

Erie Region Should Take Fresh Look at CBAs to Benefit Developers, Communities Alike



Small town takes Main Street closing step to put community and quality of life first and business benefits. UTICA, ILLINOIS; JUNE 6, 2021 C. GOULD

By Court Gould, MPA

Editor's note: Following is the first in a series of Jefferson articles on sustainability issues written by Court Gould, an Erie resident and a professional in the field.

Community benefit agreements (CBAs) are a potent tool long used by communities to express the will of the public and secure benefits from new development. Their use around the nation has been going on for decades. Layer on the extraordinary influx of federal stimulus monies now on the way, and no doubt we can expect negotiations for CBAs to rightfully increase. Done right, CBAs are positive for both developers and neighbors. Done wrong, they can create a mess of conflicts of interest and impede progress, or worse derail an otherwise good project.

The recent primary election, with voters making bold statements at the polls in Erie, Pittsburgh, and Philadelphia, for example, shows people-powered politics is on the rise. Change is in the air. COVID-19 woke us up to what counts – the fragility of life, sanctuary of community, and how economic and political structures have failed us. There is an awakening of a sense of entitlement to "the good life." No wonder there is increasing interest in people-based ways to shape public policy, services, and spaces to make sure public investments protect neighborly interests. Not just government is increasingly under scrutiny, but business too. This is good, because good businesses are good community partners. There is newfound pride and expectation for a new business as usual – one in which doing well comes from doing right. That is, a virtuous situation in which profits grow as communities benefit vs. consequences at the expense of communities.

COVID is a harsh reminder that economic gains have not lifted all boats – one in [every four city residents on average experience poverty](#). The time is ripe for Erie (city and county), Pennsylvania to take a fresh look at CBAs as a means of equitable development in which both investors and the community prosper.

The definition of CBAs is captured well in the following one provided from, of all places, [the U.S. Department of Energy](#):

CBAs are strategic vehicles for community improvement, while benefiting private sector developers and both state and local governments. They are not zero-sum instruments. They are legal agreements between community benefit groups and developers, stipulating the benefits a developer agrees to fund or furnish, in exchange for community support of a project. Benefits can include commitments to hire directly from a community, contributions to economic trust funds, local workforce training guarantees and more. ... CBAs pivot around local and state government officials: since governments need support from their constituencies and developers need government support for items like zoning approvals, developers have clear incentives to accommodate community interests. When synergistic development models like CBAs are employed, developers experience reduced risk and communities profit from improved cost/benefit positions. Thus, CBAs are mutually reinforcing, since all three stakeholder groups gain, albeit uniquely.

There are several key takeaways to expand on here.

Community Initiative

A word to community members: It is OK to introduce and strike a CBA deal without waiting for permission. While it is advantageous to have government on your side, it's not essential. A developer who seeks to build or expand his or her footprint in a neighborhood wants and needs "community license to operate" – that is, public approval vs. friction from local residents. Developers want clarity. They want to decrease risk. Their chief concern is time and cost to get to "yes" for approvals of their proposed development projects. So, it is of mutual interest (community and developer) for local leaders to approach aspiring developers with a package of reasonable community-beneficial stipulations to ensure positive impact of development on local residents and economies in exchange for offering support for a proposed project. To a developer, the promise of residents speaking up in favor at a zoning hearing board or public financing body, for example, is a powerful incentive. They know too well the costs of legal challenges and slowdown tactics that can delay or kill a proposed investment.

Recommendations:

Don't wait. Develop capacity. Community organizations in Erie would do well to join together to study CBAs, create unified statements of expectations for the character of their community, engage legal counsel, translate those expectations to mutually beneficial commitments, professionalize the pitch, and start conversations directly with developers.

Another ready option is to work directly with a bank as was the CBA case example in Buffalo. There, the [Buffalo Niagara Community Reinvestment Coalition](#) struck CBAs with both Northwest Bank and Key Bank. Among bank commitments on how they interact with the community is increased lending to low-income individuals and people of color. These sorts of CBAs privately cast between community and developer, without direct involvement of the governing bodies, have an advantage of being free from legal constraints that apply to government conditions and formal processes on a development project. The community and the developer may negotiate over a wide variety of deal points and come up with creative approaches (a point made by the national Partnership for Working Families).

The paper, ["Community Benefit Agreements: A Typology for Shrinking Cities"](#) via the University at Buffalo, The State University of New York adds to the list of CBA concessions amenities, such as:

These concessions include amenities like: affordable housing, improvements to schools and community facilities, public parks, enhanced public access to new development areas, and other design elements that enrich the quality of life for residents. In addition to physical redevelopment, CBAs allow grassroots interests to negotiate for set-asides related to procurement. Negotiated agreements include provisions for set-asides for minority and local procurement agreements directly related to construction projects, as well as agreements to contract with vendors for services that support the ongoing operation of a completed project. Finally, CBAs create pipelines for education and workforce development in distressed communities by allocating resources to local education and training organizations for development of human capital.

In any case, along the way, it is crucial for community leaders to be transparent about the negotiations, representatives, and legalities and enforceability of the eventual terms. The goal is collaborative and constructive discussions that arrive at mutually advantageous ways to meet community needs while positioning new investments to be prosperous. The two go hand in hand.

Government Leadership

Governing bodies already exist to protect and enhance community investments, so they should try to ensure that development pays its way, causes no harm, and instead brings social, economic, and environmental benefits vs. burdens. Government is in the routine of placing expectations on development – zoning, ordinances, strings-attached funds, nuisance laws, blight restrictions, and more.

It is typical that older, slow-growth communities strip down their development review processes in an effort to lower the barrier of green-lighting development. They often do so because of lack of vision and a deficit mentality that drives a “growth at any cost” mentality. This attracts suboptimal development. These communities often get used. [Community giveaways vs. benefits are reviewed in analysis, such as: Because We Can Doesn't Mean We Should and if We Do: Urban Communities, Social and Economic Justice, and Local Economic Development-Driven Eminent Domain Practices](#) and also [Community Benefit Agreements: Making Development Projects Accountable](#).

As noted, developers are focused on cost and time to achieve approval for their projects. CBA conditions are much more palatable when presented within a process that is predictable and consistent. While a community needs to be choosy about what it welcomes, it does not do well to knuckle developers with more pounds of flesh and ever-changing rules imposed at each step of the development review process that goes on for years. That's why it's imperative for governments to know the community and involve residents now in order to hasten development that is consistent with community vision. While eager for economic development, the governing bodies are well-served to be transparent, and fair with a clear and consistent process (while not giving away the store, so to speak). Have the political will to stick to it. This way the developer knows what to expect to get to “yes.” The community will gain a good reputation in the development community for being a place of choice by protecting and enhancing investments and being good to its word along the way.

To the interests of local government in establishing CBA policy, CBA benefits can include:

- the use of the process to provide a forum to better engage those who often are not at the table in the development process, that is, low-income neighborhoods, communities of color, and multi-national residents
- increased strategy for maximizing returns on local government investment in development to strategically deliver on the triple bottom line
- generate public support for development projects resulting in whole community benefits and local customer loyalty
- cost savings stemming from an expedited project approval process in which roadblocks are circumvented through the collaborative negotiation process vs. adversarial face-offs typical of hearings that are typical of local government development approval processes
- turn developer "promises" into legally enforceable conditions

Erie does have some experience with CBAs. Aside from a tremendous amount of community support for them, the examples are likely few. One form of CBA came recently as linked to the federal New Market Tax Credit (NMTC) provided as part of the funding stack for renovation of Wayne School at the hands of Erie Center for Arts and Technology.

The NMTC was established by Congress in 2000. The U.S. Department of Treasury competitively allocates tax credit authority to intermediaries to attract private investment capital into low-income communities by permitting individual and corporate investors to receive a tax credit against their federal income tax in exchange for making equity investments. In the case of Wayne School, part of the success behind this first-for-Erie NMTC win, was execution of a CBA with the intermediary. Through its NMTC authority, the Commonwealth Cornerstone Group, a Pennsylvania nonprofit corporation (established by the Pennsylvania Housing Finance Agency), agreed to invest in the Wayne School project subject to specific, formal CBA terms. The stipulations related to living wages, creation of locally sourced jobs accessible to low-income persons, worker benefits, and more. With numerous NMTC intermediaries requiring CBAs, this Erie case is an example of the increasing frequency and expectations of good money following community enhancing commitments through CBAs.

Recommendations:

At minimum, whenever public subsidy or zoning variances are on the table, a CBA should be part of the process to ensure equitable quid pro quo. Local governments should prepare and put in place effective and deep public participation early on in the development review process. Controls will be needed to ensure CBAs are positive, win-wins for community and developer, be it a private investor or the city itself. On the latter, Columbus, Ohio celebrates several CBAs on city-sponsored projects that, for example, set local workforce goals of 30 percent for the [City of Columbus](#) and requires contractors to make good-faith efforts to hire qualified workers from the local area.

To prepare to use CBAs to optimize investments to enrich community and sustainable development, now is the time for Erie's intergovernmental institutions to take a new look and obtain training on the policy and practice of productive CBAs. Among sources of technical assistance are: [Community Benefits Law Center](#), [Local Initiatives Support Corporation \(LISC\)](#), and [Partnership for Working Families](#).

In using CBAs, Erie would be in the good company of a long list of others, including Columbus, Buffalo, Cleveland, Pittsburgh, Cincinnati, Milwaukee, Philadelphia, Syracuse, and Nashville.

Erie is on the move

In this time of rapid change, the competition for investment will flow to places that care. How a community approaches CBAs says a lot about itself. Those having a deficit mentality chase growth at any cost. They adhere to the false promise of trickle down economics and can be expected to view CBAs as the enemy. By contrast, communities that are on the go know who they are and are the authors of their own story and destiny. They view CBAs as a win-win to accelerate sustainable development. Erie has reached an inflection point. We have earned the right to be choosy. Demanding more from developers is good for business. Signaling that we protect and enhance investment builds demand. Our use of community benefit agreements will put Erie in the good company of upwardly mobile communities around the nation and signal we are open for business as a place where people want to be.

About the Author: *Court Gould, who lives in downtown Erie, served 20 years as founding executive director of Sustainable Pittsburgh. He established the organization as a leader in accelerating the policy and practice of sustainable development borrowing from cities around the world relative to local strategies for Smart Growth, Regional Equitable Development, DEI, Transportation for Livable Communities, Energy Visioning and Strategy, Outdoor Recreation, Sustainable Community Development, Blight and Abandonment, Sustainable Business Strategies, and more.*

After three years with the Erie Community Foundation as vice president of Community Impact, Gould is a sustainable solutions consultant and certified professional coach. His education includes an MPA from the University of Southern California, and a BA in Political Science from Tufts University. He attended the Stanford Graduate School of Business Executive Program for Nonprofit Leaders and earned Professional Coach Certification from Duquesne University.