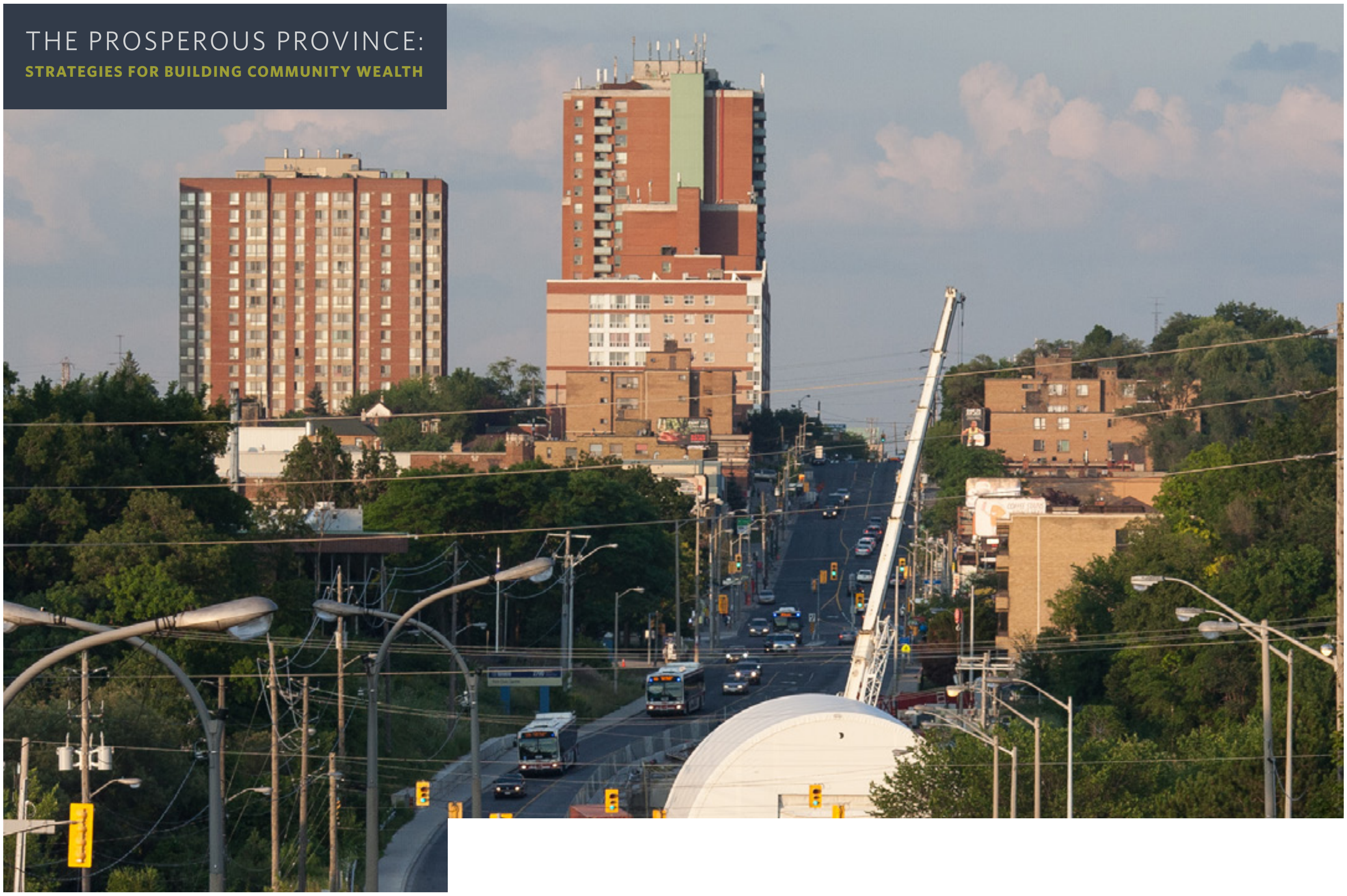

THE PROSPEROUS PROVINCE:
STRATEGIES FOR BUILDING COMMUNITY WEALTH

COMMUNITY BENEFITS AGREEMENTS

ANDREW GALLEY

Mowat Centre
ONTARIO'S VOICE ON PUBLIC POLICY

ATKINSON FOUNDATION

Construction site for the Eglinton Crosstown LRT. Weston-Mount Dennis, Toronto, ON Canada. Photo: Nick Kozak

THE PROSPEROUS PROVINCE:

STRATEGIES FOR BUILDING COMMUNITY WEALTH

Commissioned by the Atkinson Foundation, this report from the Mowat Centre is intended to support informed discussion and guide decision-making in the emerging field of community wealth-building. The report is part of a research series, **The Prosperous Province: Strategies for Community Wealth**.

THE MOWAT CENTRE undertook the study as part of its commitment to better understand and communicate trends and innovations in economic development, especially those that promote inclusive growth.

THE ATKINSON FOUNDATION is supporting the study because of its commitment to evidence-based public discourse on issues related to social and economic justice.

Mowat Centre
ONTARIO'S VOICE ON PUBLIC POLICY
School of Public Policy & Governance
UNIVERSITY OF TORONTO

The Mowat Centre is an independent public policy think tank located at the School of Public Policy & Governance at the University of Toronto. The Mowat Centre is Ontario's non-partisan, evidence-based voice on public policy.

It undertakes collaborative applied policy research, proposes innovative research-driven recommendations, and engages in public dialogue on Canada's most important national issues.

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The Atkinson Foundation promotes social and economic justice by investing in people who are making Ontario more equitable, inclusive and prosperous.

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FOREWORD

"It's time to challenge how Ontarians think about prosperity – who's responsible for creating it and who benefits from it."

It's time to challenge how Ontarians think about prosperity – who's responsible for creating it and who benefits from it. Over the next ten years, the Province of Ontario will invest $130 billion in public infrastructure and will continue to spend billions annually on goods and services to fulfill its mandate.

It's time to use this considerable economic power even more deliberately and strategically to address income and wealth inequality. If the Ontario government does this, we can expect to derive significantly more value from public investments and expenditures by 2025. We can also expect other organizations, businesses and even consumers to follow the government's example.

It's time, therefore, to engage a much broader base of people to lead Ontario in this direction. Only political power can unleash this kind of economic power. By first raising expectations and then voices, this kind of public policy reform is possible. The passage of *Bill 6: Infrastructure for Jobs and Prosperity Act* in the spring is proof of this fact and a sign of progress.

"There's a growing movement of people – inside and outside government – who aren't content to watch fissures open up and leave our province deeply divided along race, gender and income lines."

There's a growing movement of people – inside and outside government – who aren't content to watch fissures open up and leave our province deeply divided along race, gender and income lines. They know that these conditions are bad for investment, bad for business, bad for the quality of community life, and unacceptable for their children and grandchildren.

Many of us don't think of ourselves as anti-poverty activists. We manage public funds at various levels of government, in universities, colleges and hospitals, and in other nonprofit institutions. A few of us lead for-profit enterprises.

What we have in common is that our organizations and businesses are unlikely to ever become unmoored from the neighbourhoods and communities in which they were established. That's why they're called "anchor institutions." We have economic clout – and the responsibility to reduce poverty and the potential to build community wealth that comes with it.

Maybe like you, we think it's time to give more oxygen to solutions than problems. So, we've been looking around the world for others who are experimenting with strategies and mechanisms to create more decent work and share prosperity.

In places like Cleveland and Glasgow, we've found people who are busy negotiating Community Benefits Agreements with developers and officials responsible for public infrastructure projects. These enterprising leaders are working on better procurement strategies, workforce development hubs, and collaborations with organizations that engage, train and support workers in low-income communities. They're mounting "buy local" campaigns and promoting worker-owned businesses and co-ops.

"We're seeing signs of real progress in these cities, and they've helped us see the potential for progress in ours."

We're seeing signs of real progress in these cities, and they've helped us see the potential for progress in ours. That's why the Atkinson Foundation commissioned a series on community wealth building strategies from the Mowat Centre, starting with a paper on anchor institutions and a second one on community benefits agreements. Think of this information as briefing notes for an important mission – one that sets your sights higher than your institutional mission and on the day when a province is known as prosperous because its economy is inclusive.

This is not a new mission even though the way we're thinking about it is new. Consider health care, employment insurance and pensions along with greater gender, racial and marriage equality. In each case, people successfully challenged the belief that inequality is a natural condition with a clear political choice arising from a progressive vision for the country. They had a shared ambition that was, in the end, stronger than cynicism, private interests and institutional inertia.

The Atkinson Foundation's ambition is anchored in tough challenges and choices like those faced in the last century. Joseph Atkinson was a frequent media commentator during the public infrastructure boom that gave future generations the Bloor Street Viaduct and a modern water sanitation system among other civic improvements. In his op-eds for the *Toronto Star*, Mr. Atkinson advocated for Ontario's young cities and towns as the best "spot" for investment. He encouraged investors to place their bets locally for the biggest returns.

Perhaps the first choice we're asked to make is whether or not we'll stand with those whose investments demonstrated that their generation cared about the next. We hope you'll choose to join us in the continuing pursuit of an equitable, inclusive and prosperous Ontario.

Colette Murphy
Atkinson Foundation

August 2015

1 INTRODUCTION

Over the next decade, Ontario will invest billions of dollars in infrastructure ranging from transit expansion to new roads and repairs to existing bridges. Cities and towns across the province will also see an influx of public and private capital in land developments designed to meet housing demand and build up underused areas. All of these investments are poised to create substantial new wealth and strengthen the provincial economy.

At the same time, many Ontarians may not share in the prosperity generated by these investments. Income inequality is increasing in the province as it is elsewhere in the Western world.[1] In many larger cities like Toronto, this inequality among individuals is often marked by a growing gap between high- and low-income neighbourhoods.[2] Many jurisdictions are exploring a suite of policy approaches known as "community wealth building" in response to these trends.

"Community wealth building strategies differ from traditional approaches to poverty reduction by putting a focus on the community in market activities like institutional purchasing or infrastructure construction."

Community wealth building strategies differ from traditional approaches to poverty reduction by putting a focus on the community in market activities like institutional purchasing or infrastructure construction. They include building community assets, increasing the local capacity for business incubation, and creating decent work as a means to sharing prosperity more broadly and equitably.[3]

Community Benefits Agreements (CBAs) are a strategic tool used in the process of building community wealth. CBAs are negotiated agreements between a private or public development agent and a coalition of community-based groups. This coalition may include neighbourhood representatives, single-issue advocates, labour unions, social service agencies, religious congregations, faith-based groups and others. Together, they give a voice to people in infrastructure planning and land development processes – especially those indviduals who have been historically excluded or marginalized from these processes and decisions that affect them.

Coalitions usually draw their membership and build their base for advocacy from neighbourhoods directly surrounding significant projects. Spurred by a concern for the concentration of poverty in their neighbourhoods or cities[4], they seek to maximize economic opportunities offered by development projects – particularly those subsidized with public funds.

This paper explores CBAs attached to large-scale real estate or infrastructure developments.[5] It situates CBAs firmly in the Ontario context. It looks to the experiences of practitioners in other jurisdictions for lessons and cautions. It also considers how community organizers, public servants and developers can adapt this approach to their current realities.

The paper examines the structure of CBAs and the process for developing them. It will describe the leading examples, the current provincial landscape, and related strategic considerations before drawing some conclusions and identifying next steps.

It is timely research because Metrolinx and the Toronto Community Benefits Network have signed a Community Benefits Framework derived from the community benefits agreement model. The framework is a first for Ontario and is bolstered by significant signs of support for this strategy in provincial government policy, starting with the 2014 budget's infrastructure pledges and more recently the inclusion of community benefits in the passage of *Bill 6: Infrastructure for Jobs and Prosperity Act*.

The Toronto Star reported in June 2015 that, "the new law, which will guide $130 billion in new provincial infrastructure construction over the next 10 years, includes a framework for so-called 'community benefits agreements'."[6] The bill requires the public sector to consider community benefits when making decisions about infrastructure investments[7], and could usher in a new era of public, private and community collaboration to close widening divides in income and wealth across the province. It was the product of many months of advocacy on the part of a broad coalition including the Toronto Community Benefits Network and its partners in labour, philanthropy, business, academe and other community-based organizations.

A NOTE ON METHODOLOGY

This research is informed by interviews conducted with 12 senior executives at 10 different organizations, including municipal government agencies and community and advocacy organizations in the U.S. and Canada.

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2 DEFINITION, PROCESS, AND PLAYERS

Community Benefits Agreements are formal agreements between a real estate or infrastructure developer and a coalition that reflects and represents people who are affected by a large development project. The agreement outlines the benefits the community will enjoy from the project. These benefits usually include some combination of jobs, training or apprenticeships, business opportunities as well as neighbourhood improvements. Where the development includes residential construction, affordable housing can be a benefit negotiated through this process. Most agreements reflect the interests of people who are not already benefiting from economic growth, such as young workers, newcomers, foreign-trained professionals and low-income communities, and send opportunities their way.

CBAs are represented by legally binding contracts that contain the following elements:

- Description of the parties involved;
- Description of the project affected by the agreement;
- List of the agreed-to commitments on the part of the developer; and,
- In the U.S., a clause pledging the coalition to not oppose (and generally to actively support) the completion of the project.

"CBAs emerged in the United States during the 1990s as money flowed back into the downtown cores of cities that had previously experienced high levels of unemployment and poverty."

CBAs emerged in the United States during the 1990s as money flowed back into the downtown cores of cities that had previously experienced high levels of unemployment and poverty. Many local governments operated on the assumption that the faster and more easily developers could proceed, the faster depressed areas would be rehabilitated.[8] As a consequence, cities and states would often grant generous public subsidies or tax exemptions to such projects.[9] Public backing of large, for-profit developments became, in some places, almost a matter of course.

Leaders in the communities affected by these developments began to organize to leverage these public investments and extract more value from them. They believed the economic development process would be stronger if it were more democratic and delivered more community benefits. They formed coalitions that differed from what are known as NIMBY groups (Not In My Back Yard) who oppose large-scale development outright. By contrast, these coalitions see themselves as advocates for successful developments implemented through a more equitable and inclusive process.

In exchange for the developer making a commitment to the delivery of particular benefits, the coalition often pledges to support the approval of the development. The developer is not usually legally compelled to negotiate a CBA. If they agree to enter into one, it is because the coalition successfully demonstrates that this kind of development promises a better outcome – a shorter approvals process, a better project in the end, and a stronger, more appealing brand.

CBAs are still a new concept, and as a result have been applied in diverse contexts. Early examples of agreements were private contracts between a coalition of community representatives and a real-estate development company. These agreements were technically enforceable, as any other contract, through the threat of legal action in civil court.[10] Government regulators and policy-makers have played supporting roles, though in more recent agreements some governments have taken over direct responsibility.

Three key players work together to develop a community benefits agreement:

- **Community-based coalitions** – These groups are often led by already established advocacy and social service organizations such as regional labour councils or anti-poverty campaign organizers. They grow by identifying and convening stakeholders around a specific development project. Coalitions develop a consensus among their members on a single, coherent platform to guide negotiations.

- **Developers** – Both private and public developers have a strong orientation towards cost-control and value for money. Their goal is to successfully implement the project as quickly as possible.

- **Governments** – Governments, in particular municipalities, have a central role to play in the approval of major development projects. They are also often the source of financial subsidies. Benefits, such as tax deferrals, are used to both attract and facilitate private development, therefore, community coalitions often want to leverage these subsidies to strengthen bargaining positions. Many cities have been enthusiastic about the community benefits agenda as they have a policy interest in community reinvestment. For other cities, community-based coalitions represent an unwelcome challenge to the planning and approval process that would otherwise be governed only by the formal political process.[11]

When negotiating a community benefits agreement, a coalition usually seeks three elements:

- **Employment opportunities** – CBAs almost always contain clauses around targeted hiring and recruitment. Many also stipulate wage levels and work conditions. These clauses address the lack of economic opportunity in a neighbourhood most directly, and also serve as a common justification for public subsidy to development projects. CBAs can also target procurement systems to gain access for local businesses and social enterprises.

- **Affordable housing** – Large development and redevelopment projects often displace residents during construction, and may permanently displace more people indirectly by driving up future rents. Agreements around affordable housing attempt to mitigate this effect. For mixed-use developments, a provision may be to set aside a number of units at below market rate.[12] In projects where housing is not included, the developer might make contributions to a general affordable housing fund. Affordable housing is not applicable to every project but is a common feature of community benefits agreements where a development includes a residential component.

- **Community and environmental improvements** – This group of benefits is one of the most diverse and is determined by geography and community needs. Such improvements can include but are not limited to green space, child care space, land trusts or an incubator for new enterprises. Environmental mitigations in design and construction can also be included.

CBAs are often attached to large development projects, so they are highly time-sensitive. There are four key phases in the development of a CBA:

1. **Negotiation and coalition formation.** The initial process of convening potential members of a coalition can be deceptively quick. CBAs must be negotiated and signed before the developer signs a development agreement with (or receives final permission to build from) the city.[13] If core leadership groups receive adequate early notice of developments for which a CBA might be appropriate, they can then identify partners through their established networks.[14]

2. **Development of platform for negotiation.** This step is one of the most challenging. It requires narrowing initial demands to a more limited list around which a consensus can be built. To be a serious player, coalitions must produce a platform that is both realistic and meaningful (i.e. challenges development-as-usual).

3. **Implementation planning.** If negotiations go well and the parties agree on a list of benefits, coalitions turn towards planning implementation – a phase to which they make significant contributions. Developers may agree to provide funding for benefits but are usually ill equipped to implement the programs designed to deliver them.[15] For example, while a small segment of the coalition is actively negotiating the agreement, a broader cross-section of partners may be working to assemble the "pipeline" or hub needed to supply skilled workers, alternative vendors, etc.

4. **Focus on outcomes.** A successful CBA keeps outcomes in sight, such as the number of apprentices hired or child care spaces created. This oversight can take one of several forms for appropriate monitoring and possible remedies for non-compliance. For coalitions with a stable, well-resourced core organization, it is possible to hire staff to monitor compliance and progress.[16] In other situations, a joint Oversight Committee is created between the coalition, local government and the developer.[17] More recent agreements have on occasion included an independent compliance monitor, usually at the developer's expense.[18] Finally, the city may fold oversight of the CBA into the project's development agreement to make monitoring part of the public service bureaucracy.[19] In all cases the developer takes on some responsibility to report on progress.

DIRECT AND INDIRECT COMMUNITY BENEFITS AGREEMENTS

Community benefits negotiated by a coalition can be built into projects in two ways. A coalition can sign an agreement directly with a developer (or development agency). Alternatively, the agreement can be indirect with the municipal government holding separate agreements with both coalitions and developers. Coalition representatives interviewed differed on whether they preferred one or the other.

An incorporated community coalition can hold a direct agreement and has the right to take the developer to court if the agreement is broken. This is, however, an expensive and difficult prospect. Indirect agreements with a city government do not grant a right of civil action, but instead make enforcement a matter of public regulations.

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3 COMMUNITY BENEFITS AGREEMENTS IN ACTION

"What's useful about CBAs, and policies attached to subsidies, is that you can set a standard. So now, even projects that don't receive public dollars, but which need approvals, there's an expectation [by the city] that some benefits should be on the table."

— ROXANA TYNAN,
Executive Director, Los Angeles Alliance for a New Economy (LAANE)

Many of the foundational victories – and lessons – of the emerging community benefits agreements movement come from Los Angeles and the organizations that created the Figueroa Corridor Coalition for Economic Justice. This coalition formed in 2001 to create a unified voice for community concerns regarding a massive private development known alternately as L.A. Live! or the Staples Centre project. In some ways typical of massive downtown revitalization projects, L.A. Live! included a theatre, a hotel, a convention-centre expansion, shopping, and housing.[20] It also meant more noise, traffic congestion and loss of homes in an area of Los Angeles that had long suffered high rates of poverty and unemployment, and low levels of opportunity.

The Figueroa Coalition involved more than 30 community, environmental, labour, social-service, and faith groups in negotiating an agreement and leveraging an approximately $150 million (USD) subsidy to L.A. Live![21] The benefits won included:

- A "first source" hiring program;
- Living-wage requirements for 70 per cent of project-related jobs;
- Inclusion of affordable housing units;
- Parks and recreation investment in the neighbourhood by the developers; and,
- Consulting privileges for the coalition on the choice of tenants for the development.[22]

Those involved in the Staples CBA project credit it with creating much stronger collaborative links within the wider nonprofit sector, as well as greater political capital for people who have often felt excluded from city planning and governance processes. L.A. coalitions have won six subsequent and significant CBAs since 2001, including one with the public sector Los Angeles International Airport. The airport's major 2004 expansion plans included $200 million (USD) in negotiated environmental mitigations and community investments.[23]

The success of the Los Angeles coalition model has inspired other cities in the United States to negotiate and implement CBAs.[24] There are two common elements of these successes and others like them: (1) the leveraging of public subsidies offered to developers; and, (2) support from labour organizations or others with experience in negotiation and sustained campaigning.

Following the success in Los Angeles, the CBA model has been employed in other cities and adapted to their particular circumstances:

- In **Milwaukee**, the land to be developed had several public and private owners, and there was no one developer with which to negotiate.[25] In response, the coalition campaigned to have the county government adopt CBA clauses by legislation, where they would apply to any developer who eventually purchased and built on the land. This effort resulted in the development of a county policy, effectively a CBA, for those lands under control of the county, called the Park East Redevelopment Compact (PERC).[26]

- In **Vancouver**, the 2010 Olympic Village was built under a CBA, but the negotiating body was one created by a pre-existing tripartite agreement between the federal, provincial and city governments; that agreement then led to the creation of a lead agency which in turn consulted with community representatives.[27]

Other CBAs have not been as successful. The first reason is that development projects – particularly private real-estate developments – are sensitive to overall economic conditions. Several CBAs have been negotiated and canceled later by project bankruptcy.[28] The second reason is that CBA-backed projects became tied up in court battles when some groups concluded they were inappropriately excluded from the negotiating coalition and not adequately represented by the agreement.[29]

As CBAs have delivered demonstrable results, some champions such as the Partnership for Working Families have progressed from project-by-project negotiations and towards campaigns to institutionalize benefits into sustainable, across-the-board development practices.

4 ONTARIO'S POLICY LANDSCAPE FOR COMMUNITY BENEFITS AGREEMENTS

The community benefits agreement concept and the coalitions that have formed around it got their start in Ontario during the redevelopment of Toronto's Regent Park neighbourhood. A Community Benefits Framework followed with the Eglinton Crosstown Light Rail Transit (LRT) project. The primary signatories are the Toronto Community Benefits Network (TCBN), and Metrolinx, Ontario's agency responsible for regional transportation in the Greater Toronto and Hamilton Area. The Framework was intended as a precursor to the negotiation of a formal CBA between Metrolinx, Infrastructure Ontario, and Crosslinx, the builder of the line. Metrolinx has been very receptive to the idea and the process has been non-adversarial.[30]

"Part of what makes the accomplishments of the U.S. community benefits agreement movement so impressive is the deeply entrenched assumptions about development in their home cities they have managed to challenge and overcome."

There are important differences between Ontario and the American cities where CBAs got their start. Generally speaking, the geographic separation between high- and low-income neighbourhoods within urban centres is less extreme.[31] Part of what makes the accomplishments of the U.S. community benefits agreement movement so impressive is the deeply entrenched assumptions about development in their home cities they have managed to challenge and overcome.

While historically Toronto neighbourhoods were likely a mix of incomes, increasingly we are seeing exactly the stark dividing lines develop between have- and have-not areas that American cities have struggled for decades to overcome.[32] In small and medium-sized Ontario cities, the decline of the manufacturing sector has similarly resulted in challenges to maintaining vital downtown cores and self-sufficient neighbourhoods.[33] The heated debates surrounding plans for a downtown Toronto casino complex demonstrate that reaching a consensus on major land development is not easier or faster in Ontario than anywhere else.

Strategies for improving development outcomes are gaining currency in Ontario at a time when both nonprofits and government agencies are under considerable pressure to increase value for money spent. Partnership and collaboration are watchwords.[34] Getting organized to better distribute the benefits of land development is a natural albeit challenging prospect.

CASE STUDY #1: REGENT PARK REDEVELOPMENT

In the Toronto region, the CBA concept began to circulate during the redevelopment of the Regent Park neighbourhood more than a decade ago. Regent Park, one of Toronto's oldest public-housing developments, had long been a symbol of the shortcomings of mid-20th century planned urban development. Designed on a "garden city" model[35] of mostly medium-rise apartment blocks facing inward on greened spaces, it resulted in a low-income enclave visually and socially closed off from the surrounding city and lacking in local opportunities for business, employment and recreation.

In 2007, partners Toronto Community Housing Corporation (TCHC) and the Daniels Corporation, a land developer, unveiled a bold plan to break the entrenched stigma and stagnation of the area through a massive redevelopment scheme. Community concerns were both predictable and appropriate. Would the development plans result in displacing long-time residents, simply shuffling the problem of poverty in Toronto out of sight into the suburbs? Was the plan to improve the lives and prospects of residents, or simply to bulldoze what Torontonians had come to see as an eyesore?

The Regent Park redevelopment incorporated a local employment plan, targeting 10% of new jobs to residents. Meeting this target entailed building a pipeline to get candidates job-ready, and this pipeline relied on the collaboration of local community organizations. The project exceeded this jobs target by expanding job development beyond construction and the trades. Businesses acquiring tenancy in the new buildings (which included Sobey's and Royal Bank of Canada) signed on to participate in the employment plan. The project plan also funded the development of a social enterprise (the Paintbox Bistro) and the creation of community space including a theatre and art classes (the Daniels Spectrum Centre).

The legacy of Regent Park has not yet been settled. Criticism remains about the extent to which existing residents were involved in decision-making.[36] While the jobs programs exceeded their original targets, the number of people who secured new jobs remains small in real terms.[37] In addition to introducing to Toronto the CBAs, however, Regent Park started the process of building collaborative links between community, labour and nonprofit groups as well as developing a business case for developers like Daniels. (e.g. building a brand based on ecologically-responsible, locally-responsive, land development).[38]

CASE STUDY #2: EGLINTON CROSSTOWN LIGHT RAIL TRANSIT (LRT)

In 2013, the Toronto Community Benefits Network (TCBN) was organized in response to the decision to build the Eglinton Crosstown LRT. The new line crosses through or near five neighbourhoods identified by the City of Toronto as "Neighbourhood Improvement Areas." The coalition's aim is to ensure the $5.3 billion infrastructure project creates economic opportunities for residents in those areas as well as for low-income Torontonians across the city.

In April 2014, Metrolinx co-signed a Community Benefits Framework with TCBN. The Framework recognizes that its "major infrastructure investments should provide benefits for the communities in which it works, including employment, training, apprenticeship, local supplier and social procurement opportunities where possible."[39] It outlines guiding principles, roles and responsibilities of primary partners, and expectations for the creation of a monitoring and compliance model.

The Eglinton Crosstown LRT is Metrolinx's first "community benefits program". It provides an opportunity to not only develop and test a model for how infrastructure projects can return benefits to low-income communities, but to do the groundwork necessary for effective application across future transit projects in Toronto.

Currently, Metrolinx is in the process of developing a project agreement with the consortia contracted to construct the Crosstown line.

Linking infrastructure projects with community benefits in this way is a model for greater collaboration in Ontario between government, labour, nonprofits and business.

The Policy Framework for CBAs in Toronto and Ontario

Several laws and policy documents have already played a part in shaping the CBA concept in Ontario, and others are likely to come into play in the future.

- **City of Toronto Strong Neighbourhoods Strategy 2020**[40]
  Toronto has recognized the importance of place-based solutions to poverty with its neighbourhood strategies. It has identified areas of the city in particular need of opportunity. The existence of this policy framework – and establishing similar frameworks elsewhere in Ontario – provides a rationale for CBA negotiations concerning identified areas.[41] Recognizing such Neighbourhood Improvement Areas can also signal that city governments are open to partnerships with both coalitions and developers to make CBA implementation work. The City's current development of a Poverty Reduction Strategy is another significant opportunity to further develop "community benefits" programming within the municipal context.

- **Section 37 of the Ontario Planning Act**
  In Ontario, section 37 allows cities to trade exemptions from height/density restrictions (previously established in their Official Plans) to developers in exchange for money to be spent on community improvements. Section 37 agreements do not usually include any consideration of jobs, wages and hiring, and are intended to secure one-time capital expenditures; they are binding in that they become part of the development permit issued by the city. Developers may resist entering into CBAs if they perceive they are already providing benefits through section 37, although as noted elsewhere in this report, there are many reasons why

developers may still find a CBA advantageous. In any event, section 37 practices have recently received extensive analysis and criticism, and CBA practitioners in Ontario should engage policy change in this area.[42]

- **Bill 6: Infrastructure for Jobs and Prosperity Act, Ontario**
  The Act, passed June 4th 2015, aims to support long-term infrastructure planning and investment in the province. Importantly it includes, as a principle, the promotion of community benefits, such as local job creation, training and apprenticeship opportunities and other neighbourhood improvements through infrastructure construction. There is significant opportunity for government to consult with stakeholder groups to ensure there are meaningful and practical ways to implement the Act through the development of the regulations under it.

- **Infrastructure Ontario (IO) Partnerships**
  Ontario builds infrastructure projects through a specialized agency that develops public-private partnerships for financing. They are empowered to seek value for public money in the contracting out of construction projects, and include a "Community and Green Benefits" heading in their summary reporting on signed deals.[43] Any CBA for the Eglinton Crosstown Project will include IO as a signator (along with Metrolinx and Crosslinx). IO is therefore a potential negotiating partner for CBA advocates in the future: a government body that can set terms for a wide array of infrastructure projects.

- **Build Toronto**
  A corporation established by the municipality, Build Toronto is responsible for creating value through development deals on city-owned property. Community engagement and "neighbourhood-centred" development are among its stated corporate values.[44] Because the properties are known quantities, and because the corporation has a broader public-sector orientation, it is likely a partner for early starts on CBA discussion, before detailed development plans are set in stone.

The Economic Potential of CBAs in Ontario

CBAs are not negotiated for every development nor would this be feasible.[45] They are most likely to be negotiated for very large development projects with large geographic footprints bordering or overlapping with residential neighbourhoods, although smaller scale projects are possible. What if every development of this type in Ontario – worth, say, more than a hundred million dollars – had a CBA? A rigorous economic analysis of this question is beyond the scope of the paper, but we can offer a rough estimate for discussion.

The size of a development project is usually reported by governments, developers and the media. Similarly, when a CBA campaign is successful, coalitions and developers are not shy about reporting the monetary value of negotiated benefits. Here are some examples from the United States:

- **Atlanta Beltline project:** $2.8 billion (USD) in value[46], CBA provided $82 million (USD) in benefits.
- **San Francisco Hunter's Point redevelopment:** $7 billion (USD) in value, over $35 million (USD) in benefits.
- **New York City Columbia University Expansion**: $6 billion (USD) in value, $150 million (USD) in benefits.
- **Los Angeles Airport Expansion**: $4.8 billion (USD) in value, $200 million (USD) in benefits.
- **Los Angeles Grand Avenue**: $2 billion (USD) in value, over $55 million (USD) in benefits.
- **Hollywood and Vine**: $0.326 billion (USD) in value, more than $1 million (USD) in benefits.

Here are a few recent or near future developments in Toronto of comparable size:

- **Waterfront Toronto**: $1.5 billion committed.[47]
- **The Big Move Regional Transportation Plan**: $11.5 billion committed, could grow as large as $30 billion.[48] Metrolinx, the regional transportation agency, has committed to community benefits frameworks on all of its future projects.[49]
- **Ripley's Aquarium**: $0.130 billion in value.[50]

At a glance, successful CBAs can secure anywhere from 1 to 4 per cent of the value of large development projects. For the Big Move alone, this figure would be between $230 million and $600 million dollars in benefits to low-income communities in the GTHA, assuming a 2 per cent investment in CBAs. It should again be taken with extreme caution, however, and represents the roughest start of an economic analysis of the potential scope of CBAs in the GTA and Ontario.

5 INSIGHTS FROM EXPERIENCE

"Breadth and diversity within a community coalition is an essential factor in the success of a CBA. The strength of a coalition, however, comes from more than just raw numbers."

Early CBA experiences suggest five major factors affecting their success.

1. Building Credible and Authentic Coalitions

Breadth and diversity within a community coalition is an essential factor in the success of a CBA. The strength of a coalition, however, comes from more than just raw numbers. 'Under the hood' are four distinct contributions that partners can make. These are power, authenticity, credibility and sustainability.

Power was a term used by several organizers to describe the ability of coalitions to get the attention of elected officials, regulatory agencies and developers. It referred to the literal size of the full coalition, the number of voters, the persistence of messaging, and the size of public demonstrations. Power allows coalitions to convince potential partners that they represent a unified bloc that can help or hinder proposed development. The coalition must seek both media exposure and access to political decision-makers and bring pressure to bear on the developer to negotiate. Power is provided primarily by labour and by member-based community organizations.

Authenticity describes whether a coalition has succeeded in amplifying the voices of historically excluded groups in the development process. Member-based organizations originating from affected communities, with a history of previous organizing and recognized as such by local elected officials, are key to this authenticity.

Credibility refers to the coalition's ability to build a rational vision of implementation, set expectations that are challenging but realistic, and demonstrate the capacity to contribute to overall project success. Bringing to the table established nonprofits and social service agencies, including government bodies involved in job training or community development is key to establishing credibility.

Lastly, *sustainability* is demonstrated by a coalition's 'backbone' organizations – those that have a longer and more established history and relatively stable funding and leadership. Building a strong consensus on negotiating positions, and then contributing to both implementation and oversight, requires members who can plan years in the future. Labour organizations can be important in this area, as are government or broader public sector partners.

2. Achieving Consensus on a Negotiating Platform

Organizers of CBA coalitions – despite affirming that each successful CBA made building the next coalition easier – agreed that the time requirements of consensus-building and negotiation made it unlikely that CBAs could be applied to every development project. Further, because projects with CBAs are large and can last seven to ten years from conception to completion, coalitions had to plan for a gradual loss of capacity as implementation proceeds.

After building a credible and authentic coalition, practitioners must deal with the tension between "now," "later," and "next time." Early TCBN meetings, intended to introduce community members to the concept of CBAs and solicit their participation in a years-long process, drew many who had resumés in-hand ready to apply for jobs that did not yet exist.[51] This illustrated powerfully not only the hunger for opportunity among stakeholders, but foreshadowed difficult choices: modestly successful CBAs lay the groundwork for future coalitions and bigger successes, but communities may find them too stretched to remain committed to the CBA concept. This dilemma has been successfully overcome many times by many coalitions, yet there is no simple answer. Each CBA campaign must find the right balance for its time and place.

If governments view CBAs as policy pilots and take up the most consistently successful provisions, it could shorten the time commitment needed by all parties to reach agreement. Alternately or additionally, some nonprofits could begin to specialize as "backbone" organizations to do CBA-organizing work full-time. LAANE in California fulfilled this role for a time. Other "backbones" such as the Partnership for Working Families have gradually turned their attention from individual development campaigns towards working for across-the-board development policy changes.[52]

3. Balancing Competing Demands on Developers

Communities are not the only stakeholders for developers. Navigating existing government permitting processes and making the case for access to public subsidies already consumes considerable time and resources, often spelling the difference between project success and failure. Shareholders in private investments expect stewardship that safeguards a reasonable margin of profit, whereas auditing bodies in the broader public sector will be monitoring budget variances and costs.

CBA negotiations reduce the existing – and undesirable – conflicts that regularly plague existing implementation of development plans. Developers stand to gain three major short-term benefits from the success of the CBA concept:

"A successful CBA wins a developer politically powerful allies in the process of permitting and applying for targeted subsidies such as tax referrals."

- A successful CBA wins a developer politically powerful allies in the process of permitting and applying for targeted subsidies such as tax referrals, CBA coalitions in the United States have consistently helped developers win higher rebates from government once an agreement is signed.

- The carrying costs of having a project on the books but proceeding through the permitting process are reduced as communities voice support for the project in public hearings.

- Agreements eliminate the costs – both to developers and the public – of legal hearings such as those burdening the Ontario Management Board (OMB).

Beyond the cashable benefits, developers who successfully negotiate agreements can pursue brand identity as a developer of community preference, smoothing the way for future projects.[53]

4. Setting Targets

"Experts on CBAs emphasize that participants should share a vision of what the concrete outcomes of the agreement will be, and how they will be measured."

Experts on CBAs emphasize that participants should share a vision of what the concrete outcomes of the agreement will be, and how they will be measured. One interviewee remarked that setting targets was not difficult for affordable housing and good jobs because the size of the proposed development "automatically scaled" the demands.[54] For others, impartial outside advice was important to establish in advance what targets were likely to be feasible and acceptable to communities and developers.[55] Easiest of all are binary yes/no targets, such as the creation of a child care centre or a community park. These targets require the greatest consultation and consensus building, however, as they vary the most between places and communities.

A separate challenge arises when negotiating the 'chain of contracts.' How will responsibilities agreed-to by the developer apply to contractors and tenants not yet part of the project? Most CBAs extend jobs provisions to any subcontractor involved in the construction phase, but provisions taper off once the project is operational and other companies or agencies take over. This is an area where coalitions find legal advice necessary and where negotiation gets harder the further you stretch the 'chain'.

Developers sometimes feel that projects are too large and complex to commit to firm targets in advance. This was the case for Metrolinx and the TCBN, as the Eglinton LRT was still at the RFP stage and even the development company was yet to be selected. In Toronto's case this resulted in a signed "framework agreement" rather than a binding contract, setting general targets but also establishing a future, cooperative process for changing course as needed. Another solution is to establish flexible targets that challenge signatories to come up with creative solutions. For example, the L.A. Live! CBA established a target whereby at least 70 per cent of jobs created had to be living wage. This provision allowed the developer to recruit a mixture of tenants and, in fact, the target was surpassed.[56]

5. Measuring Success and Compliance

In theory, the legal nature of a CBA is one of its strengths. Insofar as a 'classic' CBA is a private agreement between a coalition of community representatives and a developer, breach of the terms could lead to a court battle. In practice, this scenario is one that all sides want to avoid for its legal and other costs.

One interviewee put numbers to the concept of a 'time limit' on coalitions, saying that the capacity for oversight and engagement begins to shrink around the third year of the implementation process and is significantly weakened by the seventh year. However, this does not imply failure for the CBA. Rather, coalitions are advised to use the first years to build strong relationships with public sector partners and regulatory agencies that are more stable and who can shoulder the responsibility for oversight in later years.

Further, experience has demonstrated that collaborative solutions for oversight that encourage course correction over punishment are best. This has challenged the impression – shared particularly among some of the grassroots of coalitions – that agreements have little teeth if outcome metrics are missing or unreliable. It has also led some projects towards a broader definition of CBA – one that might include government tenure of the agreement (i.e. making developer responsibilities part of permits) or a 'framework' agreement like the one between Metrolinx and TCBN.

Data quality concerns are a major preoccupation of post-implementation oversight bodies. Toronto's CBA initiative faces the task of creating a functional pathway to connect job-ready individuals to skilled work on the LRT project. This involves alignment of supports and tracking across community-based nonprofit and workforce development organizations, apprenticeship programs, trades training centres, and project contractor projections of employment needs.[57]

6 CONTINUING THE CONVERSATION

The conversation about community benefits agreements remains focused on the evolution of this strategy in Ontario, and the incorporation of lessons learned from other jurisdictions. What follows are some questions and key points for further discussion.

How can the number of CBAs be expanded in Ontario in a sustainable way?

- CBAs bring out the best in all parties to the development process when motivated citizens reach consensus and then forge a shared vision with developers and government partners. The process builds nonprofit and community capacity while putting a lot of pressure on those involved.
- Government partners can guide the policy learning process to distill from practice the list of community benefits that is open to negotiation rather than building the list from scratch each time.
- Funders can consider providing support through existing nonprofit funding mechanisms for backbone organizations positioned to provide ongoing support to the CBA negotiation process.

What is the strongest business case for developers to actively seek CBAs?

- Previously negotiated CBAs have demonstrated that developers have much to gain from supportive communities. There is more work to be done in quantifying and exploring why neighbourhood-centred development makes good business sense.
- More rigorous estimates of average carrying costs and legal costs (e.g. OMB hearings) are needed.
- Brand value assessment and follow up with "good neighbour developers" who can speak to their experience is also needed.

How should the provincial government foster community benefits and who should take the lead?

- There are a number of public sector organizations involved in different aspects of CBAs in Ontario. There are several ways to organize and coordinate this work from a single portfolio to multiple strategic visions to a stand-alone office among others. The development of regulations under the recently passed *Bill 6: Infrastructure for Jobs and Prosperity Act*, provides an opportunity to entrench community benefits in public infrastructure construction projects across the province.

- The reform of the development process and introduction of CBAs can bring focus and labour market clarity to skills training money.

What is the role for CBAs in smaller and in rural development projects?

- In Canada and the United States, CBAs have been a feature mostly of “downtown” development so far. There are, however, smaller cities which have comparable conditions, challenges and choices to make about their development processes.

- Resource company impact agreements with First Nations communities likely have important lessons to inform the community benefits agreement movement.

- In the context of building a green economy, community benefits agreements have the potential to contribute to a larger environmental agenda.

“Participants in conversations about CBAs cite new reserves of trust, skill and resolve needed to tackle other complex issues as one of this work’s unexpected benefits.”

Participants in conversations about CBAs cite new reserves of trust, skill and resolve needed to tackle other complex issues as one of this work’s unexpected benefits. It’s not about new money, they say. It’s about working differently with the resources already on the table and not leaving any untapped value there.

Unlike traditional public consultations and less transparent decision-making processes, this planning and development process is about win-win solutions. It counters the cynical view of development as serving only a select few with real evidence that it can serve us all. As Ontario heads into this second decade of a new millennium, Community Benefits Agreements are emerging as a useful strategic tool for creating more decent work and sharing prosperity.

WORKS CITED

Altshuler, A., and D. Luberoff. 2003. *Mega-Projects: The Changing Politics of Urban Public Investment.* Washington, D.C.: Brookings Institution Press.

Beltrame, J. 2014. “Canada’s income gap among fastest growing in the OECD.” *CTV News*. Accessed at http://www.ctvnews.ca/business/canada-s-income-gap-among-fastest-growing-in-the-oecd-1.1799525

Building Industry and Land Development Association. 2013. “Understanding Section 37.” *Bildblogs*. Accessed at http://www.bildblogs.ca/understanding-section-37/

City of Toronto 2014a. “Toronto Strong Neighbourhoods Strategy.” Accessed at http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=cf8a42f18beb2410VgnVCM10000071d60f89RCRD

City of Toronto 2014b. *Section 37 review: Final report*. Accessed at http://www.toronto.ca/legdocs/mmis/2014/pg/bgrd/backgroundfile-66994.pdf

Flavelle, D. 2014. “Canada’s inequality growing: Stats Can.” *The Toronto Star*, Sept. 11. Accessed at http://www.thestar.com/business/personal_finance/investing/2014/09/11/rich_gaining_more_wealth_study_shows.html

Gold, J., and J. Hjartarson. 2012. *Integrating human services in an age of fiscal restraint: A Shifting Gears report.* Mowat Centre publication no.57. Accessed at http://mowatcentre.ca/integrating-human-services/

Gross, J., Leroy, G., and M. Janis-Aparicio. 2005. *Community Benefits Agreements: Making Development Projects Accountable*. Good Jobs First / California Partnership for Working Families. Accessed at http://community-wealth.org/sites/clone.community-wealth.org/files/downloads/report-gross.pdf

Hulchanski, J.D. 2010. *The Three Cities Within Toronto: Income Polarization Among Toronto’s Neighbourhoods, 1970-2005.* University of Toronto Cities Centre. Accessed at http://www.urbancentre.utoronto.ca/pdfs/curp/tnrn/Three-Cities-Within-Toronto-2010-Final.pdf

Jargowsky, P.A. 1997. *Poverty and Place: Ghettos, Barrios, and the American City*. New York: Russell Sage.

Lauder, C. 2010. “Downtown Revitalization Strategies in Ontario’s Mid-Sized Cities: A Web-Survey and Case Study.” Thesis, University of Waterloo. Accessed at https://uwspace.uwaterloo.ca/bitstream/handle/10012/5094/ALauder_Thesis_2010.pdf?sequence=1

Los Angeles World Airports. 2013. *LAX Master Plan Community Benefits Agreement (CBA) 2012 Annual Progress Report.* Accessed at http://www.lawa.org/uploadedFiles/OurLAX/pdf/CBA/CBAStatusReport2012.pdf

Marcello, D. 2011. “CBA Overview: What they are and what they aren’t.” Presented at a symposium of the Public Law Centre, Win-Win-Win: The Advantages of CBAs for the Community, Developers, Government and You!. Accessed at http://www.law.tulane.edu/tlscenters/PublicLawCenter/index.aspx?id=3906

Parks, V., Dorian, W., and M. Waller. 2008. “Community Benefits Agreements: Policy for the Twenty-First Century Economy”. Washington D.C.: The Mobility Agenda. Accessed at http://www.mobilityagenda.org/home/page/Community-Benefits-Agreements-Policy-for-the-Twenty-First-Century-Economy.aspx

Partnership for Working Families. 2012. “Policy & Tools: Targeted Hiring and First Source Referral Systems.” Accessed at http://www.forworkingfamilies.org/page/policy-tools-targeted-hiring-and-first-source-referral-systems

Peachey, K. 2009. *Building on Success: An evaluation of the Community Benefits Agreement for the Vancouver Olympic Village Site*. Vancouver: Building Opportunities with Business Inner City Society (BOB).

Public Law Centre, The. 2011. *Summary and Index of Community Benefit Agreements*. New Orleans: The Public Law Centre. Accessed at http://www.law.tulane.edu/uploadedFiles/Institutes_and_Centers/Public_Law_Center/Summary%20and%20Index%20of%20%20Community%20Benefit%20Agreements.pdf

Salkin, P., and A. Levine 2008. “Community Benefits Agreements.” [blog]. Accessed at http://communitybenefits.blogspot.ca/

United Way of Greater Toronto. 2004. *Poverty by Postal Code: The Geography of Neighbourhood Poverty 1981-2001.* Accessed at http://www.unitedwaytoronto.com/document.doc?id=59

Yarhi, E. 2012. “A Brief History of Regent Park.” Toronto: Daniels Spectrum. Accessed at http://regentparkarts.ca

ENDNOTES

1 Beltrame 2014, Flavelle 2014.
2 Hulchanski. 2010.
3 http://community-wealth.org/
4 This is a longer-standing feature in many American cities; see for example Jargowsky 1997. However, Hulchanski (2010) and United Way (2004) have recently called attention to the rise of this problem in the GTA.
5 Others have done an excellent job of introducing CBAs, see, for example, Gross et al. 2005, Parks et. al. 2008.
6 http://www.thestar.com/news/gta/2015/06/07/groundbreaking-infrastructure-law-a-boon-for-at-risk-youth.html
7 *Infrastructure for Jobs and Prosperity Act, 2015*, S.O. 2015, c. 15, s. 3(13)
8 Altshuler and Luberoff 2008: 27-43.
9 *Ibid:* 42.
10 However, enforcement can be expensive and difficult for community groups.
11 Milwaukee (Park East Project)
12 Interview data.
13 Interview data.
14 Interview data.
15 A common American term for targeted hiring for area residents who face barriers to traditional labour market participation is 'First Source' (See for example Partnership for Working Families, 2012). 'First source' refers to the concept that qualified individuals who complete skills-readiness programs through designated agencies will receive preferential consideration, but employers will then fill the remainder of the workforce needed through ordinary, open channels.
16 Interview data.
17 Interview data.
18 See, e.g. Metropolitan St. Louis Sewer District Capital Improvement Replacement Program CBA, http://www.stlmsd.com/sites/default/files/misc/704693.PDF
19 Interview data.
20 Gross et al. 2005.
21 *ibid.*
22 *ibid.*
23 Los Angeles World Airports 2013.
24 Public Law Centre 2011.
25 Interview data.
26 Available online at http://www.forworkingfamilies.org/sites/pwf/files/documents/PERC_0.pdf
27 Peachey 2009
28 Public Law Centre 2011: xx
29 For example, the "Oak to 9th" project in Oakland, discussed in Salkin & Levine. 2008.
30 Interview data.
31 Jargowsky. 1997.
32 C.f. Hulchanski. 2010.

33 Lauder. 2010.
34 C.f. Gold and Hjartarson. 2012.
35 Yarhi. 2012.
36 Interview data.
37 Interview data.
38 Daniels website, accessed at http://www.danielshomes.ca/corporate_profile.html
39 Metrolinx Community Benefits Framework, April 2014 - http://community-benefits.ca/wp-content/uploads/2015/07/Framework-signed.pdf
40 City of Toronto 2014a.
41 Interview data.
42 City of Toronto 2014b, BILD 2013.
43 Infrastructure Ontario examples on their website here: http://www.infrastructureontario.ca/What-We-Do/Projects/AFP-Projects/
44 Build Toronto website. buildtoronto.ca
45 Interview data cites >$100M as the threshold where negotiation is feasible. Altshuler and Luberoff 2008 use >$250M as a definition of "mega projects".
46 For all figures in this list, the source is Salkin and Levine 2008 unless otherwise noted.
47 Waterfront Toronto. waterfrontoronto.ca
48 Metrolinx. metrolinx.com
49 Interview data.
50 Ripley's Aquarium webpage: ripleyaquariums.com/canada/
51 Interview data.
52 Interview data.
53 Marcello. 2011.
54 Interview data.
55 Interview data.
56 Interview data.
57 Interview data.

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