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Revitalizing Our Cities – How Foundations and Grantmakers Can Invest in a Better Economic Future

Wednesday, October 21, 2015, 1:00 – 2:00pm ET

Moderator

Robert Waldman, Managing Partner, Venable LLP

Speakers

Tracy Kartye, Director, Social Investments, The Annie E. Casey Foundation
Otis Rolley, President & CEO, Newark Community Economic Development
Corporation
Yosef Ziffer, Counsel, Venable LLP

Revitalizing Our Cities - How Foundations and Grantmakers Can Invest in a Better Economic Future

October 21, 2015

THE ANNIE E. CASEY FOUNDATION

Office of Investments - Social Investments



Annie E. Casey Foundation

- Established in 1948 by founder of UPS
- Mission is to build better futures for vulnerable children and their families
- Social investments are philanthropic tool
 - Complements grantmaking
 - \$125 million allocation of endowment
 - Place based and thematic investments

East Baltimore Revitalization Initiative



- Largest urban redevelopment effort in Baltimore since the Inner Harbor in the early 1980s
- 88-acre site next to Johns Hopkins Medicine campus
- \$1.8 billion initial budget
- *Goal:* Transform neighborhood into a mixed-income community

Project Strategy



- **Capitalize on neighborhood strengths**
 - Proximity to major biotechnology center
- **Acquire land and responsibly relocate residents**
- **Create opportunity**
 - 1,200 units of mixed-income housing
 - Job training for residents
 - Land use and physical infrastructure plan

Public-Private Partners

Baltimore City
State of Maryland
Johns Hopkins
University and Hospital

Forest City Science
and Technology Group
Abell, Goldseker,
Weinberg and other
foundations

The community
East Baltimore
Development Inc. (EBDI)
The Annie E. Casey
Foundation



The Harry and Jeanette Weinberg Foundation, Inc.



THE ANNIE E. CASEY FOUNDATION



Goldseker
FOUNDATION



THE ABELL
FOUNDATION



Casey Foundation

- **Rationale**

- Casey's hometown
- Focus on major neighborhood improvement initiatives

- **Resources**

- Human capital, not just physical rebuilding
- Maximize assets in support of mission



Casey's Two-Pronged Strategy



Attract resources from other foundations and stakeholders

Leverage Casey resources and support investments

- \$20 million grant commitment

Filling the Gap



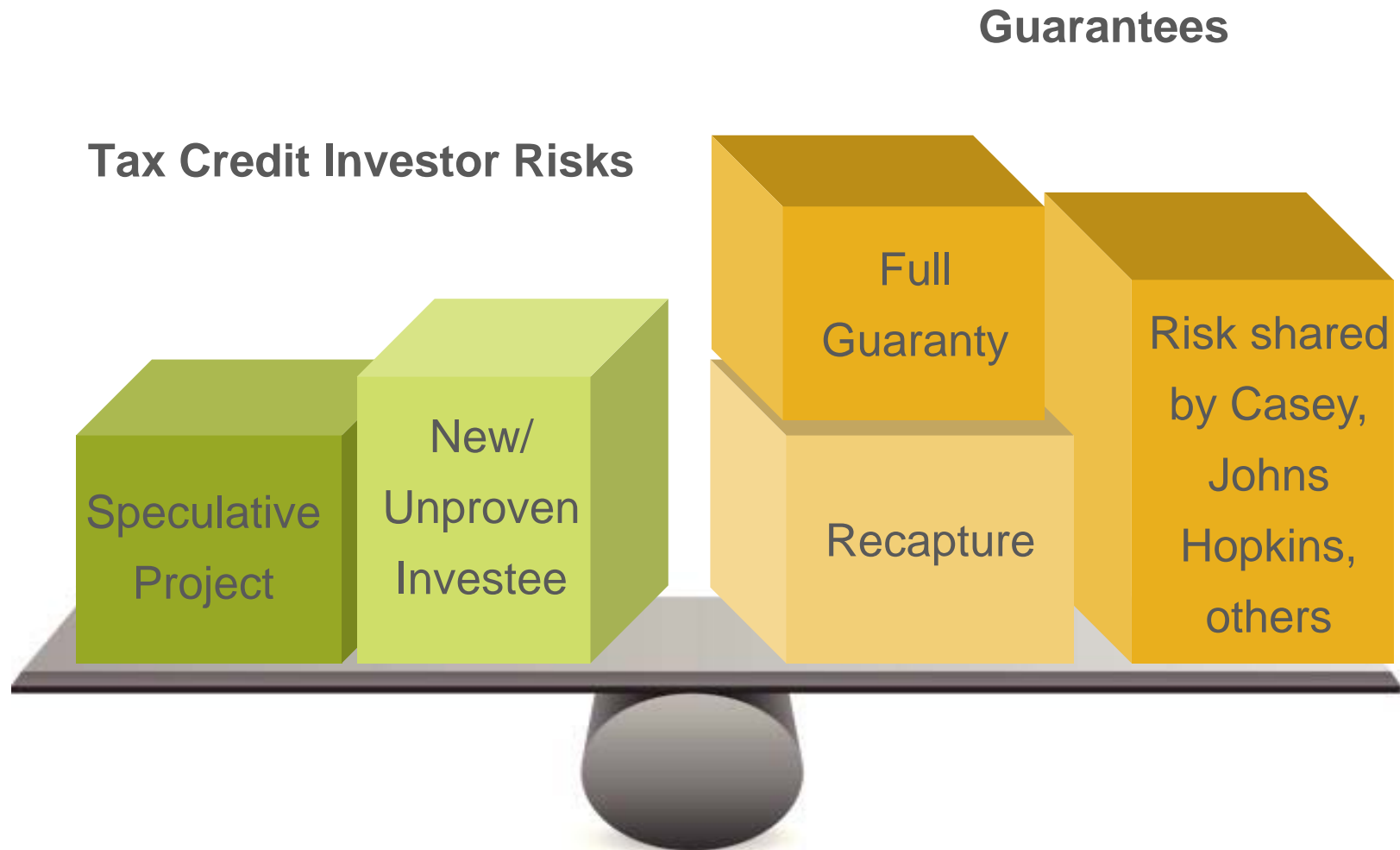
Project Realities

- Long time horizon for government appropriations
- Capital intensive
- Complex

Using New Markets Tax Credits

- Three transactions totaling more than \$50 million
- Partially guaranteed by Casey assets
- Netted EBDI more than \$13 million in equity

New Markets Tax Credit Details



Use of Proceeds

- **Site preparation for 31-acre core area**
 - Acquisition, demolition
 - Property maintenance



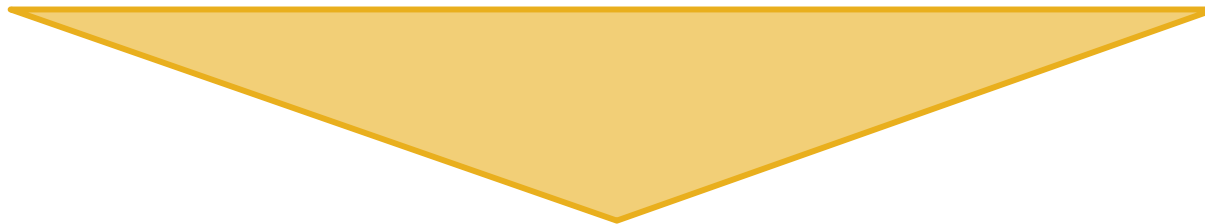
- **New elementary school and early childhood center development**

Casey Investment Leverage

Casey's Total Investment

More than \$100 million

Loans, guarantees and bond purchases



Leveraged more than \$300 million in additional funding:

\$200 million from public sources

\$90 million in other philanthropic support

\$40 million in new markets tax credits

Results to Date

- ✓ Successful relocation of 742 households
- ✓ New infrastructure costing more than \$35 million
- ✓ New office and housing construction
 - 275,000-square-foot research and laboratory building
 - 235,000-square-foot state public health laboratory
 - 249 mixed-income housing units
- ✓ New public school campus
 - 7-acre K-8 public school
 - Early childhood center
 - Community resource center
 - Historical library
- ✓ Retail amenities
- ✓ Wide range of support services and resources, including job training and leadership development

Six Lessons

1 Base innovative financing on the evolving circumstances of the project and market conditions

4 Foundation should seek high return in social impact

2 Federal and state tax credits and local public financing are critical

5 Innovative financing requires expert financial and legal analysis

3 Creditworthy institutions can backstop transactions

6 Participants must understand each other's motivations and constraints



THE ANNIE E. CASEY FOUNDATION

Developing solutions to build a brighter future for children, families and communities

www.aecf.org

Revitalizing Our Cities

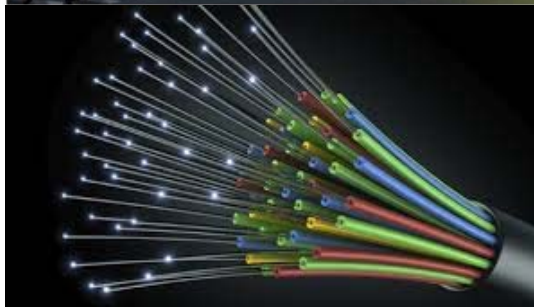
**PHILANTHROPY IN NEWARK,
NEW JERSEY'S LARGEST CITY**



Community Economic Development

Mayor Baraka's economic development agenda is inclusive and ambitious. Through the Department of Economic & Housing Development and Newark CEDC, and in collaboration with the philanthropic and corporate communities, we seek to initiate and execute economic development activities to produce and sustain economic growth, generate jobs and create wealth for the citizens of Newark. The New York Times, Wall Street Journal and Politico have recognized our progressive approaches to economic development that does not pit downtown against the rest of the City's neighborhoods.

Support from the Prudential Foundation and the Prudential Social Investment Program is transforming our downtown. Neighborhoods are being revitalized by adding retail diversity, adding quality affordable and market rate residential units, and eliminating food deserts. Wells Fargo Foundation is supporting our work to build entrepreneurial capacity by supporting boot camps and retail incubators.



Ras J. Baraka
Mayor

Summer Youth Employment Program and Postsecondary Access

One of the biggest success stories of the year was the dramatic increase in the number of teenagers employed in the Mayor’s Summer Youth Employment Program. Newark went from 1,500 last summer to over 2,600 youth who got jobs. This was made possible with support from Bank of America Foundation, TD Bank Foundation, Wells Fargo Foundation and others. The growth was prompted by a partnership between the Mayor’s office, funders, New Jersey Institute of Technology, and the Newark City of Learning Collaborative (NCLC). One thousand of the teens were enrolled in jobs that provided not only a paycheck but also learning opportunities for coding, urban landscaping, and an NCLC Summer Learning Institute on the campus of Essex County College. Financial empowerment and banking support for these first time workers, made possible from the [Cities for Financial Empowerment Fund](#), was an added bonus.



Ras J. Baraka
Mayor

Centers of Hope

The Centers of Hope are nine community-based centers in all five of Newark's wards that allow access to City services, wellness and enrichment opportunities where people live and work. Four centers have opened thus far, some focusing on [young women](#), [special needs](#), [entrepreneurship](#), and municipal ID access. All offer a variety of after school, athletic, [arts](#) and culture, educational, environmental, healthy living, free WiFi and recreation programming to engage children and families.



Ras J. Baraka
Mayor

Public Safety/Newark Model Neighborhoods

Mayor Baraka has long understood violence to be a public health issue. He has won praise for a constant rhythm of neighborhood [events](#), [summits](#), and youth presentations to address violence. Local funders have rallied around several prongs of the Mayor's initiatives. For example, Council of New Jersey Grantmakers members funded a cross-sector retreat to coalesce multiple public safety partners working in the city. That retreat has led to the creation of the *Safer Newark Council*, committed to inter-connected solutions to reduce violent crime and improve perceptions of safety.

An accompanying funder-supported initiative is the [Newark Community Street Team](#). The team comprises 15 outreach workers in the South Ward Model Neighborhood Initiative. They are assisting approximately 100 individuals to stabilize their lives and turn away from a life of crime, through mentoring, life skills, and case management.



Ras J. Baraka
Mayor

My Brother's Keeper Newark

The Mayor's My Brother's Keeper Newark initiative is part of a nationwide, White House-led campaign to empower boys and men of color and strengthen the systems that ensure their success. MBKN's goals are dependent on cross-sector partnerships, data-mining, and a combination of policy and direct-service projects. CNJG members have provided seed funding for the MBKN's initial roundtables, forums, and on-ramping initiatives. Most notable was a "Young Men of Color and Law Enforcement" forum at Central High School, designed to address issues that damage the relationship between African-American and Latino youth and law enforcement. [The White House](#) has recognized MBKN as a leader among the national [communities](#) that are building greater supports for young men of color.



Ras J. Baraka
Mayor

Education: Community Schools/ Read and Believe

As a former principal, Mayor Baraka has been outspoken on the critical role of education in Newarkers' lives. His appointment of Dr. Lauren Wells as Chief Education Officer in the Office of Comprehensive Community Education has helped inaugurate long-term and short-term public-private efforts. As the City begins to transition from 20 years of New Jersey State control, the Administration is focused on greater utilization of community schools.

[Community schools](#) help mitigate the impacts of poverty on students and provide an environment that can greatly improve schools. Launching community schools will necessitate early support from the funding community. Encouraging discussions are underway among neighborhood residents, funders, and education leaders.

[Read and Believe](#), a literacy-focused initiative, imagines a city that takes on literacy as a communal cause. The umbrella campaign includes, among several programs, [My Very Own Library](#). CNJG members, including the Foundation for Newark's Future, as well as Rutgers, individual donors and [Scholastic's Summer Reading Challenge](#), enabled MVOL to serve 27,000 Newark Public School students in grades K-8 students. Each child selected four free books to take home for summer break.



Ras J. Baraka
Mayor

Questions

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Ras J. Baraka
Mayor

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Program-Related Investments and Mission-Related Investments – Tax and Fiduciary Considerations

Speaker:

Yosef Ziffer, Counsel, Venable LLP



General Considerations for all 501(c)(3) Organizations

- Is the investment in the best interests of the organization?
 - Programmatically beneficial?
 - Productive of income?
 - Both?
- Are private interests benefitted by the investment?
 - Balance of private and public interests
 - Conflicts of interest?
 - What is the approval process?



Program-Related Investments (PRI)

- Technically, PRI concept applies by its terms to private foundations.
- Programmatically, public charities also utilize PRI concept.
- Key concept: An equity or loan investment made by a Section 501(c)(3) organization to support a charitable outcome.



PRIs (continued)

- For private foundations, a way to avoid excise tax liability for a “jeopardy investment.”
- Code Section 4944 – Annual excise tax of 10% on the amount of a private foundation investment made “in such a manner as to jeopardize the carrying out of any of its exempt purposes.”
- Separate 10% tax imposed on any “foundation manager” (e.g., board member) who knowingly participated in the making of the investment, unless such participation was not willful and was due to reasonable cause.



PRI ***(continued)***

- What is a PRI? An investment (whether equity or debt) satisfying the following criteria:
 - The primary purpose of the investment is to accomplish one or more charitable purposes.
 - No significant purpose of the investment is the production of income or appreciation of property.
 - No purpose of the investment is to accomplish political or lobbying objectives.

See Treasury Regulation Section 53.4944-3(a)(1)(i)-(iii).



***PRI**s (continued)*

Primary Purpose of Investment is Charitable

- If the investment significantly furthers the organization's exempt activities.
- The investment would not have been made but for the relationship between the investment and the organization's purposes.



***PRI*s (continued)**

No Significant Purpose to Produce Income or Result in Appreciation of Property

- Would investors solely seeking profit be likely to make the same investment on the same terms?
- The fact that the investment actually produces significant income or capital appreciation is not conclusive evidence of a significant profit motive.



***PRI**s (continued)*

Benefits to PRI Status

- Not a jeopardizing investment (Section 4944)
- Counts toward foundation's annual distribution requirement (Section 4942)
- Not a taxable expenditure (Section 4945)



PRI Examples – Original Regulations

- 1) Foundation makes a below-market rate loan to a minority-owned business in a deteriorated urban area, when other lenders are unwilling to lend. Foundation seeks to encourage economic development.
- 2) Similar facts, but foundation purchases shares or interests in the business.
- 3) Foundation makes a below-market rate loan to a business that employs a substantial number of residents in a deteriorated urban area.
- 4) Foundation makes a loan to a large, stable business to encourage the business to open a plant in a depressed urban area.



PRI Examples – Original Regulations (cont.)

- 5) Foundation makes a loan to a business enterprise owned by a nonprofit community development corporation. The enterprise will market agricultural products, providing a marketing outlet for low-income farmers in a depressed rural area.
- 6) Foundation makes an interest-free loan to a socially and economically disadvantaged individual to enable him to attend college.
- 7) Foundation makes high-risk investment in FHA-insured low-income housing project. Purpose is to finance the purchase, rehabilitation, and construction of low-income housing.



PRI Examples – New Regulations (2012)

1) Foundation invests with a for-profit drug manufacturer to support the production of a vaccine to prevent disease in developing countries. Potential return on investment is too low to attract sufficient commercial resources.

- Foundation purchases shares in a research/development subsidiary.
- Investment Agreement requires subsidiary to distribute the vaccine to poor individuals in developing countries at an affordable price.
- Investment Agreement mandates that subsidiary publish its research results to disclose useful information to the interested public. Publication to be made as soon as reasonably possible, without jeopardizing subsidiary's right to secure patent.
- Foundation's expected rate of return is lower than market rate on similar investments.
- Primary purpose to advance science.



PRI Examples – New Regulations (2012)

2) New business enterprise in a developing country seeks to facilitate recycling in place of historic reliance on landfills and incineration, thereby preventing environmental deterioration.

- Only a few commercial investors have invested, and sufficient funding has not been identified due to expected low rate of return.
- Foundation invests on the same terms as other initial investors.
- High-risk investment with potential for a high rate of return if business is successful.
- Foundation's primary purpose is to combat environmental deterioration.
- Also permissible if enterprise offers Foundation shares of stock in order to induce a below-market loan.



PRI Examples – New Regulations (2012)

3) Additional Examples:

- Loan to a business enterprise in a rural area that suffered losses from a natural disaster and will otherwise terminate its operations in such area.
- Micro-loans to individuals in a developing country to start small businesses when conventional funding is unavailable.
- Foundation loan to an LLC to be used to train poor farmers in a developing country regarding advanced agricultural methods.
- Foundation loan to a social welfare organization to fund the purchase of large exhibition space to encourage interest in painting, sculpture, and art.
- Foundation provides loan guarantee or collateral deposit to enable non-profit child care organization to obtain a construction loan for a new facility in a low-income neighborhood.



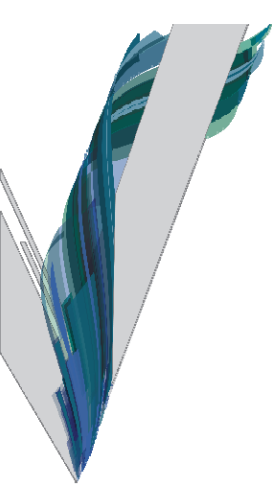
"Mission-Related Investments" – IRS Notice 2015-62

- Not PRIs – because there is a profit motive.
- In addition to the profit motive, the Foundation has a programmatic motivation as well.
- Question: Once there is a profit motive, does the Foundation violate its fiduciary obligations if it invests in a "mission-related investment" that offers a lower rate of return than "regular" investments? Is it a jeopardy investment?



"Mission-Related Investments" – IRS Notice 2015-62 (continued)

- **"When exercising ordinary business care and prudence in deciding whether to make an investment, foundation managers may consider all relevant facts and circumstances, including the relationship between a particular investment and the foundation's charitable purposes."**
- **"Foundation managers are not required to select only investments that offer the highest rates of return, the lowest risks, or the greatest liquidity so long as the foundation managers exercise the requisite ordinary business care and prudence under the facts and circumstances prevailing at the time of the investment in making investment decisions that support, and do not jeopardize, the furtherance of the private foundation's charitable purposes."**



Questions?

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