

The Role of Community Benefits Agreements in Increasing Equity and Inclusion

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Since 2001, community groups, labor unions, and other organizations have negotiated community benefits agreements (CBAs) with developers and/or city and county governments to prevent low- and moderate-income households of color with limited political and social capital from being displaced by the gentrification that can accompany large-scale, market-rate development, and to improve overall community conditions.¹ CBAs are based on the premise that potentially disruptive real estate development projects should significantly improve the quality of life for residents in lower-resourced neighborhoods; in return, the groups representing residents support the projects' requests for government approvals and/or public subsidies. These agreements make land use approvals contingent on developers committing to provide public benefits such as affordable housing, local hiring, job training and apprenticeship programs, daycares, health clinics, and new parks. Just as importantly, the coalition building that occurs through the negotiation processes can help expand the capacity of individuals and organizations to promote equity and inclusion in their locales.

For low-income communities and communities of color, where residents usually are not fully engaged in planning and land-use regulatory processes, CBAs provide a mechanism for investing public funds in previously neglected areas for the benefit of current residents.² The degree to which CBAs serve the most vulnerable residents varies, however, according to the relationships that exist between local elected officials, civic organizations, and residents.³ In CBAs characterized by *inclusion*, civic coalitions emerge and are seen by local elected officials as respectable, influential parties insistent upon and capable of engaging in transparent negotiations over public benefits. In CBAs developed through *political patronage*, private

¹ Ralph Rosado, "What Will the Neighbors Say? How Differences in Planning Culture Yield Distinctive Outcomes in Urban Redevelopment: The Example of the Community Benefits Agreement Trend." (Phd diss., University of Pennsylvania Press, 2015), <https://repository.upenn.edu/cgi/viewcontent.cgi?article=2935&context=edissertations>.

² Sherry R. Arnstein, "A Ladder of Citizen Participation," *Journal of the American Institute of Planners* 35, no.4 (1969): 216-224.; Sheila Foster, "Justice from the Ground Up: Distributive Inequities, Grassroots Resistance, and the Transformative Politics of the Environmental Justice Movement," *California Environmental Law Review* 86 (1998): 831-837.; Alejandro Esteban Camacho, "Mustering the Missing Voices: A Collaborative Model for Fostering Equality, Community Involvement and Adaptive Planning in Land Use Decisions," *Stanford Environmental Law Journal* 24, no.3 (2005): 15-36.

³ Margaret Weir, "Power, Money, and Politics in Community Development," in *Urban Problems in Community Development*, eds. Ronald R. Ferguson and William T. Dickens (Washington, DC: Brookings Institution Press, 1999), 139-192.

negotiations result in benefits being captured by politically connected neighborhood elites who negotiate on their own behalf.⁴

This essay analyzes and compares two influential CBAs to illustrate the negotiation dynamics and outcomes of the two different approaches. These examples have attracted considerable attention from policymakers, developers, activists, and the media and have influenced many subsequent agreements across the United States. The first example, involving the [L.A. Live](#) project in Los Angeles, resulted from extensive collaboration among dozens of local organizations and exemplifies an inclusive relationship between local elected officials and civic players. The second example, the [Atlantic Yards](#) project (now known as Pacific Park) in New York City's Brooklyn Borough, is among the most controversial CBAs. This agreement reflects a political patronage relationship in which some local organizations were excluded from the negotiating table while others were hand-selected or, in one instance, created solely for the purpose of supporting the CBA.

L.A. Live (Los Angeles)

Context.

L.A. Live, located on a 27-acre parcel in Los Angeles' Figueroa Corridor, encompasses a sports and entertainment arena, two hotels, a theater, apartment buildings, and a retail complex. This project had two phases: creation of the Staples Center arena, which was completed in 1999, and construction of the Los Angeles Sports and Entertainment District.

Situated at the intersection of five redevelopment project areas, the Figueroa Corridor was shaped by the (now defunct) [Los Angeles Community Redevelopment Agency](#) (LACRA). The southern part of the Corridor lies within a redevelopment area established in the 1960s in an effort to keep the University of Southern California (USC) at its South Los Angeles location by allowing the institution to expand its campus borders and eliminate surrounding community blight. With the help of the LACRA, USC became the largest landowner in the Corridor, with a real estate portfolio of over 100 properties, many of which are devoted to student housing.

To the north, development pressures on the Figueroa Corridor have emanated from the redevelopment of downtown Los Angeles. Downtown L.A. ranks among the city's most racially, ethnically, and economically diverse neighborhoods as well as one of its fastest-growing ones. According to the 2010 Census, downtown L.A.'s population is almost evenly divided between residents who are Asian American (23 percent), black⁵ (22 percent), Latinx (25 percent), and non-Hispanic white (26 percent).

⁴ Rosado, "What Will the Neighbors Say?"

⁵ Editor's note: We have recommended that essay authors use the term "African American" when they are referring specifically to descendants of enslaved people in the United States and the more inclusive term "black" when they

The Staples Center, located immediately north of the Los Angeles Convention Center, hosts over 250 events and nearly four million guests annually. It is home to the Los Angeles Lakers and the Los Angeles Clippers of the National Basketball Association, the Los Angeles Kings of the National Hockey League, and the Los Angeles Sparks of the Women's National Basketball Association. The Staples Center was developed by the L.A. Arena Land Company through a complex, \$375 million deal involving private and public funding. Billionaire Rupert Murdoch's [Fox Group](#) purchased a 40% interest in the arena; the developer obtained a \$70 million combination grant and loan package; and the office-supply company, [Staples, Inc.](#), paid for naming rights.

The L.A. Arena Company and [Anschutz Entertainment Group](#) (AEG) own and operate the Staples Center. In 2000, AEG announced plans to develop a theater, two convention hotels, a convention center expansion, apartments, retail stores, restaurants, and nightclubs around the Staples Center site. Officials and nearby business owners considered this second phase of development essential to the revitalization of Los Angeles. The need for significant land use variances and city subsidies provided the community leverage to negotiate one of the most comprehensive CBAs made to date.

Negotiations.

A diverse coalition formed to negotiate the CBA with the L.A. Arena Company in 2001. The Figueroa Corridor Coalition for Economic Justice (FCCEJ) comprised of representatives of more than 30 community organizations, including environmental groups, church groups, health organizations, and immigrants' and tenants' rights supporters. [Strategic Action for a Just Economy](#) (SAJE) and the [Los Angeles Alliance for a New Economy](#) (LAANE) provided organizational and political support to the coalition and community members.

FCCEJ members were motivated in part by frustration that city officials had adopted the Staples Center's construction plan with limited community input. Over 200 residents, many of them low-income Latinx immigrants, were displaced from their homes by the construction of a parking lot for the arena. Once the center opened, the residents who remained coped with traffic and parking challenges, nighttime noise, and drunk drivers. Moreover, the construction deal had gained the support of The Hotel Employees and Restaurant Employees local union and the [Los Angeles County Federation of Labor](#) when the developer verbally promised to pay a living wage and remain neutral in the event of a union organizing drive.⁶ After the developers obtained their subsidies and variances from the city, however, they argued that they were not subject to the living-wage requirement. They stalled on signing an agreement that would hold employers

are referring broadly to members of the African diaspora including African Americans, Caribbean Americans, and Africans. In this way, we seek to acknowledge the unique history and experience of descendants of enslaved people in the U.S. and also the diversity of backgrounds within the larger black community.

⁶ Julian Gross, Greg LeRoy, and Madeline Janis-Aparicio, *Community Benefits Agreements: Making Development Projects Accountable*. (Good Jobs First and the California Partnership for Working Families, 2015), <https://www.goodjobsfirst.org/sites/default/files/docs/pdf/cba2005final.pdf>.

neutral when workers consider unionizing, and they claimed they had no authority to tell their tenants to sign one. Only after the unions staged a fight were the developers forced to keep their oral promises. Community activists hoped that a written CBA in phase two would help ensure the delivery of benefits—specifically, a guarantee of affordable housing, funding for parks, local hiring, and a living-wage clause.

Members of the FCCEJ coalition banded together because they realized that, despite having different missions, they shared mutual interests and might find strength in numbers. Strategic Actions for a Just Economy, one of the coalition’s lead organizations,⁷ brought other groups on board and organized 300 tenants who lived in the area. This grassroots base played a key role in winning the agreement, which was oriented largely to their needs, and establishing a long-term community development strategy for the Figueroa Corridor that continues today. Meanwhile, the Los Angeles Alliance for a New Economy—which enjoyed a reputation for political effectiveness because of the living-wage campaign it had spearheaded⁸—cultivated union support. The unions negotiated their agreement separately from the CBA to comply with federal guidelines on labor negotiations, but the labor and community coalitions stayed united in their strategy and demands. When disagreements stymied the progress of the janitors’ union, community negotiators stood in unison with labor. In turn, labor chimed in on issues such as affordable housing, which affects their members but was not explicitly on their agenda.⁹

Although Anschutz Entertainment Group leaders initially said they would deal solely with the LACRA, a desire to line up city approvals quickly in an election year—and evidence that the LACRA and city council would not approve the project without organized labor’s support—prompted the developer to meet with the coalition’s representatives. The parties reached an agreement over five months, ending in May 2001. The signatories worked together over the next several months to secure government approvals and, ultimately, significant public subsidies for the project.¹⁰

The influential CBA contract was a legal document specifying the developer’s cooperation with and financial contribution to a variety of measures. FCCEJ members signed a separate cooperation agreement pledging not to oppose the L.A. Live project. The CBA then was incorporated into the development and disposition agreement between the L.A. Arena Company and Anschutz Entertainment Group and the local government, making it enforceable by the city as well as by the contracting community groups.¹¹

⁷ Lee Romney, “Community, Developers Agree on Staples Plan,” *Los Angeles Times*, May 31, 2001, <https://www.latimes.com/archives/la-xpm-2001-may-31-mn-4715-story.html>.

⁸ James Goodno. “A Movement Takes Shape.” Los Angeles Alliance for a New Economy, March 2004. Accessed January 29, 2012.

⁹ Romney, “Community, Developers Agree on Staples Plan.”

¹⁰ Patrick McGreevey, “Subsidies May Aid L.A. Live,” *Los Angeles Times*, June 14, 2008, <https://www.latimes.com/archives/la-xpm-2008-jun-14-me-anschutz14-story.html>.

¹¹ Los Angeles Community Redevelopment Agency, accessed January 18, 2012, <http://www.crala.org/internet-site/index.cfm>.

The agreement includes provisions committing the developer to ensure a mix of housing by setting aside 20% of the project's total housing units as affordable housing for qualified households and by making \$650,000 in interest-free loans available to local nonprofit housing developers to build new mixed-income housing. In addition, the agreement assured labor protections: At least 70% of the permanent jobs to be created by the project—including those offered by tenants—required a living wage or better, and the developer had to create a local hiring and job training program for workers displaced by the arena who reside within three miles of the project and/or in low-income areas citywide. Finally, the agreement required the allocation of \$1 million for the creation or improvement of parks within a mile of the project.

It can be challenging to monitor the implementation of the developer commitments contained in a CBA. A recent analysis¹² of the L.A. Live CBA reveals that the developer complied with the commitments, with the possible exception of the targeted hiring commitment, which was not thoroughly documented. Other commitments were achieved after the agreed-upon deadlines. Still, as the analysis demonstrates, CBAs can be a tool for community groups to ensure that developers follow through on their commitments when government monitoring and enforcement are inadequate.

Atlantic Yards (New York City)

Context.

Atlantic Yards is a \$4.9 billion mixed-use, mixed-income residential and commercial development project proposed for the low- and mid-rise brownstone neighborhood of Prospect Heights in Brooklyn. Known throughout most of the 1900s for its ethnic diversity, combining residents of Italian, Irish, Jewish, German, and Greek ancestry, Prospect Heights currently is recognized for its mixed black and white culture. Earlier this decade, the racial makeup of the neighborhood was 47 percent white, 30 percent black, 7 percent Asian, and 4 percent from two or more races. Latinx individuals of any race compose approximately 12 percent of the population.

In December 2003, [Forest City Ratner](#) (FCR), one of the nation's largest developers and managers of commercial and residential real estate, announced plans to construct a 19,000-seat arena for the New Jersey Nets professional basketball team along with housing, office suites, retail space, a hotel, a parking garage, and thousands of apartments intended for an economically diverse array of households at the Vanderbilt Railyards site in downtown Brooklyn. The proposed 22-acre project would be New York City's largest development in a quarter century

¹² Nicholas J. Marantz, "What Do Community Benefits Agreements Deliver? Evidence from Los Angeles," *Journal of the American Planning Association* 81, no. 4 (2015): 251-267.

and the largest development in Brooklyn history; it was initially expected to take a decade to build.¹³

FCR purchased the air rights over roughly 11 acres of Metropolitan Transportation Authority (MTA) rail yards, and an additional 13 acres were subject to state condemnation for FCR's use pursuant to eminent domain laws. At the time, the MTA, Mayor Michael Bloomberg, and Brooklyn Borough President Marty Markowitz all endorsed the project. Perhaps not surprisingly for a development of such size, however, the project also generated immediate skepticism and controversy.¹⁴ FCR embarked on a campaign to win support for the project, and as part of that campaign raised the idea of a community benefits agreement.

Negotiations.

The community benefits agreement that emerged in 2005 for the Atlantic Yards project marked the first noteworthy and controversial deviation from the prototypical CBA scenario found in Los Angeles and appeared to set a precedent for some of the New York City CBAs that would follow. Beginning in July 2004 and continuing over several months, FCR convened meetings with select social justice and labor groups.¹⁵ As community activists learned about the negotiations underway, however, considerable controversy over the process emerged.¹⁶ One of the organizations, Brooklyn United for Innovative Local Development (BUILD), was formed shortly before negotiations began, ostensibly in time to serve as one of the negotiating entities, and folded in 2012, shortly after the arena opened.¹⁷ Other groups that had taken positions against the project, such as [Develop Don't Destroy Brooklyn](#) and the Prospect Heights Action Coalition, did not participate in the discussions, although there is disagreement about whether they were excluded or refused to participate.¹⁸ As a result, only groups already committed to the

¹³ Charles V. Bagli, "Deal Is Signed for Nets Arena in Brooklyn." *New York Times*, March 4, 2005, <https://www.nytimes.com/2005/03/04/nyregion/deal-is-signed-for-nets-arena-in-brooklyn.html>

¹⁴ Nicholas Confessore, "The People Speak (Shout, Actually) on Brooklyn Arena Project," *New York Times*, October 19, 2005a, <https://www.nytimes.com/2005/10/19/nyregion/the-people-speak-shout-actually-on-brooklyn-arena-project.html>; Nicholas Confessore, "To Build Arena in Brooklyn, Developer First Builds Bridges." *New York Times*, October 14, 2005b, <https://www.nytimes.com/2005/10/14/nyregion/to-build-arena-in-brooklyn-developer-first-builds-bridges.html>; Jarrett Murphy, "The Battle of Brooklyn," *Village Voice*, July 12, 2005, <https://www.villagevoice.com/2005/07/12/the-battle-of-brooklyn/>.

¹⁵ The ultimate signatories to this agreement were: All-Faith Council of Brooklyn, Association of Community Organizations for Reform Now (ACORN), Brooklyn United for Innovative Local Development (BUILD), Downtown Brooklyn Neighborhood Alliance (DBNA), Downtown Brooklyn Educational Consortium, First Atlantic Terminal Housing Committee, New York State Association of Minority Contractors, and Public Housing Communities.

¹⁶ Alair Townsend, "Neighborhood Extortion." *Crain's New York Business*, November 8, 2004. Accessed January 28, 2012; Patrick Gallahue, "Tou of Bounds – Ratner Forces Apt. Sellers to Hype Nets Arena," *New York Post*, June 16, 2004, <https://nypost.com/2004/06/16/tou-of-bounds-ratner-forces-apt-sellers-to-hype-nets-arena/>; Nicholas Confessore, "A Nod for Atlantic Yards, and Then a Lawsuit," *New York Times*, December 9, 2006a. <https://www.nytimes.com/2006/12/09/nyregion/09yards.html>.

¹⁷ Dan Rosenblum, "Bruce Ratner-Financed Community Group Goes out of Business Two Months after His Arena Opens," *Next City*, November 15, 2012, <https://nextcity.org/daily/entry/key-atlantic-yards-org-to-close>.

¹⁸ Hugh Son, "Owner Neglecting Nets, Say Critics," *New York Daily News*, November 29, 2004, <https://www.nydailynews.com/archives/boroughs/owner-neglecting-nets-critics-article-1.611337>; Bertha Lewis,

project engaged in discussions. Residents opposed to the scale and nature of the project found themselves without a seat at the table.

While negotiations over the CBA were proceeding, Forest City Ratner also was negotiating with the city and state about the governmental processes that would be used to review the proposal.¹⁹ Under the city's usual procedures, the community board would hold a hearing on the project and then recommend approval or disapproval of the project to the borough president, who in turn would hold a hearing before making a recommendation to the city planning commission, which would be required to hold a hearing. If the commission approved the project, the city council would then hold a hearing before voting on the project. But New York State's Urban Development Corporation law gives the [Empire State Development Corporation](#) (ESDC)²⁰ the power to override local zoning and other laws and processes under certain circumstances. In March 2005, the city and ESDC signed a memorandum of understanding with the developer that recognized ESDC's power to override the city's land-use review procedure. The effect was to eliminate the legal role that Community Board 6, the Brooklyn Borough president, the city planning commission, and the city council otherwise would have had in deliberations over the project.

Yet, although the ESDC's authority over the development foreclosed any official role for the community boards and removed the requirement for public hearings in review of the proposal, FCR continued to negotiate privately with organizations over a community benefits agreement. In June 2005, with Mayor Bloomberg as an official "witness," representatives of Forest City Ratner and eight community-based organizations signed the CBA, the first in New York City. Unlike the LA Live CBA negotiations, which involved dozens of community groups, many of which did not originally support the project, the Atlantic Yards CBA signatories all openly supported the project before signing on.

The CBA aims to promote the creation of mixed-income, economically and environmentally healthy communities by: setting aside 50% of all residential units for low-income families; agreeing to allocate 35% of the construction work to minority-owned businesses and 10% to women contractors hired during construction; developing a program to find job placements for hard-to-employ youth; establishing a committee to address short- and long-term environmental issues and reporting periodically to the coalition on mitigation measures; agreeing to open a health care center and a senior citizens center within the project;

"Supporting Atlantic Yards: 'Simply Not Enough Housing in Brooklyn,'" *City Limits Weekly*, July 31, 2006, <https://citylimits.org/2006/07/31/supporting-atlantic-yardssimply-not-enough-housing-in-brooklyn/>.

¹⁹ Nicholas Confessore, "Arena Complex Shrinks by 5% in Latest Plan," *New York Times*, April 1, 2006b, <https://www.nytimes.com/2006/04/01/nyregion/arena-complex-shrinks-by-5-in-latest-plan.html>; Nicholas Confessore, "State Approves Major Complex for Brooklyn," *New York Times*, December 21, 2006c, <https://www.nytimes.com/2006/12/21/nyregion/21brooklyn.html>.

²⁰The umbrella organization for New York's two principal economic development public-benefit corporations, the New York State Urban Development Corporation and the New York Job Development Authority

agreeing to lease at least 15% of the gross retail leasing space to qualified community-based businesses; and setting aside six acres of open space on the project site for free use by the public.

The ESDC approved the project in August 2006, and in December 2006 the Public Authorities Control Board—consisting of Governor George Pataki, House State Assembly Speaker Sheldon Silver, and Senate Majority Leader Joseph Bruno—approved the project. The project’s ground breaking occurred in early 2007. Controversy over the negotiation process has dogged the project, however.²¹ By the time the [Barclays Center](#) arena opened in September 2012 as the centerpiece of Atlantic Yards and the home of the Brooklyn Nets, the project had experienced years of lawsuits.²² Moreover, the 2008 economic downturn led FCR to delay construction of the residential buildings at Atlantic Yards, prompting fears that the affordable housing units they were to contain would never be built.²³

Substantial progress on the project has occurred since 2014, following an infusion of funding from [Greenland Holding Group](#), a Chinese development company. As of 2019, six of the project’s buildings are under construction or completed. About 800 of the 6,400-plus planned apartments are deemed affordable, and the eight-acre park component is under construction. The project’s original master plan, prepared by famed architect Frank Gehry, remains the guiding vision for the development, but individual components (including the potential to house Brooklyn’s largest office tower on the site) remain in flux.²⁴ Changes to the site plan require approval from the ESDC. As the project’s most prominent and longstanding critic, Norman Oder of Develop Don’t Destroy Brooklyn, argues, however, “No matter the issue—affordable housing, arena operations, eminent domain, construction, changes in the project, provision of open space...there’s one consistent issue: accountability.”²⁵ Citing this particular CBA as an example, Lance Freeman, a prominent researcher, cautions that CBAs, in the hands of governmental and private parties not acting in good faith, can serve as an undemocratic way to insert the semblance of community input into a planning process.²⁶ The project, rebranded by the developer as Pacific Park Brooklyn in July 2014, is now expected to be completed in 2035.

²¹ Townsend, “Neighborhood Extortion; Gallahue, “Tout of Bounds – Ratner Forces Apt. Sellers to Hype Nets Arena.”; Confessore, “A Nod for Atlantic Yards, and Then a Lawsuit.”

²² Charles V. Bagli, “Slow Economy Likely to Stall Atlantic Yards.” *New York Times*, March 21, 2008, <https://www.nytimes.com/2008/03/21/nyregion/21yards.html>.

²³ Michael Daly, “As Vows Fade in Atlantic Yards, So Do Housing Hopes,” *New York Daily News*, March 23, 2008, <https://www.nydailynews.com/new-york/brooklyn/vows-fade-atlantic-yards-housing-hopes-article-1.290331>.; “BrooklynSpeaks sponsors file for stay of construction at Atlantic Yards site.” Brooklyn Speaks, accessed December 5, 2019, <http://www.brooklynspeaks.net/sponsors-file-for-stay>.; Michelle Higgins, “First Condos Soon for Sale at Barclays Center Site,” *New York Times*, June 12, 2015, <https://www.nytimes.com/2015/06/14/realestate/first-condos-soon-for-sale-at-barclays-center-site.html?ref=todayspaper>.

²⁴ Amy Plitt, “A Decade on, Brooklyn’s Pacific Park Megaproject Is Finally Realized,” *Curbed New York*, August 18, 2016, <https://ny.curbed.com/2016/8/18/12417328/pacific-park-brooklyn-megaproject-update>.

²⁵ Plitt, “A Decade on”

²⁶ Plitt, “A Decade on”

Conclusion

The L.A. Live and Atlantic Yards examples show that community benefits agreements, when arrived at through a transparent, community-involved negotiation, offer an opportunity for individuals and groups that have been historically excluded to flex greater power and influence over major decisions that shape their lives. The process of negotiating CBAs can help residents and community groups lay the groundwork for real estate projects in their neighborhoods that produce mixed-income, mixed-use developments and promote a higher quality of life, especially for the communities of color in which the projects often are located. In addition, the capacity building and coalition development involved in negotiating such agreements can serve as a platform for ongoing community efforts to advance inclusion and equity.

Conversely, a CBA can preclude meaningful community engagement and ultimately benefit mainly well-connected political elites at the expense of addressing critical community needs. As a result, instead of serving as harbingers of more inclusive planning processes, CBAs actually might make it possible to mask a lack of transparency and community involvement in land use processes across the United States.

Implications for Action

Implications for Policy.

- Local government officials can promote more equitable development by requesting local hiring, living wages, affordable housing, and other public benefits as part of project approval processes for large projects that receive public subsidies.
- Local government officials can encourage and facilitate CBA negotiations. They also can help civic organizations, which often have small staffs, monitor the implementation of CBA commitments.

Implications for Research and Evaluation.

- Researchers should monitor how well the signatories to a CBA are following through on their commitments, as the literature on this subject is sparse.

Implications for Development and Investment.

- Developers should offer to include community benefits in their development agreements or enter into CBAs with affected residents and groups, especially if a project is potentially disruptive or costly to local governments in terms of development incentives.

Implications for Residents and Community Members.

- Residents and civic groups should seek legal help prior to negotiating for benefits; it is important to know how local, state, and federal laws empower and/or constrain opportunities for CBAs.
- Negotiators should get commitments in writing, to help avoid broken promises.
- The most effective negotiations and monitoring of benefits occur when groups work as a coalition of mutually supportive civic players.

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