

**THE ASSOCIATION OF THE BAR OF
THE CITY OF NEW YORK**

TASK FORCE ON DOWNTOWN REDEVELOPMENT

Principles for Public Participation

The Association's Special Task Force on Downtown Redevelopment has as its principal focus the legal and institutional processes to be followed by the City, State and Federal agencies involved in rebuilding Lower Manhattan following the World Trade Center attacks on September 11, 2001. As part of that effort, the Task Force has studied both the legal requirements applicable to the rebuilding effort and, more broadly, the opportunities for public participation in the planning, environmental review and implementation of downtown's redevelopment.

We have paid particular attention to public participation for several reasons. First, there has been (and continues to be) an extraordinary outpouring of support by New Yorkers, from all parts of the region and from all walks of life, for the City -- an entity whose health and vitality is important to all. That broad commitment to the welfare of our shared community must be acknowledged and reflected in a rebuilding process that is more than the sum of its bricks and mortar. Second, as is often the case, the rebuilding plan is likely to be better if it draws on the City's many talented citizens and organizations who share their ideas with the Lower Manhattan Development Corporation ("LMDC"), a subsidiary of the Empire State Development Corporation formed to oversee the revitalization of Lower Manhattan south of Houston Street. Third, genuine efforts by LMDC and other public agencies to encourage public participation in the rebuilding plan can help reduce the risk of future litigation that could threaten the timely completion of Lower Manhattan's redevelopment. While our Task Force is also studying the

statutory permits and environmental reviews required to carry out the redevelopment plan, we believe an orderly and inclusive process for public participation in the formulation of that plan is an important ingredient for its success.

We are therefore pleased that, in formulating its initial “principles” for redevelopment, LMDC has consulted with many victims’ families, downtown residents and retailers, civic, planning, cultural, educational and environmental organizations, Community Planning Board No. 1, public officials and other business and professional associations interested in the rebuilding process. LMDC has also established a number of special “Advisory Councils” composed of representatives of these groups, which are expected to continue to provide advice to LMDC throughout the planning process. In addition, a number of privately-sponsored coalitions, most notably “Imagine New York” (a diverse group of civic and community organizations and professionals convened by the Municipal Art Society), the “Civic Alliance to Rebuild Downtown New York” (with representatives from some 85 civic and environmental organizations) and “New York New Visions” (a pro-bono coalition of architecture, engineering, planning and design organizations), have helped foster the sharing of ideas with LMDC and the public.

This early and widespread consultation process has helped shape LMDC’s “Principles and Preliminary Blueprint for the Future of Lower Manhattan,” which is now being reviewed by the public. Another result of public involvement in the early planning stages has been the broad consensus that has emerged as to the desirability of opening all or portions of Greenwich Street south of Barclay Street in order to help reconnect the World Trade Center site to the area’s

North-South street grid (whether this corridor will be open to pedestrians only or to vehicular traffic as well has not yet been determined). The current proposal to redevelop the 7 Trade Center site in a way that permits opening Greenwich between Barclay and Vesey Streets is a tangible first step in that direction.

We believe this extensive public participation in the initial phase of the planning process, going well beyond any statutory minimums, was essential in view of the broad range of persons impacted by the events of September 11, 2001 and the importance that the redevelopment of Lower Manhattan has for the City, the region and the nation. As planning moves from broad principles to more specific redevelopment proposals, we believe it is also important that the broad forms of public participation evident in LMDC's initial work continue. Although the precise form of that participation is the responsibility of LMDC and other public bodies involved in that effort, we suggest the following broad principles for structuring and evaluating ongoing public participation in the planning process being undertaken by LMDC:

- 1. Timeliness:** Regardless of its form, public participation should continue during LMDC's planning process before basic decisions have been made with respect to uses, street layout, transportation links and other essential components of the rebuilding plan.

- 2. On-Going:** Public participation in the planning process should be on-going and iterative, providing opportunities for public comment at each major stage of the process, rather than as a one-time event at the outset of LMDC's work. As plans move from the general to the specific, new opportunities for public comment should be available, so that the public can know

the extent to which early suggestions have been incorporated into subsequent stages of the plans and can comment once again on the plans' major components.

3. Inclusion and Transparency: Public participation should include not only formal public hearings and an opportunity to submit written comments on proposed plans, but also consultation with LMDC's separate Advisory Councils, opportunities for email or other internet communications from interested members of the public and such other informal communications with civic and neighborhood groups, as well as groups outside lower Manhattan impacted by the events of September 11, as LMDC finds practical. Notices of hearings should be widely circulated to ensure effective participation at the hearings and should include notices on the internet and newspaper advertisements in English and in other languages. A repository of current plans, comments on these plans and other supporting information (other than work still in progress), together with a summary of the respective roles of LMDC and other involved agencies, should also be available to the public at the LMDC office or other convenient location, as well as on LMDC's website.

4. Direct Involvement by Decisionmakers: Public input, in whatever form, is most effective when it is addressed to and considered by the relevant agency decisionmakers. Accordingly, it is important that LMDC senior staff and board members participate directly in the public comment process so that they can be aware of the nature of such comments and consider them when major planning decisions are to be made. Decisions made by other agencies in the rebuilding process should also be informed by the public comments and suggestions submitted to LMDC during its development of the overall plan. While it would not be feasible,

and perhaps not even desirable, for each involved agency to replicate the extensive public participation process proposed in this report, other agencies should be present (through senior staff representatives) at the public hearings and forums conducted by LMDC on the proposed plan and should make clear their commitment to consider all public comments directed to their participation in that plan.

5. Responsiveness to Comments: To assure that public participation is meaningful, LMDC should carefully consider and respond to the substance of planning comments and, wherever practical, either incorporate them into its plans or indicate its reasons for not doing so. While this does not require LMDC to respond individually to all public comments, it should, in general, provide reasoned responses to comments on particular subjects as LMDC proceeds with subsequent phases of its plans. The purpose of this suggestion is not to require LMDC to accept or be bound by public comments but to let commentators know that their comments were considered. Where comments deal with the actions of other agencies, LMDC should consult with those agencies in preparing responses to such comments.

6. Statutory framework: The public participation process suggested above (and the procedures for public input followed thus far by LMDC) will enhance and complement the minimum process required by law. For this reason, it is desirable that this process for soliciting public comments early-on in the planning process and throughout the process not be isolated from the public reviews required by statute or agency regulations. To the degree feasible, LMDC should seek to integrate this public participation process into (or conduct it in parallel

with) the relevant statutory or regulatory reviews undertaken in the future by LMDC in connection with the approval of its plans.

7. Public Participation Report: At the completion of the planning process, LMDC should report on the extent and nature of the public participation incorporated into its planning process so that the benefits of that process might be considered in connection with other future large-scale planning efforts.

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