Welcome to the Newsletter of the ABA Business Law Section Committee on Community Economic Development. Winter 2011

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://apps.americanbar.org/committee_join/ocj_action.cfm?comid=CL746000.

Message from the Chair

Rutledge Simmons  
Neighborworks America  
Washington, DC

Thanks for taking the time to read the Committee on CED Winter 2011 eNewsletter. In this edition we have articles pertaining to (i) mortgage "rescue scams" and the unfortunate role played by some lawyers in these scams; (ii) regional equity, a concept in which underserved communities within a metropolitan region participate in the region's economic development planning and decisions; and (iii) development opportunities presented by the Neighborhood Stabilization Program, which funds the purchase of foreclosed and abandoned homes.

We also have a featured profile on Derek Douglas, Special Assistant to President Barack Obama, White House Domestic Policy Council (DPC). He will speak about his policy role and the functions of the DPC.

The Committee on CED will be presenting a panel at the 2011 Business Law Section Spring Meeting entitled, "Financing Affordable Housing Construction: Where is the Money?" We expect to have an interesting panel of practitioners offering the perspectives of syndication attorneys, developers, bankers and nonprofits.

As always we welcome any suggestions to make the Committee on CED eNewsletter and other offerings better. We also welcome any article submissions for the Spring 2011 eNewsletter. Lastly, please take the time to visit the CED listserv and CED website.

--Rutledge Simmons  
Chair, Committee on Community Economic Development
Please tell me about the functions of the White House Domestic Policy Council and your role within the Council.

The Domestic Policy Council (DPC) coordinates the domestic policy-making process in the White House and offers advice to the President on domestic policy issues. In that capacity, the DPC oversees the development and implementation of domestic policy and ensures coordination and communication among various Federal agencies. The DPC works on a broad range of Administration policies to empower individuals and to strengthen the nation's communities. The DPC promotes best practices in government administration, promotes fairness and equity and supports public and private investment to address the nation's great economic and social challenges. The DPC also conducts critical outreach to key constituency groups.

I direct the Urban Policy office of the DPC. In this capacity, I focus on all urban and metropolitan policy issues, with an emphasis on housing, transportation, and economic development. I also lead the interagency place-based policy work for the White House.

How did your legal career prepare you for this post?

One of the most important attributes of policy development is to be able to critically assess evidence/data and articulate your policy views clearly. Having served as a lawyer before entering the field of public policy, these are skills I am very comfortable with. Also, a significant part of my job involves speaking engagements on the President's urban policy priorities, so my litigation and trial experience has helped me with that as well.

What are the current and proposed initiatives of the Domestic Policy Council?

The DPC focuses on a variety of domestic policy issues, including: Education, Health Care, Labor, Human Services, Civil Rights, Regulatory Policy, Faith Based Policy, Social Innovation, Native American Affairs, HIV/AIDS policy, Disability Policy, Rural Policy and Urban Policy.

Right now, everyone in the Administration is focused on winning the future, so there is a heavy emphasis on strengthening federal policies and programs that will help us out innovate, out educate, and out build the rest of the world. This means making critical new investments in things like R&D, infrastructure, and college completion, as the President proposed in his recently released FY 2012 budget. It also means looking for ways to improve our existing policies and programs, which we are doing through a series of interagency efforts designed to link, leverage and align programs across federal agencies.

Please discuss the Administration's various "place-based" initiatives and the DPC's role in facilitating these efforts.

When it comes to urban and metropolitan policy development, we are taking a place-based approach. In that regard, we have three signature place-based initiatives that I lead—Neighborhood Revitalization Initiative (NRI), Partnership for Sustainable Communities (PSC), and Regional Innovation Clusters Initiative (RIC). NRI is focused on transforming neighborhoods of high unemployment and concentrated poverty into neighborhoods of opportunity. PSC is focused on coordinating transportation, housing, land use and other infrastructure investments to meet multiple economic, environmental, and social objectives with each dollar spent. RIC is a bottom up effort to incentivize regions around the country to develop and implement comprehensive economic strategies that coordinate economic, business and workforce development investments and build on the
clusters and other economic assets of the region.

These place-based initiatives have spawned a number of critical new programs across the Administration. For example, at the Department of Education, Secretary Arne Duncan's team is implementing the Promise Neighborhoods initiative, which provides competitive grants to community-based organizations in high-need areas to focus on improving educational outcomes for children from birth through college. Over at the Department of Housing and Urban Development (HUD), Secretary Shaun Donovan is leading a parallel NRI effort, called Choice Neighborhoods, to align federal housing programs with public education, health services, and social resources. Another example is HUD's Sustainable Communities Regional Planning Grants, which HUD designs and implements in close partnership with the other PSC agencies—the Department of Transportation and the Environmental Protection Agency. And in this year's FY 2012 budget, the President proposed a new Growth Zones initiative, which is intended to be a successor to the Empowerment Zones program with a greater focus on job creation and connecting the distressed zones to the broader regional economy and key drivers of regional economic growth.

5. What is the most pressing and prominent issue for the Domestic Policy Council?

Without question, jobs and economic growth are the primary focus of everyone in the Administration right now. Indeed, winning the future is all about making the key investments that will accelerate job creation and economic growth today, while at the same time laying the foundation for the jobs and industries that will enhance our competitiveness tomorrow. At the DPC, we are focused on making sure our work contributes to this foundation. I already mentioned our emphasis on education policy, innovation (both technological and social) and infrastructure. Our place-based initiatives also play a critical role in this effort.

I should note, addressing the challenge of jobs and economic growth is not just a Federal issue. We will need the help of the private sector to get the job done. That is why the President created the President's Council on Jobs and Competitiveness, which will focus on how the private sector can help America become more competitive in the global marketplace and create more jobs.

In addition to jobs and economic growth, housing is another pressing issue for the Administration and for me in particular. The DPC has been heavily involved in the Administration's efforts around housing finance reform, foreclosure prevention, and rental policy development. While the administration has introduced a number of important housing policies since President Obama took office, we recognize that more needs to be done to support those families struggling through this current housing crisis. Recently, the Department of the Treasury released a white paper laying out the Administration's priorities as they relate to housing finance reform, and some of the short-, medium- and long-term options we will explore with Congress to improve the system.

6. How does the Domestic Policy Council work with the various federal agencies?

Breaking down silos and working across agencies is a hallmark of the new place-based approach that I referenced above. Our place-based work builds on the vision articulated by the President during his 2008 campaign, and is now an Administration-wide strategy for getting Federal agencies to strengthen cities and metropolitan areas, as well as rural communities, by better coordinating and integrating their programs and providing these communities with the resources and commitment needed to change the odds.

To help us in this work, in FY 2011 and FY 2012, the White House and the Office of Management and Budget issued the first comprehensive
"place-based" interagency review in 20 years focused on making sure that federal dollars targeted to both urban and rural areas are spent effectively on the highest-impact programs. This place-based review has allowed us to be more strategic in our approach to revitalizing our communities.

7. What are the biggest challenges for implementation of the Domestic Policy Council's initiatives?

Breaking down silos and getting agencies to better coordinate their policies and programs is tough work. While the "will" is almost always there on the part of agencies, sometimes there are legislative and regulatory barriers that impede the ability of agencies to align their efforts. That said, the simple act of getting agencies together to sit around the table and work through the challenges has enabled us to make tremendous progress in our efforts to increase the effectiveness and efficiency of Federal investments and improve our support for communities around the country. I'm a big believer in the motto, "where there's a will, there's a way" and, so far, our interagency work at the DPC has borne this out.

Featured Articles

Lawyers and Rescue Scams: Partnering with Loan Modification Companies May Present Ethical Implications
Rutledge Simmons

NeighborWorks America seeks to prevent community decline that results from a concentration of foreclosed and vacant properties. Undermining its foreclosure prevention efforts are mortgage rescue scams. In short, a mortgage rescue scam occurs when a distressed homeowner pays a service provider an upfront fee to save a home from foreclosure and the service provider does little or nothing for the fee. Unfortunately, an increasing percentage of these scammers are lawyers who do the scamming or who affiliate for a fee with those doing the scamming. Let's review the events contributing to the increase in lawyer involvement in rescue scams and the efforts nonprofits, regulators, attorneys general, bar associations and legislators are undertaking to reverse the trend.

More...

Community Economic Development Lawyers in the 21st Century: Advancing Regional Equity
Patience A. Crowder

While the full extent of the Great Recession will not be known for years, it has clearly had a debilitating effect on the operations of state and
local governments and has restricted the services offered by public charities and private foundations. These entities are beginning to creep out of shell shock to respond to the crisis. This time in history presents a unique opportunity for innovations in community economic development (CED) practice, particularly the regional equity movement.

More...

The Neighborhood Stabilization Program: Development Opportunities for Community Economic Development Organizations
Laura Schwarz

On September 8, 2010, the U.S. Department of Housing and Urban Development ("HUD") announced that it would award an additional $1 billion to grantees under the Neighborhood Stabilization Program ("NSP"), bringing the total amount of NSP funding to approximately $6.92 billion. While the three NSP funding rounds all have different eligibility criteria, the NSP program offers community economic development organizations ("CEDOs") significant opportunities to expand their development capacities. This article discusses (1) basic expenditure deadlines associated with each NSP funding round, (2) the importance of structuring an appropriate relationship with the NSP funder, and (3) opportunities for CEDOs to increase their expertise with common federal regulatory requirements. When used effectively, NSP funds may help CEDOs enhance their development capacities while also offering an opportunity to help stabilize neighborhoods struggling with abandonment, vacancies and foreclosures.

More...

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 above. Thanks.