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**UPCOMING EVENTS**

- **June 7, 14, & 28**  
Wachovia Neighborhood Planning Workshops  
*New Brunswick (7) and Philadelphia (14 & 28)*  
[www.wachovia.com/regionalfoundation](http://www.wachovia.com/regionalfoundation)
- **June 7, 15, & 22**  
COAH Technical Seminars on Third Round Rules *Consult website for times and locations*  
[www.nj.gov/dca/coah](http://www.nj.gov/dca/coah)
- **June 16 & 23**  
Summer Institute on Community-Based Planning  
*New Brunswick, NJ*  
[policy.rutgers.edu/cupr/cdi](http://policy.rutgers.edu/cupr/cdi)

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New Jersey Department of Community Affairs  
*and*  
New Jersey Housing and Mortgage Finance Agency

**With Support From:**  
Edward J. Bloustein School of Planning and Public Policy

## Introducing *Forging Capacity*

Welcome to the inaugural issue of *Forging Capacity*. We hope with this newsletter to provide community development practitioners with a source of capacity building tools, techniques, and knowledge and to highlight the efforts and accomplishments of our partners, fellow practitioners, and the Community Development Institute (CDI).

Issued quarterly, *Forging Capacity* will cover a variety of topics of interest to the community development field. Using editorials, interviews, case studies, issue debates, resource reviews, and other features, we will provide our readers with information that we hope is both valuable and insightful. Our features will include guest articles authored by community development practitioners. Throughout the coming year, the CDI will identify additional areas of particular interest to be integrated into regular columns.

The goal of *Forging Capacity* is to strengthen the community development environment for practitioners by facilitating mutually supportive dialogue between the nonprofit, private, and public sectors to create a collaborative and informed capacity for positive change in our communities.

The audience for *Forging Capacity* will reflect the colorful tapestry of community development practitioners and their supporters: staff from local and state governments, community-based organizations and public housing authorities; local community leaders, foundation and banking officials, and others.

CDI and its partners are looking forward to providing our readers with concise and pertinent information. *Forging Capacity* will help to reinforce CDI's goal of being a valuable resource to community development practitioners throughout the state and region.

## Summer Institute on Community-Based Planning: Working Through the Challenges

In response to practitioners' on-going demand for more specialized training in community-based planning, the CDI, Housing and Community Development Network of New Jersey (Network), and the New Jersey Chapter of the American Planning Association are co-sponsoring a two-day Summer Institute on Community-Based Planning to



**Focusing Community-Based Planning**

be held June 16 & 23, 2005. The Summer Institute will be of interest to staff and

leaders of nonprofit organizations considering or undertaking neighborhood planning, as well as public sector staff, officials, and planners who want to be more informed about, help support, or collaborate with resident-driven planning efforts.

The Summer Institute will be the second installment in a professional development

**CDI STAFF**

Stephen Finn  
Director

Dr. Robert Burchell  
Faculty Associate

Lalitha Kamath  
Project Coordinator

Dahk Muhammad  
Administrative Associate

Andrew Rodney  
Research Assistant  
Newsletter Editor

**RELATED RESOURCES  
ON MANAGING  
CONFLICT**

*Handbook of Conflict Resolution*  
Morton, D. and Coleman, P.

*Managing Conflict*  
Bisno, H.

*Center for Negotiation and  
Conflict Resolution*  
[www.policy.rutgers.edu/cnrc](http://www.policy.rutgers.edu/cnrc)

*Conflict Resolution Info Source*  
[www.crnhq.org](http://www.crnhq.org)

**NATIONAL HOUSING  
INSTITUTE**

NHI examines key issues affecting  
affordable housing and community  
development practitioners.

NHI examines how these and other  
factors affect people as they try to  
build safe and viable neighborhoods.

Source: NHI Website ([www.nhi.org](http://www.nhi.org))

## New Jersey to Launch FREE Online Listing Service

The State of New Jersey is offering a new listing service FREE of charge to all consumers, managers and owners of affordable, accessible and special needs housing in New Jersey.

Called the New Jersey Housing Resource Center (NJHRC), this searchable, easy-to-use, online database will allow users to search for, or list, affordable and/or accessible rental and homeownership units located in New Jersey.

The State is requesting that landlords register their units immediately, as the site was publicly launched May 3, 2005. Landlords can describe their units in great detail; listings include pictures, maps, rental rules and policies, and nearby amenities, such as schools and public transportation. When the unit rents, the listing is removed.



To register your housing units or to see how the service works, go to [www.njhousing.gov](http://www.njhousing.gov). For inquiries from individual landlords, e-mail Nina Fedele ([nina@socialserv.com](mailto:nina@socialserv.com)) or call 1-877-428-8844.

The NJHRC is a partnership between the New Jersey Department of Human Services- Division of Disability Services, the New Jersey Department of Community Affairs, and the New Jersey Housing and Mortgage Finance Agency.

## Ten “D’s” of Opposition

These are a few of the tactics that opponents to community-based planning may use to derail the planning process. Even if your goal is one that everyone can agree on, there will be those who disagree with your methods for achieving it. Managing conflict while maintaining organizational integrity will depend on recognizing and counteracting these ploys:

**Deflect** – Shifting focus from the real problem

**Discount** – Questioning the issue, effort, and/or organizational legitimacy

**Divide** – Reducing effectiveness by dividing advocates

**Dulcify** Appeasing using small concessions

**Delay** – Retarding progress  
**Deceive**. Intentionally misleading by providing incorrect or truncated information

**Discredit** – Attempting to project an organization as incompetent or unnecessary

**Deny** – Refusing to admit the problem or issue exists

**Destroy** – Attempting to ruin an organization and/or its initiatives

**Deal** – Offering an unbalanced or unequal compromise between the competing stakeholders

Source: Community Tool Box  
(<http://ctb.ku.edu/index.jsp>)

(Refer to sidebar for additional resources on managing conflict)

## Featured Author: Alan Mallach

Alan Mallach is currently the research director of the National Housing Institute (*see sidebar*) in Montclair, NJ, and former Director of the Trenton Department of Housing and Development. He has taught

at many universities, most recently as a visiting lecturer in the urban planning graduate program at Rutgers University, and is a member of the College of Fellows of the American Institute of Certified Planners. Alan is

currently engaged in research and planning on urban redevelopment, neighborhood revitalization, and housing policy issues, both in New Jersey and throughout the United States.

# Hot Topic: Eminent Domain

With the decision in the *Kelo vs. New London* Supreme Court case looming, eminent domain has become a hot topic of discussion among community development practitioners. The Supreme court is expected to deliver an opinion on the case this summer regarding whether the power of eminent domain can be used to acquire private property to generate economic development and increase tax rateables. This closely watched case concerns a group of homeowners in New London, Connecticut who sued the city and the New London Development Corporation to prevent the taking of their properties for the construction of offices, a hotel, and upscale housing anchored by a modern global research center for a pharmaceuticals giant. As a result of the substantial implications this decision will undoubtedly contain, *Forging Capacity* has invited our featured author, Alan Mallach, to reflect on this case and its potential impacts on community revitalization.

## The Use and Abuse of Redevelopment and Eminent Domain

*Alan Mallach, FAICP  
Research Director  
National Housing Institute*

Since the days of the Progressive movement, cities have recognized that fostering economic growth and improving living conditions for their residents was an important part of their local government mission. Their efforts received a major boost beginning in the 1940s as laws were enacted giving local governments strong powers to carry out redevelopment projects, including the use of eminent domain – the power to take property against the owner’s will – for that purpose. Since then, state and federal courts have been all but unanimous in granting cities and counties broad latitude to use those powers.

The ability to assemble property, through eminent domain if necessary, and reconvey it to private developers for redevelopment has been a critical tool as older cities and towns have attempted to rebuild themselves and regain a competitive position in today’s marketplace. Without it, the rebuilding of Jersey City’s waterfront, New Brunswick’s downtown revival, or the Roebling Works restoration in Trenton, among many urban redevelopment efforts, would have been far less successful.

While redevelopment is more than eminent domain – most redevelopment projects do not involve its use – it is the most controversial aspect of redevelopment. The ability to take property against the owner’s will for public use, even with fair compensation as the Constitution requires, although deeply rooted in English common law, still goes against the grain of people concerned about property rights. Although it has been settled law in the United States for over fifty years, many still find the idea that a municipality can take a property from one owner and sell it to another troublesome.

The Supreme Court is currently pondering a case, *Kelo v. City of New London*, in which a group of homeowners are asking the courts to block the City of New London, Connecticut

from taking their property for a redevelopment project. In this case, the court is being asked to reassess whether redevelopment and economic development constitute a “public use” and to what extent the courts should limit or set standards on the use of eminent domain for such purposes. While few observers expect the Court to reverse decades of legal precedents, the fact that it is on their docket is itself important.

Eminent domain is a critical tool for community revitalization. Without it, valuable redevelopment efforts would be held hostage to holdouts and speculators. As Trenton’s redevelopment director, I used eminent domain on a number of occasions. Our takings included historic buildings whose owners were allowing them to be demolished by neglect, vacant industrial buildings owned by speculators, and other properties. In each case, these properties needed either to be removed or reused. The city would have been harmed if those buildings had been lost, or if we had been unable to reuse them more productively.

While eminent domain is a governmental function, it can be as important to community development corporations as it is to municipalities. As CDCs increase the scale of their activities, and embark on comprehensive neighborhood revitalization efforts, as in Camden’s Parkside neighborhood or Newark’s North Ward, their ability to assemble properties has become a critical part of the process. Without the ability to get the city to use eminent domain on their behalf when needed, their efforts could easily be stymied.

Unfortunately, eminent domain is easily abused. As urban redevelopment has become more profitable, fiscally stressed municipalities have broadened its use to pursue the clearance and redevelopment of areas which are not problem areas by any reasonable definition, or where the problems are social or economic rather than physical, in the process

[See **Mallach**, Page 4]

# Mallach *(continued from Page 3)*

displacing hundreds of lower-income and working-class families. Some cities may be motivated to add rateables by realizing an area's so-called highest and best use. In others, the motivation may be social or economic, reminiscent of the '50s description of urban renewal as 'negro removal,' using redevelopment as a tool to remove populations seen as undesirable, such as minority groups or renters. While New Jersey law – unlike that of some other states – requires a finding that the physical conditions of the area are such that it is "in need of redevelopment" before these powers can be triggered, the law is written so broadly that it has offered little check to abuse.

How can a municipality be permitted to take appropriate steps to grow its economy and improve its quality of life, while reining in the abuse of the powers that the municipality needs to do so? For many of those who support the homeowners in *Kelo* this is not an issue. They would happily see eminent domain rolled back to its 19<sup>th</sup> century scope, limited to direct governmental functions such as roads, schools or sewerage treatment plants. For those who care about the future of our cities, however, this is not a desirable option.

It is not a simple issue. Not all problem properties are vacant, and even the most thoughtful redevelopment will inevitably on occasion displace some families from their homes. Many areas legitimately in need of redevelopment contain at least some sound homes that nonetheless must be taken for the area as a whole to be properly rebuilt. Recognizing that, the bar defining what is proper practice when using eminent domain, particularly with respect to occupied properties that are not in themselves problem properties, must be raised. This could be addressed in a number of different ways:

- (1) The standard under New Jersey law for finding that areas are in need of redevelopment – formerly called 'blighted areas' – should be tightened, making clear what deleterious *physical* conditions must exist in an area before redevelopment powers are triggered.
- (2) Instead of treating all properties alike, the redevelopment law could be amended to set a higher threshold of necessity for taking occupied residential properties, particularly those in

sound condition. The municipality would be required to show that there were compelling benefits to taking those properties that significantly outweigh the harm to their owners or tenants.

(3) The definition of fair compensation should be revisited, to include two concepts that go beyond the traditional principle of

fair market value. Compensation should recognize the concept of damages for subjective losses, reflecting the emotional and other harm inflicted on residents – particularly long-term residents – by being forced to move. In addition, since the process of assembling a large tract may create incremental real estate value that exceeds the sum of the values of the individual properties, the idea that households being displaced be given the opportunity to share in the incremental value being created through the redevelopment process should be explored.

(4) Changes should be made to state law to increase relocation benefits – pathetically low, particularly for renters, under New Jersey law today – or require construction of replacement housing in areas where low income families cannot readily find affordable alternative housing.

In the unlikely event that the Supreme Court in *Kelo* decides to undo municipal powers to use eminent domain for redevelopment or economic development, a critical tool to further urban revitalization will be lost. Cities will continue to pursue redevelopment projects, of course, as they did before eminent domain was available. Many projects, however, will be blocked, and others pursued with less success.

If, as is likely, the Supreme Court does not significantly change the status quo, the problem will still remain. The solution, however, is not to eliminate the tool represented by eminent domain, but to reform it. All of the reforms suggested above will require changes in state laws, many of which are likely to be opposed by those whose lives will be made more difficult as a result. Advocates of reform will have to build a strong coalition if meaningful change is to take place.

## Eminent Domain in Redevelopment

Eminent domain is the authority to acquire private property through condemnation. A redevelopment entity may use the power of eminent domain to acquire any land or building in a redevelopment area that is identified for acquisition or possible acquisition in the redevelopment plan. It is a redevelopment power that:

- Normally is used only after good faith efforts by a redeveloper to acquire private property through negotiation have failed.
- Enables title to transfer to the redevelopment entity quickly, with a determination of the compensation to be paid to the property owner made through negotiation or through the legal system at a later date.
- Is accompanied by statutory protections afforded to the property owner, including:
  - a stipulation that no compensation offer made to a private-property owner by a redevelopment entity can be less than the acquired property's appraised fair market value (N.J.S.A. 20:3-6)
  - a declaration that the fair market value offered to a private property owner must not be less than the value of the property as of the date of the area in need of redevelopment declaration by the governing body (N.J.S.A. 20:3-38) [For other protections, see *The Redevelopment Handbook*]

Excerpt from: *The Redevelopment Handbook*, 2003, by Stan Slachetka, AICP, P.P., and David G. Roberts, AICP, P.P., ASLA, CLA, published by NJDCA, NJAPA & NJ Future.

Orders available at [www.njapa.org](http://www.njapa.org)

## Additional Resource:

Langdon, Philip. April 2005. "Eminent Domain Goes to Court." *Planning*. pp. 12-15.

## Institute *(continued from Page 1)*

series aimed at building practitioner capacity to conduct neighborhood planning and follows an introductory conference held last year.

Four courses will be offered during the Summer Institute. Each three-hour course will examine practical tools and techniques for dealing with some of the major issues and problems which may arise during the neighborhood planning process. Topics for the four courses are:

- discovering techniques for community engagement;
- working with city, county, and state governments during the planning process;
- acquiring and redeveloping abandoned and under-utilized properties; and
- resolving conflict among community

interests using a problem-solving approach.

Instructors will include officials from municipal and county planning agencies, staff from the Network and nonprofit organizations, and faculty from the Rutgers' Bloustein School of Planning and Public Policy. Sessions will combine theory, practical knowledge and hands-on exercises. Courses will be held in a relaxed environment at the Bloustein School's Civic Square Building, offering the opportunity to engage in networking and thoughtful discussions.

Thirty practitioners will be admitted into the Summer Institute. CDI and the Network will review applications and select a balanced mix of

participants from the nonprofit and public sectors and from varied geographic areas within the state. This diversity will enable the sharing of differing insights and strategies from multiple communities and sectors. A certificate of completion will be given.

For more information, please visit CDI at [www.policy.rutgers.edu/cupr/cdi](http://www.policy.rutgers.edu/cupr/cdi) and the Network at [www.hcdnnj.org](http://www.hcdnnj.org). If you would like to be placed on our mailing list, you may also call CDI at 732-932-3133 x 602 or email us at [CDIRU@rci.rutgers.edu](mailto:CDIRU@rci.rutgers.edu).

*Funding support for the Summer Institute is made possible by the New Jersey Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency.*

## APA/Leadership Plenty

Since January, fifteen community development practitioners working at community-based organizations, local governments and public housing authorities have been taking part in the CDI-sponsored APA/Leadership Plenty program. This unique leadership development program is targeted to nurturing the next generation of leaders in community development and urban planning and combines leadership training with executive coaching. Through interactive bi-weekly classes at the Bloustein School led by Leonardo



APA/Leadership Plenty Fellows discuss the "River of Life" exercise during a recent session.

Vazquez, AICP/PP, Instructor, the APA/Leadership Plenty Fellows have been learning the theories and methods of good leadership while engaging in group exercises and discussions about applying this knowledge to help

their organizations and communities. During July and August, each Fellow will receive coaching from a senior-level professional who will help the Fellow reach their leadership goal. For more information, consult:

Leonardo Vazquez, AICP/PP at 732-932-3822 Ext. 711, or CDI's website at [www.policy.rutgers.edu/cupr/cdi](http://www.policy.rutgers.edu/cupr/cdi)

## The Lighter Side

How many community-based planning practitioners does it take to change a light bulb?

*None. They empower it to change itself.*

Budgets help you worry before you spend money, as well as afterward.

"I don't believe there's any problem in this country, no matter how tough it is, that Americans, when they roll up their sleeves, can't completely ignore."

*George Carlin*

## What's Shakin'?

- Watch CDI's web site for details on how to obtain the new community planning handbook, a joint publication of the Community Development Institute and the Housing and Community Development Network of New Jersey. Expected this summer, the handbook will include a step-by-step planning guide, three New Jersey-based case studies, an annotated bibliography of planning resources, and a critique of the neighborhood planning movement by Dr. Kenneth Reardon, a national expert in community-based planning.
- **Did You Know?** The proposed national budget for 2006 has called for the virtual elimination of the federal CDBG program. The American Planning Association has created a CDBG Action Center which links users to valuable advocacy resources. Access the CDBG Action Center at <http://www.planning.org/legislation/CDBG>

# FORGING CAPACITY

## Community Development Institute

Center for Urban Policy Research  
Edward J. Bloustein School of Planning and  
Public Policy  
Rutgers, The State University of New Jersey  
33 Livingston Avenue, Suite 400  
New Brunswick, New Jersey 08901-1982

Phone: 732-932-3133 x 602  
Fax: 732-932-2363  
E-mail: [cdiru@rci.rutgers.edu](mailto:cdiru@rci.rutgers.edu)  
Website: [www.policy.rutgers.edu/cupr/cdi](http://www.policy.rutgers.edu/cupr/cdi)

“The starting point for a better world is the belief that it is possible.”

*Norman Cousins*

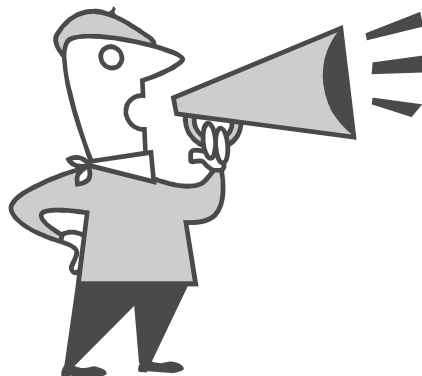
## Director's Cut

Welcome to our first edition of *Forging Capacity*. Many exciting activities are taking place at the Community Development Institute. Applications are now being reviewed for our first Summer Institute on Community-Based Planning, which will select 30 practitioners to receive training in critical areas of neighborhood planning development.

The publication of our new handbook on community-based planning is expected in mid-summer. The handbook will include materials to guide practitioners through the planning process and showcase best practices from three New Jersey communities that have developed neighborhood plans.

Our first leadership development course is in full swing. Fifteen practitioners have been taking part in APA/Leadership Plenty where they have been learning the skills to become effective leaders within their organizations and communities.

With much regret, we say goodbye to our research assistant and



newsletter editor, Andrew Rodney. Andrew has done a remarkable job at CDI during his year with us, launching *Forging Capacity* and helping to produce our community-based planning conference and other products. Andrew's intelligence, enthusiasm and great sense of humor brought much fun and insight to his work and to CDI. We wish Andrew the best of success as he begins the next stage of his career.

We would also like to thank our funders, the New Jersey Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency for their continued support.

*Stephen Finn, Director  
Community Development Institute*