



Panel shares tips for dealing with NIMBYs

NIMBYism feeds off false assumptions about a project, and in Florida there is no lack of misinformation about development, said Mary Hurley, 2006 president of the CCIM Central District.

Hurley, leasing manager for Pineloch Management, made her remarks during a recent panel discussion on the issue during the Florida CCIM Chapter mid-winter meetings in Orlando. The group, well versed in NIMBY (not-in-my-back-yard) issues,



Mary Hurley

included Orange County Commissioner Bill Segal; developer Craig Ustler, president and CEO of CondoHQ; Terry Delahunty, real estate attorney and partner at Foley & Lardner; and Robert Brown, president and CEO of Coalition for the Homeless of Central Florida and an officer of the Orange County Homeowner Association Alliance.

Following are some of the key questions and answers from the informative session.

Question: Is new development or redevelopment worse for nimbysim?

In general, new development can be more frightening to the general public, but it depends largely on the specific situation, said Brown.

In downtown development especially, the goal is to provide full information to the public but not necessarily react to all opin-

ions and input, especially if you know you're within your legal rights to develop the project," said Ustler.

"Hopefully, you've at least given everyone the opportunity to be heard," he said.

What is the most common NIMBY objection?

Density and impact on transportation systems, said Ustler.

The perception that density will strain infrastructure and contribute to traffic woes is unfounded, he said, and it's important to have consultants on board early and go into the process with those questions already answered. It is vital not to change plans in response to misinformation, he said. That only makes the developer look dishonest. Instead, correct the information.

Should legal representation attend NIMBY meetings?

Yes, depending on the client and the project, said Delahunty. It often makes sense to involve an attorney early in the process, especially if you're going to a homeowner association ahead of time. But the downside is that it can create the impression the



Robert Brown

developer is spoiling for a fight, he said.

Do elected officials guide the city staff, or vice versa, when it comes to development approvals?

That tends to be project specific, said Segal, but often the staff will mirror the attitudes of the elected officials.

Legally, a developer ought to get his permits if he meets the local requirements, said Delahunty. But that's not always the case, and it always helps if a developer is flexible on his plan and willing to throw in project upgrades that benefit the community at large.

"Just because you're right doesn't mean you're going to win," he said.

What strategy should a developer use when dealing with nimbysim?

Publicity is a two-edged sword, said Ustler. As a developer does more good projects, he can garner more public and media approval. But the phenomenon works in reverse as well. When first starting out, it's important for a developer to highlight similar, successful projects in other parts of the country, projects that will bring wanted amenities to the community," he said.

It's also critical that the developer deliver on the project. Too many failures, and the momentum begins to work in reverse," Ustler said. "That's where the pressure is for us. You have to deliver," he said.

"You have to expect that when something of any size is announced, people will go, 'Oh-Oh,' and get their defenses up," said Delahunty. But when word of the benefits gets out, it tends to allay their fears, he said.

Developers make a mistake when they talk in terms of what "might" or "could" happen with a project. That tends to generate expectations with the public that become a problem when they aren't met, said Brown. It's always better not to over-promise.

How does a public body define "public good?"

Generally, city officials and the general public espouse support for the goals of new urbanism — higher densities,

mixed uses, more efficient use of resources — until it comes to the neighborhood.

Then there's a predictable about-face," said Segal. Politicians must be willing to follow through on a city's new urbanism plan — assuming it's been approved by the electorate — even in the face of public opposition, he said.

How important is it to be proactive when considering and granting concessions?

CondoHQ views itself as a good corporate citizen and leans toward being proactive on concessions, said Ustler, adding he

tries to find ways to tie development of community amenities into specific projects. This often helps sell projects because people want to be a part of something beneficial to the area. "It's not profit-motivated, but it's a win-win because you're doing the right thing," he said.

Developers should not have to put up with unmerited lawsuits from the public designed solely to impede the progress of a project, but a SLAPP suit from a developer should be a last resort due to the image problems it creates, said Delahunty, adding he encourages his developer clients to look at the issue dispassionately and count the real cost of fighting public opposition.

Should a developer ever consider filing a SLAPP (Strategic Lawsuit Against Public Participation) lawsuit?

Ustler said he would, especially in a good market, avoid a SLAPP suit at all costs. If he is unable to appease the NIMBY opposition, he said he would simply walk away from the project. "You just have to go do the next one in that case," he said. "When it's not fun anymore, I quit. There's too much else to do."



Terry Delahunty



Craig Ustler



Bill Segal