

STALEMATE AT GROUND ZERO

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Real Estate New York; Sep/Oct 2009; 28, 5; ABI/INFORM Complete

pg. 42



WTC UPDATE

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STALEMATE AT GROUND ZERO

As the site's owner and its chief developer head toward arbitration proceedings, work proceeds on a protracted timetable

Tourists who come to connect with the tragic events of 9/11 at Lower Manhattan's Ground Zero now see steel and cranes rising from the 16-acre site where Manhattan's two tallest buildings once soared. But despite its revered spot in New York's collective conscious, the World Trade Center site has seen significant construction delays, the result of a wide range of reasons, from insurance fund disputes and cost challenges to the complex physicality of the site itself. Stealing headlines about the site's progress has been a long-running squabble between two of New York's largest competing interests: a sophisticated commercial developer and a well-intended public agency with little recent experience building public projects of such massive scale.

By Cody Lyon

Silverstein Properties Inc., led by CEO Larry Silverstein, blames the Port Authority of New York and New Jersey for not meeting obligations spelled out in a 2006 Master Development Agreement, which SPI says led to the delay of its towers. More specifically, financing hurdles, a symptom of the economic downturn, led SPI to pressure the PANYNJ to backstop the funds necessary to build. The two are currently headed toward arbitration proceedings, although the PANYNJ has turned over all required land parcels to SPI.

SPI's frustration surfaced in a May 2009 letter detailing its plans to proceed to arbitration. SPI charged that in removing Phoenix Constructors, a consortium of contractors working at the site, as construction manager, the authority had pulled an "about face" with an action that "appears to have been taken without a coherent construction or construction management

strategy in place going forward."

For its part, the PANYNJ maintains it's met the obligations called for in the '06 agreement, and "continues to meet them." In August, PANYNJ executive director Chris Ward argued that any arbitration decision under the '06 MDA will not resolve the question of "when there will be a market for the two private office towers on the site, and how the 'speculative' private office space should be financed."

Almost sadly, the squabble of today seems decades away from the post-9/11 days when, at least officially, a consensus emerged on the timely rebuilding of the WTC as a message of defiance and triumph that would serve as a symbol of New York City's economic and real estate dominance as well as the major catalyst for revitalizing Lower Manhattan.

"The timing of it is not nearly as critical as the resolution that there will in fact be a master plan for the site, a plan that people can understand, business can communicate and companies can plan for," says Robert Goodman, senior managing director at FirstService Williams.

Goodman, who has worked in Lower Manhattan for over 20 years, says "we clearly do not have that right now. There's nobody out there who can talk with any conviction as to what the ultimate Ground Zero development will look like, including Silverstein and the Port Authority."

Three-term Gov. George Pataki served at the helm of the state's highest office when the attacks occurred and spearheaded much of the initial public planning for the site. Pataki tells *Real Estate New York* "we had an obligation to keep Lower Manhattan a viable

Cranes and steel rise above Ground Zero. A 2003 report predicted much of the construction would be complete by now.

Photo: Nick Koutoufas

commercial center, in fact the financial capital of the world." He adds, "that's why the commitment was made, not to just have the memorial, the transit hub and the upgrading of infrastructure facilities, but, also as the insurance documents required, the reconstruction of office space."

Pataki says the goal was to "send a very powerful message to the world, about the confidence and strength of New York, the United States and the fact that we'll never forget the heroes who died, or responded so courageously on 9/11." That sentiment drove community leaders as well. "The WTC was our literal and figurative North Star. It was an organizing principal in Lower Manhattan," says Liz Berger, president of the Alliance for Downtown New York. She adds that there's been eight years of construction, and "it's very important that work be completed."

But, as an August 2009 New York City Quinnipiac University poll shows, the public's faith in announced completion deadlines is dim. By a two-to-one margin, New Yorkers in the poll do not believe projections made by the Port Authority regarding any of the recent construction timelines at the site.

Laments Catherine McVay Hughes, Downtown Community Board One's chair of the WTC committee, "We're deeply

troubled" by the inability of the PANYNJ and SPI to resolve their differences over recent months. In testimony at a Sept. 9 public hearing, the CBI board said that "left unresolved, the uncertainty of delaying WTC development will continue to negatively impact the surrounding residential and business community where real estate prices continue to decline while property taxes increase."


Noting the events and eventual outcome of the site ripple across the city, longtime community resident McVay Hughes tells *RENY*, "the eight-year anniversary of 9/11 has come and gone. Let's hope it's not another eight years until the job is completed."

Not long after 9/11, New York State and New York City officials established the Lower Manhattan Development Corp., a unit of the Empire State Development Corp. The LMDC was funded mostly by \$2.8 billion in federal appropriations administered by the US Department of Housing and Urban Development. In 2003, the LMDC commissioned Applesseed, a New York City-based economic development and consulting firm, to conduct a study and subsequent report, titled "Economic Impact of Redeveloping the World Trade Center Site."

The optimistic tone of the six-year old LMDC report is striking in the context of today. The report said Phase One of the project

“ From the beginning, I knew we weren't building just for today. We were building for a decade or generation 50 years from now.”

George Pataki
Former Governor of New York



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would be completed by this year, 2009. Phase One included the Memorial, the Freedom Tower, the permanent PATH terminal and concourse as well as retail and cultural uses at the site. Construction costs for Phase One were expected to be between \$6.05 and \$6.66 billion. Total cost for the entire redevelopment program, set to be complete by 2015, was between \$10.04 and \$11.04 billion.

The LMDC report also predicted that by 2009, 2.8 million square feet of office space in the completed Freedom Tower would be 70% occupied. Retail space at the new complex would be 95% full, while new cultural facilities would be fully occupied and in year-round use.

In November 2004, Pataki and New York City Mayor Michael Bloomberg signed joint executive orders creating the Lower Manhattan Construction Command Center. Its job was to facilitate Lower Manhattan construction activities, mitigate their impacts on the community and communicate with the public about the actual work and its overall impact.

"We had put in place a central construction command center that was very effective in making sure all the different contractors, trades and projects were coordinated so you'd have the most efficient operation and least disruption to the neighborhood," says the former governor. "To be honest, I can't tell you where we are now," says Pataki, who left office in 2006, noting that at that point, the LMCCC's director was Charles Maikish.

Pataki stresses the importance of the site's public components. "To me, the most important is the memorial. It is the core of

the 2003 Daniel Liebeskind master site plan." He points out to *RENY* that "from an emotional standpoint" as well as a "practical and legal standpoint," the World Trade Center site is "one of the most challenging sites" that's ever been built in the country."

According to the Furman Center's PlanNYC, the Liebeskind master plan established a redevelopment outline that could be completed in different stages by different architects. It provided for around 10 million square feet of office space, the Memorial and ground level retail. But, as PlanNYC documents show, the competing interests of the PANYNJ, SPI, the LMDC and retail developer Westfield Properties led to amendments in the plan.

Pataki explains that on the WTC site, "You have diverse ownership, everything from the Metropolitan Transportation Authority to a bi-state authority to private interests like SPI, with private insurance companies and others having an important say in the project." Some say those competing interests contributed to the squabble stalling parts of the project now.

Nicole Gelinas, a Manhattan Institute scholar, says that after the attacks, "government should have gone to SPI with a 'force majeure' argument." Instead, she says, "it got ridiculously involved in building office towers, getting involved in architecture, holding beauty pageants for building designs that nobody liked, then doing it all over again."

Early on, Pataki says, the PANYNJ did in fact look at the possibility of buying Silverstein out. But after examining legal

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issues, insurance contracts and purchase agreements, the authority decided it was not the best course of action.

"I know they looked at it all, and concluded that the best way was to continue to move forward with the ownership that existed at that time," says the former governor. "We always knew that the private side of the development, the office buildings, were going to be dependent on the market." He acknowledges that "obviously, since the collapse of Lehman Brothers and the financial crisis, the market is very different from where it was before. Those buildings will have to be phased in to meet market conditions."

In 2007, former Washington Group International vice president Robert Harvey assumed the executive director's position at the LMCCC. He tells *RENY* that when he first arrived at his new position, and looked at the schedule, it was not necessarily a "comprehensive integrated matter schedule that takes into account all the considerations for all the multiple stakeholders."

The LMCCC identified issues that led to the development of the October 2008 PANYNJ Roadmap. It participated, along with others, in the authority's own executive working group that produced the new assessment.

As a result, the Port Authority drew up a detailed report for Gov. David Paterson that explained significant delays and costs that would exceed earlier projections by \$1 billion to \$3 billion. The report detailed 15 fundamental issues that had yet to be resolved at that time.

Still, offering some optimism, Harvey, who has 35 years in large public works projects, says things do continue to move forward with \$15 billion to \$20 billion worth of work going at the site.

"What complicates project work of this kind is the interfaces between all the different pieces," he says. "I like to think of it simplistically: you have to build a foundation before you build walls, and walls before you build a roof. In cases where there are many 'interfaces,' both horizontally and vertically, amongst the many stakeholders—in other words, 'houses' all built with the same basement—it makes a very complex project."

The LMCCC develops and updates complex risk and 4D models of all the projects Downtown, with special attention to the WTC projects because of their complexity. Harvey says the LMCCC meets regularly with stakeholders, most often the PANYNJ, and physically goes down into the site to assess physical progress against milestones the PANYNJ has put in place.

Ultimately, "What you've got to do for it to be done on time and on budget is match up all those interfaces or colors—have it red on one side, white on another," says Harvey. "It's that kind of Rubik's Cube, a complex puzzle."

Harvey and others stress that overall governance of the WTC site and its projects ultimately rests with the PANYNJ. The LMCCC also points out that its mission differs from the LMDC's.

PlanNYC documents show that the LMDC currently has an annual \$5-million budget, and continues to disperse funds to local cultural and community groups. Originally, the LMDC was more heavily involved in the planning aspects at the WTC site. A spokesperson confirms that since 2006, the LMDC's role at the WTC has been reduced significantly, with

most governance now in the hands of the PANYNJ. The LMDC still owns the former Deutsche Bank Building at 130 Liberty St. and is leading the much-delayed deconstruction efforts there.

On a day-to-day basis, Kathryn Wylde, president and CEO of the Partnership for New York City, tells *RENY* that among workers and residents, there is "impatience Downtown" and it is "primarily with the mobility issue, and getting the streets open and active." She points out that West Street, Broadway and Church Street are all torn up and make access on the western side of Lower Manhattan very difficult. "The site could be a construction site for a long time, as long as the public transit and accessibility in the surrounding area is good, West Street is open and people can traverse the blocks between the subway, park and the World Trade Center without having to crawl over construction barriers."

Wylde confesses measured skepticism, saying that she thinks the likelihood of having waterfalls running at the memorial by the 10th anniversary is limited. However, she says, "We'll see a fitting memorial."

Of the extra cache the Santiago Calatrava-designed PATH station was meant to offer Lower Manhattan as a rival to the grandeur of Grand Central Terminal, Wylde says she doesn't think people are so hung up on "the iconic nature or the accoutrements" originally touted at the new terminal. Instead, she says, "I'd like to see things functional. The beauty of the waterfront, the historic buildings and the parks are enough of a draw that we don't necessarily need many more iconic public amenities."

Going back to those tourists, who make their way Downtown each day, Pataki stands firm with his commitment to the importance of the site. "From the beginning, I knew we weren't building just for today. We were building for a decade or generation 50 years from now." —RENY

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