Contracting for Complexity: Collective Impact Agreements in Community Economic Development

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The full impact of the 2008 recession will not be known for years; however, its debilitating effect on state and local governments is clear. While the Great Recession materialized differently in different states, state and local governments suffering from financial anemia decimated their community and economic development programs. Compounded by cuts in spending at the federal level, shrinking philanthropic resources and property tax revenue, and dormant housing and construction industries, state and local governments froze or reduced spending on redevelopment projects and economic development programs. In an extreme case, California shuttered its redevelopment agencies. In many instances, private industries behaved similarly. Along with the consequences of the foreclosure crises, these shifts or cessations in spending led to devastating effects on the funding of small business development programs, the availability and new construction of affordable housing, and the operation of job and workforce training programs—all traditional arenas for community economic development (CED) projects. Some state and local governments, however, are beginning to creep out of shell shock to respond to the crisis in innovative ways, and they are not isolated in their efforts because many community advocates are boldly leading the way. Most importantly, however, these advocates are doing so in ways that seek to cure the inequities that have historically run through public programs. As the economy begins to stabilize, the arousing of such programs necessitates a renewed vigilance against inequity through the implementation of novel mechanisms designed to alleviate poverty. While there are myriad ways to approach these outcomes, this presentation focuses on a transactional law approach to poverty alleviation by exploring the potential of collective impact, particularly collective impact agreements, to facilitate economic development throughout metropolitan regions.

Our metropolitan regions are places that house extreme social and economic disparities. The 2008 recession aggravated the existing disparities between central cities and suburbs, and one of its legacies is the deep expansion of poverty beyond the boundaries of urban central cities—increasing the number of suburban poor by as much as 50 percent by some estimates. This changing geography of poverty has triggered a

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different national conversation about class, race, inequity, and economic justice, a conversation that is not limited by inner-city boundaries. As such, anti-poverty advocates (such as community organizers, policy makers, legal advocates, and other supporters) must look for mechanisms that not only address the high tide of suburban poverty but that also work for the poor who remain in our traditional enclaves of poverty: urban centers and rural towns. Just over two years after the 50th anniversary of the “War on Poverty,” this particular time in history presents a unique opportunity to explore innovative approaches to alleviating poverty in our metropolitan communities. Collective impact initiatives and collective impact agreements are such approaches. Collective impact initiatives are cross-sector coalitions collaborating to address the most persistent and pernicious societal ills in communities across the United States. Many of these initiatives are memorialized, to some extent, through what are commonly referred to as collective impact agreements. These agreements are an emerging tool that secures the participation of a diverse group of organizational actors for the purpose of addressing a specific social problem (e.g., public education, public health, or environmental racism and degradation). The successful implementation and execution of collective impact agreements revolve around the following five conditions for “collective success”: (1) a common agenda, (2) shared measurement systems, (3) mutually reinforcing activities, (4) continuous communication, and (5) backbone support organization.1 As these conditions suggest, collective impact agreements are inherently complex contracts among multiple parties. Like community benefit agreements, collective impact agreements are designed to contract for improvement in underserved neighborhoods. Unlike community benefits agreements and because of their very nature, collective impact agreements to date are agreements that generally do not have clearly identified deliverables or mechanisms for measuring the parties’ accountability. As such, “predetermined solutions can neither be reliably ascertained nor implemented.”2 In other words, collective impact agreements appear to be more aspirational than effective because, due to the shared agenda among the parties, the agreements are typically not structured to identify which parties are responsible for which deliverables—an outcome completely counter to fundamentals of contract law. Because these are an emerging type of contract with the support of influential stakeholders, such as certain Federal Reserve banks, it is important to analyze current collective impact contract practices to develop a more efficient form that still speaks to the

2. See id.
goal of achieving a shared agenda while providing mechanisms for accountability to help ensure that the public outcomes of collective impact agreements are more likely to be achieved. To explore the question “why law matters,” this presentation will focus on the ability of private contracts, specifically collective impact agreements, to pursue large-scale economic justice in the “post-CED” era.