have been financially feasible and the city would not have gained the tax base or jobs it was seeking.

Using more traditional land use authority, localities can also provide incentives to private entities by adopting regulatory plans for high density, mixed use areas within their boundaries, offering incentive zoning for developers to build pursuant to those plans or using floating zoning districts, special use permits with clear standards and regulations, or other techniques to implement those plans. These same agencies and laws can be used to guide the developer, streamline the project review process, and waive requirements that are otherwise applicable zoning and development standards.

Public-Private Partnership

Under the American system of regulating land use and development, most significant development projects involve a partnership between the private sector and public entities. Even in strong market areas, public planning, zoning, and project regulation come first and development by the private sector follows. When economic development and residential projects are sought in many urban centers, however, market forces are insufficient to attract developers to redevelop aging downtowns, industrial waterfronts, multi-family neighborhoods, underdeveloped sites and deteriorating infrastructure. In these places, a more intense partnership is needed, one that joins the public sector, using resources uniquely available to it, and the private sector with its debt and equity financing and development competence.

Developers, to be attracted to work in urban places where the market is less than robust, look for municipal administrations that are proactive regarding land development, both at the level of the chief elected official and legislature and at the administrative level: the staffs of the community development agency, department of development, industrial development agency and the volunteers and staff who serve land use approval agencies, such as the planning board. Developers will invest in an urban area, purchasing land and risking capital, only where they are convinced that the municipality can deliver financial resources and supportive infrastructure needed to make the project work practically and financially.

Regarding particular redevelopment areas and large sites, developers will ask whether the municipality has committed itself to a clear master plan with defined objectives and design standards. They are attracted when the municipality has drawn the boundaries of redevelopment districts, given them name identities, specified how they should be redeveloped, and identified the resources they can bring to the bargaining table.

For over 20 years attempts were made by the city of Yonkers to renew its dilapidated waterfront. During the mid-1900s, the manufacturing facilities that predominated the waterfront were abandoned creating a barrier between downtown Yonkers and the Hudson River, disconnecting residents from the water. By the mid-1990s, Yonkers residents' interest in reclaiming the waterfront peaked, and the city was left with the daunting task of attracting the private sector to a depressed area in an uncertain market. In 1995, after extensive community participation and coordination with county, state and federal agencies, the city adopted a master redevelopment plan for its downtown and waterfront.

Hudson Park, the first new multifamily project in this part of Yonkers in 30 years, is a major component in the revitalization of the Yonkers waterfront and was only possible as the result of the proactive nature of the city officials and their ability to identify resources to contribute to the project. The city and the private entities investing in the waterfront relied on economic tools provided by quasi-public bodies in the city and state agencies. Hudson Park is a luxury apartment complex situated on the banks of the

Hudson River; its development was assisted under the New York State Empire Zone program.

'Empire Zones'

Empire Zones provide special financial incentives that encourage economic and community development, business investment, and job creation pursuant to General Municipal Law; Article 18-B. Certified businesses, known as qualified Empire Zone enterprises, located within a designated Empire Zone are rewarded with an essentially “tax-free” business environment. Benefits include tax reduction credits, real property tax credits, sales tax exemptions, wage tax credits and utility rate reductions. To be eligible for designation as an Empire Zone, an area must be characterized by pervasive poverty, high unemployment, and general economic distress.

Hudson Park was certified as a qualified Empire Zone enterprise and as such received a 15-year real estate tax exemption, a mortgage tax exemption resulting in a savings of $500,000, and a sales tax exemption on construction materials during the construction phase of the project. Without these and other financial incentives, the developer would have been unable to obtain the necessary financing in such an uncertain market and Yonkers waterfront would have remained a series of abandoned industrial facilities. Instead this pioneering project has helped to stimulate additional new projects nearby.

Municipal leaders, for their part, are interested in finding developers who have proven track records of successfully building and managing the particular type of projects the public sector is seeking. They want to know whether the developer can conduct professional pre-development feasibility studies, understand macro-economic trends, conduct reliable market analyses, have needed financial resources from private sector investors and lenders and employ staff and professionals who have all the skills necessary to plan, build, market, and manage the needed project.

Evident in these examples is the use of financing and development techniques that are authorized by New York law, assisted by federal law, and that make otherwise infeasible redevelopment projects possible. From the World Trade Center site in lower Manhattan to the city of Albany, lawyers are becoming familiar with these techniques, many of which lay dormant during the late 1970s through mid 1990, and adjusting them successfully to new urban and suburban economies and environments.