



Mitigation: Community Benefits

Agreements

JC & Associates

-What is Mitigation?

- **-A Definition-** Identifying and addressing disproportionately high and adverse human health or environmental effects, including the interrelated social and economic effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

Causes for Mitigation

- bodily impairment, infirmity, illness or death; *air, noise, and water pollution and soil contamination*;
- destruction or disruption of human-made or natural resources;
- destruction or diminution of aesthetic values;
- *destruction or disruption of community cohesion or a community's economic vitality*;
- destruction or disruption of the availability of public and private facilities and services; *vibration; adverse employment effects*;
- *displacement of persons, businesses, farms, or nonprofit organizations*;
- *increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community.*

National Examples

- Mitigation can come in many forms i.e. Cooper River Bridge Mitigation between the City of Charleston and the SCDOT, but usually when associated with private development it comes in the form of what is called **A Community Benefits Agreement**.
- The **CBA** in the USA is a contract signed by community groups and a real estate developer that requires the developer to provide specific amenities and/or mitigations to the local community or neighborhood. In exchange, the community groups agree to publicly support the project, or at least not oppose it.
- Often, negotiating a CBA relies heavily upon the formation of a multi-issue, broad based community coalition including community, environmental, faith-based and labor organizations.

Other Cities with CBAs

- The following cities have joined the CBA movement: Atlanta, Denver, Milwaukee, Minneapolis, New Haven, New York City, Philadelphia, Pittsburgh, San Diego, San Francisco, San Jose, Seattle, Syracuse, Washington, D.C., and Wilmington.

Win- Win

- **Good for Developers-** For developers, negotiating with community representatives can be an attractive way to gain community support and help move their projects forward. Participating in CBA negotiations can eliminate surprises in the development approvals process and allow developers to work with a unified coalition rather than having to engage community organizations one by one.
- **Good For Community-** Engagement

-Principles and goals of CBAs include:

- **Inclusiveness.** The CBA negotiation process can provide a mechanism to ensure that community concerns are heard and addressed. While some cities do a good job of seeking community input and responding to it, many do not. Laws concerning public notice and participation are often poorly enforced, and official public hearings are frequently held at times and places that are not neighborhood-friendly. Having a CBA negotiation process can help to address these problems, providing a forum for all parts of an affected community.

-Principles and goals of CBAs include:

- **Enforceability.** A CBA can ensure that a developer's promises regarding community benefits are legally enforceable.
- Developers "pitching" a project often make promises that are never written into any project approval documents, and even when they are, they may not be monitored and enforced by the relevant government agencies.
- By creating an enforcement mechanism or expanding the class of parties who can enforce these promises, CBAs can make enforcement much easier.

Principles continued...

- **Accountability.** CBAs enable citizens to hold governments accountable for the use of tax dollars by giving them a voice in how development subsidies and public approvals are grant.

Community Coalitions-

- At the heart of the community benefits strategy are community organizing and coalition building. Organizing and maintaining a coalition, facilitating compromise and crafting a shared agenda are essential to creating a successful CBA. Coalitions can include a variety of community groups, such as neighborhood groups, environmental organizations, good-government organizations, labor unions, and faith-based organizations. Coalitions are usually unincorporated, but member community groups may enter into an operating agreement to govern their relationship in the coalition. A model CBA Coalition Operating Agreement has been created by the Public Law Center at Tulane Law School.

Government's Role

- ***Elected officials and government agencies*** often play an active role in CBA negotiations.
- In California and other jurisdictions where development agreements are authorized, government representatives may be formal CBA signatories.
- In other cases, government officials may play a more informal role by facilitating CBA negotiations and encouraging cooperation.

Recommendations

- **Form a Coalition:** Eastside CDC, East Central, and faith based organizations within their borders using national model. Negotiating, monitoring, and enforcement will be the primary role of the coalition.
- **The CBA contract model** allows each particular CBA to be tailored to the community's needs, the size and type of the proposed development, and the relative bargaining power of the community groups and the developer. Benefits may be provided by the developer itself, or a CBA may require the developer to impose CBA provisions on its tenants, vendors, and contractors. Typically, CBAs include job quality standards, local hiring programs, and affordable housing requirements.

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- **Other benefits include, among other things:**
 - Living wage and prevailing wage requirements
 - Local hiring goals
 - Job training programs
 - Minority/women/local business contracting goals
 - Provisions prohibiting developers from hiring contractors that have violated labor or other occupational laws (known as "responsible contractor" provisions)

Other Potential Benefits...

- Retail/commercial space set-asides for small and local businesses
- Big box retail restrictions
- Green building requirements
- Space set-asides for neighborhood organizations, community centers, child-care centers, and other non-profits
- Construction of parks and recreational facilities
- Provisions for community input in the selection of tenants
- Funding for community organizations/programs
- Mitigations in excess of those required under state/local law that address parking, traffic, increased pollution, and other environmental impacts.