About the Committee

The Committee on Community Economic Development (CED) provides a forum for lawyers to share their expertise and perspectives derived from working with (i) entrepreneurs and community-based organizations seeking to revitalize communities and (ii) the institutions that finance such initiatives. The Committee provides an opportunity to (i) share knowledge and develop policies on the emerging law of CED, (ii) support transactional lawyers involved in CED, and (iii) work with other committees of the Business Law Section, as well as other ABA entities. To join the Committee go to http://www.abanet.org/committee_join/ocj_action.cfm?comid=CL746000

Message from the Chair

Rutledge Simmons
NeighborWorks America
Washington, DC

Thanks for taking the time to review the Committee on Community Economic Development inaugural e-newsletter. The newsletter is one of many ways the Committee seeks to better engage its members and non-members.

For example, we hope to build on our successful 2008 Business Law Section Spring Meeting panel discussion, "The Subprime Mortgage Mess and its Potential Effect on Communities and Community Development," by sponsoring our 2009 Spring Meeting panel, "An Insider's View of Community Economic Development: How to Add Value to Clients Working with Governments and Agencies with CED Goals and Initiatives." Of course, the effect of President Obama's American Recovery and Reinvestment Act of 2009 on community economic development will figure prominently in the discussion. Recognizing the value of collaboration, the Committee sought and received valuable assistance from the Committees on Banking Law, Consumer Financial Services, Nonprofit Organizations and Pro Bono as it designed the panel and secured panelists.

To expand our outreach and ability to grow our committee offerings, the Committee has asked Tom Bolt to chair our Subcommittee on Membership, Russ Brien and Cliff McKinney to co-chair our Subcommittee on Publications and Howie Wong to chair our Subcommittee on Programs. Each has graciously agreed to do so. We have a strong team.

During this season of significant change for those of us engaged in community economic development, we encourage members and non-members to visit our listserv to share ideas and recent developments, and to offer suggestions on how to make the Committee, and more specifically the CED website, a greater resource for its members. This newsletter is one means by which we are tapping into the talents and perspectives of our membership. Let's build on this effort.

Thanks.
Interview with Howie Wong

General Counsel
Toronto Community Housing
March 1, 2009

Tell us about your employer and your role in the organization.

Toronto Community Housing is the largest social housing provider and landlord in Canada. We are home to 165,000 low and moderate-income tenants living in 60,000 households. The average household income is $14,000. Our housing portfolio encompasses over 360 high-rise and low-rise apartment buildings and 1,000 homes throughout Toronto.

Our tenants come from diverse backgrounds. This diversity includes age, education, language, sexual orientation, mental and physical disability, religion, ethnicity and race as well as increasing diversity in lifestyles and values.

I am the General Counsel and manage the Legal Services Unit comprised of 12 staff. My practice is restricted to corporate and banking law; although I do manage other practice areas such as litigation.

Please discuss your corporation's structure and the reason for it.

Toronto Community Housing is a wholly owned subsidiary of the City of Toronto. We are incorporated as a business corporation in that we are in the business of social housing and have the ability and are encouraged to generate profits from non-housing businesses to support our portfolio. For example, we own the largest construction and maintenance provider to the Ontario multi-residence housing market.

We operate at arm's length from the City. Toronto Community Housing has a standalone S&P credit rating of AA- and has issued to date $250 million of bonds. We also have a master loan platform for our banks with committed facilities in excess of $250 million.

Toronto Community Housing is in the midst of a number of site re-developments involving multi-phased building replacements over the next 10 years at a cost well in excess of $1 billion. We develop, build and sell market condominiums to pay for the replacement of social housing buildings.

How do you typically spend your day?

The bulk of my practice is transaction driven. Most recently, we closed the first ever Canadian public-private partnership to develop a community energy system for a 85 acre re-development site which will eventually house upwards of 10,000 people.

My practice is extremely broad extending from swap loan transactions all the way to drafting youth tenant waivers for field trips; the most recent field trip was a busload of youths to
Why did you become a member of the ABA, and more specifically the Community Economic Development Committee of the Business Law Section?

I've been a member of the ABA for many years. As a Canadian lawyer, I look to the ABA for knowledge on leading edge laws and insights on new issues to expect in Canada, especially with respect to community economic development which is a key goal of Toronto Community Housing. I also enjoy the tremendous collegiality of ABA lawyers despite my alien status!

Do U.S. and Canadian affordable housing agencies share similar challenges?

Inadequate funding of capital needs is a common U.S. and Canadian challenge. At Toronto Community Housing, our buildings have an average age of 40 years and require significant capital repairs to maintain their useful life. There are also significant demands for new housing; there are over 70,000 people on Toronto’s waiting list for social housing.

How do their challenges differ?

In the U.S., funding for housing is essentially a federal responsibility. In Ontario, social housing is a municipal responsibility. The bulk of municipalities are restricted to a property tax base and don’t have additional taxing authority. This limitation severely restricts the ability of municipalities to match and fund the demand for social housing. Some larger municipalities such as the City of Toronto were recently given broad taxing authority. But, these new rights have not been fully used as there is limited tax room in the public for new municipal taxes.

What advice would you offer lawyers for community development agencies?

Use your significant leverage as a governmental or public agency to negotiate the very best CED programs from the private sector. Don’t be afraid to be a bully in extracting the very best terms possible. Tax dollars are scarce and we have a duty to leverage every dollar for maximum impact and results.

2009 Spring Meeting Panel

An Insider’s View of Community Economic Development: How to Add Value to Clients Working with Governments and Agencies with CED Goals and Initiatives

Friday, April 17, 2009
2:30 - 4:30 PM
Room 215 & 216, Level Two
Vancouver Convention & Exhibition Center

Chair: Mr. Howie Wong

Cosponsored by: Committee on Banking Law, Committee on Consumer Financial Services, Committee on Nonprofit Organizations and Committee on Pro Bono

Panelist Biographies:
Mr. Bernd Christmas, a Partner at the law firm of Maurice Law, Barrister & Solicitors, focuses primarily on corporate and commercial law. Previously, as Senior Vice President and National Practice Leader at the law firm of Hill & Knowlton Canada he developed its aboriginal affairs practice. Mr. Christmas has served as CEO of the Membertou Band of Nova Scotia and the Membertou Corporate Division. In 2003, Prime Minister Chrétien appointed him to the External Advisory Committee on Smart Regulation. He has served on the National Aboriginal Economic Development Board and the executive committee that organized the Governor General's Conference on Leadership and Diversity. He currently serves on the board of the National Aboriginal Achievement Foundation. Mr. Christmas earned his law degree in 1991 from Osgoode Hall at York University.

Ms. Leila Finucane Edmonds is the Director of the Department of Housing and Community Development (DHCD) for the District of Columbia. Prior to joining DHCD, Ms. Edmonds was a vice president in the community development department of HSBC Bank USA. Prior to HSBC, Ms. Edmonds worked at Seedco, a national community development intermediary focused on homeownership, workforce and economic development. Ms. Edmonds has also practiced commercial real estate law at the law firm of Willkie Farr & Gallagher and corporate law at the law firm of Stroock & Stroock & Lavan. Ms. Edmonds holds a B.A. from the University of Pennsylvania, a J.D. from NYU’s School of Law and a Master of Urban Planning from NYU’s Wagner Graduate School of Public Service.

Ms. Kate Lauer is a policy advisor to the Consultative Group to Assist the Poor, an institution at the World Bank that strives to increase the poor's access to financial services. Since 2000, Ms. Lauer has worked on microfinance-related legal reform issues, with a recent focus on "branchless banking" - the use of technologies to access financial services. Ms. Lauer commenced practice at Cleary, Gottlieb, Steen & Hamilton. Subsequently, Ms. Lauer was in-house counsel at the European Bank for Reconstruction and Development and then General Counsel for Whitehall, a Goldman Sachs-managed international investment fund. Prior, Ms. Lauer was assistant professor in the Legal Studies Department of Central European University in Budapest. Ms. Lauer has a J.D. from New York University School of Law and a B.A. in economics from Dartmouth College.

Mr. Rutledge Simmons is Deputy General Counsel of NeighborWorks America, a national nonprofit focused on community economic development, with a specific emphasis on affordable housing. Mr. Simmons handles a variety of legal and non-legal matters, including helping design significant grant programs such as the National Foreclosure Mitigation Counseling Program and its underlying legal assistance program. Prior to joining NeighborWorks, Mr. Simmons practiced corporate law for ten years at the law firms of Holland & Knight, LLP and Hale and Dorr, LLP. Mr. Simmons is also Chair of the Committee on Community Economic Development. Mr. Simmons is a graduate of Harvard College ’89 and Columbia Law School ’94.

Mr. Howie Wong is General Counsel of Toronto Community Housing, the largest social housing provider and landlord in Canada. Prior to joining Toronto Community Housing in 2005, Mr. Wong was a mergers and acquisition lawyer for over 18 years with a national Canadian law firm. Mr. Wong graduated from Osgoode Hall Law School, York University. Mr. Wong also holds a B.A. in Commerce from the University of Toronto.

As part of the...

2009 ABA Section of Business Law Spring Meeting
Vancouver, BC
April 16 - 18, 2009

» Meeting Registration
» Website
» Brochure
Create Economic Development
Craig Nelson

THE PROBLEM

As a result of a number of events which have occurred recently with respect to federal and state budget and fiscal policies, recessionary economic conditions, together with ever increasing demands for public services, have put local governmental units under ever increasing pressure to attempt to identify alternative sources of revenue. This negative impact is especially felt by those communities that have structurally weak fiscal bases. These are often the same communities that are experiencing the highest tax rates and have the greatest number of residents who are intense consumers of essential public services. These groups of fiscally weak communities are often referred to as "service centers."

More...

A Vintage Non Profit Learns New Tricks
Rutledge A. Simmons

Being an economic development practitioner often requires a marshaling of all of one's creativity. Much economic development entails real estate development and innovation is often an integral part of the real estate development process. From my vantage point non-profit institutions in the affordable housing space often take it to a higher level. They must. They must meld together a variety of financing sources, leverage those dollars and nimbly navigate numerous obstacles to meet their objectives.

More...

Including Youth in Community Development: A Call for Pro Bono Assistance for Youth Entrepreneurs
Dorcas R. Gilmore

Renee is a twenty year old fashion design student who works two jobs to make her dream of designing and selling her own clothing a reality. Jason is a sixteen year old high school student who with the help of his friends has been running a successful event promotions business for over a year. These two young people have the drive, commitment, and skills to become successful entrepreneurs. They are both members of youth-directed nonprofit organizations that focus on entrepreneurship education and enterprise development. Through their participation in youth entrepreneurship organizations they are gaining the business, marketing, communications, and financial literacy skills to develop their own businesses, but they are missing important legal services necessary to grow budding businesses that create their own jobs. This article describes the need for youth entrepreneurship legal services and how pro bono lawyers can assist low-income youth entrepreneurs.

More...
Upcoming Events

- **2009 Spring Meeting**
  April 16-18, 2009
  Vancouver, BC

- **2nd Annual Global Business Law Forum**
  June 10-12, 2009
  Hong Kong, China

- **2009 Annual Meeting**
  July 30 - August 3, 2009
  Chicago, IL

Submit Articles for the Community Economic Development Newsletter

The Committee on CED invites you to submit an article for possible publication in future issues. The articles do not need to be long. Submitting an article is a great way to share your perspective and/or expertise with fellow practitioners and to participate in Committee activities. If interested, please email your article for consideration by clicking on the name of any of the newsletter editors listed. Thanks.
THE PROBLEM

As a result of a number of events which have occurred recently with respect to federal and state budget and fiscal policies, recessionary economic conditions, together with ever increasing demands for public services, have put local governmental units under ever increasing pressure to attempt to identify alternative sources of revenue. This negative impact is especially felt by those communities that have structurally weak fiscal bases. These are often the same communities that are experiencing the highest tax rates and have the greatest number of residents who are intense consumers of essential public services. These groups of fiscally weak communities are often referred to as “service centers.”

Many of these problems which structurally weak local governments are facing could be addressed by states through various approaches, including the assumption of certain major service responsibilities, such as education and welfare, state operated fiscal assistance programs targeted to those communities with the greatest need or the possible development of state mandates and policies that would either require or encourage interlocal revenue sharing arrangements. Because most state governments today are already experiencing significant problems with their own budgetary/fiscal structures, it appears unlikely that state assistance of one form or another is a realistic mechanism for addressing these problems.

INTERLOCAL REVENUE SHARING

Various forms of local revenue sharing have been identified in recent years as an effective and politically acceptable means of reducing interlocal fiscal disparities among municipal governmental units and creating economic growth, without specifically disturbing the overall principles of municipal home rule.

Interlocal revenue sharing programs have been employed in order to counteract the fiscal and economic inequities that result from concentration of economic growth, which tends to be self-perpetuating in certain metropolitan areas. In many instances, local governmental units establish their own land use and zoning policies, which are directed to the realities of the fiscal consequences of different forms of economic development. Consequently, various governmental units attempt to attract development that brings in tax dollars and, through various means, generate economic development that produces more revenue than the public services that they require. This type of local activity tends to reinforce traditional parochial barriers and philosophies and the “community against community” inefficient competition that exists with respect to typical single-community based economic development models and projects. The State of Maine is a good example where there are 489 separate municipal government units in a state with a total population of 1.2 million people. Maine’s former Commissioner of Economic and Community Development, Steven Levesque, once referred to the Maine situation as the “tax base chase” and noted that the local home rule control most Mainers deem important comes at a very high cost to local taxpayers.
Interlocal revenue sharing programs have proven that municipalities can significantly reduce the negative impacts of this type of intergovernmental economic competition and policy. In many instances, existing revenue sharing programs have not been developed specifically as a means of redistributing revenue among local communities. They have traditionally been established for the purpose of achieving less ambitious and more politically acceptable objectives, such as: the reduction of interlocal competition for tax rich and commercial activity, the protection of particular regions from the effects of sprawl development and from development pressures in environmentally sensitive areas, and the promotion of interlocal collaboration on economic development projects of regional significance.

There is a growing interest in pursuing interlocal revenue sharing in one form or another. This growing interest results from the trend of reduced federal and state aid to local governmental units, negative impacts resulting from the competition among local communities in a common region and the significant and growing problems local governmental units are experiencing in connection with raising sufficient revenue to meet an ever increasing demand for public services. Interlocal revenue sharing is viewed as a politically acceptable means of attempting to address the increasing disparities in local fiscal conditions and structures.

THE MAINE MODEL

One recent and unique example of interlocal revenue sharing was the creation in 1998 by the Maine Legislature of The Kennebec Regional Development Authority (KRDA). It is a quasi-municipal self-governing entity having 24 separate and distinct municipal communities as its participating members. The KRDA has as its focused economic development purpose the creation of a 300-acre high technology-based business park known as FirstPark, located adjacent to Interstate 95 in the community of Oakland, Maine. One of the unique features of the KRDA is the fact that the 24 participating communities vary in size from a population of 530 to more than 20,000. The 24 communities as a whole do not comprise a contiguous cluster of communities and are located in two counties.

The Town of Oakland has entered into an Interlocal Revenue Sharing Agreement, permitted under a Maine statute (30-A M.R.S.A. §5751, et seq.), with each of the other 23 participating communities that provides for the Town of Oakland to share in perpetuity the real estate and personal property tax revenue that will be generated from the development of the property within the FirstPark project. It was projected, in a feasibility study conducted prior to commencement of the FirstPark project, that over the next 20 years, the increased tax base valuation resulting from the development of the FirstPark project will generate between $25 and $30 million of real estate and personal property tax revenues to the Town of Oakland, all of which will be shared by that community with the other 23 member communities of the KRDA.

Under existing Maine law, there were three negative impacts to the Town of Oakland as the host community for FirstPark, which were addressed in the Interlocal Revenue Sharing Agreement. These negative impacts are that, as a community’s tax valuation base increases, the amount of local revenue sharing and local school subsidy it receives from the State of Maine decreases and the amount of its share of the Kennebec County tax increases. In order to hold Oakland harmless with respect to these negative impacts, the Interlocal Revenue Sharing Agreement permits the Town of Oakland to retain sufficient tax revenue to offset these negative impacts in any given year as the valuation of the FirstPark property increases before it distributes the remaining tax revenue to itself and the other 23 communities.
The area within the Town of Oakland that comprises the FirstPark project has been designated by the town and the State of Maine as a “tax increment financing district” under an existing state law. This designation permits the Town of Oakland to shelter the development within the FirstPark project from these negative impacts for a period of up to 30 years so that it will not be required to utilize a portion of the tax revenue generated from that development, which is estimated to be between $7 and $8 million over the first 20 years, to offset those negative impacts. The Maine Tax Increment Financing statute (30-A M.R.S.A. §5241, et seq.) permits the Town of Oakland to distribute this additional tax revenue, which it normally would retain to hold itself harmless from the negative impacts of development, to the KRDA so that it may be used for economic development purposes and in promoting the development of the FirstPark project.

In order to promote the creation of the KRDA and the development of the FirstPark project, the State of Maine awarded the KRDA a $1 million community development block grant to be used as part of the funding for the first phase of the infrastructure development of the project. The KRDA was also successful in obtaining a $1 million development grant from the Economic Development Administration and has issued $3.5 million in tax-exempt revenue bonds to fund the $5.2 million cost of acquiring all land, the cost of permitting and the development of approximately 65% of the infrastructure. This funded infrastructure development includes the underground installation of all utilities, including but not limited to, state of the art fiber optic based telecommunications technology. The 24 member communities are “investing” in the FirstPark project by supporting the initial costs of the operating budget, as well as the debt service on the revenue bonds needed for the development and marketing of the project. Including these 24 communities also had the effect of sharing, and thereby reducing, the risk involved in the development of the FirstPark project. The KRDA was also successful in negotiating a partnership agreement with Verizon, which resulted in FirstPark being designated a “Verizon Smart Park.” This agreement will result in benefits derived from joint national marketing of the FirstPark project by the KRDA and Verizon and the investment by Verizon of approximately $1.5 million in fiber optic based digital telecommunications facilities that will serve the businesses located within FirstPark.

Through the FirstPark project, it is expected that approximately 3,000 direct jobs and another 3,000 indirect jobs will be created in the region through the development of the project and the businesses to be located within the Park. The creation of these high-paying, high-quality technology-based jobs, together with the above-described revenue sharing features of the project were clearly the major motivating factors for the votes that were taken by the legislative body of each of the 24 participating communities to enter into this collaborative effort. The presence of the FirstPark project, with its resulting creation of jobs and the sharing of the tax revenue generated by the development activity, also served as a unifying factor which helped those communities to overcome the existing traditional parochial competitive barriers between them.

After six years of operation, the KRDA has created approximately 1,200 direct jobs within FirstPark. Approximately $300,000.00 in taxes will be distributed this year to the 24 participating communities through the Interlocal Revenue Sharing Agreement.

OTHER OPTIONS

There are also some other examples of revenue sharing, such as the tax base sharing program that exists in the seven-county Minneapolis/St. Paul area of Minnesota. Tax base sharing is unique in that it involves the actual transfer of a portion of a governmental unit’s tax base to a
common pool where it is subject to an area wide tax rate. Tax base sharing, through the establishment of a single area wide tax rate on the shared resource space, is intended to reduce the role of local tax differentials with respect to location decisions made by developers. In comparison, revenue sharing involves the sharing of some portion of a governmental unit’s revenue receipts with other local governmental units, each of which retain full autonomy over rates applied within their respective jurisdictions.

Because of current negative fiscal forces, there is also a great deal of interest across the country in pursuing other types of limited regionalization short of actual consolidation of existing local governmental units. A group of communities could significantly reduce the impact of the current fiscal forces they are facing by entering into regional compacts with neighboring local governmental units, resulting in greater delivery efficiencies for public services (i.e., education, fire and police protection, public works and emergency 911 call services) supported by a partial sharing of either taxes and/or tax base among the participating communities.

**SUMMARY**

There is a growing interest throughout the country in the concept of interlocal revenue sharing and regionalization of the delivery of governmental services. The motivation for the creation of such programs results from the significant fiscal disparity that has developed among local governmental units, the reduction of the role of the federal government in domestic programs, the significant budgetary problems which most of the states are presently facing, and the overall recognition of the significant advantages that can be realized from promoting economic development projects and the creation of jobs and additional revenue sources for local governmental units on a regionalized basis. Revenue sharing, when combined with the more efficient regionalized delivery of certain local governmental services, is also an attractive means for groups of local governmental units to effectively deal with the fiscal problems they are presently facing.

From a political standpoint, the enactment of state laws which encourage and permit the establishment of local revenue sharing programs and regionalized delivery of governmental services appears to be far more achievable than other more radical solutions, such as governmental unit consolidations/annexations, the establishment of regional governmental units, or the establishment of mandatory revenue sharing programs.

Although interlocal revenue sharing programs will not address all local governmental unit concerns and problems, they do represent a vehicle which can be used to alleviate interlocal fiscal disparities, to reduce interlocal competition and contention and to serve as a basis for regionalized economic development projects (such as the KRDA’s FirstPark project) resulting in significant high-quality job creation and new tax revenue sources for the participating communities.

[NOTE: Some of the information contained in the parts of this article which describe Interlocal Revenue Sharing and Other Options were taken from an undated article entitled “Interlocal Revenue Sharing: Practice and Potential” prepared for the National League of Cities by Roger S. Richman and M.H. Wilkinson.]
Craig Nelson is a partner in the law firm of Doyle and Nelson in Augusta, Maine and he is the founder and chair of the Governing Board of the Kennebec Regional Development Authority.

Craig H. Nelson – cnelson@doylenelson.com
A Vintage Non Profit Learns New Tricks

Being an economic development practitioner often requires a marshaling of all of one’s creativity. Much economic development entails real estate development and innovation is often an integral part of the real estate development process. From my vantage point non-profit institutions in the affordable housing space often take it to a higher level. They must. They must meld together a variety of financing sources, leverage those dollars and nimbly navigate numerous obstacles to meet their objectives.

By way of example, I highlight the challenges that confronted Project Place as it successfully developed in 2007 an $11.1 million mixed-use building that resulted in (i) housing for formerly homeless individuals, (ii) newly-expanded space for its social enterprises and (iii) retail activity that helped accelerate the pace of local economic revitalization. It is also important to note its use of the then relatively new New Markets Tax Credit (NMTC) program to wring an additional $2.8 million dollars out of the funds being put into the deal.

Affordable Housing Challenges

Project Place’s primary mission is to improve the lives of homeless individuals, which may include the provision of life skills, literacy training, food, jobs and housing. With the explosion of property values in Boston in late 90’s it became increasingly difficult for Project Place to secure housing for the population it served. Compounding the problem was the reduction of available Section 8 program subsidies.
Project Place identified an opportunity to develop affordable housing for its clients and seized it. The City of Boston sought bids to develop a parcel of land within a few blocks of Project Place’s operations. The city and the local community groups wanted the proposed development to incorporate retail activity and housing. Project Place wanted to develop housing and relocate into a larger space to support its operations. Project Place shaped its bid to meet all of the foregoing requirements.

Project Place constructed a mixed-use six-story building, with a full basement on the site. The first floor included retail activity to both satisfy community concerns and to help subsidize housing operations. The top two floors have fourteen efficiency units of affordable rental housing, each with separate kitchenettes and bathrooms. Project Place rents solely to very low-income individuals that were formerly homeless. Floors two through four are used to accommodate Project Place’s offices and social enterprises.

Additionally, Project Place implemented environmentally-friendly green building features, which increased short term costs but will ultimately reduce long-term energy-related operating costs. It hopes to receive a high rating on its LEED Certification, awarded in connection with the Leadership in Energy and Environmental Design (LEED) Green Building Rating System. The system was developed by the US Green Building Council, which provides a suite of standards for environmentally sustainable construction.
Doing the Deal

This endeavor entailed a pivotal shift for a stable and financially healthy non-profit organization. How does an organization act on relatively short notice to undertake a significant real estate development for the first time? First, for years Project Place’s staff and Board had consulted lawyers, development consultants, and fellow non-profits with relevant experience. When the time to act had arrived, Project Place’s Board was sufficiently knowledgeable enough to do so, and quickly.

Second, Project Place had cultivated longstanding relationships with government agencies and the relevant community. Project Place was a known quantity with a solid reputation. It had worked in the community for decades and any community reservation about housing homeless people was allayed by Project Place’s strong track record and the fact that many of the social needs of Project Place’s residents were on-site and readily available.

Third, Project Place assembled a development team with ties to the local community, many of which had provided Project Place with advice in the past. With the assistance of an experienced development consultant, Project Place presented a professionally prepared bid and in July of 2004, the City of Boston selected Project Place to develop the parcel.

Financing

To minimize or eliminate the development’s debt, Project Place did a variety of things. First, it made a direct investment in excess of $2.0 million in cash. Since Project Place
owned its prior building debt-free, it was able to secure a bridge loan for the cash contribution by pledging the eventual sale proceeds of its building as collateral.

Second, to enhance the effect of its equity investment and the other funds raised for the project, Project Place took advantage of the then relatively newly-enacted NMTC program. In short, the purpose of the NMTC program is to encourage investment in distressed areas by providing tax credits to investors in community development entities (CDE), which in turn invest in eligible activities. The mixed-use project proposed by Project Place qualified.

By investing the project funds in a CDE established by the quasi-public Massachusetts Housing Investment Corporation (MHIC), which in turn invested in the mixed-use project, Project Place generated an additional $2.8 million in equity investment or 26% of the project cost. In essence, this additional equity resulted from the sale of tax credits owed to Project Place as a result of its investment in the CDE.

MHIC essentially sold the tax credits to a tax paying person or entity at a discounted price. The tax credits were of little use to Project Place since its tax obligations were negligible. The use of the NMTC enabled Project Place to stretch or leverage its equity investment.

It is important to note that at the time, MHIC had a thirteen year track record of lending and investing in affordable housing. This experience must have figured prominently in
its designation in March of 2003 as one of the initial 66 organizations to be allocated tax credits for dissemination to investors. MHIC’s experience gave Project Place and its advisors comfort that MHIC had the processes in place to properly conduct its fund and minimize the risk of recapture on the tax credits taken by its investors.

Third, Project Place sought and received funds from other public and private sources such as $700,000 from the City of Boston HOME program and an additional $1.9 million from various state sources. Because of its jobs programs, Project Place sought and received a $400,000 grant from the Office of Community Services at the US Department of Health and Human Services.

Fourth, Project Place conducted a capital campaign to help fund the development. Capital campaigns to fund brick and mortar projects for non-profits are easier to promote successfully than most other capital campaigns. The capital campaign was vitally important in light of impending budget cuts to federal programs.

In order to alleviate any funding shortfall to cover operating expenses, Project Place incorporated a $200,000 “sinking fund” or operating reserve into the costs of doing the development. This fund is a source of money that Project Place set aside specifically to help subsidize the housing’s very low rents, when the housing subsidies are depleted. Fortunately, Project Place has not had to tap the “sinking fund.” Rather, it secured a HUD (McKinney Vento) grant to subsidize 10 of the 14 units for 5 years and 4 vouchers from the Massachusetts Voucher Rental Program to subsidize the four remaining units. The
subsidies are considered project-based rather than individual-based. Provided individuals meet income eligibility requirements, the subsidies stay with Project Place, no matter who rents the units.

In conclusion, Project Place undertook a thoroughly investigated journey to relocate from a building it owned debt-free to a newly constructed building that it now owns with minimal debt and the added features of increased operational space and affordable housing. It was a task teeming with trials, and yet replete with rewards.

*Rutledge A. Simmons is deputy general counsel, Neighborhood Reinvestment Corporation, and a past board member of Project Place, a non-profit combating homelessness for more than 35 years.*
INCLUDING YOUTH IN COMMUNITY ECONOMIC DEVELOPMENT: A CALL FOR PRO BONO ASSISTANCE FOR YOUTH ENTREPRENEURS

Renee is a twenty year old fashion design student who works two jobs to make her dream of designing and selling her own clothing a reality. Jason is a sixteen year old high school student who with the help of his friends has been running a successful event promotions business for over a year. These two young people have the drive, commitment, and skills to become successful entrepreneurs. They are both members of youth-directed nonprofit organizations that focus on entrepreneurship education and enterprise development. Through their participation in youth entrepreneurship organizations they are gaining the business, marketing, communications, and financial literacy skills to develop their own businesses, but they are missing important legal services necessary to grow budding businesses that create their own jobs. This article describes the need for youth entrepreneurship legal services and how pro bono lawyers can assist low-income youth entrepreneurs.

In 2001, the American Bar Association’s publication *America’s Children Still At Risk* identified legal services for youth entrepreneurs as one of its unmet legal needs for youth.\(^1\) Despite the greater needs of low-income entrepreneurs ages 16 to 24, the vast majority of small business legal services have not targeted youth entrepreneurs. To address this unmet need, business lawyers should provide targeted pro bono legal services to these entrepreneurs. Youth entrepreneurship legal services is an emerging field that deserves greater exploration and development.

As a Skadden Fellow at the Community Law Center, Inc. in Baltimore, Maryland, I am building a youth entrepreneurship legal services project called the Youth Entrepreneurship Initiative (YEI), to provide legal education and legal counsel to low-income youth entrepreneurs and youth organizations serving these entrepreneurs. The YEI targets low-income youth ages 14 to 24 years old who are or aspire to be entrepreneurs. Working with youth organizations, community groups, and small business technical assistance providers, YEI offers free business legal education and legal services to youth entrepreneurs in Baltimore City.

Youth today are facing dire economic straits. In 2008, the employment rate for teens ages 16 to 19 was 32.7%, its lowest in 60 years, and the youth employment projections for 2009 are even worse. All youth do not face the same employment prospects. Black and Hispanic youth are disproportionately more likely to be unemployed than White and Asian youth. Low-income youth are most likely to be unemployed. Higher household income translates into higher employment rates for youth in those households, except for the highest income brackets of households making over $150,000 a year.\(^2\) Early employment provides youth with substantial benefits including the ability to gain employability skills, earn their own wages, and contribute to the economic life of their communities. Also, youth employment often bridges the gap between school and work and connects youth with the formal economy early in their working lives. Youth
entrepreneurship which results in self-employment can be a bridge from school to work, as well as a long term wealth building strategy.

Youth entrepreneurship is one strategy to address youth unemployment and include youth in the economic development of their communities. Youth entrepreneurship is a proven means of creating jobs, building employability skills, fostering self-esteem and empowerment, and connecting youth to the resources and economic development needs of their communities. Youth entrepreneurship is also an important tool in creating greater opportunities in low-income communities for youth to develop the skills to effectively compete in the labor market and produce new options for employment in their communities. With the help of pro bono lawyers, youth entrepreneurs can successfully navigate the legal landscape of business development and growth.

Pro bono lawyers working with youth entrepreneurs can help them with choice of entity, licenses, permits, contracts and intellectual property protection. Additionally, lawyers can provide access to social networks and serve as supportive adults/mentors to help young people build the resources necessary to create and sustain viable businesses. In assisting youth entrepreneurs, pro bono lawyers play multiple roles.

The role of educator is very familiar to business attorneys. Often, the legal representation begins with helping clients understand the legal opportunities and barriers for starting, developing, and growing their businesses and then assisting clients in developing plans to achieve their goals. In addition to learning the legal steps of starting a business, youth entrepreneurs expand their understanding of what “the law” is and how it applies to the world of entrepreneurship.

In the role of resource builder/connector, lawyers provide information and resources to youth entrepreneurs that facilitate their goals. By connecting youth to professional and business networks, lawyers can extend their social capital to low-income youth entrepreneurs through a range of resources from business plan development to financing possibilities.

Finally, connecting youth entrepreneurs to professional and business communities is one of the ways that lawyers can serve as mentors to youth entrepreneurs. These mentorship relationships help youth entrepreneurs map out plans for success in their businesses, personal lives, and communities.

An Example of Youth Entrepreneurship Legal Services: “Getting YOURS the Right Way”

One YEI project is called “Getting YOURS the Right Way.” “Getting YOURS the Right Way” is a model of providing legal education and legal services to youth entrepreneurs. As its name implies, students are encouraged to find legal business opportunities as opposed to getting involved in drugs and violence. This model combines a community education workshop series with brief advice sessions for youth entrepreneurs. YEI operates this program in partnership with Youth Organizing Urban Revitalization
Systems, Inc. (YOURS), a nonprofit organization that organizes youth as catalysts for change through the creation of a network of community-owned cooperative programs serving and benefiting the people of Baltimore. The YOURS Youth Entrepreneur Team (Youth Entrepreneurs) are young people who have self-identified as aspiring or existing entrepreneurs. Each young person has a business idea that he or she would like to develop and launch over the course of the YOURS one year program.

“Getting YOURS the Right Way” is a weekly workshop series with alternating weeks of business legal education and individual legal advice sessions. During the business legal education sessions the Youth Entrepreneurs learn about business law basics by focusing on their identified business ideas.

Each session explores a basic question about the Youth Entrepreneurs’ business ideas. For example, where will you sell your product/service? The young people are expected to answer the question, learn how and why zoning and permitting restrict and enable entrepreneurs to grow their businesses, and discuss what this means for their businesses. Through this discussion, the Youth Entrepreneurs develop a legal vocabulary and an understanding of how “the law” works in respect to their businesses. During the bi-weekly brief advice sessions, Youth Entrepreneurs sign-up for individual legal advice meetings to address a specific legal question about their business ideas.

With the appeal of youth entrepreneurship growing and the awareness about the link between youth entrepreneurship and community economic development building among community economic development professionals, more youth entrepreneurship legal services are needed.

Lawyers can provide pro bono legal assistance through programs like YOURS by offering brief advice and business legal education. Lawyers can also judge youth business plan competitions targeting low-income entrepreneurs. Finally, lawyers can seek out youth entrepreneurs in need of legal assistance through small business technical assistance providers and bar associations.

Conclusion

Youth entrepreneurs need targeted legal services that recognize the greater challenges youth entrepreneurs face: less social capital, financial resources, education, and training. By providing legal services and assisting youth entrepreneurs in developing the necessary skills, networks, and financing, lawyers can help young people achieve their dreams of being their own bosses. In this process, lawyers address an important and neglected part of economic development in low-income communities—youth inclusion in community economic development.
1 AMERICAN BAR ASSOCIATION’S STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN, AMERICA’S CHILDREN STILL AT RISK 457 (2001).