

By Joshua Quinter, Kaplin Stewart

Economic Development is about more than economics: Don't fall prey to oversimplification

Can you count on one hand the number of catch phrases used by both political parties in the last election cycle? If you were like me and listened to the radio at all in November, you know the answer to this question is undeniably "no". Every candidate had to encapsulate their message into a 10 second sound bite, but many cringed when they were asked to discuss an



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issue in greater detail. The oversimplification created by these phrases pollutes useful discussion for many and leads others to simply be grateful when the political season ends.

In the same regard, the term "economic development" is being bantered about by countless municipalities and states in the last several years without much in depth discussion. As a result, many people view this issue strictly as a matter of economics. However, there are a plethora of legal issues that play a role in any project designed to achieve "economic development".

Among the first determina-

tions that are usually made is how to fund the project. Whether it is done with public funds, private funds, or a mixture of both can impact a project in several significant ways. Lien claims, which can affect both the timing and financing of a project, are often controlled by whether the project is public or private. In addition, most states have statutes relating to payment of contractors working on construction projects. Since the statutes can provide for different remedies depending on whether the project is public or private, this is an important consideration in project planning. Owners,

developers, and contractors alike should be aware of how these laws affect a project.

In addition to financing, economic development projects face numerous land use questions. The location of the project will need to be properly zoned for the projected use. If this is not the case, steps will need to be taken to ensure that the project can move forward. Depending on the jurisdiction, several options can be pursued. In addition, while the United States Supreme Court's decision in *Kelo v. City of New London, Connecticut*, has declared economic development as a

valid use of the constitutional power of eminent domain, state and local eminent domain codes must still be complied with if eminent domain is to be used. These are but a few of the issues that can arise in the maze of land use law.

A final basic issue to consider is the tax implications created by such projects. In some instances, tax incentives are offered by governmental entities to entice companies to become involved in such ventures. These tax incentives often require extensive documentation and can come with qualifications. Conversely, sometimes projects of this nature can create a negative tax situation for a company too. Care should be taken to consider the tax implications, if any, that will occur upon involvement in such projects.

In sum, economic development is about much more than economics. The legal issues involved in these types of projects alone can vary largely depending on the specifics of each proposal, and they require attention and understanding before proceeding. Becoming involved in an "economic development" project without sufficient consideration could lead to large problems for any company, so don't fall prey to oversimplification.