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GUEST COLUMN | W. MARK RUSSO

Receiver can unlock value

WITH ECONOMIC DEVELOPMENT and job creation closely tied to land development, Rhode Island saw a number of real estate development projects abandoned midstream as a result of the Great Recession. Now, as our real estate economy is starting to percolate, there is a huge opportunity to resurrect dormant properties using court-supervised proceedings.

Abandoned projects often share common hurdles. They may be saddled with massive property tax obligations, need additional permits and approvals, or carry environmental issues. Sometimes, properties have actually been sold by the host municipality at a “tax sale.” In certain cases, projects may be mired in litigation between warring factions of ownership.

One approach is for current ownership to invest considerable time and money to get the project moving forward. Alternatively, current ownership can “fire sale” the property, and the new buyer can take on the cost, time and uncertainty of trying to advance the project.

These time- and cost-intensive routes are part of the reason analysts have said that Rhode Island’s recovery from the Great Recession will take another three years.

A strategy that has proven effective to revitalize these projects in an expedited time frame is to put the property under control of a court-appointed receiver or special master,

who can work with the host community and other regulatory agencies to find a buyer.

The basic premise is to vest the court with authority over the real estate to preserve and, ultimately, to realize its value for the benefit of stakeholders, or to prevent the “asset” from being wasted.

The ability of the court-supervised receiver (or special master) to bring the project to a point where it is financially viable is, oftentimes, the key to unlocking the potential value of the project and, more importantly, the economic-development benefits. It is especially meaningful in Rhode Island, where a viable project can inject energy and revenue into a host community at a critical point in our economic recovery.

We have seen success using the court-appointed process with several real estate projects and developments throughout the state. For instance, South Street Landing in Providence’s Knowledge District is the future home of University of Rhode Island and Rhode Island College nursing education programs, plus Brown University administrative offices. Using the court-supervised proceeding, we were able to clear over \$6 million in mechanic liens in less than 10

months, thereby allowing the project to proceed.

Anthony Mill in Coventry was a 185,000-square-foot mill building built in the mid-1800s. Under a court-supervised process, we reached agreement with Coventry relative to sewer-impact fees, to restructure property tax assessments and to secure approval of a Tax Increment Financing plan. The property was sold within 11 months, and Anthony Mill is now fully developed as 122 luxury apartments.

Lippitt Mill in West Warwick is a 65,000-square-foot mill that was the oldest operating mill in the United States, until it ceased operations in 2010. We secured historic tax credits and a tax-stabilization agreement, reached accord with West Warwick to subdivide the project into two phases and worked with the R.I. Department of Environmental Management to amend an environmental land-use restriction that would have prevented development. The project sold within 11 months, and the current owner is now finalizing its construction financing to develop a first phase of approximately 90 residential units.

Recently purchased by Lifespan Corp., the parcel known as Victory Square in Providence’s Knowledge

District went through a court-supervised proceeding. Our attorneys secured master-plan approvals for life sciences development, a tax-stabilization agreement, solutions to substantial environmental issues and a demolition permit to bring the property to building grade. The property was sold in less than 18 months.

The court-supervised procedure fosters a team approach between the receiver and the regulators at both state and local levels, to creatively unravel and solve problems in an expedited time frame devoid of politics.

In turn, buyers find the process to be extremely attractive. The buyer is not financing the risk and uncertainty involved in overcoming the multitude of hurdles to a successful development. Rather, the buyer establishes the contingencies to a sale and, if they are not successfully addressed by the court-receiver, the buyer is not required to go forward. ■

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