SPEAKER REVIEW

Office Building Land Acquisition War Stories

Excerpts/from a speech delivered by Bob Orkin at the 0' Connor &Associates Luncheon on December 3, 2003

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GREENWAY PLAZA

The following is an account of my involvement in Century Development Corporation's attempt to acquire the Techman Land in Phase IV of Greenway Plaza. This land acquisition was conducted in conjunction with Mobil Oil's option to purchase land in Greenway Plaza, Phases III and IV, in 1980.

I joined Century Development Corporation (CDC) after graduating from the University of Houston Law Center in 1979, and CDC allowed me to roam many departments, and I subsequently evaluated the partnership and capital structure that owned the undeveloped land in Greenway.

To comply with Texas and Wisconsin insurance laws regarding non-ability of insurance companies to *own* vacant land, Fulbright & Jaworski, representing Northwestern Mutual Life (headquartered in Wisconsin), structured Greenway Phase II, Ltd. (60% NML, 40% CDC) to hold an option to acquire the Phase ID & IV lands. The option worked like a mortgage: the **fee** title was held by Lamar Plaza (a joint venture of Century Development Corporation and Kenneth Schnitzer) and the capital structure consisted of Northwestern Mutual Life putting in 100% of equity dollars earning prime plus 1 1/2% preferred return. The option was recorded and had rights similar to a mortgage. Initial land costs in the 1960s and 70s were less than $5 per SF. By 1980, with the prime plus carry factor and utility and roadway infrastructure costs, the NML preferred return account equaled $25 per SF. The meter was running at 22% per year. At this point we hired Goldman Sachs to sell the land and shortly thereafter an option was granted to Mobil Oil Land Development Company at $35 per SF (18 + 7.5 == 25,5 acres), or $39 to $40 million sales price.

There were two "out parcels". One parcel was 100,000 SF (2.5 acres), located where the 24 screen Edwards movie theatre sits today. Greenway sold this land less than one year earlier (in January 1980) at $25 per SF on a non-recourse note to prove the value of land so as not to be pressured by NML to sell all the land. Now **we** were offering $50 per SF to the new owner, a $2.5 million profit, but we were unable to purchase. (Those 2.5 acres were later foreclosed on by an S&L and auctioned by Resolution Trust Corporation to Howard Chen at $7 to $8 per SF in 1992, and then sold about 5 to 6 years later to TPMC led group for about $12 to $15perSF).

So why is it that we were willing to pay $50 per SF for these 2.5 acres and then turn around and re-sell them at $35 per SF? We were trying to sell as much land as possible to Mobil Oil to give them as large a potential future development as possible, with as much control over their destiny and architecture as possible. This land was considered a **front, or side door, into** Greenway Plaza (Phase HI).

The second property was Mr. Techman's property. The 15,000 SF (two [60' x 125'] lots) located in Phase IV was highly desired. We needed to acquire this particular piece because it was in the exact middle of 7.5 acres in Phase IV Dottie Marlin tried to buy it throughout the late 1960s and 70s, and all the owner wanted was $300,000. We re-approached him in 1980 at a total price of about $150,000. BIG MISTAKE! After weeks of negotiating, we ended up paying him a grand total of $1.5 million: $300,000 in cash and a $1.2 million note, not secured by a lien on the property, but by a $1.2 million Letter of Credit from NML.

Mobil Oil Land Development began exercising the option to close (a task which typically takes up to a week to complete in a very complex deal), but the closing never happened because the very week the closing was scheduled, the cover of *Business Week* boasted an article titled something to the effect of "Those #*% Excess Oil Company Profits" (not to mention the $400 million bad investment Mobil made in Montgomery Ward). The chairman of the Mobil Oil Executive Committee killed the deal in the middle of the closing. The president of Mobil Oil Land Development resigned shortly thereafter.

ALLIED BANK PLAZA

When Century was designing, leasing and financing the 72-story Allied Bank Plaza building in 1980 (now Wells Fargo Bank Plaza), on Block 144 in Downtown Houston, we had three levels of parking below the building, but still needed approximately a *1/2* block (31,250 SF) of land for a high-rise parking garage four blocks away but connected by an underground tunnel. CDC had acquired the south 1/2 of Block 320 (bounded by Milam, Louisiana, Clay, and Bell Streets) but we believed it was one block too far over. CDC had arduously acquired three out of four tracts comprising Block 321. Now negotiations were underway to ground lease for 99 years on the remaining 4th tract of approximately a 1/2 irregularly shaped block, covering portions of the south and west areas of Block 321. This 4th tract was owned by 21 undivided interests. A Letter of Intent was executed by all 21 undivided owners regarding a ground lease, but the document was slow in production.

Rusty Wortham and Jeff Van Liew then entered the picture, attempting to purchase a *1/2* block for a high-rise building. CDC thought they had a truce with Wortham/Van Liew (WVL), so they continued negotiating for the ground lease at $70 per SF. However,WVL slipped in and purchased this land at $200 per SF. Now neither CDC nor WVL had a 1/2 block they could develop optimally because both sections in Block 321 were irregularly shaped. To solve this problem, I negotiated a swap with WVL. CDC would swap its 31,250 SF south *1/2* of Block 320 to WVL for their 26,250 SF irregular portion of Block 321, and WVL would pay CDC $ 1 million (5,000 SF x $200 per SF). CDC would end up with a clean whole block and WVL would end up with a clean 1/2 block. CDC's basis would be about $70 per SF (the price it paid for previous Block 321 parcels **and** for 1/2 of Block 320) and WVL's basis would be $200 per SF. This basis was also important for CDC due to a "Most Favored Nations" clause in the previous CDC Block 321 land acquisition of 3 tracts,

There was one major problem. WVL wanted a clean *1/2* block at the same time (no tenants). Unfortunately a portion of Block 320 had a tenant/sub-tenant:

Rocky's Nightclub.

The owner of Rocky's, Robert Ontivares, happened to be a private detective. I'm not talking about just any ordinary detective, Ontivares was the detective who, a few years earlier, solved the Randall Webster "throw down" gun case in which an HPD person killed a teenager from Shreveport, Louisiana during a highspeed chase and subsequently false evidence was presented.

By the way, did I mention that CDC had obtained a $220 million construction loan/permanent loan/equity commitment from Metropolitan Life to build the 72-story Chuck Bassett/Rick Keating/Faslar Kahn -Skidmore, Owings & Merrill designed building with one contingency? That contingency required CDC to acquire Block 321 (preferably the east 1/2) to build off-site parking for approximately 1,000 cars.

Keeping that in mind, let's return to Robert Ontivares. He had three to six months remaining on his leased space in Block 320. I figured his profits to be a few thousand per month, so I offered him two times his estimated profits to terminate immediately. He asked for $120,000 to early terminate his lease! I called the Vice Chairman of CDC. Walter Ross, and then we went into Kenneth Schnitzer's (Chairman of CDC) office.

I reminded Walter of what Mr. Techman wanted originally for his 15,000 SF of land ($300,000) and what **we** ended up paying him ($1.5 million) While many disagreed with my recommendation to pay Mr. Ontivares $120,000, Mr. Schnitzer agreed with my assessment and I paid Ontivares $60,000 on the spot, and paid him the remaining $60,000 at closing when his termination became effective. To sweeten a seemingly unbeatable deal Ontivares asked for, and we gave him, a free office in 3 Alien Center for three years. I think we forgot **to** tell Met Life about that part. As rumor has it, the office was seldom, if ever used. Nevertheless, as egregious as it may seem, his payment package only increased the budget of this building by just 6/lOOths of 1%. Talk about the tail wagging the dog.

CDC went on to build Allied Bank Plaza and the Block 321 tunnel connected garage and sold it to our partner, Met Life, in the late 1980s. Meanwhile, WVL built United Bank Plaza at 1415 Louisiana, entered into a pre-sale with ERIC (European Real Estate Investment Company), but did not close with ERIC, and Citicorp foreclosed on a $94 million loan, producing a lucrative management contract for Paragon Management. Ultimately Wedge Corporation (of which Mayor Bill White is the former Chairman) bought and now owns the building.

I hope these stories are helpful to the real estate community, especially the young professionals, in understanding how complex land deals can be.