

Laboring Under ‘Greenmail’

OPED: Developers jump through hoops as abuse of a state law helps unions make companies do their bidding.

By KEVIN DAYTON

Monday, January 17, 2011

Together with L.A. politicians and labor union leaders, Thomas Properties Group and Korean Air announced a deal Dec. 15 to bind their construction contractors into signing a project labor agreement with construction trade unions for the proposed \$1 billion reconstruction of the Wilshire Grand Hotel in downtown Los Angeles.

As a result, unions will represent all construction workers in employment matters, dispatch workers to job openings, and collect union dues and initiation fees. Some workers will even have a bank account opened for them at a union-operated credit union. All apprentices learning a trade on the project must be enrolled in a union training program.

Hospitality unions also won an agreement: The workers at the newly built hotel will be unionized. Why would private-sector developers agree to the inflexibility and cost of such agreements?

Any private-sector developer or public agency in California that considers building something of any significance knows that a chief obstacle is the California Environmental Quality Act. The problem is not so much complying with the requirements of CEQA, but dealing with the many parties that exploit it for ends unrelated to environmental protection.

Yes, CEQA is occasionally used by legitimate environmental organizations to change or completely block projects for reasons genuinely related to environmental protection. But CEQA also forces a developer to either fight or succumb to any party looking for a payoff during the permitting process.

Unions have misused CEQA in pursuit of collective bargaining agreements for workers at hotels, hospitals, grocery stores and quarries. In the construction industry, which is covered by special provisions in the National Labor Relations Act, unions want project labor agreements to cover all workers on a particular project.

The head of the Los Angeles County Federation of Labor, AFL-CIO, declared in response to the two Wilshire Grand union agreements that “the Los Angeles labor movement is an active partner in moving development projects and putting people back to work in good jobs.” Implicit in this statement is that the L.A. labor movement can also be a roadblock to approving development projects.

For any developer who might not recognize the subtle message, Los Angeles County’s top labor official added, “The Wilshire Grand redevelopment project also provides a blueprint for how organized labor and responsible businesses can work together to rebuild our economy.” In other words: follow the union blueprint, or you’ll be stuck for years in union-instigated environmental litigation designed to stop your construction project from moving forward.

How can developers avoid this costly union “greenmail” – essentially, blackmail using environmental laws? Until there is a state Legislature and governor willing to reform CEQA and restore the law’s original intent of environmental protection, greenmail will hinder economic growth and job creation in California.

In the meantime, developers can strive to produce an environmental impact report that will withstand every union objection thrown at it. A thorough analysis of legal strategies commonly used by the unions’ law firms reveals a pattern of exploiting specific weaknesses in environmental impact reports and hiring specific “experts” who inevitably see (for a price) a potential project leading to certain environmental apocalypse.

Developers can also build additional time into their construction plans to deal with potential delays as courts consider and reject unions’ baseless environmental lawsuits.

Finally, developers need to stop perpetuating the problem by participating in Orwellian press conferences and other media events to celebrate their surrender to union extortion. Instead, they should work openly in the public (or quietly behind the scenes) to reveal the real plot behind the agreements. Even Californians who support a strong union movement are queasy about CEQA abuse, and most Californians are repulsed by it.

When unions threatened to use environmental objections in 2007 to block a proposed \$1 billion hotel and conference center at the Chula Vista bayfront, the developer spoke out openly about the ulterior motives of the unions. Local news media and community organizations created widespread public knowledge about a union scheme that jeopardized thousands of jobs and much needed economic revitalization. Community outrage ultimately led Chula Vista voters to approve a ballot measure in June to prohibit the city from entering into contracts that require contractors to sign project labor agreements with unions.

Developers and business leaders in Los Angeles should consider giving L.A. citizens their own chance to vote on a ballot measure similar to the one in Chula Vista. It could bring the greenmail racket in Los Angeles to an end.

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