

## Chapter 5: Development Conflict Examined

### In and Out

The goal to bring a 18,500 seat sports arena to downtown Newark gained momentum throughout 1999 as supporters made considerable progress to overcome significant planning and financing obstacles barring the project. By the September of that year activist Hal Laessig admitted that the lawsuit filed by C.H.A.R.G. against the city's blighting procedures had little chance for success. Acknowledging that the arena site would replace his neighborhood, Laessig protested the unchecked redevelopment powers of the city. "In my opinion it [the city] has gone way too far — they can take anything away from anybody without any public comment. What happened to the idea of private property?"<sup>1</sup>

As Laessig became more pessimistic, the anticipation grew among city officials as the arena plan took shape. In preparation for Mayor Sharpe James's 14<sup>th</sup> State of the City address, aides created a make-believe television broadcast of a NBA game being played at the future arena between the New Jersey Nets and the Los Angeles Lakers. The video featured flashy images of the arena interior and the surrounding downtown streetscape. But when the mayor gave his annual speech at City Hall on February 10, 2000, the progress on the arena project had suddenly become as make-believe as the video.

During the first week of February the development plans for the Newark arena were set back a full year when Superior Court Judge Philip Freedman forced the city to throw out the conclusions of the January 1999 public hearings that blighted the redevelopment zone in the East Ward. The surprising decision came eleven months after C.H.A.R.G. and parking lot operator Jerome Gottesman filed separate lawsuits against the city challenging the city's conduct during the public hearing process.

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<sup>1</sup> Interview with Hal Laessig. September 2, 1999.

According to a *New York Times* article on the arena's sudden reversal in fortune, Judge Freedman "sharply criticized the city's efforts to notify the public and signaled that he was likely to rule against the city on at least part of the lawsuit."<sup>2</sup> The city's attempts to restrict public participation during the hearings the previous January led the judge to take the side of the residents in their lawsuit. This dramatic setback for Newark politicians and arena supporters occurred just as the Central Planning Board was reviewing the final plan for the site, one of the last hurdles the arena needed to clear before clearance could begin.

In response to the ruling by Judge Freedman, on February 1<sup>st</sup> lawyers for the department of development announced the city would hold a new round of hearings for community residents to comment on the redevelopment zone and the arena site. Despite the surprising success of the lawsuit, residents like Hal Laessig who opposed the current arena plan understood that considerable momentum remained in favor of the project. Laessig told the *New York Times* that he looked forward to the new hearings because residents from his neighborhood could make their concerns heard to the city. "We know that they aren't going to abandon their plans, and this will allow us to be involved in the planning process."<sup>3</sup>

To settle the issue of public participation at stake in the lawsuit, the municipal council set a public hearing for February 15<sup>th</sup>. Five days later the council retreated and canceled the hearing, angering both development officials exercising damage control and arena opponents who wanted to speak in front of the council. Instead of holding a public session, a majority of the council voted to send the arena project back to the Central Planning Board. Council President Donald Bradley later told the *Star-Ledger* that sending the issue to the Central Planning Board would be the best solution to a complicated problem. "We're going to let it go back to the planning board," he said. "We don't want

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<sup>2</sup> Smothers, Ronald, "New Hearings on Arena Plan for Newark." *New York Times*. February 4, 2000.

<sup>3</sup> *Ibid.*

to circumvent the process.”<sup>4</sup> But Councilman Donald Tucker, who favored a council hearing, criticized his colleagues for passing the buck and avoiding the responsibility of holding a hearing.<sup>5</sup>

As the impact of the court decision halted progress on the arena, city officials for the first time admitted that mistakes had been made in the public hearing process. East Ward councilman Augusto Amador, who expressed reservations about the original hearing process in January 1999 but still voted for the blight decree, agreed that the process must be completely done over. “The public participation was wrong from the start... We have to send the project back and start from the beginning.”<sup>6</sup> Another council member expressed disgust at the setback to the project by admitting “we screwed up,” although she later identified the Mayor and the development office as the main culprits for the blame.<sup>7</sup>

The delay to the arena plan represents one of the few occasions in which public officials in Newark have admitted to making mistakes that harmed neighborhood residents. Acknowledging errors, however, is not the same as agreeing to fix them. It is also true that the city officials expressing regrets are primarily council members who face re-election and not professional development officials like Al Faiella who oversee the projects. The key consideration over the future of economic development in Newark is the degree to which the department of development will reform its public participation process to make the new redevelopment hearings more accessible to neighborhood residents and groups. One of the first reforms by City Hall should be to make the economic development process more transparent to outside observers. Even as the arena project goes back to public hearings, new questions are being raised about the motivations of the developers behind last-minute changes made to the layout of the arena.

### **Changes to the Plan**

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<sup>4</sup> Stewart, Nikita. And George E. Jordan. “James vows to keep plan for sports arena on track.” *Star-Ledger*. February 11, 2000.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> Councilwoman Gayle Chaneyfield-Jenkins. *Ibid.*

City officials made several alterations to the arena plan which have the potential to limit the impact of the project as an engine for downtown development, but could increase their profits of the developers.

The original plan released in July 1998 placed the basketball arena adjacent to the downtown crossroads of Broad and Market streets and connected to the train station by a corridor of commercial development featuring offices, stores, and a movie theater. This scheme placed the arena three blocks from the trains and buses of Penn Station. Artists' drawings of the plan appearing in the *Star-Ledger* showed streams of pedestrians walking from the train station to the arena along city streets lined with new commercial development.<sup>8</sup>

However, the final versions of the plan submitted to the Central Planning Board on January 10, 2000 shifted the arena site several blocks east to the corner of Market and Mulberry streets and away from the downtown. The new arena site is much closer to the Gateway office complex and within a single block of Penn Station, which would now be connected to the sports facility by a covered walkway. In addition, the eastward shift of the arena altered the ownership of the redevelopment land and the dynamics of the peripheral development projects to favor the developers' business interests.<sup>9</sup> A *New York Times* article on the plan changes explored the possibility that the arena was moved several blocks east to prevent the development of new office space more convenient to Penn Station that would compete against the existing Gateway Center buildings. Placing the proposed office development further from Penn Station would benefit arena-backer Gale & Wentworth's ownership in the Gateway Center. But Larry Goldman, the executive director of the New Jersey Performing Arts Center and an official familiar with Newark development discounted the possibility that business

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<sup>8</sup> Moran, Tom. "Residents seek sporting chance for arena." *Star-Ledger*. May 27, 1999.

<sup>9</sup> The re-positioning the arena closer to Penn Station placed it on land already owned by project supporters. "The switch means much of the development potential would be in a compact area, on property now owned by Prudential Insurance Company of America, a corporate supporter of the arena, and by Gale & Wentworth developers, one of the partners in the YankeeNets organization." Smothers, Ronald, "2 Alternatives Proposed for Newark Sports Arena." *New York Times*. January 11, 2000.

motives had an undue influence on the changes made to the arena plan. He cited the long history of the philanthropic activities in Newark by Raymond Chambers and other arena investors as proof of their true motives.<sup>10</sup>

However, the city's plan to move the arena closer to Penn Station worried some observers of the process from an urban planning perspective. Jerome Gottesman, the owner of a parking lot company who filed one of the lawsuits that delayed the project, expressed his opinion that proximity to Penn Station was more important for the commercial development zone than for the arena.<sup>11</sup> Mary Ann Tighe, a partner of the Insignia/EGS commercial real estate firm based in New York, supported his view. Tighe said the plan to connect the train station to the arena by glass "umbilical cords" would sink the arena as a public building and severely reduce the pedestrian traffic in the commercial zone. "Transportation is crucial to the arena, it is true, but placement of it right there by the station is devastating to other downtown development and circumscribes it. The arena will become a big wall around which you can't see the rest of the downtown and around which no one will venture."<sup>12</sup> She concluded the arena would draw people as the main attraction of the site, and that the stores needed to be located closer to the train station to attract spectators arriving and leaving from the games. "

City officials responded to the criticism by claiming the changes to the plan would make the project more competitive and successful. Defending the new arena plan, Al Faiella insisted that access to the subway, commuter trains, and PATH lines at Penn Station were always critical to the arena's success: "The key to any of this is putting the arena right next to the train station."<sup>13</sup> Development officials suggested the arena building was moved closer to Penn Station because of land use and zoning concerns and not because of doubts over the project's ability to attract additional development. Nonetheless, the changes made to the arena plan raised questions about the

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<sup>10</sup> Smothers, Ronald, "Log-Sought Arena Seems Likely for Newark." *New York Times*. January 23, 2000.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

commitment of city officials to make the arena the center of a redevelopment zone. Community groups are also swayed by the personal business connections to the plan changes because they are naturally suspicious of city officials and entrepreneurs due to the deep distrust between these interest groups.

### **Breakdown in Relations**

The schism between city officials and neighborhood organizations developed during the period following the 1967 riots when Newark's neighborhoods became increasingly cut off from the downtown business district. The isolation of City Hall from community leaders allowed both of these interest groups to evolve different strategies and priorities for pursuing economic development. City officials focused on business investment while community groups addressed the needs of local residents. After years of working apart, the recent increase in development activity in Newark and the improving condition of the city has forced the differences between these two interest groups out into the open. The current surge of investment in Newark is forcing developers and neighborhood groups into more frequent conflicts that call into question the actual benefits of economic development. If the conflicts created by controversial development projects severely damage the working relationship between city officials and neighborhood groups, do the economic benefits of the projects outweigh the political and social implications of the city's internal conflict? Officials on both sides of development conflicts must learn to consider the impact of development conflicts disagreements on the institutional fabric of the city.

Recent development projects in Newark demonstrate that the current allocation process causes serious harm to the relationship between City Hall and neighborhood groups even if the local economy benefits from the new investment. The near monopoly of the Newark department of development on investment projects has enabled it to evolve a strategy to ensure the success of city-approved development projects and to thwart the threat of opposition. These practices by the

department of development neglect residential neighborhoods, and more importantly, actually damage the city's relationship with the dozens of community groups that provide leadership and services in these neighborhoods.

But some entrepreneurs, like Ray Chambers, share some of the same concerns as community groups. Entrepreneurs such as Chambers and his associates who are dedicated to pursuing development projects that satisfy community needs could potentially serve as a bridge between the neighborhood groups and City Hall as the dispute over the arena plan is settled. Entrepreneurial groups have already worked in small fashion to improve communication between the other two opposing groups in Newark. While Mayor James and Al Faiella sharply criticized the C.H.A.R.G. activists fighting the arena proposal, it was Michael Gilfillan and officials from the New Jersey Nets organization who sought the middle ground and tried to convince the residents to allow the development project to take place. The mediating role of the entrepreneur will be essential in the future to break down the barriers between city officials and neighborhood groups.

Without the intervention of entrepreneurs to balance out the power of the development officials, the long-term result of one-sided economic development is the deterioration of the trust, communication, and cooperation between the various interest groups that is essential for a well-functioning urban area. The de facto development strategy of City Hall is to isolate community groups from the development process while rushing projects to completion at breakneck speed and with as little public discussion as possible. The campaign by city officials to exclude Hal Laessig and other East Ward residents from the public hearings on the arena redevelopment zone is the most visible example of this strategy. The recent arena conflict encompasses many of the long-standing and unresolved issues that divide Newark's city government from its neighborhoods. Because of the high stakes and increased attention focused on the hundreds of millions of dollars riding on the arena,

the resolution of the dispute will likely determine if Newark's recent development will be sustainable or only short-lived.

### **A Crucial Time**

The new public hearings over the arena plan will occur at a time when the relationship between City Hall and neighborhood groups is at a special juncture in Newark. If the city had continued with the development process unchecked by the lawsuit or any other challenge, the arena project would be remembered by Newark community groups as another example of the city's use of the urban growth machine to roll over public participation. But the surprise court order forced the city to revisit the public hearing process and enabled the legacy of the project to be quite different from what it could have been. The enormous development potential of the arena project provides an opportunity for City Hall and neighborhood groups to bury the history of negative rhetoric of their relationship, and to redefine the meaning of community participation in Newark's economic development projects.

The successful challenge by C.H.A.R.G. against the basketball arena demonstrated that if community groups are excluded from the development process, they could still create trouble for city plans. Newark officials should learn from the recent arena setback that community groups should be included in the discussions surrounding economic development projects rather than isolated and left to challenge city development projects from the outside. After the lawsuit, city officials learned that they can no longer bend the rules to eliminate well-informed and mobilized community groups from the development process.

### **New Community Tactics**

A few weeks after C.H.A.R.G. was formed in early 1999, Hal Laessig and other organizers met with a group of Ironbound activists from the S.P.A.R.K. organization who had defeated a city plan for a baseball stadium in their community a few years before. The information and advice supplied to Laessig and other C.H.A.R.G. members by the Ironbound residents and their volunteer attorney

proved crucial to the success of the lawsuits they filed against the city. The early legal help the residents of the arena neighborhood received from Ironbound helped them learn how to effectively challenge the city's development goals.

The lawsuit against the city's public hearing process filed by C.H.A.R.G. in early 1999 used the strategy of appealing to higher authorities to combat the urban growth machine. The tactic was first used in Newark in 1997 by the Ironbound activists from S.P.A.R.K. who appealed to the U.S Department of Interior to designate Riverbank Park as a historic landmark and to prevent the construction of the stadium. Neighborhood activists in Newark have learned to appeal to higher authorities to stop or delay the construction of development projects after being denied a role in the development process. The success of this new tactic by community groups reflects the misunderstanding by city officials that the neighborhood opposition they face is disorganized and incapable of mounting a serious threat to the goals of the growth machine. Because poor urban areas like Newark are often isolated and oblivious to outside institutions and ideas, development officials are not prepared to counter activists using the power of outside forces to derail public projects.

### **Community Participation**

Newark's community development organizations are determined to play a significant role in the development decisions involving the arena project. Since the influential momentum of Ray Chambers and the YankeeNets organization almost ensures that at least some aspect of the arena will be built in Newark; community development groups want to be a part of the process. They believe the reforms imposed by the court decision will allow concerned community groups to register their opinions during the new public hearings.

Two types of community interests will be represented at the new hearings; the neighborhood residents represented by C.H.A.R.G. whose homes are threatened by the arena; and community groups from other wards interested in the potential development of the arena project. The success of

the lawsuit will be a pyrrhic victory for the members of C.H.A.R.G. and other community groups unless they can effectively express their concerns during the new round of public hearings. Other community groups hope to use the hearings to influence the development potential of the arena to benefit local residents. The impact of widespread neighborhood participation in a city-backed economic development project could have a profound influence on the future development projects in the city.

In the past community groups have rarely united around citywide issues because of the parochial divisions of Newark's wards and neighborhoods. SanDonna Bryant is the director of the Newark Community Development Network (NCDN), the coalition of the largest 20 non-profit community development corporations within the city. Bryant acknowledged that the divided nature of Newark makes it difficult for community groups to act in concert. "Newark community organizations have recently been focused on the home communities within their target areas – they have not been able to look at the greater picture within the city."<sup>14</sup> She says the main challenge of her organization is to get the city government and community groups to work together to encourage development balanced between the downtown and neighborhoods.<sup>15</sup> The newest goal of NCDN is to get member organizations to contribute to the discussions and decisions involved in the peripheral development around the arena structure

Some community activists have criticized the manner in which development projects were decided upon in Newark. Ironbound artist and activist Anker West warned that unless community groups play a more active role in the development process, downtown Newark could soon be divided into four quadrants under the control of four large real estate and development corporations friendly to the city. West explained his conception on how development works. "The city seems to clear a big block area and level it and then offer it to a big developer who is maybe friends with Al Faiella or the

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<sup>14</sup> Interview with SanDonna Bryant – February 4, 2000.

<sup>15</sup> SanDonna Bryant. February 4, 2000.

Mayor.”<sup>16</sup> West said this style of development could leave the city with a monolithic feel. If community organizations can become more involved in urban development, their diversity and ideas will ensure that future projects will not reflect the style of a single developer or planner. Neighborhood groups can also contribute their skills and familiarity with the needs of Newark residents and businesses to help make development projects more successful.

Some of the larger neighborhood groups in Newark have more experience in drafting comprehensive development plans than the city’s department of development. The future role of community groups in Newark will partially depend upon the amount of access they have to the development discussions with outside companies and investors. Most development decisions made by the city purposefully exclude neighborhood groups from this process right now.

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<sup>16</sup> Interview with Anker West. January 5, 2000.