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Negotiating the Rebuilding of the World Trade Center Part I: Property Control

Six weeks before the attacks of 9/11, Larry Silverstein acquired a 99 year lease for the World Trade Center from the Port Authority of New York and New Jersey for \$3.2 billion. After the towers were destroyed, Silverstein announced he would rebuild.¹ Nearly nine years later, NBC News described rebuilding as “interminably stalled by negotiations.”² Michael Bloomberg, then Mayor of New York City, said, “It’s very difficult to see progress when the action is mostly negotiations,” adding that given the complex nature of the process, nine years was not a long time.³ This two-part article describes how complex negotiations characterized the World Trade Center from acquisition through the design and rebuilding process.



To acquire the World Trade Center in 2001, Silverstein, as operating partner, entered into negotiations with several wealthy New York families “who are long-term New York real estate owners” as financial partners⁴ to obtain the first mortgage loan.⁵ Issues included cash flow splits, profits from management fees, succession, and exit strategies. Since Silverstein was 70 years old, succession was especially important. Negotiations defined which decisions Silverstein could make and which would require consent from the financial partners. Rebuilding required consent of the financial partners, so they worked “shoulder-to-shoulder with Silverstein throughout the entire negotiation process”⁶ after September 11. Instead of exit strategies, the parties negotiated a ‘lockout’ where neither party could sell its interest for an extended period of time.”⁷

After 9/11, focus changed from negotiations between Silverstein and the financial partners to negotiations between their partnership and the Port Authority to “keep the deal intact and permit rebuilding.” The partnership had been structured for management and operation of *existing* buildings but now needed to address leases in *development* property. The parties sought “to preserve the original economics and original relationship that had worked well.”⁸ “All of the post-9/11 issues were being negotiated by the partnership behind the scenes under the same time pressures and at the same time as the deal that was being signed by the Port Authority. These negotiations were going on in different rooms and in different buildings, but were equally important and needed to be resolved before the necessary partnership consents would be granted to sign the deal with the Port Authority.”⁹ In contrast to the relationship with his partners, Silverstein entered into litigation with his insurers.¹⁰ While Silverstein had leased the World Trade Center from the Port Authority in July 2001, insurance policies had not been finalized when the towers were destroyed.¹¹

ADR TIMES



January 2015
Page 2

*The Center for Alternative Dispute Resolution Newsletter
State of Hawaii, Judiciary*

In March 2006, the New York Times reported negotiations broke down over responsibilities. Charles A. Gargano, vice chairman of the Port Authority and NY's chief economic development official, stated concessions were made to Silverstein throughout negotiations for rent, use of Liberty Bonds for rebuilding, and the Port Authority's takeover of 1 World Trade Center. Negotiations had also included allocation of the insurance money, of which the Port Authority sought approximately 1/3 for taking over 1 World Trade Center. The Port Authority and Mayor Bloomberg voiced concern that Silverstein would run out of money after building only two towers, default on his lease, and realize millions in profit. Gargano stated, "We thought we were negotiating in good faith. He [Silverstein] clearly demonstrated that greed is his main motivation. Unless we get this right, we will walk away rather than make a bad deal for the Port Authority, the city and the nation." Howard J. Rubenstein, spokesman for Silverstein, expressed regret for the Port Authority's decision to suspend talks and emphasized their availability for round-the-clock discussions.¹² By April, Silverstein and the Port Authority had negotiated an agreement in which Silverstein relinquished the rights to develop 1 World Trade Center and Tower 5 in exchange for financing with Liberty Bonds for Towers 2, 3, and 4.¹³ Silverstein Properties opened 7 World Trade Center in May 2006.

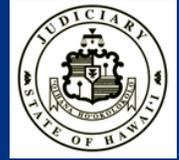
In May 2007, Eliot Spitzer, then Governor of New York, and Insurance Superintendent Eric R. Dinallo announced they had negotiated a \$2 billion settlement between Silverstein Properties and seven insurance companies covering all outstanding claims from the 9/11 terrorist attack, calling the settlement the largest in regulatory history. "Spitzer said the agreements will save additional tens of millions in legal costs and allow the Port Authority and Silverstein Properties to focus on rebuilding Ground Zero. Dinallo said the agreement showed 'government at its best, working with industry to solve a problem, rather than using the courts or fines or other adversarial procedures'."¹⁴ Despite the settlement, problems continued between Silverstein and the Port Authority over time lines and missed deadlines. In 2009, Mayor Bloomberg and Assembly Speaker Sheldon Silver attempted to mediate the dispute without success, and another form of alternative dispute resolution, arbitration, was introduced to resolve concerns.



On January 26, 2010, the arbitration panel issued a decision ordering the parties to negotiate a new rebuilding schedule within 45 days and reserving the right to impose a new schedule if insufficient progress had been made by then. Silverstein had asked for billions from the Port Authority for numerous violations of their 2006 Master Plan but received no money. The panel ruled that the Port Authority had missed many deadlines but had exceeded the obligations of the 2006 agreement. The arbitrators voided the provision that would have awarded development rights back to the Port Authority if Silverstein did not complete the three tower sites by 2013 and denied Silverstein relief from rent he had been paying to the Port Authority since 2001. The Port Authority offered financing help to Silverstein to complete Tower 4, which was under construction, but not for Tower 2. Both Silverstein and the Port Authority agreed to put off construction of Tower 3 until the real estate market rebounded.¹⁵ Silverstein Properties' 4 World Trade Center opened in November 2013. Tenants including publisher Conde Nast and the Chinese Property Group Vantone Industrial began moving into 1 World Trade Center in early 2014.¹⁶ On Monday, November 3, 2014, the first employees of Conde Nast, the first tenant of 1 World Trade Center, began working from their new offices.¹⁷

Next month - Negotiating the Rebuilding of the World Trade Center
Part II: Design and Community

ADR TIMES



January 2015
Page 3

The Center for Alternative Dispute Resolution Newsletter
State of Hawaii, Judiciary

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