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Mobilization Lawyering

Community Economic Development in the Figueroa Corridor

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Shifts in the American political system away from hard regulation and toward soft governance have provoked a reassessment of the role of cause lawyers in the United States. This reassessment reflects real changes on the ground, as trends of decentralization and privatization have reconfigured the terrain of cause lawyering (see Handler 1996; Freeman 1997; Minow 2002; Lobel 2004), producing new modes of legal advocacy and raising challenges to conventional rights-based practices (Trubek 2005). These field-level changes, in turn, have given rise to an emerging scholarly literature describing the arrival of a new style of cause lawyering that promotes stakeholder participation in designing flexible solutions to social problems and thus stands in contrast to the top-down impact litigation model of traditional public interest law (Simon 2004; Trubek 2005).

These developments draw attention to the importance of the state in structuring the relationship between cause lawyers and the mobilization of marginalized groups. The state sets the terms of legal intervention—supplying substantive rights, procedural rules, and legal resources—while also providing a primary target for reform. A central focus of cause lawyering scholarship has been on examining the effectiveness of lawyers in asserting the rights of marginalized groups as a means of moving state power on their behalf. This body of research largely calls into question the viability of legal rights strategies as a vehicle for social reform, emphasizing the demobilizing effect of law on political action (see McCann 1998: 76–77). The decentralization of political decision making and the expansion of public–private partnerships create new opportunities for cause lawyers to promote the type of community mobilization found lacking in the public interest law reform approach. Yet the decentered state also erects new challenges and reshapes traditional meanings (Handler 1996). A key

issue concerns the kind of community mobilization that cause lawyers help to advance under localized, market-oriented governance structures. In particular, although new models of cause lawyering have the potential to promote participation and empowerment, they can also channel political action into processes of collaboration and negotiation that shape a more quiescent form of mobilization, resulting in the political disadvantage and co-optation of weaker groups.

The emergence of Community Economic Development (CED) as a distinct field of cause lawyering highlights the complexities of community mobilization in the postregulatory state. Defined by a set of social policies and grassroots practices that promote neighborhood revitalization, CED is associated with a *transactional* model of cause lawyering focused on negotiating deals between community-based nonprofit organizations, public funders, and private investors (Cummings 2001; Simon 2001). Whereas cause lawyers have traditionally sought to mobilize claims of *legal rights* to advance systemic reform, CED lawyers attempt to mobilize *community participation* to change local economic circumstances through the creation of innovative institutional structures.

However, CED does not neatly remove barriers to mobilization; rather it presents a different set of opportunities and constraints. For instance, CED is not connected with broad-based social movements. Instead, it is parochial, seeking to preserve community boundaries and increase community control of resources. Moreover, although CED establishes legal mechanisms for ongoing community participation in local governance, it does so through the design of partnerships with government and business elites that create disincentives for political confrontation seeking reforms in state practice or increased resources from private sector institutions. For this reason, the modus operandi of CED practice is not one of protest and disruption. Nor is CED designed to challenge the existing rules of the game; rather, it seeks to build partnerships and distribute resources within the framework of the law as constituted. As a technique of institutional design that extends contractual relationships between the community, the market, and the state, CED therefore fosters a version of mobilization that tends to de-emphasize adversarial organizing in favor of *collaboration* with business and governmental partners.

At the grassroots level, however, there are important recent examples of community mobilization within CED that depart from the collaborative model. In particular, the emergence of an “accountable development” movement in Los Angeles—where community–labor coalitions have pressured publicly subsidized developers into a series of agreements to provide benefits to low-income communities—has focused attention on more confrontational forms of

collective action, flowing out of the traditions of community organizing and social movement activism (see Cummings and Eagly 2001). This chapter uses the advent of accountable development to reexamine the relationship between cause lawyering and community mobilization. It begins by describing the emergence of CED as a nonadversarial cause lawyering model, situating it within the context of the reaction against the social movements and legal rights strategies of the 1960s and 1970s. Drawing upon insights from social movement theory, it then analyzes the constraints that collaborative CED can impose on collective action by low-income communities. A case study of accountable development in Los Angeles follows, revealing an alternative approach to CED that mobilizes adversarial organizing to extract developer concessions and governmental reforms. It concludes with an analysis of cause lawyering in the accountable development context, suggesting continuities with conventional CED practice, while highlighting the ways in which the more confrontational approach of accountable development reshapes the lawyering role.

Community Economic Development as Cause Lawyering: A Genealogy

CED as a cause lawyering strategy that uses transactional skills to foster locally accountable development is a product of both the success and failures of the classic public interest law model of the 1960s and 1970s (Trubek 2005), which focused primarily on the use of impact litigation to achieve broad social reform through the courts (Handler, Hollingsworth, and Erlanger 1978). During this period, the configuration of governmental power created incentives for the rise of public interest law—with federal courts receptive to civil rights claims against the states, centralized administrative agencies susceptible to reform through impact lawsuits, and a system of welfare entitlements open to enforcement and expansion (Trubek 2005; McCann and Dudas 2006). Within this environment, public interest law was viewed as a means of advancing the interests of under-represented groups in court, thus responding to the failures of majoritarian political processes (Weisbrod 1978: 22) and complementing social movement activism (Handler 1978).

The Politics of Community Economic Development

It was, in part, the very success of the public interest law model that fueled a conservative political reaction seeking to limit the federal governmental role in the areas of civil rights and civil liberties, economic regulation, and social

welfare (Trubek 2005; see also McCann and Dudas 2006). As a conservative coalition gained political power in the 1980s and 1990s, the structure of the federal government was reshaped: An increasingly conservative federal judiciary became less hospitable to civil rights claims; federal agencies, criticized as inefficient and unaccountable, were decentralized and increasingly delegated decision-making power and service provision to private entities (Handler 1996; Freeman 2000); and core federal entitlements, most notably welfare, were curtailed (Handler and Hasenfeld 1997). These structural changes foreclosed legal advocacy opportunities for liberal public interest organizations at the federal level, while opening the door to claims by the growing number of conservative advocacy groups (Southworth 2005). In addition, the tools of public interest lawyers were restricted: Congress prevented federally funded legal services lawyers from bringing class actions, lobbying, collecting attorney's fees, and engaging in political advocacy; the Supreme Court limited attorney's fee awards in civil rights and environmental cases; and some states enacted caps on attorney's fees and damage awards, while restricting the ability of law school clinics to undertake controversial cases (Minow 2002; Luban, 2003).

At the same time, the changing political environment also generated new roles and opportunities for cause lawyers. In particular, the shift in social policy design from centralized federal regulation toward local, market-oriented governance brought a new emphasis on stakeholder participation in decision making, public-private partnerships, and negotiated rules (Lobel 2004). CED, focused on mobilizing community participation in economic revitalization efforts and creating public-private partnerships to promote affordable housing and job creation goals, emerged as an important component of this new social policy regime.

The theme of community participation in the design and implementation of urban poverty programs runs through CED policy, evolving in reaction to the failures of prior federal efforts to support local action (Simon 2001). The Urban Renewal program of the 1950s, which provided federal loans and grants to redevelop "blighted" neighborhoods, was criticized for subsidizing private development without sufficient input by affected low-income community members, leading to their displacement by high-end housing and commercial projects (Anderson 1964). The Community Action Program (CAP) of 1964 was faulted both for achieving too much and too little: Its mobilizing activities proved too confrontational for local municipal officials, who persuaded the federal government to assert greater control over militant community action agencies, while its goal of "maximum feasible participation" of community members was never fully realized (Halpern 1995: 114; Simon 2001: 14-15).

The urban policies and community organizations that grew out of these experiments shaped the terrain of modern CED, which created greater opportunities for community participation in the process of local development, while channeling that participation in ways that promoted collaboration with local governmental officials and private sector actors. The process of redevelopment is now undertaken primarily by local agencies, which finance private development through property tax increases and provide stronger requirements for community participation than Urban Renewal (Simon 2001: 10–11). The major federal urban policies since CAP—Model Cities, Community Development Block Grants, Urban Development Action Grants, Empowerment Zones, HOME Investment Partnerships—have allocated funding for housing and economic development to local governments, while mandating specific requirements for community participation in the planning process.

CED is also defined by the centrality of private actors. Nonprofit community development corporations (CDCs) have been key vehicles for developing housing, creating jobs, and providing social services like child care, health care, and job training. Growing out of diverse strains of community activism, CDCs expanded in number and size in the beginning in the 1970s, spurred by federal funding as well as heavy investments by the Ford Foundation. Over the next two decades, CDCs became deeply involved in housing development, supported community businesses, and became highly professionalized, favoring collaborative partnerships with local institutions over adversarial organizing (Halpern 1995: 133–39).

In order to encourage private investment in low-income communities, CED policy has also created incentives to promote for-profit business involvement in local development activities. For example, the Low-Income Housing Tax Credit Program, which since its creation in 1986 has been the largest supply-side affordable housing program, subsidizes private development through the sale of federal tax credits to private investors. A similar program, called the New Markets Tax Credit, is now in place to subsidize business development in low-income neighborhoods. The HOPE VI program, which funds major public housing demolition and rehabilitation, is also designed to leverage private investment to develop mixed-income, low-density, affordable housing (Pindell 2003). In addition, there are federal subsidies available for community development financial institutions that leverage private resources to meet the banking needs of poor areas (Lento 1994). The emergence of CED has thus called for a distinct type of lawyering in poor communities—one that, in contrast to litigation, is focused on helping community organizations develop accountable governance structures, access resources through CED programs, negotiate deals with private

sector investors, and facilitate complex housing and commercial development projects.

From Rights to Empowerment

Although CED lawyering is a product of political changes driven in significant part by the right, it has also gained currency among activists and academics as a model of legal advocacy that responds to the critique of public interest law on the left. There were two main categories of criticism leveled by scholars at the legal rights strategies of the public interest law era. First, scholars articulated an *efficacy* critique, drawing on empirical research to demonstrate the inadequacy of law reform as a vehicle of social change. Handler's (1978) assessment of public interest law concluded that litigation alone could not reform field-level practice in the consumer, environmental, civil rights, and welfare rights arenas due to the exercise of vast administrative discretion by government bureaucracies—what he called the “bureaucratic contingency.” Rosenberg's study (1991: 338) concluded that courts could “*almost never* be effective producers of significant social reform” because of their dependence on other political institutions and their lack of enforcement powers.

There was also a related *political* critique. Scheingold (1974) warned against the tendency of activists to mythologize rights, which he contended contributed to the breakdown of political organization and diverted attention from the political roots of social problems. Bell (1976) struck at the heart of the civil rights establishment, questioning whether the National Association for the Advancement of Colored People's commitment to desegregation—supported by its middle-class white and black constituents—ignored the needs of black communities by privileging litigation efforts designed to achieve integration over political strategies to promote educational quality. Other scholars suggested that litigation drained scarce movement resources, created confusion between “symbolic” and “substantive” victories (Rosenberg 1991), and co-opted potential movement leaders by paying them off with monetary awards (Gordon 1995: 438–39). Critical legal scholars went further, suggesting that the inherently individualistic nature of legal rights tended to “undermine collectivities rather than build them” (Abel 1985: 8–9), and that translating grievances into rights claims legitimated inequities inscribed in the legal status quo (Gabel and Harris 1982–83). Poverty law scholars warned of the potential of lawyers deploying legal expertise across dimensions of race and class to reinforce the marginalization of clients and argued for increased client participation in legal problem solving as a way of promoting client empowerment (White 1990; Alfieri 1991; López 1992).

CED lawyering responds to both categories of the critique of rights. With respect to the efficacy critique, CED, unlike rights strategies, does not rely on bureaucratic enforcement, but rather is a form of self-help that leverages existing community resources to gain access to outside investment, while mobilizing ongoing community participation to ensure project implementation. CED is also designed to promote collaboration with outside institutions in order to redress economic disparities that are resistant to law reform techniques. From a political perspective, CED values grassroots organization, accountability to community members, leadership development, and creative problem solving. CED has also been viewed as a model for promoting client empowerment: Because CED representation is focused on helping community-controlled groups design and implement local development projects, lawyer accountability to broad community interests is enhanced while the potential for lawyer domination recedes (Southworth 1996: 1154–55; Shah 1999: 232–33; Cummings 2001: 446; see also Southworth 1999).

Cause Lawyering Between Community, Market, and State

Scheingold and Sarat (2004: 101–02) suggest that cause lawyers can be arrayed along a spectrum according to their “dramatically different democratic dreams.” Yet the picture is complicated within CED, which does not break down neatly along traditional political lines, but rather is characterized by its broad political appeal—claimed by proponents of free-market capitalism, radical egalitarianism, and civic republicanism. This is owing in part to the wide range of CED activities, but also to the ideological ambiguity of CED itself, which means that the same activity can have a different political valence depending on the advocate’s views. Moreover, CED’s legal complexity and potential for generating fees also means that it is undertaken by lawyers in different practice sites: corporate lawyers in large law firms, staff attorneys in nonprofit legal services groups, and solo and small-firm practitioners. The diversity of political viewpoints and professional roles within CED generates divergent conceptions of cause. For some, CED reflects a “grassroots” or “emancipatory” practice that promotes social justice, robust community participation, and nonhierarchical decision making (see Hilbink 2004: 683; Scheingold and Sarat 2004: 104). For others, CED’s concern with providing under-resourced community groups with access to legal services also draws it toward a “proceduralist” vision of cause lawyering that seeks to achieve the best outcome possible for clients within the constraints of the existing political system (Hilbink 2004: 669).

With respect to professional role, the fact that the community organizations are the driving force of CED means that the lawyer–client relationship tends to be shaped by the norm of client-centeredness, with the client group making key decisions about goals and strategies. There remains considerable variation in the degree of lawyer–client collaboration, ranging from more passive facilitation of client projects (Marsico 1995) to greater lawyer participation in defining and executing community goals (Diamond 2000). The degree of lawyer participation in client decision making is a function of the governance style of the client organizations, the personal commitments of the lawyers (see Ellman 1992), and the influence of the lawyers’ practice settings.

With respect to legal tactics, CED differs sharply from its litigation counterpart. In the litigation context, lawyers file claims of legal rights in an adversarial process to either change state practice vis-à-vis marginalized groups or invoke the power of the state to reform private conduct. The CED lawyer’s role, in contrast, requires the type of nonadversarial transactional skills that are the stock-in-trade of the corporate bar: structuring business entities, arranging access to capital, counseling compliance with tax and corporate regulations, negotiating partnerships and other legal agreements, and navigating the process of real estate development (Southworth 1996; see also Glick and Rossman 1997; Shah 1999).

Scholars of cause lawyering have identified other models of collaborative practice, such as lobbying the state for passage of a new statute (Ziv 2001) or working closely with legal adversaries to advance the rule of law (Dotan 2001). However, in contrast to these examples, CED operates squarely within the context of the decentered state, where the focus of collaboration is not with central state authorities designated to enact legislation or defend state practices, but with the local governmental entities and private market actors empowered under the governance regime. Whereas other depictions of collaboration involve lawyers who are, at bottom, asking the state to redress a legal wrong, CED involves collaboration between community-based clients and state and market funders as a means to generate solutions to the problems of poverty and urban disinvestment.

CED’s emphasis on collaboration as a form of legal action reflects its distinct orientation toward the fairness of the legal system (see Hilbink 2004: 666–81). In the cause lawyering literature, a contrast is typically drawn between procedural and substantive fairness, with substantive fairness associated with the domain of public law—the question being whether or not courts adequately use the power of the state to vindicate the rights of marginalized groups (Hilbink 2004). CED lawyering, however, is not directly concerned with the fairness of the legal system

in this sense. Instead of looking to public law as a source of regulation or rights expansion, CED looks to private law as a resource for building collaborative institutional relationships in order to increase access to outside investment and expand community participation in development decisions. To be sure, CED relationships do not operate exclusively within private law: They purposefully cut across the traditional public-private divide, linking “private” sector activities, such as business operations and real estate development, with “public” sector financial and technical support. However, CED does not seek to reform public law rules through judicial decree or legislative change. Therefore, in contrast to more traditional rights-oriented cause lawyering, which was designed to achieve universal public benefits, the goal of CED is the more modest production of partial private benefits.

Community Economic Development: A Social Movement Perspective

The allure of CED lies in its potential to reconcile legal action and collective action. And because CED is itself a set of social policies and community practices designed to promote collaboration, there is a well-defined role for lawyers to play in advancing CED’s mobilization goals. Although CED’s emphasis on collaboration offers opportunities for innovative problem solving, it also imposes constraints on more adversarial forms of mobilization that seek structural reforms. This part uses the lens of social movement theory as a framework for examining the nature of mobilization within CED. The focus is on the *political context* within which CED operates and the *resources* CED actors are able to mobilize and deploy (McCann 1998: 80).

Social movement scholars emphasize the importance of the “political opportunity structure” in generating collective action (McAdam 1982; Kriesi 2004: 69). Formal political institutions constitute the key structural element, with the degree of political centralization shaping both the opportunity for intervention and the ability of the state to meet movement demands (Kriesi 2004: 70). Within CED, the benefit of decentralization is that community groups are closer to the decision makers they seek to influence and therefore may be able to more effectively hold them to account for community needs. On the other hand, decentralization localizes activism at the community level and routes it through market channels. There are opportunities for information-sharing and cooperation among CDCs, which may be generated by the need to respond collectively to policy initiatives or facilitated by intermediary groups. However, the local orientation of CED focuses mobilization on internal community-building strategies, rather than viewing economic inequality and racial segregation from

a regional or even a national policy perspective (Foster-Bey 1997: 40; Barron 2003).

In order to take advantage of political opportunities, mobilization depends heavily on the capacity to gain access to resources and convert them into tools for advancing collective goals (Edwards and McCarthy 2004: 116). Resources are necessary to overcome the free rider problem faced by groups attempting to organize themselves to provide collective goods (McCarthy and Zald 1973; Jenkins 1983: 537–38) and also to sustain organizational activity and mount campaigns to achieve strategic goals (Jenkins 1983: 533; Edwards and McCarthy 2004: 116). A critical insight of resource mobilization theory is that resources come with strings attached: They not only enable collective action, but also may steer it into channels favored by important resource suppliers (Edwards and McCarthy 2004: 135).

In the CED context, a key resource is organizational. CED values organizational formality, which can best be seen in the structure of CDCs, which typically incorporate community participation in governance, either through resident participation on the board or membership-based structures. Simon (2001: 60) argues in favor of organization, contending that “[a]t high levels of organization, the community has the capacity not only to prevent disruption that impairs the investment, but to facilitate support for investment and to bargain for a share of the returns.” Within CED, organization is supported by a lattice of external institutional support designed to “induce” community participation (Simon 2001: 168). Legal rules play a critical role, promoting participation through an “*ex ante* structural approach,” in which federal tax rules require charitable organizations to demonstrate a wide base of financial support and government funding programs require CED grantees to demonstrate community participation in governance (Simon 2001: 169–78). The government and private sectors also promote community accountability through an “*ex post* competitive approach” under which community organizations engaged in CED are graded on their performance in meeting community goals in the competitive process of applying for funding (Simon 2001: 178).

However, the same public and private actors whose funding induces mobilization in the CED context also impose significant constraints on its nature and scope (see Edwards and McCarthy 2004: 135). The National Congress for Community Economic Development’s census of US CDCs reported that almost all received some type of government financing, almost one-half received money from banks, and nearly one-quarter were funded by corporations (The National Congress for Community Economic Development 1999: 6). Critics have charged that these relationships hamstring more adversarial tactics against government

and business targets (Shah 1999), which can easily pull the plug on financial resources and partner instead with more cooperative community actors. The issue of constraints imposed by funding sources is not unique to CED organizations. The social movement organizations of the civil rights period relied not only on indigenous support from black churches and local organizations (Morris 1984), but also came to depend increasingly on a “conscience constituency” of Northern liberals and college students, and benefited significantly from the federal government (Jenkins 1983: 533–35; Barkan 1984: 553). However, unlike in the civil rights context where outside support was provided, at least in part, to promote confrontational organizing tactics, CED funders typically expect nonadversarial collaboration in order to achieve development aims.

The focus on cultivating and maintaining relationships with external state and market elites thus influences the *nature* of mobilization within CED, privileging collaboration over systemic disruption. In this sense, CED stands in contrast to social movements, which have historically been defined by direct challenges to “existing institutional authority—whether it is located in the political, corporate, religious, or educational realm” (Snow, Soule, and Kriesi 2004: 9). Moreover, unlike social movements that rely on “disruptive ‘symbolic’ tactics such as protests, marches, strikes, and the like that halt or upset ongoing social practices” (McCann 2004: 509), CED adheres closely to institutional channels of collective action. There are instances of disruptive activity within CED: Residents of Boston’s Dudley Street Neighborhood Initiative, for instance, mounted a public demonstration to halt illegal trash dumping (Medoff and Sklar 1994: 81–86), and bank watchdog groups like the Greenlining Institute use the threat of disruption to compel compliance with the Community Reinvestment Act (CRA). However, disruptive activity is de-emphasized among CDCs (Dreier 1999: 180). The National Congress for Community Economic Development reported that while 82 percent of CDCs had engaged in housing development (National Congress for Community Economic Development 1999: 7), only 56 percent reported engaging in “advocacy and community organizing” (National Congress for Community Economic Development 1999: 15). Vidal’s national study shows relatively more advocacy, reporting that 87 percent of CDCs engaged in housing development, while 75 percent conducted advocacy around housing issues (Vidal 1992: 64). However, Stoecker (1997: 11) has suggested that such advocacy may simply reflect CDCs “joining coalitions of other organizations and advocating around housing issues” not “bringing residents together to press for their needs collectively.”

CED’s collaborative approach to collective action reflects its political goals. Unlike many social movements, CED is not “state-oriented”: It does not seek change in state practices, either through legislative enactment or rule

enforcement (see Amenta and Caren 2004: 461). Instead, the goal of CED is neighborhood revitalization through the creation of public–private partnerships that leverage government programs. These partnerships may reconfigure the interests of the participants and therefore possibly reform their practices (Simon 2004: 182). Yet such reforms are “soft” and more difficult to measure than the “hard” regulatory reforms traditionally sought by movement actors. There is a redistributive element to CED, but it is built upon a preexisting legal framework. For example, the Low-Income Housing Tax Credit Program allocated approximately \$50 billion in tax credits over its first fifteen years to build affordable housing units. However, the goal of CED is to implement such laws to create change at the neighborhood level, not to mobilize community groups to advance a radically different urban agenda.

The Accountable Development Movement

CED is therefore defined by a focus on *localism*, a commitment to bottom-up *neighborhood revitalization* over state-sponsored redistributive reform, and a version of mobilization that emphasizes *collaboration* over confrontation. Yet within CED, grassroots organizations have begun to experiment with different forms of practice that both extend and challenge these central CED principles, building upon community organizing, labor organizing, and social movement models to “redefine redevelopment” and promote “economic justice” (Cummings 2001: 478–83; Gibbons and Haas 2002). A prominent example has been the emergence of the “accountable development” movement in Los Angeles, which has sought to change city redevelopment practices through more confrontational grassroots campaigns aimed at increasing community participation in the planning process and forcing local developers and governmental officials to commit to redevelopment projects that are responsive to the needs of low-income residents. One important outcome of these campaigns has been the negotiation of “community benefits agreements” under which developers agree to provide specific levels of affordable housing, jobs, and other benefits in exchange for community support for project approvals and public subsidies. This part examines the first major community benefits agreement (CBA) campaign in Los Angeles and examines the role of cause lawyers within it.

Context

The campaign grew out of efforts to redevelop the Figueroa Corridor, a predominantly Latino working-class neighborhood that cuts southward from downtown Los Angeles along a 2.5 mile stretch of Figueroa Street toward the

University of Southern California (USC). Strategically located between the Los Angeles Convention Center downtown and the Los Angeles Memorial Coliseum just south of USC, the Figueroa Corridor has become a flashpoint for accountable development activism as city officials have sought to remake the Figueroa Corridor into Los Angeles's sports and entertainment hub. The key mechanism for implementing this plan is the state law of redevelopment, which empowers community redevelopment agencies to designate "blighted" neighborhoods as project areas, assemble private property through eminent domain, and subsidize private development by issuing debt backed by future property tax increases (known as "tax increment").

Situated at the intersection of five redevelopment project areas, the Figueroa Corridor has been shaped by the Los Angeles Community Redevelopment Agency (CRA). The southern part of the Figueroa Corridor lies within a redevelopment area established in the 1960s to allow USC to expand its campus borders and eliminate surrounding community blight as an inducement to remain at its South Los Angeles location. With the help of the CRA, USC has become the largest landowner in the Figueroa Corridor, with a real estate portfolio of over 100 properties, many of which are devoted to student housing. One of the most controversial sites is a property near the northeast border of campus, where the CRA helped USC to purchase property that it plans to use to build a \$70 million sports arena to house its basketball and volleyball teams, having scrapped an earlier commitment to build a commercial center projected to create 2,700 jobs for local residents and generate \$1.6 million per year in tax increment. The Memorial Coliseum, a 90,000 seat stadium located just south of the USC campus in Exposition Park, is another key site in the city's plan to promote the Figueroa Corridor as a sports and entertainment zone. The current home of USC football, the Coliseum is on the short list of stadium sites for a National Football League franchise, which the city has been working to attract by developing a subsidy package.

To the north, development pressures on the Figueroa Corridor have emanated from the redevelopment of downtown Los Angeles. The critical event was the 1997 announcement of a plan by Los Angeles real estate developer Ed Roski Jr. and Denver billionaire Phillip Anschutz of Qwest Communications (who together owned the Los Angeles Kings professional hockey team and part of the Los Angeles Lakers professional basketball franchise) to build the 20,000-seat Staples Center, which would become home of the Kings and Lakers and a venue for concerts and other entertainment events. The \$375 million project, located immediately north of the Los Angeles Convention Center, was developed by the L.A. Arena Land Company (a Roski-Anschutz partnership) in a complex

public–private deal that involved billionaire Rupert Murdoch’s Fox Group purchasing a 40 percent interest in the arena. The deal was completed with a \$70 million city subsidy, which included a \$58 million loan from the city to the developer (to be repaid through the dedication of revenues from parking fees and a tax imposed on ticket sales) and a \$12 million grant from the CRA, which went to fund environmental approvals and assist in the acquisition of thirty acres of property north and east of the arena to be used for interim parking. The Staples Center project, which was completed in 1999, reconfigured the terrain of downtown development, rising as a monument to the new vision of downtown Los Angeles as a dynamic destination for affluent Angelenos and tourists. It also disrupted the fabric of the existing low-income community, resulting in the relocation of approximately 130 households and thirty-five businesses.

Coalition

Although the organizing that began after the Staples Center development grew directly out of the resident response to the disruption, it was built upon a foundation of community–labor cooperation that had evolved over several years. On the labor side, part of the collaboration was the result of a deliberate strategy by national labor leaders, who promoted grassroots coalitions through programs like Union Cities and organizations like Good Jobs First, which was created to build networks of local activists who would advance accountable development (Goodno 2004). But there were local factors as well. Los Angeles was the site of innovative labor organizing among immigrant workers in the service sector, with the Service Employees International Union (SEIU) receiving national attention for its Justice for Janitors and home health care workers campaigns (Gordon 2005: 62–63; Stone 2004: 224–25). The SEIU organizing model forged ties between union organizers, workers, community activists, students, and religious leaders in Los Angeles, and expanded union membership among immigrant workers, many of whom lived in the Figueroa Corridor (Community Scholars Program 2004). In addition, the Los Angeles Alliance for a New Economy (LAANE), a group created by the Hotel Employees and Restaurant Employees (HERE) union in 1993, brought together grassroots organizations, faith-based groups, environmental organizations, labor leaders, and worker representatives in its successful 1997 campaign to pass the Los Angeles Living Wage Ordinance (Zabin and Martin 1999; Erskine and Marblestone 2006).

On the community organizing side, the key group in the Figueroa Corridor was Strategic Actions for a Just Economy (SAJE), an economic justice and popular education center established in 1996 to build “economic power for working class people in Los Angeles” (Strategic Actions for a Just Economy

2005). SAJE was responsible for uniting the first community–labor network in the Figueroa Corridor, which grew out of a labor dispute at USC that began in 1995 when about 350 food and service workers, represented by HERE Local 11, demanded a guarantee from USC that it would not subcontract out their jobs. In 1998, SAJE organized USC employees, students, local clergy, community activists, and neighborhood residents as the Coalition for a Responsible USC (Haas 2002), initiating a series of protests, which included a rolling hunger strike, in support of the union’s demands. After the City Council amended its worker retention ordinance in 1999 to prevent Los Angeles contractors, like USC, from firing workers within ninety days of contracting out their work, the dispute was settled, with USC retaining the right to subcontract, but agreeing to a consultation process with the union in order to avoid doing so.

The USC campaign reinforced community–labor relationships, highlighting the common economic concerns of union and nonunion community residents and forging a sense of shared purpose among local block clubs, churches, and other community organizations that had not previously worked together. The campaign also led to changes in the coalition itself. As news stories began to circulate in 1999 about plans to further redevelop the area around the Staples Center, the coalition expanded its mission to focus on development pressures in the Figueroa Corridor, formally restructuring as the Figueroa Corridor Coalition for Economic Justice (FCCEJ) (Haas 2002).

The announcement in May 2000 by the owners of the Staples Center of plans to develop a Los Angeles Sports and Entertainment District adjacent to the arena set FCCEJ into motion on what would become its first major campaign. The plans for the proposed four million square foot, one billion dollar project—known as “L.A. Live”—included a forty-five story 1,200-room convention center hotel (with 100 condominium units) to be located directly north of the Staples Center, a second smaller 300-room high-end hotel, two apartment towers consisting of 800 units, a 7,400-seat live theater, restaurants, nightclubs, an office tower, a 40,000 square foot open-air plaza, and a 250,000 square foot Convention Center expansion. When the project was announced, FCCEJ initiated a community planning process and SAJE began organizing neighborhood tenants in buildings in the area of the proposed Sports and Entertainment District.

Then came the Democratic National Convention at the Staples Center in August 2000. The convention itself, though mostly peaceful, was marked by ugly moments, with armored police using rubber bullets and pepper spray in clashes with protesters in cordoned-off streets. After the convention ended, FCCEJ intensified its community organizing efforts, convening meetings at the First United Methodist Church for community members upset about the convention

violence, as well as the ongoing nuisance of reckless drivers, unruly fans, vandalism, and increased parking tickets that were the byproducts of Staples Center events. By the time that FCCEJ held its first annual assembly meeting in late 2000, the focus of the coalition began to crystallize around one goal: forcing the Staples Center developers to address community needs in their plans for the Sports and Entertainment District. As this campaign began to take shape, FCCEJ expanded to its full size of twenty-nine organizations and approximately 300 residents. Reflecting the broad range of community concerns at stake, there were several categories of groups, which included *economic justice organizations* like SAJE and LAANE, the *environmental group* Environmental Defense, *community organizing groups* like the Association of Community Organizations for Reform Now (ACORN), and Action for Grassroots Empowerment and Neighborhood Development Alternatives (AGENDA); *community services groups*; *churches*; *housing and community development organizations* such as Esperanza Community Housing Corporation; *health advocacy groups*; *immigrant rights groups* like the Coalition for Humane Immigrant Rights of Los Angeles and the Central American Resource Center; *neighborhood groups*; the *student group* Student Coalition Against Labor Exploitation; and the *unions* HERE Local 11, and SEIU Local 1877.

Campaign

FCCEJ's relationship with the local unions proved to be one of its critical points of leverage with the developer, L.A. Arena Land Company. The FCCEJ campaign occurred against the backdrop of labor negotiations between the developer and five unions—HERE Local 11, SEIU Local 1877, Operating Engineers Local 501, Teamsters Local 911, and the International Alliance of Local Stage Employees Local 33—which were attempting to secure union contracts on the project. In contrast to the separate negotiations each union conducted during the original Staples Center development, the unions entered the negotiations on the Sports and Entertainment District project committed to a united front, agreeing under the leadership of the Los Angeles County Federation of Labor that “no one would sign an agreement until everyone had an agreement to sign” (Haas 2002: 93). Eager to demonstrate that labor and community groups could work together to achieve broad gains for working people, the five unions and the Federation, whose leaders had strong connections to LAANE and other coalition members, agreed to support FCCEJ in its own negotiations for community benefits. As a sign of union support, a labor representative was present at all of the meetings between L.A. Arena Land Company and FCCEJ. Meanwhile, as

the unions worked to advance the goals of FCCEJ, LAANE was making efforts to help organize the unions.

The developer, which understood that organized labor's influence with local government officials could jeopardize city approval of the deal in the event of labor strife, was eager to reach an accord with the unions that would move the project forward. Not concerned with FCCEJ as such, the developer was nevertheless forced to recognize the coalition's concerns in order to garner the support of the unions that had come out behind FCCEJ's efforts. Although union leverage brought FCCEJ to the table with the developer, it also constrained its options in responding to the proposed project. Because the union partners were concerned with seeing through a project that would create jobs for their members, there were strong pressures on FCCEJ to negotiate a deal. In this process, FCCEJ could wield the threat of delay, but any expression of outright opposition to the project would have risked union support and weakened its bargaining position.

FCCEJ therefore focused its campaign on the negotiation of a CBA—a legally binding contract under which the developer provides specific community benefits in exchange for the coalition's promise to support the project (Gross, LeRoy, and Janis-Aparicio 2005). The CBA idea grew out of different strands of activism. Its formal legal structure mirrored the types of agreements entered into in the CRA context, where community organizations commit to supporting bank applications for mergers or branch relocations in front of federal regulators in exchange for bank promises to increase loan activity and banking services in poor neighborhoods. SAJE's executive director Gilda Haas, who had been an organizer for the Center for Community Change, had extensive experience negotiating CRA agreements with banks and brought expertise on this approach to the CBA process. The concept of the CBA—which used the leverage afforded by future developments to exact developer concessions—grew directly out of the strategy pioneered by the HERE and the SEIU, which used such an approach in their efforts to win card check neutrality and living wage jobs for immigrant workers.

A series of agreements between government entities and developers to target benefits to low-income communities also proved to be important precedents for CBAs (see Liegeois and Carson 2003: 174). In 1998, the public transit authority overseeing the Alameda Corridor transportation project—a twenty-mile railway linking the ports of Los Angeles and Long Beach with downtown Los Angeles—bowed to community organizing pressure in requiring the project's general contractor to provide \$5 million for job training and to set aside construction jobs for low-income residents (Liegeois, Baxa, and Corkrey 1999:

290). That same year, LAANE worked to incorporate a community benefits package—which included provisions for living wage jobs, card check neutrality, local hiring, and job training—into the city’s agreement with the developer of a large entertainment and retail project in Hollywood (Los Angeles Alliance for a New Economy 2005; Erskine and Marblestone 2006). Then, in 1999, AGENDA successfully pressured the Los Angeles City Council to require Dreamworks to fund a job training and placement program for low-income workers in exchange for public subsidies approved for the development of a new Dreamworks studio (Liegeois, Baxa, and Corkrey 1999: 286–89). However, the tactic of embedding community benefits within development agreements did not include a mechanism for direct enforcement by community organizations, instead relying on government officials to hold developers to their obligations—which, after subsidies were awarded and projects were built, they often had little incentive to do. In response to this problem, LAANE came up with the idea of the CBA in connection with organizing it began in 2000 around a proposed mixed-use project next to the North Hollywood subway station, which was to receive public subsidies. That organizing eventually resulted in a CBA in late 2001, but not until after events had thrust the Sports and Entertainment District CBA to the fore.

As FCCEJ entered its crucial negotiation phase in 2001, its leverage against the developer was structured by law in key ways. First, there was the issue of term limits. In 1993, Los Angeles voters passed propositions restricting the mayor and City Council members to two four-year terms. That meant that Republican Mayor Richard Riordan, a staunch supporter of the project who had pushed the City Planning Commission for fast-track permitting approvals, was set to be termed out of office as of July 1, 2001, with a very tight run-off race underway between Democrats James Hahn and Antonio Villaraigosa, a strong pro-labor candidate (Padwa 2001). In addition, City Council—which also supported the Sports and Entertainment District—was about to be transformed, with six of its fifteen members—including Council member Rita Walters, whose district encompassed the project—termed out. As a result, the developer was pressing to secure all city entitlements before July 1, 2001, which meant ensuring that FCCEJ was on board and would not delay key approvals.

In addition to the leverage gained from timing, FCCEJ benefited from public participation rights embedded in the legal process for approving development. California state law sets the legal framework governing how cities structure the process of granting development entitlements such as land use and building approvals. In Los Angeles, developers typically must go through the City Planning Commission to obtain discretionary land use approvals, with a process for appeal

to the City Council generally available. The structure of the entitlements process permits well-organized opposition groups with strong political connections to delay or even prevent key approvals. With labor unions as coalition members, FCCEJ could make a credible threat of disrupting the entitlements process for the Sports and Entertainment District deal, which would have increased costs and uncertainty for the developer. Moreover, the deal was from the beginning based on the assumption of public financing, which could only be approved by City Council after public hearings, providing another political opportunity for FCCEJ and its union supporters to disrupt the deal.

FCCEJ used the threat of disruption implicit in its participation rights to bring the developer to the negotiating table, where the goal was to hammer out a CBA. It was here that lawyers contributed key skills in moving negotiations forward and finalizing the agreement. Julian Gross was the coalition attorney primarily responsible for drafting the CBA. Gross had started out as a Skadden Fellow at the Employment Law Center in San Francisco, where he worked on developing the local hiring policy for the redevelopment agency in East Palo Alto and was involved in the Alameda Corridor Jobs Coalition project in Los Angeles. In 1999, Gross set up his own solo practice and began working with LAANE on the North Hollywood mixed-use development organizing campaign. When the Sports and Entertainment District deal was announced, Gross was retained by LAANE to represent the group and generally provided legal support to the negotiation team throughout the process.

The negotiation team itself was selected by FCCEJ members on the basis of expertise and negotiating skill. The key members were SAJE's Gilda Haas and Madeline Janis-Aparicio, the executive director of LAANE. Although not an attorney, Haas, who had a master's degree in Urban Planning from UCLA, had started the CED unit at the Los Angeles Legal Aid Foundation. Janis-Aparicio was a nonpracticing attorney who had previously done slum housing litigation and, after graduating from UCLA Law School, had worked as an associate at the Los Angeles firm of Latham & Watkins (which was representing the developer against FCCEJ in the CBA negotiations). The stringent criteria for selection to the negotiating team excluded Figueroa Corridor residents. To address this omission, FCCEJ put together a team of neighborhood leaders who attended all of the meetings with the developer, provided feedback on developer proposals, and conveyed information on the process back to the community (Leavitt 2006).

Another lawyer on the negotiating team who played an important role was Jerilyn López Mendoza, a graduate of UCLA Law School with law firm

experience, who was an attorney in the Environmental Justice Project at Environmental Defense. In California, the process for gaining environmental clearance for development projects centers on the California Environmental Quality Act (CEQA), which requires that a public agency, such as the City Planning Commission, evaluate the environmental impact of projects before issuing discretionary development approvals or providing public subsidies. If the project is determined to have a significant environmental impact, an environmental impact report (EIR) must be prepared and circulated for public comment. The final approval of a project may be challenged in court on the grounds that it does not meet the substantive and procedural requirements of CEQA, forcing the agency to repeat the EIR process.

Knowing that a defective EIR could significantly delay the project, the FCCEJ environmental team, coordinated by López Mendoza, carefully reviewed the developer's draft EIR when it was issued in January 2001. FCCEJ's comprehensive forty-six-page response to the draft EIR was submitted to the City Planning Commission in late February highlighting a number of inadequacies, including the developer's failure to include an analysis of the energy impact of the project, which—coming on the heels of Southern California's 2000 energy crisis—was a significant omission. With the prospect of a CEQA lawsuit that could derail the project until well after the July 1 political transition suddenly a realistic possibility, the developer responded by intensifying the pace of negotiations with FCCEJ.

A final agreement was reached between FCCEJ and the developer on May 30, 2001. Under the agreement, FCCEJ agreed both to release its right to oppose the development project (which included bringing lawsuits, taking administrative actions, and expressing public opposition) and to provide affirmative support for the project (which included issuing a press release and testifying in support of administrative approvals). There was a split over the final terms of the agreement, with AGENDA and the Community Coalition refusing to sign on as Coalition members, citing the waiver of the right to oppose the project as incompatible with their organizational missions. This created a problem for the developer, which wanted to make sure that a few close FCCEJ allies could not opt out of the agreement and protest the project, while the developer bore the full contractual obligations. This was dealt with by designating FCCEJ members that did not sign the agreement as Interested Organizations, which—although technically not bound to the agreement—could nevertheless relieve the developer of its community benefits obligations by bringing a suit against the project. In exchange for FCCEJ's cooperation, the developer agreed to the

following Community Benefits Program, which was also incorporated as part of the development agreement between the city and the developer:

- *Parks and Recreation:* The developer will provide between \$50,000 and \$75,000 to fund “an assessment of the need for parks, open space, and recreational facilities” in the area and subsequently “fund or cause to be privately funded at least one million dollars (\$1,000,000) for the creation or improvement of one or more park and recreation facilities.”
- *Parking Permit Area:* The developer will “support” FCCEJ’s efforts to have the city establish a residential parking permit district, providing funding of \$25,000 per year for five years to the city to develop and implement the program.
- *Living Wage Program:* The developer “shall make all reasonable efforts to maximize the number of living wage jobs” in the project and agree to a 70 percent Living Wage Goal for the anticipated 5,500 jobs.
- *Local Hiring and Job Training:* The developer will provide \$100,000 in seed funding to establish a First Source Referral System, a nonprofit organization that will recruit targeted job applicants—giving first priority to applicants displaced by the Staples Center or living within a one-half mile radius of the project—and refer them to project employers. The employers, in turn, will provide notice of job openings to the First Source Referral System and agree to hire only targeted job applicants for a designated period of time after notice of the jobs are provided. An employer who fills 50 percent of available jobs within a six-month period with targeted job applicants shall be deemed in compliance with the first source hiring policy.
- *Affordable Housing:* The developer “shall develop or cause to be developed affordable housing equal to 20% of the units constructed” within the project (100–160 affordable units in total). The units shall be targeted as follows: 30 percent to families earning 50 percent or less of Area Median Income (AMI); 35 percent to families earning from 51 to 60 percent of AMI; and 35 percent to families earning from 61 to 80 percent of AMI. Units may be built within the project area or off-site, provided that off-site housing is located “in redevelopment areas within a three-mile radius” of the Staples Center. Residents displaced by the Staples Center shall be given priority in housing selection. In addition, the developer must work cooperatively with community organizations to provide additional affordable housing by contributing up to \$650,000 in three-year, interest-free loans to nonprofit housing developers that are building projects in the area.

Despite the timeliness of the CBA, the project itself did not receive the sought-after approval before the July 1 political transition because newly elected City Council members asked for a delay so that they could review the deal. The city made a number of attempts to move the project forward, which culminated with the 2005 approval of a \$177 million subsidy for the hotel, consisting of \$110 to \$140 million in foregone revenue from hotel bed taxes, \$22 million in city loans, \$10 million in public improvements, and \$5 million in building fees. Although construction is not set for completion until 2008, the developer has already made good on some of its CBA promises. In particular, the developer has gained commitments for nearly \$1 million to fund Hope and Peace Park and a free family recreational facility in the neighborhood (Leavitt 2006). The developer also assisted in the establishment of Los Angeles's first Poor People's Preferential Parking District, which reserves evening parking for local residents, and paid for the first five years of resident permits (Leavitt 2006). The developer further provided \$650,000 in low-interest loans to community-based affordable housing developers (Leavitt 2006), which have already opened some affordable units.

Implementation of the CBA, however, has not been without difficulty. The main issue has involved the application of affordable housing obligations to developers that have purchased discrete parcels within the project from L.A. Arena Land Company. In September 2005, one such developer, Williams and Dame, asked the city to be relieved of its affordable housing obligations in light of a preexisting agreement to contribute \$8,000,000 toward the YWCA's development of an affordable housing project in the downtown area. After a flurry of negotiations, the parties agreed to a plan under which Williams and Dame was given credit for 200 units of affordable housing in exchange for a \$400,000 contribution to the Figueroa Corridor Community Land Trust—an entity that FCCEJ had already established to build affordable housing in the neighborhood—as well as a commitment by Williams and Dame to potentially contribute another \$700,000 in connection with future development. In addition, the parties agreed going forward that new purchasers of development rights in the Sports and Entertainment District may discharge their affordable housing obligations by providing a \$40,000 payment for each required affordable unit to the Land Trust or other community-based developer in the Figueroa Corridor—an arrangement that could generate several million dollars in contributions.

FCCEJ's success in negotiating the Sports and Entertainment District CBA has lent momentum to related accountable development campaigns and policy initiatives. One direct outgrowth is the Share the Wealth Coalition, a joint organizing effort by FCCEJ and the LA Coalition to End Hunger and Homelessness,

which has advocated for the rights of residential hotel tenants while promoting inclusionary zoning and policies to prevent the net loss of affordable housing in the central core of downtown Los Angeles. In addition, there have been a series of subsequent CBAs negotiated in Los Angeles and elsewhere, the most significant of which was the recent agreement between Los Angeles World Airports, the city department that owns and operates the Los Angeles International Airport (LAX), and a coalition of school districts, churches, environmental organizations, and labor groups that earmarked nearly \$500 million for sound-proofing homes and businesses, setting up job training programs, and conducting environmental studies in connection with the \$11 billion modernization of LAX (LAX Coalition 2004). Finally, there has been an effort to convert the success of the CBA strategy into local policy reforms (Goodno, 2004). In Los Angeles, community groups pushed the CRA to adopt a Community Impact Report policy, which would have required developers within redevelopment project areas to take into account the impact of projects on affordable housing and jobs along the lines of the current environmental review system, but that proposal was tabled after strong developer opposition. The California Partnership for Working Families—an accountable development coalition that includes LAANE and similar community–labor organizations across the state—has been working to pass community benefits policies in San Diego, San Jose, and Emeryville.

Cause Lawyering and Community Mobilization

As the FCCEJ case study shows, accountable development advocacy attempts to confront government and market elites, create alliances and build networks, and change the rules of the game for redevelopment practice. In contrast to the “deal” orientation of conventional CED, accountable development focuses on local campaigns to mobilize low-income communities to achieve organizing “wins.” It therefore presents distinct roles for cause lawyers who must navigate a complex set of organizational relationships and deploy a range of lawyering skills to advance mobilization goals. Drawing upon the lessons from the FCCEJ campaign, this part examines cause lawyering in the accountable development context, focusing on issues of professional role, legal tactics, and the impact of lawyering on community mobilization.

Professional Role

The picture of cause lawyering that emerges from the FCCEJ case resonates with Hilbink’s (Hilbink 2004: 681) description of the grassroots cause lawyer focused on politically sophisticated advocacy that supports mobilization around

community-defined goals (see Kilwein 1998). In the FCCEJ campaign, lawyers were viewed as one set of political actors who knew their role and used their skills to advance strategic ends, deploying rights when necessary, but also recognizing when to back off from rights tactics to build alliances, broker deals, and craft policy.

In this context, typical concerns about the disempowering impact of legal expertise on client mobilization were diminished for two reasons. One was the self-conception of the lawyers. FCCEJ lawyers Gross and López Mendoza adopted a complex view of social change, with legal and political advocacy seen as complementary strategies—the utility of each dependent on the particular context of struggle. Instead of top-down legal strategists, they viewed themselves as team members who attempted to cede as much control as possible to the organizers, providing technical expertise only to the limited extent necessary to advance the organizing goal. They were, in short, quite mindful of the critique of public interest lawyering and careful not to repeat mistakes of the past.

The other factor constraining lawyer domination was the presence of a powerful and politically savvy leadership structure for the coalition. Although the strength of the leadership structure created accountability issues as between the coalition leaders and their constituencies, it tended to insulate the leadership itself from undue influence by outside lawyers. Moreover, in the FCCEJ campaign, the existence of relatively powerful grassroots organizations counteracted the tendency that Levitsky (2006) identifies for legal organizations to exert more influence in strategic decision making due to their disproportionate size and visibility. Because the FCCEJ clients came to the campaign as empowered political actors, the lawyering was focused on achieving a political result defined by the coalition rather than promoting goals envisioned by the lawyers. From a lawyering perspective, the FCCEJ campaign can therefore be read as a story about the *potency* of legal advocacy operating within its appropriate sphere: FCCEJ's success in bringing the developer to the negotiating table, for example, was premised in large part on the threat that it could, in fact, successfully litigate the environmental claims.

Although it offered advantages from the perspective of community empowerment, the existence of a multigroup coalition as client also complicated the lawyer–client relationship (see Ellman 1992). This was apparent in the complex relationships that formed in the FCCEJ campaign. There was a loosely coordinated team of lawyers with different tasks—Gross focused on CBA drafting and López Mendoza on the environmental response—with a fluid specification of roles and no systematic effort to delineate the client. The lawyers themselves brought vastly different expertise to the project: Gross was trained as

an employment attorney; Janis-Aparicio had experience in labor, immigration, and housing; and López Mendoza was an environmental lawyer. And there were times in which the lawyers were both outside and inside the coalition—providing legal advice to the group in their role as attorneys while hashing out policy issues and building group consensus in their role as coalition members.

Legal Tactics

The FCCEJ campaign also provides insights into the relationship between cause lawyering tactics and community mobilization. McCann defines *legal mobilization* as the translation of “a desire or want” into “an assertion of right or lawful claim” (McCann 2004: 508). In the litigation context, legal mobilization is achieved by bringing or threatening a lawsuit. Thus, legal mobilization can be an *end* in itself—lawyers filing an impact case to get “law on the books”—or a *means* for broader *community mobilization* (McCann 2004: 508). Legal mobilization in the public interest law reform mode has been critiqued as undermining collective action (the “myth of rights”), although scholars like McCann (1994) and Gordon (2005) have documented the strategic use of legal mobilization to promote collective action (the “politics of rights”). When CED lawyers mobilize law, in contrast, they generally do so by creating *legal frameworks for community organization*—taking advantage of the background legal rules that provide financial incentives for CED projects and promote community participation in CED organizations to design nonprofit corporations, partnerships, and other associational forms that promote CED goals.

The FCCEJ accountable development campaign reveals another model of legal mobilization that shares much in common with the CED approach, but differs in notable ways. The background rules that proved most critical to the FCCEJ campaign were *rights to participate in political decision making*, particularly those embedded in the land use and environmental review process. These rights were a function of the relationship between the city and the developer, with the city providing permits and subsidies that required public approval in exchange for future tax revenues provided by the project. The participation rights provided an opportunity for legal intervention by FCCEJ, which exercised its right to comment upon the developer’s EIR, with the potential threat of a lawsuit to prevent an inadequate EIR from being approved. In this way, FCCEJ lawyers were able to mobilize law through the *identification and navigation of routes of legal participation* for coalition members. Because the participation rights were backed by the threat of disruption, at the EIR stage of the campaign participation took on a confrontational tone, with the coalition positioned to derail a deal supported by the city and developer. In this sense, law was mobilized

through what McCann (2004: 513–14) calls “legal leveraging”—the use of law “as a weapon to ‘push’ otherwise uncooperative foes into making concessions.” Indeed, it was the “unfulfilled threat” that FCCEJ would stall the project on the basis of the faulty environmental report, imposing substantial costs and the risk of lost political support, that ultimately forced the developer to negotiate. The ability to deploy leveraging tactics was also a function of the client itself. Unlike in the typical CED deal where the organizational client is dependent on its public and private partners for ongoing financial support, the coalition was not financially dependent on the target of its organizing campaign, which gave it greater latitude to deploy more adversarial tactics.

The confrontational approach adopted by FCCEJ in the environmental review stage gave way to greater collaboration during the process of negotiating the CBA. Julian Gross’s job as FCCEJ’s lawyer was to help negotiate and draft a legal document that specified the rights and obligations of the coalition and developer—creating a legal framework for community participation in the development process. From a lawyering perspective, the skills deployed during this phase of the FCCEJ campaign closely resembled those of the conventional CED lawyer. However, the context and goals of the negotiation distinguished it from the typical CED process. Unlike a negotiation between a nonprofit housing developer and a private investor brought together by mutual financial incentives, the Sports and Entertainment District developer was pressured to the negotiating table through reinforcing political and legal threats. For this reason, the negotiation process in the FCCEJ context was at times more adversarial than the typical CED development deal, where the financial incentives promote a greater sense of cooperation and *esprit de corp*.

Community Mobilization

A key feature of accountable development is that the lawyering is undertaken to support community mobilization to change the redevelopment practices of private developers and city agencies. The immediate outcome of FCCEJ’s community mobilization effort was the creation of a CBA. As a structural matter, a CBA operates like a development regulation in that it forces a private developer to action it would not otherwise undertake without the threat of community disruption. This outcome is redistributive because it extracts greater resources for the community through bargaining than it would otherwise be entitled to under law. It is true that the CBA represents a net gain for the developer to the extent that it calculates the costs of providing community benefits as less than the costs of delay, litigation, and the negative publicity associated with a contested approval process. But, in the absence of community challenge, the

baseline position is that the developer can undertake the project without conferring benefits on the community. An agreement is struck only after organized community opposition to the project emerges. In this case, coordinated community participation constrains the developer's range of action, leveraging the background development rules in such a way that induces an agreement.

The CBA, however, is a complex tool—one that is highly dependent on the framework of governmental regulation of redevelopment while exposing its shortcomings. Although it operates within the domain of private law, the CBA strategy depends on state-created participation rights to confer negotiating power on community groups. The existing framework of legal rights thus operates to help induce negotiation, with the resulting CBA augmenting the current redevelopment regulatory scheme. The benefits of the CBA approach are that it constructs a public–private monitoring and enforcement mechanism. It allows both the community—through the CBA—and the city—through a development agreement that incorporates the CBA's terms—to watch over developer compliance and intervene to promote accountability. And even though many of the provisions do not provide for hard enforcement mechanisms, the goals and standards incorporated in the CBA provide political resources that can be used to pressure developer compliance by generating negative publicity when they are not met. From this perspective, the CBA highlights many of the advantages emphasized in the new governance literature (Lobel 2004; Simon 2004).

Yet the emphasis on multiple stakeholder accountability and the reliance on community persuasion to enforce benefits also raises questions about what is won and lost. For instance, the living wage provision in the FCCEJ CBA promises that the developer will use best efforts, imposes flexible benchmarks, and creates mechanisms for dispute resolution. Ultimately, failure to comply with the 70 percent living wage goal does not breach the agreement. Instead, the CBA provides that even if the living wage goal is not met, developer compliance is presumed so long as it makes annual living wage reports (detailing the problems of meeting the living wage goal), notifies the coalition before selecting project tenants, meets with the coalition and prospective tenants to discuss living wage requirements, and “within commercially reasonable limits” takes into account “as a substantial factor” the impact of tenant selection on the living wage goal. Similarly, the CBA's first source hiring policy provides that businesses that do not meet the goal of hiring 50 percent of its workers from a pool of local applicants nevertheless are in compliance with the policy so long as they keep records, provide timely notice of job openings, and hold positions for targeted applicants open for designated periods.

In addition, although the FCCEJ CBA imposes strict support obligations on the coalition, the developer is allowed great flexibility in implementing benefits and in some cases is relieved of the direct obligation to fund aspects of the CBA. The provision for park and open space is an example. The developer was able to negotiate an agreement to “fund or cause to be privately funded” one million dollars for park space, which meant that it could use its foundation connections—which it did—to raise money for park construction without having to be out of pocket for the costs. Another example is the affordable housing provision, which requires the developer to “develop or cause to be developed” 20 percent of the total project units as affordable housing. Here again, the developer could use its access to philanthropic sources to reduce its out-of-pocket development costs. In addition, to the extent that nonprofit housing organizations build affordable units in the area with the assistance of interest-free loans provided by the developer, the developer’s obligation to build units directly may be reduced, although not below 15 percent. Thus, the strong bargaining power of the developer allowed it to negotiate a relatively soft set of obligations in exchange for a complete waiver of opposition rights by the coalition. From a regulatory perspective, then, the CBA could be read as a second-best solution reflecting the relative political weakness of accountable development actors to enact change through conventional political channels.

Moreover, the ultimate effect of the CBA approach on the mobilization of low-income communities is uncertain. Accountable development campaigns, although activating coalitions to move on targeted development projects, ultimately result in a waiver of the coalition’s mobilization rights in exchange for the material benefits contained in the CBA. In the FCCEJ context, this caused AGENDA and the Community Coalition to split off, refusing to waive their power to disrupt in exchange for the benefits provided in the settlement agreement. Rights-stripping CBA agreements may be the necessary byproduct of a mobilization strategy premised on the threat of disruption, but the constraining effect runs counter to the ideological goals of many of the grassroots organizations involved. The FCCEJ CBA also raises questions about community accountability. Although community members actively participated in the formulation of FCCEJ’s demands and attended negotiation meetings, it was inevitable in the heat of high-level negotiations under intense time pressure that community participation had to be compromised. There are also questions about the degree to which the CBA assigns financial rewards to groups involved in its negotiations, raising concerns about trading support for the promise of economic benefits (see Simon 2001: 182).

The longer term goals of accountable development advocacy seek to address some of the short-term trade-offs. FCCEJ and other accountable development coalitions around the state of California remain focused on the goal of passing community benefits policies, as well as other reforms such as no net loss housing policies guaranteeing that redevelopment does not result in the overall loss of affordable housing. More broadly, there are efforts to build upon the success of individual CBAs to deepen organizational connections, expand community resources, and develop higher level coordination in order to exert a sustained political influence over development decisions. LAANE has provided some coordination of CBA campaigns in the Los Angeles area, while the California Partnership for Working Families has emerged as a vehicle for state-wide coordination. One consequence of these efforts has been that developers in Los Angeles now recognize that negotiating over community benefits is part of the overall redevelopment process. However, due in part to the local nature of redevelopment, accountable development continues to be a decentralized movement, comprising a fluid network of individuals and organizations that share information and strategies, but as of yet do not closely collaborate to promote accountable development as a national strategy.

It therefore remains to be seen whether accountable development can move beyond the particular circumstances of Los Angeles and take root in other urban centers and smaller scale jurisdictions. And it is an open question whether or not the CBA as a legal tactic—one that is embedded in the existing framework of legal rights—can help to fundamentally alter power relations between community groups and the development industry over the long term. Yet, particularly as accountable development strategies are diffused through organizing networks and CED practice groups, the role of lawyers in disseminating models, sharing resources, and experimenting with different tactical approaches will be crucial to efforts to build a movement that is national in scope.

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