

FYI

WNY ECONOMIC & LAND DEVELOPMENT FORUM

- PANEL SYNOPSIS -

The first annual Jaeckle Fleischmann Economic & Land Development Forum held October 19, 2007 in Buffalo, and October 26th in Rochester, was marked by lively and informative discussion among panelists and attendees alike. We have summarized the panel discussions for those of you that were unable to join us.



PANEL I: BLUECROSS BLUESHIELD OF WNY HEADQUARTERS PROJECT

The panelists described the scope of this 12 million square foot project (one of the largest developments in the history of the City of Buffalo), and the strategic project management process that commenced with a review of over 120 sites. The success of the project was attributed to the support of the City of Buffalo and the synergy of the unique public-private

partnership driving the project. The project fit the parameters for the New York State Brownfields Tax Credit Program extremely well, but required a high level of cooperation to complete the environmental cleanup on such an aggressive

timeline. The panelists discussed the merits of the New York State brownfields program and noted the surge in economic activity that the City of Buffalo is experiencing with a list of 163 projects currently underway within the City

Thank You to Our Speakers

Matt Enstice, CEO of the Buffalo Niagara Medical Campus served as the opening speaker for the Firm's Buffalo Forum describing the planning, progress and future project plans for the Medical campus. Tom George, Director of Business Development of Wilmorite, served as opening speaker at the Rochester Forum providing an overview of the RIT Collegetown project and the important role it plays addressing quality of life issues on the campus.

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boundaries. It was noted that the brownfields cleanup program has played an important role in downtown development, serving as a catalyst for projects in the area. The panelists also discussed projects under the existing New York State Brownfields Tax Credit Program in downstate New York which has not been as successful, primarily due to high project costs in connection with marginally challenged properties. The panelists provided an overview of the remediation process and the structure of the liability transfer agreement and insurance associated with the project. All parties involved in this project agreed that despite the challenges related to the complex structure of the property transfer and environmental liability agreement, this project was a win-win for all.

**PANEL 2:
WIND POWER -
PREPARING FOR THE
FUTURE**

Panelists at the wind power

session presented and discussed an array of issues concerning the construction and operation of both small and large scale wind energy facilities. Matters including approval processes, local zoning concerns, other per-



minent state and federal regulations, necessary infrastructure development, PILOT agreements, and potential governmental incentives designed to promote renewable energy were examined. Leasing arrangements, where wind energy developers lease property from land owners who are able to retain their current land use, were discussed as well. With panel participants representing both American and Canadian organizations, the

discussion was able to identify the similarities and differences between the two countries, as well as place wind energy issues within the larger framework of international energy generation, distribution and consumption. Although the panelists presented diverse perspectives on these issues, they shared a common view that wind power generation will continue to become an increasingly important issue in the near future.

**PANEL 3:
ANTICIPATING SEQRA
CHALLENGES**

The SEQRA panel discussion began with a focus on the tension between the SEQRA mandate to consider environmental considerations "at the earliest possible time" in project planning and the fact that no reviewing agency make commit itself to a definite course of future action until the SEQRA process has been complete. It was observed that developers often are called upon to incur significant engineering and related expenditures





prior to receiving any formal approvals and before knowing where the SEQRA process is headed or how long it will take. Likewise, while developers must strive to expedite the project approval process to preserve the viability of a project, at the same time developers must ensure that no approvals are issued prior to completion of the SEQRA process. All panelists emphasized the importance of early communication among the project sponsor and reviewing agencies and stakeholders in the planning stages of a given project. It was agreed that developers are often frustrated by lengthy and expensive SEQRA processes that create uncertainty as to final project approval and that more definitive agency feedback is needed earlier in the review process for purposes of making informed decisions concerning resource and investment allocation. Some opined that the statute all too often is a weapon deployed by a few with mixed motives to block projects that have economic benefits for the

many. The panelists also addressed the SEQRA mandate for agencies to assess environmental impacts and choose alternatives which are "consistent with social, economic and other essential considerations..." The



consensus among the group was that reviewing agencies often do not ensure that social and economic factors are given "appropriate weight" in the SEQRA process and that project sponsors should do more to draw attention to this. Finally, the panel discussed the extent to which comprehensive plans assist developers in formulating project proposals that will be welcomed in a given community. To the extent that duly adopted and up-

to date comprehensive plans are not universally available, the consensus seemed to be that such plans are of limited assistance in anticipating SEQRA-based challenges. In this regard, some panelists emphasized that municipalities should be flexible and forward thinking in the development and adoption of their comprehensive plans.

PANEL 4: STRUCTURING TAX CREDIT DEALS

The panel opened their discussions by reviewing the ideal team of experts that is assembled for a development project involving tax credits. The typical entity structure behind a tax credit deal was discussed, as well as the flow of the tax credits from the tax credit investor, ultimately to the

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ADMISSIONS INFORMATION

* Indicates admitted to practice in New York State

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project sponsor. The panel also provided examples of the types of projects that are eligible for tax credits, along with an outline of the duties of developers and requirements of operating funding sources. The standards used by financing partners was also covered, including requisite guarantees, tax credit adjustments, capi-

talized reserves and pricing factors. In summary, the panelists concluded that financing affordable housing with low income housing tax credits is complex and projects have a long time line. These projects require education in advance and the involvement of an experienced team of consultants early in the process.

A Special Thank You to Our Panelists:

BlueCross BlueShield of WNY Headquarters Project

Christina Akers, City of Buffalo Office of Strategic Planning; Dennis Gorksi, BlueCross BlueShield of WNY, Inc.; Richard Tobe, City of Buffalo Office of Strategic Planning; Martin Doster, NYS Department of Environmental Conservation; John Black, WSP Group

Wind Power - Preparing for the Future

John Andrews, Independent Power Corporation; Mark Colmerauer, American Consulting Professionals; Terry Hawrysh, Independent Power Corporation; Keith Pitman, Empire State Wind Energy; Dan Reynolds, Southern Tier West

Anticipating SEQRA Challenges

Bruce Boncke, BME Associates; William Tuyn, Greenman Peterson Engineering & Surveying, LLP; Donald Riley, Mark IV Construction; Christopher Dirr, Savarino Development; Timothy Vaeth, Ciminelli Development

Structuring Tax Credit Deals

Steve Ald, Southern Tier Environment for Living; Michael Anthony, M&T Commercial Real Estate; Stephen Karnath, National Equity Fund

