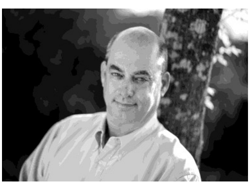
RHarper Consulting Update



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New Development Paradigms for 2011

With a new year upon us, some new paradigms are emerging for development of new projects and major rehabilitation of existing structures. It's debatable whether the "old" paradigm is broken, but, regardless, change is upon us and will evolution will continue. This evolution is driven by changes in the economy, and by project stakeholders' reactions to the dynamics of the economic environment.

New projects are launching with increased frequency, particularly in the multi-family market. As these new developments emerge in their respective markets, and if the recovery continues, momentum is expected to pick up as lenders and equity players achieve greater comfort with early results. Any significant improvement in job growth will certainly fuel more development activity.

Here are some of the emerging trends developers and contractors I've talked to are encountering as they start projects, along with some of the changes expected as current trends continue:

Higher impact fees – While, on the one hand, municipalities are aggressively seeking new development to shore up their diminishing tax bases, they are unable or unwilling to turn that intent into tangible economic incentives. In fact, many cities are dramatically increasing impact and permit fees. One disappointed developer I spoke to recently lamented that the impact fees for his current project had just exceeded the price of the land he was building on – and the city where he was working was about to raise fees even further. Cities have exhausted their capacity to provide financing for new infrastructure, and are placing new projects on "pay-as-you-go."

Increased completion bonds and timing requirements – Along with the increased impact fees mentioned above, the entitlement process has become more rigorous as well. Many cities have been left holding the bag on incomplete subdivision improvements and streets. Cities are now understandably wary of promises and commitments to complete future phases or improvements. Instead, they are requiring completion of these improvements as a condition for initial occupancy. Obviously, this is burdening projects with additional up front costs which they cannot recover until much later in the development cycle.

Underwriting and due diligence "on steroids" – While debt and equity are slowly becoming available for new projects, underwriting and due diligence requirements have been cranked up considerably. More third-party studies are required for substantiating project assumptions, with each party bringing their own experts to the table and the developer bearing the costs. This is having a significant impact to pre-finance cash requirements for projects.

Prompt Payment Acts – Contractors, subcontractors, vendors, and suppliers were left in the cold in the past few years as projects defaulted awaiting payment for services provided or payment of retainage for work completed. As lenders foreclosed, legitimate claims were wiped out. As a result, many states have toughened up their prompt payment statutes. These changes provide subcontractors and suppliers more protection, placing increased record keeping and fund segregation requirements on general contractors and owners. If you are contracting a new project, make sure your contracts and subcontracts provide for the most recent changes in your state's prompt payment statutes.

The development paradigm is always changing and evolving; that's what makes it so interesting . The changes mentioned above will have some impact to new projects, some major and some just challenging. Regardless, owners, developers and lenders will adapt, and the process will emerge and evolve; and, if history tells us anything, in the end it will be even stronger.

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RHarper Consulting Group provides development consulting, program management, and owner representation services focused on the senior living and mixed use sectors. In addition, Mr. Harper is also a listed mediator and arbitrator providing dispute resolution services for the construction and real estate industries.