

## THE DEVELOPERS' TO-DO LIST WHILE WAITING FOR MONEY TO THAW

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In the winter of recession, many developers are left wondering how to make the best use of their time while waiting for money to thaw. The focused attention and vision necessary to push a building through project development and construction to completion can sometimes leave little room for addressing fundamental management issues. While waiting for the next big project, developers would be wise to take an assessment of their assets and reputational liabilities, and apply a contemporary business perspective suited to today's environment. Here are four suggestions:

### ☑ LOOK FOR YOUR NEXT BIG THING.

Re-zonings, special permits, variances and other discretionary land use approvals often take years to cultivate and complete. For developers with cash flow to sustain their operations, now is a good time to pursue such entitlements. Land costs in many areas are depressed, so site control may be easier to accomplish. Similarly, regulatory bodies and local governments, which may have balked at development a few years ago, may now be much more open to projects that create jobs and economic activity. Get the approvals in place now and build when financing is available.

### ☑ GO GREEN.

Local and national attention to climate change and sustainability issues have made the Leadership in Energy and Environmental Design (LEED) green building rating system a major product differentiator. For any project requiring discretionary approvals, LEED certification is now often a necessary program component.

For as-of-right projects that don't require discretionary approvals, a LEED rating can nonetheless lend a project tremendous good-will with bankers and end-users. LEED can

be an important building block in developing or burnishing a reputation for well-designed, high quality and efficient building products. Understanding how it plays into your next deal is time well spent.

Technology in this area has evolved rapidly in the last few years. Not long ago, it was estimated that LEED certification might add 10-15% to the cost of constructing a new building. Today, it may be only 5%, and while that is still significant, recovery time in the form of lower energy and water costs may be relatively short and provide long term savings. Take the time to learn what techniques are being used in the kinds of projects of interest to your organization and canvass your staff and professional consultants. You may find them brimming with ideas and enthusiasm for trying green ideas.

### ☑ CONSIDER A PUBLIC-PRIVATE PARTNERSHIP.

Many developers shy away from projects that involve acquiring land from the government or that could qualify for government programs such as tax exempt financing or tax abatements. They simply don't want to be in business with the government, and they don't want the government in their business.

However, while the benefits of participation in such programs in the past were outweighed by the added publicity, regulations and paperwork, in a down economy, the right incentives or government financing can make a huge difference in finance ability. Various tax credits, for example, are really just a layer of equity provided to a project. Such credits may offset expenses, which the developer or a tenant may have to bear anyway, such as weatherproofing or maintaining a historic façade. New Market tax credits, job tax credits, brownfield cleanup and energy tax credits are just a few examples of financing that can give a project an edge

over its competitor or make it doable at all. Housing subsidies may require rent limitations, but at levels near current market values anyway and with the possibility of government rent guarantees. The government itself may have surplus land that can be acquired at nominal cost, as it looks for ways to cut its own costs and maximize assets.

**✔ PROTECT YOUR GOOD NAME.**

Today's ultra-networked environment makes staying on top of reputational liabilities more important than ever. Taking steps to evaluate and update one's image is critical in a bad economy when competition for funding is fierce.

For example, cleaning up building code violations, tax liens, or other adverse government findings, no matter how trivial or plain wrong, is time well spent now. With property profile information available to the public at the click of a mouse, the court of public opinion often makes snap judgments on a moment's notice, based on a viewer's initial impression, which could be the only information available about a company. Such public records may color a lender's or investor's judgment of whether to do business with a potential partner.

Consider a company webpage if one doesn't exist, and if it does, make sure to update it with positive content. Google alerts should be set to automatically scan the headlines and

blogs for any media coverage of a project development, company, or its principals. Monitoring such coverage and taking the time to respond appropriately to misinformation or factual inaccuracies is a pro-active way of maintaining one's reputation. And developers should consider "headline risk" whenever they are considering or involved in litigation.

Another proactive way to avoid future trouble is to update the firm's employee handbook and especially to review compliance with state and federal wage and hour laws, an area both Federal government and state agencies have been pursuing aggressively. A little bit of time spent educating oneself on the latest standards could avoid problems later.

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There is a time for every season under the heavens. This is a season for gathering stones together, so that when the time is right, they can be the foundation for the next development project. Please call us if you want more suggestions, advice on implementation, or just a sounding board.

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