

**NEW JERSEY FUTURE
REDEVELOPMENT FORUM 2010**

REDEVELOPMENT LAW UPDATE

***LESSONS LEARNED:
PRACTICE TIPS EMERGING FROM
RECENT CASE LAW AND THE ECONOMY***

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**PRACTICE TIPS EMERGING FROM
RECENT CASE LAW AND THE ECONOMY**

- A. Blight Designation Investigation / Report**
 - . Substantial Evidence – No Net Opinion**
 - . Impacts on Other Areas**
 - . Expertise – In Addition To Planners**

- B. NOTICE - NOTICE - NOTICE**

- C. Valuation Issues**

- D. Monroe Properties Warning**

- E. Turn Square Corners**



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A. BLIGHT DESIGNATION INVESTIGATION / REPORT

Substantial Evidence – No Net Opinions

Examples:

- . **Building Permits**
- . **Usage of Public Transportation**
- . **Economic Activity**
- . **Block-By-Block Findings**
- . **Variance Applications**
- . **Tax Arrears**
- . **Occupancy Rates**
- . **Physical Inspections**
- . **Tax Delinquencies**
- . **Code Violations**
- . **Granted Variances**
- . **Scope of Private Market Real Estate Transactions**

. *MULBERRY STREET V. NEWARK*, Docket No. ESX-L-9916-04 (Decision 2007)

. *CITIZENS IN ACTION V. MT. HOLLY*, 2007 WL 1930457 (N.J. Super A.D.)



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A. BLIGHT DESIGNATION INVESTIGATION / REPORT

Impacts On Other Areas:

If Criterion (d): (Dilapidation)

Must Show Detriment To The Community

- . Employment Decline**
- . Tax Rateables Comparisons**
- . Property Values Decline**
- . Off-Site Environmental Impacts**

If Criterion (e): (Diversity of Title)

Must Show Potential Usefulness To Public Health, Safety And Welfare

- . Seed For New Development**
- . Jobs**
- . Rateables**
- . Vitality**
- . Quality of Life**



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A. BLIGHT DESIGNATION INVESTIGATION / REPORT

Impacts On Other Areas:

Planners Plus ?

Other Disciplines May Be Useful / Necessary

- . Real Estate Appraisal**
- . Residential Retail And Commercial Market Analysis**
- . Other**



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B. NOTICE - NOTICE - NOTICE

**“Contemporaneous” With Decision To Declare Blight –
Advise Property Owner That It Could Mean Condemnation**

And

Must Challenge In 45 Days

***Harrison v. DeRose*, 398 N.J. Super 361 (App.Div. 2008)**

Commercial Tenants?

***Iron Mountain v. Newark*, 405 N.J. Super 599 (App.Div. 2009)**



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C. VALUATION ISSUES

Property Owner Entitled To Fair Market Value As Of:

- . Declaration of Blight**
- . Governmental Action Having An Impact**
- . Date Of Taking**
- . Date Of Filing Of Condemnation Action**

Implications Arising From Down Economy



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**D. CAUTION: DON'T ACCEPT PRIVATE FUNDS
TOO EARLY**

(MONROE PROPERTIES WARNING)

Must Wait Until Redevelopment Plan Is Adopted

Before Accepting \$ From Redeveloper –

Or Else You Could Be Sent Back To Square One.

Monroe Properties v. Hoboken, 2008 WL 2219890 (N.J. Super A.D.)



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E. SQUARE CORNERS

“... Government Officials (Must) Act Solely In The Public Interest. In Dealing With The Public, Government Must ‘*Turn Square Corners.*’ ...Government has an overriding obligation To Deal Forthrightly And Fairly With Property Owners... Its Primary Obligation Is To Comport Itself With Compunction and Integrity, And In Doing So Government May Have To Forego The Freedom Of Action That Private Citizens May Employ In Dealing With One Another.”



***F.M.C. Stores Co. v. Borough of Morris Plains*, 100 N.J. 418, 426-27 (1985)**

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