

Curbing Municipal Hostilities

Mediation Is the Road to Follow in Border Wars

by Linda Stamato and Norman Glickman

Like nations, towns often battle with their neighbors. In March, Mamaroneck proposed to require developers to gain its approval for projects just outside its borders. This escalated hostilities between municipalities throughout Westchester.

At the root of Mamaroneck's action lies the following dynamic: mammoth projects -- for example, superstores and shopping malls -- increase revenues and add jobs for the host town but neighboring (generally more affluent) communities resist because they see no benefits and anticipate only problems, like traffic congestion and pollution.

These issues are not new or unique to Westchester; they manifest themselves whenever home rule is strong and enforcement mechanisms for regional cooperation are weak or non-existent. The new and timely twist here is the call for mediation to manage these disputes.

Paul Feiner, supervisor of Greenburgh (the town that sued adjacent Yonkers over a development of superstores) has called for creation of a mediation board. Mr. Feiner says he is "fed up with these fights and border wars; we need mediators to resolve these land-use disputes."

We agree.

Mediation of land-use disputes has a history of success. It has been used to settle disputes over highway location, port development, urban renewal and the siting of power plants. Given its record of success, mediation should be given a chance to settle "border wars." New York has used mediation in the past. For example, in 1972 Mayor John V. Lindsay asked a prominent lawyer, Mario M. Cuomo, to settle a dispute over a proposed low-

income apartment development in Queens. The mediated agreement among public agencies, citizens and private developers called for smaller buildings and cooperative ownership by the residents. Mr. Cuomo's mediation worked to diffuse a potentially explosive situation.

In 1996, mediation, initiated by Gov. George E. Pataki, produced an unusual partnership of upstate farmers, state and federal environmental officials, and New York City officials. Potential open warfare was brewing over New York City's plans to revise its watershed regulations. The change would have removed significant acreage from use for grazing and planting and was seen as a threat by upstate farmers.

Mediation helped the potential adversaries reach a locally formulated, voluntary and orderly settlement. This partnership demonstrates the advantages of urban-rural cooperation on economic development and environmental issues -- issues that are often at the core of many land- use disputes.

The record demonstrates the value-added dimension of mediation:

Compromises can be reached (e.g., size and location of stores, acceptable traffic patterns), and agreements can reflect mutual gains -- "win-win" solutions. Mediation is a cooperative, voluntary process that resolves conflicts through consensus in ways that meet the objectives of all concerned. The mediator, a neutral facilitator, assists in reconciling differences and devising solutions.

Mediation is appealing for many reasons. It is less formal and less expensive than litigation. It takes less time and it is more accessible to the average citizen. It also responds directly to problems underlying the dispute and can produce resolutions that are more efficient and enduring. In short, it works. The challenge is to fit the dispute to the appropriate forum for its resolution. Mediation is appropriate for handling disputes in which the parties' participation is needed to forge an agreement. Mediation works when there is no need or desire for a legal precedent. In mediation, solving a problem is more important than proving a political point.

When there are continuing relationships between adjacent communities embroiled in land-use disputes, mediation is a logical choice. A process that pits towns against each other and determines only winners and losers is ill-suited for devising remedies that work in the long term. Often, the situation requires more delicate and nuanced procedures.

Finding a way to reconcile Mamaroneck's interests with those of its neighbors requires political leadership and support for careful and respectful discussions. The proposal for a mediation board for Westchester County is a step in the right direction.

By creating a forum to encourage negotiation and mediation, Westchester would provide for discussions among public and private institutions and community-based organizations, within a supportive framework, so that they can plan for the future and resolve land-use disputes in ways that are less confrontational and adversarial -- and notably less litigious than the current border wars.

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