

PUBLIC NIMBY No. 1:

AN INTERVIEW WITH WAL-MART'S #1 ENEMY

Al Norman achieved national attention in October of 1993 when he successfully stopped Wal-Mart from locating in his hometown of Greenfield, Massachusetts. Since then he has appeared on 60 Minutes, and gained widespread media attention from the Wall Street Journal to Fortune magazine. Al is the editor of the monthly Sprawl-Busters Alert, and has traveled throughout the U.S. helping dozens of local coalitions. 60 Minutes called Al "the guru of the anti-Wal-Mart movement."

Slevin: What was it that got you into the NIMBY business? When?

Norman: First, let's look at this acronym: NIMBY. This is a derogative term

invented by developers, who themselves might be called DUMBI's: "Developers Undermining My Biggest Investment." Homeowners who fight to protect their land



and property, feel that developers are threatening the largest investment they make in their life. Just as a business person would fight to protect the equity in his or her business, homeowners fight to protect their business interests. They view developers as DUMBI's. In 1993, I got

involved in fighting one of the most egregious DUMBI's around: the Wal-Mart corporation. I remember one DUMBI in New England who was doing business as "Infinity Properties." His name was emblematic of his vision: he saw land as unlimited, and with almost everything sprawling development he proposed, the neighbors organized to stop it. For both parties, it was a business decision. But for the homeowner, it was a battle with very deep personal significance. If a home is your castle, DUMBI's are trying to break down the castle gates. Most DUMBI's would never live near the projects they try to foist on NIMBY's.

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Quote of the month:

"People like progress, but they don't like change."

- Earl Nightengale

LOS ANGELES COUNTY EDC LAUNCHES NIMBY EDUCATION CAMPAIGN

The Los Angeles County Economic Development Corporation (LAEDC) has launched a NIMBY education campaign called *OUR Backyard* that is being aired on the radio and the Internet.

"There are roughly 50,000 more people being added to the Golden State each month. About half of them are coming to live in Southern California," said Bill

Allen, LAEDC president and CEO. "Though many Californians understand the benefits of such growth, many do not want it to occur near them. The resulting debate becomes dominated by NIMBY attitudes and short-term decisions. We hope our new campaign can help inform a more constructive dialogue as our communities debate options to deal with California growth."

The key topics of the campaign discuss issues that Californian polls have shown to be most concerning such as transportation and air quality. It is the hope of LAEDC that the information provided about these issues will help to initiate more long-term thinking in Californian residents.

Additional information about the *Our Backyard* campaign can be found at www.backyardweb.org. ■

NIMBY OF THE MONTH

Los Angeles landowner found NIMBY had certainly arrived when celebrities were enlisted to climb trees on his property in protest of a planned warehouse. Ralph Horowitz, who had let community farmers grow flowers and produce on his 14 acre property for over 14 years, is now faced with protesters—one of which is “Splash” actress Daryl Hannah.

Hannah joined protesters who climbed trees, chained themselves to concrete barrels, blew whistles, and blocked traffic. “I’m very confident this is the morally right thing to do, to take a principled stand in solidarity with the farmers,” Hannah said.

But is it morally right for Hannah to gouge the property owner of all revenue on the land that he pays \$25,000 to \$30,000 a month in mortgage and other

land costs? Maybe the morally right thing would be for her to donate her own property to the sunflowers and avocados.

City officials noted that they had provided the gardeners other locations, and many had already moved to the new sites. “We’ve made, in the last three years, enough of a donation to those farmers,” said Horowitz, “I just want my land back.”



Daryl Hannah

To most citizens this would seem like a reasonable request, but in a time where NIMBY has become fashionable for celebrities it is shown that no good deed goes unpunished. Other celebrities that joined the protest included actor Danny Glover, environmental activist John Quigley, country singer Willie Nelson, folk singer Joan Baez, and tree sitter Julia Butterfly Hill. ■

NIMBY TIPS

One of the key advantages applicants can secure for themselves is developing NIMBY profiles. As discussed in my Art of NIMBY column, community intelligence is vital in overcoming NIMBY attacks. Your mantra should be “Know Thy NIMBY.”

NIMBY Guardians: Over 80% NIMBY conflicts comes from Guardians who are homeowners mobilizing against a project because they heard a rumor. They’re motivated by fear. They’re a first time activist and the applicant who reaches him/her before the gossip can prevent trouble later.

NIMBY Crusaders: Environmentalists, conservationists, preservationists are Crusaders. They’re motivated by moral arguments e.g. protecting the environment. They’re motivated by money – keeping dues-paying members happy and entertained is a constant challenge, and your project could be the stage they’ve been looking for to show their worth.

NIMBY Machiavellians: They’re motivated by political ambition. They’ve sought office in the past, lost, and now have become self-appointed activists antagonizing the elected body. They aspire for another run for local office.

It’s important to know what types of NIMBYists are lurking beneath the surface of the community. The applicant who exposes these potential opponents can successfully flank their NIMBY attacks with confidence and control. ■

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ASK AN EXPERT: THE FAST MOVING WORLD OF CITIZEN ACTIVISM

BY LAWRIE PLATT HALL

In Central Florida, citizen activism against growth is developing at a rapid pace. The new reality means new rules of engagement for developers and elected officials.

Citizens see themselves as stakeholders with a vested interest in their community's quality of life. Developers must demonstrate that they are not only good corporate citizens, but also that they are sensitive to the concerns of residents. Because activists have demonstrated their power to defeat incumbents, as they did the Mayor of Winter Park, developers must also be sensitive to the level of scrutiny being placed on elected officials. More stringent land use regulations are a given.

While being a good corporate citizen does not provide much leverage in the legislative arena, a good reputation and demonstrated commitment to the local communities in which they operate aid in building dialogue with community leaders and trust. These are the first steps in the complex dance with stakeholders needed to secure permits in the re-configured arena of land use.

In the 1970s, Atlantic Richfield Oil Company (more recently ARCO) wanted to raze and rebuild an onshore oil and gas processing facility in the California Coastal Zone to de-sulfur crude oil produced off Platform Holly in the Santa Barbara Channel.

ARCO's core values, corporate culture and business practices embraced environmental protection and good corporate citizenship. This helped make it easier for the three person team assigned the permitting process: the head of offshore production in California, an environmental attorney and its local government lobbyist, to build working relationships and trust with local and regional elected and appointed officials and staff.

However, Gerry Brown was governor and environmentalism was his statewide political agenda. The Union Oil spill was still fresh in everyone's mind and the offshore oil platforms were a constant reminder of what happened and might happen again. With the very aggressive GOO (Get Oil Out) and Sierra Club, an anti-oil advocate heading the local office of the California Air Resources Board, an environmentalist-controlled Regional Coastal Zone Conservation Commission, two very anti-oil Santa Barbara County Commissioners, activist planning staff and a number of environmentalist Planning Commission Members, securing any kind of oil drilling or processing facility permit in the California coastal zone in Santa Barbara County had a very low probability of success.

Exxon had started the permit cycle ahead of ARCO for its own onshore facility. Its representatives made no attempt to dialogue with environmentalist opponents and used heavy-handed tactics to try to accomplish its objectives. Company representatives were distrusted and the project blocked.

The ARCO team developed relationships with the environmental activists and others involved in the issue while

consistently sending the message that it sought a win-win solution for both the company and county.

Over time, activist staff and members of the Planning Commission began to call members of the ARCO team the "good guys with the white hats" the unspoken comparison being the Exxon team. The good relationship translated a free flow of political intelligence that provided early warnings on fresh tactics being developed by regulators and activists to kill the project. That enabled ARCO technical staff to develop creative and meaningful solutions to environmental issues and unveil them during negotiating sessions and public hearings as they were put forward by members of the opposition.

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MESSAGE FROM THE EDITOR

We had a very successful launch with the June edition of *The Slevin Report*. We registered new subscribers coast-to-coast spanning from California to Texas to Ontario to New York to Georgia/Florida.

Our current subscriber profile is very diverse to include big builders, developers, trade associations, news media, law firms, planning firms, not-for-profits, communications firms, local governments and other corporations.

However, the initial launch has not met our minimum benchmark of subscriptions. We're keenly aware that the long-term success for this publication will be dependent upon word-of-mouth referrals from our subscribers and the buzz they generate.

Therefore, I am asking you, as a valued subscriber, to forward *The Slevin Report* to 5-10 colleagues, friends, or clients recommending they join the nation's only publication dedicated to educating land use professionals on how to overcome NIMBYism.

Everyone in our industry knows NIMBY and how it can undermine real estate projects, but they don't have a national resource that can help them defeat it. *The Slevin Report* is dedicated to examining and exposing the NIMBY industry, and with your help and continued interest, the publication will successfully evolve into a must read for countless professionals around the world.

Thank you for helping to spread the word,

Patrick Slevin

Editor-in-Chief



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EDITOR-IN-CHIEF

PATRICK SLEVIN

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«THE ART OF NIMBY»

When NIMBY attacks, it typically occurs unexpectedly forcing applicants into a reactive, defensive campaign. This happens thousands a time a year and applicants find themselves losing the political high ground in these local battles.

Lack of information, knowledge and gossip is what sparks most NIMBY cases. The applicant who pro-actively reconns the community and identifies both opponents and proponents before the approval process is leveraging community intelligence to their advantage. The savvy applicant who collects this knowledge can underwrite an outreach campaign that pre-emptns NIMBYism, mitigates inflammatory rhetoric and resolves conflict at the lowest levels.

Chinese General, Sun Tzu, who inspired the classic book, *The Art of War*, helped many future military leaders win battles with his profound insight:

*Knowing the other and knowing oneself,
In one hundred battles no danger.*

*Not knowing the other and knowing oneself,
One victory for one loss (you win some, lose some).*

*Not knowing the other and not knowing oneself,
In every battle, certain defeat (most NIMBY attacks).*

Applicants who refuse “to know the other” (i.e. attempting to fly under the radar) during the early planning stages abdicates a position of strength. Gathering community intelligence secures political capital, so go out and learn more about the community that grants you the license to operate. ■

About two years into the project, a phased permit was proposed by members of the Planning Commission that would achieve the County’s goals for air quality improvement. As technology continued to improve and declining emissions standards were achieved, ARCO would be authorized to increase throughput. The agreement would give the County a mechanism to shut down the plant if and when there were emissions upsets without a lengthy notification and hearing process. And ARCO would buy the County a state of the art air monitoring system.

ASK AN EXPERT CONT.

to benefit as well. The minimum crude oil throughput for the facility had to be sufficient to make the project feasible. The Planning Commission members negotiating the compromise asked for that minimum number. Those negotiating the permit had to believe the Company would give them the real number. The Company had to believe they would keep that number confidential.

The end result was a permit unique in the history of California and was supported

by environmental activists as well as those very pro-oil. The local chapter of the Sierra Club spoke in support of the project at public hearings and when its parent organization at the state level appealed the Regional Coastal Zone Conservation Commission permit approval at the State Commission level testified in support of the project and against its parent organization.

Editor’s note: The author was Director of Local Government Relations at Atlantic Richfield Company with full responsibility for government relations and community outreach for the project. ■

To be a true win-win, the company had

PUBLIC NIMBY NO. 1 *CONT.*



Slevin: Who is the average NIMBY?

Norman: I would never use the word NIMBY or DUMBI at a land use hearing. What I see there are competing business interests. The homeowner is there, usually not by choice, to defend his or her property from commercial intrusions. The developer is there to make a profit on his or her investment. They are really very similar—except the homeowner lives in the affected area, and spends 85% or more of their time there, the developer does not. We are all homeowners, or renters. And we resent the idea of someone barging into our home with an enormous, oversized project that threatens to change the character and quality of life where we have chosen to live.

Slevin: You see NIMBYism on a daily basis. Why is it so prevalent?

Norman: Yes, I see NIMBYs and DUMBIs every day. We have thousands of homeowners today trying to hold bake sales and car washes to ward off the largest retail corporations in the world. We are seeing more of these battles because citizens are being pushed into a corner by developers, and like caged animals, they have no recourse except to claw back. The developers rarely, if ever, have a meaningful conversation with the people who would be their neighbors.

Slevin: How many NIMBY conflicts have you been involved in or counseled?

Norman: I have written nearly 2,400 stories on the Newsflash page on my website, www.sprawl-busters.com. I have listed more than 300 communities that have stopped big box stores at least once in their community. I have fought the mammoth IKEA projects, down to the Rite Aid store at 12,000 square feet. My only rules are 1) that I only help communities when the residents invite me to help them, and 2) if they believe a commercial project is unhelpful—regardless of the size—I am prepared to help teach them how to stop it.

Slevin: What are the circumstances that set off a neighborhood into action opposing projects?

Norman: Because developers generally don't sit down with their neighbors until they have submitted a site plan to the town, most residents get involved when they read about a project in the newspaper, or they hear rumors that trees are being cleared on the land. They almost never hear directly about it from developers. Ignoring the basic civility of sitting down with the people who may oppose your project, is the proverbial "first wrong step" that developers make, and the path only goes downhill from there.

Slevin: Is the playing field level for residents when it comes to elected bodies hearing their voices when deciding whether to approve a land use application?

Norman: Land use development in America is the ultimate insider's game. The rules were written by, and tailored to, the needs of developers. Our zoning codes were written by real estate and development interests, and when cases come before local boards, the developer arrives with his land use attorney, civil engineer, traffic engineer, and hydrologist. The citizens show up clutching a petition. The developer has pre-development funds to spend on PR and site studies, the citizens are holding a bake sale. Elected officials are intimidated by developers. These local officials--often appointed, not elected---are not experts in their field, and are afraid of potential litigation. Given this description, it is remarkable that citizens ever win---but we do, and more often than most developers would care to admit.

Slevin: As a consultant, what do you do to help communities level the playing field?

Norman: I help residents understand how the land use game is played, what the rules are, and what kind of expertise they will need. I essentially help them to think and act like developers, to use the same resources that developers would use—just turning those resources against a project instead of for it. These "accidental

activists" are very bright, and learn quickly, but it is not an area of expertise they have developed. The learning curve has to be very fast, because many of these projects move on a greased track.

Slevin: What makes developers easy targets to NIMBY?

Norman: Developers often present themselves as their own worse caricatures: They dress like developers, they behave like developers, they are armed with a "row of suits" like developers. They are often arrogant, they alienate local residents by ignoring them or minimizing their concerns, and they patronize just about everyone they encounter. But their main weakness is that the product they are pushing—a large scale, windowless, dead piece of architecture—is something the neighbors can't buy. For most developers, there is no flexibility, and no give and take. They will only negotiate the color of the building, or some minor façade treatment—but size and intensity of use—never.

Slevin: Is all development bad?

Norman: Many forms of development "add value" to a community. But if they add no value, and simply are being built to expand market share and keep shareholders on Wall Street happy, then people on Main Street will not be happy. Adding a fourth grocery store to a trade area that has a static population and income base, is not adding value. We have too much redundant development today, sort of a game of retail musical chairs. This is terrible land use policy, because every unneeded project consumes 20 or 30 acres at a time, causes economic dislocation, and offers little to the health, safety and welfare of local residents. Wal-Mart has more than 24 million square feet of "dark stores" today—a colossal testament to wasteful development excesses in this nation.

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PUBLIC NIMBY No. 1 *CONT.*

Slevin: What was the worst (negative) action you've seen a developer take to overcome conflict?

Norman: It's very unpleasant when a developer has his lawyer start calling up neighbors threatening them with the lawsuit. These so called SLAPP suits (strategic litigation against public participation) are very ugly to watch, especially with elderly and disabled homeowners. I am also appalled when developers with deep pockets try to get taxpayers to underwrite the cost of roads, sewers, and water to their site. We don't need to give companies like Wal-Mart and Home Depot corporate welfare—and developers should not ask for it. I also find it remarkable that developers will try to call their 500,000 square foot project "The Village Centre" or "River Oaks," when it's nothing but a sea of asphalt surrounded by a wall of concrete.

Slevin: What was the best (positive) action you've seen a developer take to overcome conflict?

Norman: I've seen developers try to build into their project timetable a period of meaningful discussion with residents, and be flexible with design, before everything is cast in stone. This is unusual, and often not done well, but it is one of the most important strategies that would help developers cut down on the other end of their project months of costly litigation and delay.

Slevin: Is the media part of your tactics? If so, does the news media help or hinder your efforts? How?

Norman: Use of the media is one of the essential tools that citizens must learn how to use. We can't activate people until we educate people. Developers will simply hire a PR firm to generate a full-color brochure with an architect's drawing resembling Shagri-La. But residents can use low-tech media approaches, like letters to the editor or op-ed columns, to get out their point of view.

Slevin: What makes a new Wal-Mart less appealing than let's say a Target?

Norman: In my book, a Super Target and a Wal-Mart supercenter are indistinguishable. People think of Target as being more upscale, less threatening. But these companies operate the same at a land use level. They don't talk to neighbors, they often pick inappropriate sites for their projects, and they use the same high-handed approach with local permitting boards and residents. The logo on the side of the building means little. My bumpersticker says: "I don't shop at Sprawl-Marts."

Slevin: Asking you to change hats for a moment. If you were counseling a developer who was planning to build in a new community, what would you advise him to do to avoid NIMBY attacks?

Norman: The best thing a developer could do is to imagine that they have just purchased a one or two family house in the neighborhood, and to consider how they would view the proposed retail mall from that perspective. Then, they should sit down directly—not filtered through consultants—with residents and hear exactly how they would react to the design and scale of the project. Scale is the big problem with big boxes, and it is the impacts related to scale that will kill a project. Talk early with residents, and often.

Slevin: What can a developer do in the community to make your job harder?

Norman: Listen to people's needs. Accommodate their desires, and truly behave as if you owned a home near the project.

Slevin: What is your forecast for the future of the NIMBY Nation?

Norman: I am predicting this year that at least one-third of the Wal-Mart superstores proposed will be opposed by local residents. That will turn a 3 month process into potentially a two or three year cycle instead. For every one year that a Wal-Mart superstore is not open, the

company forgoes \$100 million in sales. Any reduction in the output of new square footage will affect the company's share price. This is why corporations like Wal-Mart need to begin a real dialogue with community groups, rather than simply talking to them through the media. My two books have been translated into Japanese, and I have traveled to five foreign countries at the request of local groups. So the big box battles are becoming international, and developers will feel increasing pressure to get to know their neighbors—not simply try to blow them away. ■

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