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This policy brief was drafted by Michelle Zhao, the 2017 Cornell High Road Fellow at Partnership for the Public Good. It documents the efforts of local advocates to bring “High Road” economic development to Canalside, to advance community benefits over corporate control.

After setting out the historical context of Canalside and the fight that won its preservation, the brief focuses on the period of 2004 to 2015. It details the proposal to bring a Bass Pro Shop to the Inner Harbor, the leadership and governance of the Erie Canal Harbor Development Corporation (ECHDC), and the campaign for a Community Benefits Agreement for the waterfront. This campaign led to three years of negotiations with the ECHDC, leading to the formal adoption of a consensus document, “A Public Statement of Principles for High Road Development of Buffalo’s Waterfront,” to guide development practices in the future.

The community activists who took the High Road to Canalside succeeded in changing the way that economic development is understood and practiced in Buffalo. The author extends her thanks to the organizers, advocates, and officials who shared their stories and insights for this brief.

Policy Brief

Taking the High Road to Canalside: How Community Activism Has Shaped Buffalo’s Waterfront

October 2017

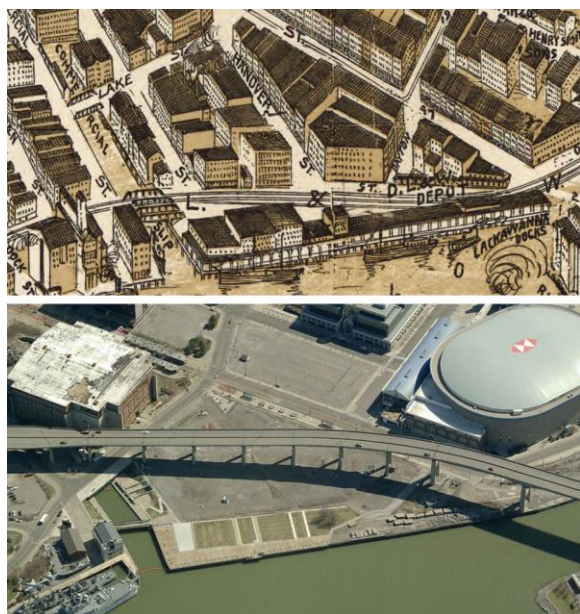
Canalside, a newly created district on Buffalo’s historic waterfront, has been touted as “the heart of Buffalo’s waterfront revitalization.” Since its founding in 2008, Canalside has transformed a formerly underutilized area into an attractive multipurpose space with exhibits that give historical context and insight into Buffalo’s industrial past, including replica canals, public art, recreational activities, a wide array of programming, and, most importantly, access to the water, which is one of Buffalo’s most valuable resources.

All of this and more have contributed to making Canalside one of the most popular destinations in the region with more than 1.5 million visitors last year alone. Further development is underway, including the Explore & More Children’s Museum set to open in 2018. In addition, the Erie Canal Harbor Development Corporation (ECHDC) has recently issued a request for proposals (RFP) to redevelop two parcels on the half acre site adjacent to the future museum.¹

This public asset has been fueled by public money and redeveloped under the watchful eye of many groups, including state agencies, elected leaders, private developers, labor unions, preservationists, community-based organizations, organizers and activists. This report details the efforts of local advocates to bring “High Road” economic development principles and practices to Canalside to ensure that the public dollars yield community benefits and not just private profits. It is the story of a community rejecting a boondoggle project fueled by corporate cronyism. While the activists did not win the legally binding Community Benefits Agreement (CBA) that they sought, they succeeded in dramatically changing the course of Canalside and changing the way that economic development is discussed, understood, and practiced in Buffalo.

Historic and Natural Context

Canalside is located on Buffalo's Inner Harbor – the part of downtown Buffalo where the Buffalo River empties into Lake Erie. When the Erie Canal was completed in 1825, this was its western terminus: the great portal for the shipment of goods from the heartland of the United States to the rest of the nation and the world. By the 1920s, this section of the Canal had been filled in, and by the 1950s, the historic district had been destroyed. The Buffalo River had become one of the nation's most polluted waterways, and downtown Buffalo was beginning a sharp decline.



An 18th century map of the Buffalo waterfront, and a 2013 photo of the same spot.

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Early Redevelopment: Preservation Victories

In the 1990s, New York State's development agency, Empire State Development, began work on redeveloping Canalside. Unfortunately, its initial plans included

demolishing the remnants of the Canal and its Commercial Slip. In 1999, the Preservation Coalition of Erie County sued the State and won.² The court ordered the State to do an updated Environmental Impact Statement (EIS) and conduct a more rigorous set of Supplemental Environmental Studies. In the end, results from the court-ordered EIS necessitated the "ESDC Harbor Master Plan Amendment Planning" process, which called upon the community to provide input. Construction continued with a greater emphasis on historical preservation, and by late 2005 work on the Commercial Slip and Buffalo Harbor Museum was in full swing.

Bass Pro Takes Center Stage

In November 2004, Empire State Development signed a Memorandum of Understanding (MOU) with Bass Pro Shops, forming a business partnership that would later come under considerable public scrutiny. The plan was for Bass Pro, a Missouri-based big-box retailer for hunting, fishing, camping, and other recreational supplies, to build a megastore that would become the "anchor tenant" or focal point for the Inner Harbor. In addition to turning over a valuable piece of real estate, the State planned to give Bass Pro \$35 million in direct subsidies and millions more in indirect subsidies (paying for buildings, infrastructure, etc.).

The company's involvement with Buffalo's waterfront development began with the friendship between Bob Rich and Johnny Morris.³ Rich, the chairman of Buffalo-based Rich Products Co., and Morris, majority owner of Bass Pro Shops, were neighbors and fishing companions in the Florida Keys. Interested in waterfront

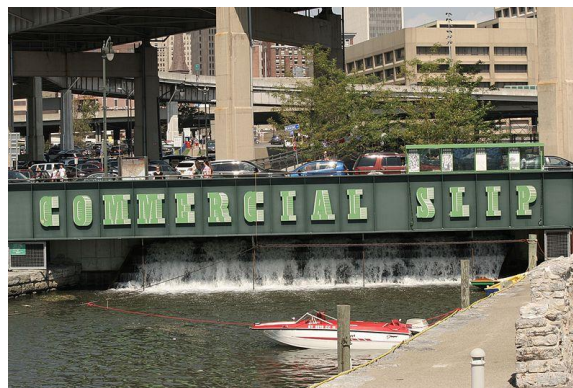
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redevelopment, Rich invited Morris to fish on Lake Erie and see the future of Buffalo for himself. Together, the two men hatched a plan to bring a massively subsidized Bass Pro store to Canalside.

Erie Canal Harbor Development Corporation

In October 2005, New York State formed the Erie Canal Harbor Development Corporation (ECHDC) as a subsidiary of Empire State Development to lead development efforts along the waterfront. ECHDC is governed by a board with five voting members appointed by the Governor, joined by the Mayor of Buffalo and County Executive of Erie County as non-voting members.

The original board of ECHDC was strongly in favor of Bass Pro and other developer-friendly plans. It included a top Rich Products executive as a voting member as well as Mindy Rich, the wife of Bob Rich, as a special non-voting member (her Florida residency precluded her from a voting seat).⁴ The board also included Larry Quinn, an executive and part owner with the Buffalo Sabres, which – with their auditorium adjacent to Canalside – had a strong financial interest in the nature of the development. The ECHDC chair, a businessman named Jordan Levy, was close friends with the Benderson family, owners of Benderson Development. The ECHDC made several decisions that appeared to favor Benderson unduly, including issuing a request for proposals for the redevelopment of the Donovan office building that appeared to be designed for Benderson.⁵



The restored Commercial Slip at Canalside.

Funding from the New York Power Authority

The relicensing of the Niagara Power Plant was an unlikely key to the progress of Canalside. Every fifty years, major power plants must be relicensed by the federal government. The federal requirement that they mitigate their negative environmental impacts can give rise to settlements in which municipalities and community groups bargain for different types of community benefits.

When the Niagara Power Plant was being relicensed, Congressman Brian Higgins and others made the case that Buffalo and Erie County should share in the community benefits and secured a funding stream for Canalside of \$4.7 million per year for 20 years, starting in 2007, which was later supplemented by an Industrial Incentives award of \$3.7 million per year, also from the New York Power Authority.⁶

Community Benefits Agreements

Meanwhile, the larger national conversation surrounding economic development was shifting. Though only a decade into its inception, the Community Benefits Agreement (CBA) model was gaining more

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popularity as a tool for long-term equitable growth.

CBA's help to ensure:

- ***Living wages***
- ***Local and minority hiring***
- ***Equitable development***

A CBA is typically a project-specific contract made between a real estate developer and community groups. At its core is the principle that public dollars should go towards public benefit. The legally binding agreement specifically outlines how a project will create public goods by employing local and disadvantaged workers, paying living wages, providing business opportunities for local and minority firms, using green design and operations, including affordable housing, or other means.

By putting community interests at the forefront of the discussion, CBAs hold developers accountable for their promises. Developers, in turn, minimize their risk of potential conflict and can receive support in obtaining approvals, permits, and subsidies. CBAs also strengthen the relationship between local government and residents by facilitating a public inquiry process into community challenges and needs, fostering the public support that city development projects often lack.⁷

The first CBA was made by the Los Angeles Alliance for a New Economy (LAANE), the City of Los Angeles, and Trizec Properties in 1998.⁸ The Hollywood and Highland CBA rose out of community concern over the development of a new retail and hotel complex that would become the site for the Academy Awards. Out of the

negotiations came obligations for Trizec to pay living wages, hit a 70% first source hiring rate in construction and retail jobs, provide job training for construction work jobs, and build affordable housing in exchange for \$90 million in tax subsidies from the city. According to the Public Law Center of Orange County, all promised benefits were executed, marking the implementation of the Highland and Hollywood CBA a success. This CBA would go on to influence four others in the Los Angeles area and many others around the nation.⁹

The Campaign for Community Benefits on the Waterfront



Community members rally outside ECHDC headquarters in January 2012.

In 2009, the Coalition for Economic Justice (CEJ), had been following the national discussion on CBAs and connecting the concepts back to Buffalo. Led by executive director Allison Duwe and lead organizer Micaela Shapiro-Shellaby, CEJ began to build a network of allies across the city. Together with leaders from Buffalo First!, Partnership for the Public Good (PPG), People United for Sustainable Housing (PUSH), VOICE-Buffalo, and other allies,

CEJ formed the Canal Side Community Alliance (CSCA) in 2009. A broad coalition of community-based organizations, activists and faith-based organizations, labor groups, locally-owned businesses, environmental groups, and minority-owned contractors, the CSCA was committed to advancing smart economic development and revitalization. Its immediate mission: stop an enormously wasteful hand-out to Bass Pro. Its broader purpose: to put the fate of the waterfront in the hands of the public and obtain clear returns on taxpayer money.

In speaking out against Bass Pro and the accountability practices of ECHDC and its partners, the CSCA and its community allies advocated extensively for a CBA, which if signed, would be the first in Buffalo. The CSCA and its members produced a draft CBA, held public forums and press conferences, testified at public hearings, and advocated with government officials and staff for a different vision of the waterfront. The CSCA brought national experts on CBAs to Buffalo and introduced “High Road” economic development principles to elected officials, the media, and the general public.

A “High Road” approach includes:

- **Democratic and transparent policy development**
- **Public-private partnerships**
- **Effective workforce development**
- **Labor-management cooperation**
- **Investing in the public good**

The CSCA gained an important leverage point when CEJ learned that the City still owned 13 acres of Canalside and had not

yet transferred them to ECHDC. The CSCA moved quickly and won a unanimous Common Council resolution in March 2010 that made the transfer of the land contingent upon the negotiation of a CBA or similar agreement between ECHDC and community groups.¹⁰

Key Allies

One of the CSCA’s achievements was to recruit and inspire other civic activists to oppose Bass Pro and demand community input. Local historian and entrepreneur Mark Goldman and a group of five other Buffalo citizen taxpayers filed a lawsuit against Bass Pro, ESDC, ECHDC, the New York Power Authority (NYPA), and other government agencies. Among other things, they argued the \$35 million Bass Pro subsidy offer was in violation of a New York State Constitution law that prohibits the gifting or loaning of state funds to private enterprises.¹¹ While the litigation did not succeed in court, it helped to expose the questionable nature of the Bass Pro deal.

The CSCA also inspired the Public Accountability Initiative (PAI), a nonprofit focused on investigative public-interest research, to produce a report on Bass Pro in June 2010. *Fixing for Taxpayer Cash: Bass Pro’s Record of Big-League Subsidies, Failed Promises, and the Consequences for Cities Across America*, warned the city of its possible fate if a Bass Pro development plan were to succeed. Although ECHDC contended that a Bass Pro would attract other tenants, create jobs, and be a hot destination spot for regional tourists, PAI uncovered strong evidence that these claims were hollow and that Bass Pro had proved a bad deal for other cities that had bought into its

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promises. On July 19, 2010, Rep. Brian Higgins sent a 14-day ultimatum to Bass Pro, urging the big-box business to either commit or withdraw from the waterfront. Bass Pro chose to withdraw.



New Momentum

The withdrawal of Bass Pro from the Erie Canal Harbor Project was a major win for the community and a turning point in how the community regarded its waterfront. After nearly a decade of Bass Pro-anchored planning, ECHDC and the City of Buffalo turned toward the community for new input. CSCA urged the community “to rise up and quickly, thoughtfully, inclusively and rigorously do the work we need to put the waterfront project back on track.”¹² It was a chance to exercise self-determination in a rising Buffalo.

In late 2010, CSCA announced a series of public forums to educate and rouse the community to action. Preservationist leader Tim Tielman also presented numerous times and reminded listeners of the foundation the Preservation Coalition fight had laid a decade earlier.¹³ In November, over 600 individuals attended a forum sponsored by Mark Goldman, the Citizens Waterfront Project, and CSCA at City Honors High School. It was here that Goldman, along with his brother Tony, a

prominent New York-based developer, and Fred Kent, founder and president of national non-profit Project for Public Spaces, introduced the “lighter, quicker, cheaper” model to citizens.

The “lighter, quicker, cheaper” model argued that to build a successful, engaging Canal Side, developers should focus on small-scale projects simple in concept, construction, and execution. The Inner Harbor already had plenty of assets: the water, acres of land that could be transformed into green space, the grain elevators, and the history of the Erie Canal, among others. A single large-scale project, such as a big-box retailer, would not only dominate the landscape, but also limit visitors’ ideas of how to engage with the space. The trio urged the audience to think of themselves as placemakers, and their urgings had great impact: today “Canalside” is famous for its brightly colored lawn chairs, grain elevator illumination shows, cultural and historical programming, and displays of public art.



“Shark Girl,” a public sculpture at Canalside.

Negotiations

From 2010 through 2013, the community continued to advocate for community benefits on the waterfront. CSCA pushed harder for a CBA, presenting ECHDC

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Chairman Jordan Levy and President Thomas Dee with precise negotiation terms in August 2010. However, several key leaders were still reluctant to embrace the idea of a CBA. Mayor Byron Brown did not support the CBA and in fact proposed an alternative Community Development Agreement (CDA) in August 2010.¹⁴ The Mayor's proposal did not include the CSCA's key community benefit provisions, and the CSCA successfully advocated with the Common Council not to adopt it.

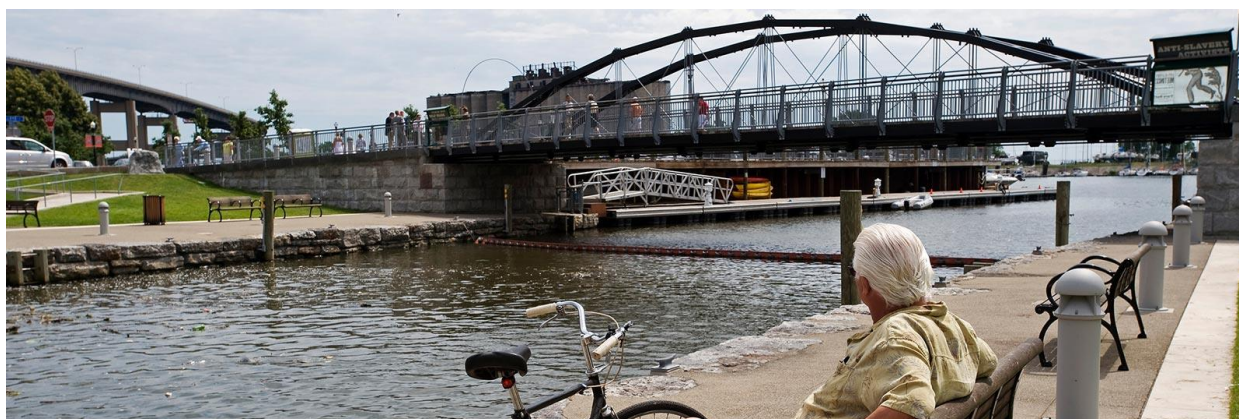
In October 2010, the John R. Oishei Foundation offered to facilitate conversations between the CSCA and the ECHDC. Paul Hogan, Executive Vice President of Oishei, served as chief mediator for all CSCA – ECHDC meetings. The negotiation team for CSCA consisted of Lou Jean Fleron (PPG), Sean Ryan (PUSH), and Duane Diggs (VOICE). The negotiation team for ECHDC consisted of Chairman Jordan Levy and President Thomas Dee.

ECHDC strenuously resisted making legal commitments. The CSCA had won broad and diverse support, but it was hampered by several key factors, when compared with other cities where CBAs have been won. First, Canalside was not a residential district with a large base of residents negatively affected by the proposed

development and passionate about their concerns. Second, battered by depopulation and the steep decline in manufacturing, Buffalo remained somewhat desperate for development and suspicious of "obstructionists." Third, the concept of community benefits was still new and untried in Buffalo. Finally, the CSCA was in some ways a victim of its success. With Bass Pro gone and a more community-oriented vision of the waterfront taking hold, many constituents and leaders did not feel the urgency of a CBA.

The CSCA had won substantial support for its vision however. Also, importantly, its campaign to change and diversify the board of the ECHDC had succeeded. Intensely pro-development members such as Larry Quinn and chair Jordan Levy had been replaced by more progressive leaders such as Makau Mutua, dean of the UB Law School, and Julie Barrett-O'Neill, executive director of the environmental group Buffalo Niagara Riverkeeper. The new chair was Robert Gioa, president of the John R. Oishei Foundation – the very foundation that had been facilitating the talks. With this change in leadership, the negotiations became much less contentious.

Finally, at a Board of Directors meeting on September 9, 2013, ECHDC formally



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adopted a consensus document entitled *A Public Statement of Principles for High Road Development of Buffalo's Waterfront* to guide future development practices along the waterfront (see Appendix A).¹⁵

Results and Impacts

The document was not a legally binding contract, like a typical CBA, but rather a formal adoption of high road strategies, goals and benchmarks by ECHDC. It includes many typical CBA provisions: living wage jobs, local worker opportunities, local business opportunities, environmental sustainability, affordable housing, and collaborative planning processes. Although not a classic CBA, the consensus agreement was the first of its kind in Buffalo development history, and it became a gateway to the incorporation of HRED principles into the vernacular of city business and politics.

The Mayor is one key leader who has become comfortable with the concept of community benefit agreements. When the City sold a parcel of land at Canalside to the Pegula family (new owners of the Buffalo Sabres) for the HarborCenter development, it included community benefit provisions such as living wages for HarborCenter employees. When it sold a parking ramp to the Buffalo Niagara Medical Campus, the City again incorporated community benefit provisions into the final agreement.

Buffalo residents have also shown increased interest in community benefits. During the time when the CSCA was active, residents of the Fruit Belt reached out to the CSCA to learn more about CBAs and how a CBA framework might aid them

in their dealings with the Buffalo Niagara Medical Campus. CSCA leaders spoke to residents and arranged for national expert John Goldstein to visit and advise them as well.

When a new social justice collaboration, Open Buffalo, was formed in 2013 by CEJ, PPG, PUSH, and VOICE, it identified a CBA with the Medical Campus as a top priority and began assisting Fruit Belt residents in dealing with the pressures caused by development on and near the Campus. The resulting Community First Alliance, which unites Fruit Belt groups with other partners such as Open Buffalo, has created a set of community benefit goals, has negotiated for state legislation on parking relief, and has incorporated the city's first community land trust.



Fruit Belt residents and members of the Community First Alliance call for a land trust, June 2016.

The Canalside Agreement Today

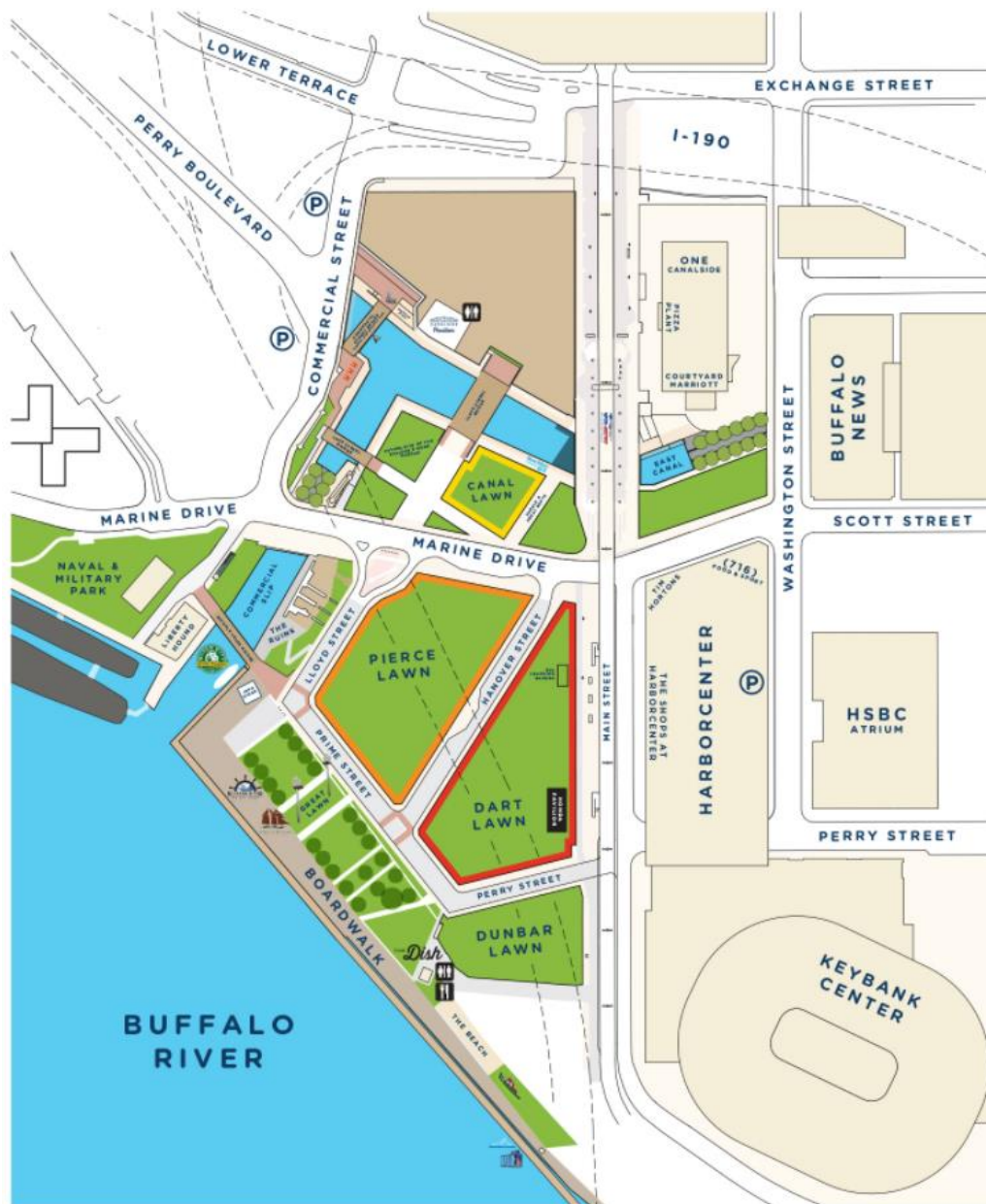
From 2013 to 2017, there was little follow-up on the Canalside agreement. ECHDC has not provided the annual public progress reports that it promised. The CSCA went dormant, and there was no organized effort to ensure accountability. Today, however, the formation of Open Buffalo's High Road Economic Development coalition has

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supplied a natural venue for renewed discussion with ECHDC.

In June 2017 this group invited Sam Hoyt, regional president for ESD and board member of ECHDC, along with Paul Hogan, vice-president of the John R. Oishei Foundation, to visit its meeting and

offer an update. Hoyt advised the group that it would find many of the High Road commitments reflected in the RFP that ECHDC was finalizing for the South Aud site at Canalside and offered to have ECHDC prepare a report on its progress in implementing the agreement.



Waterfront map, 2017
© Canalside Buffalo

Appendix A

Brief Summary of *A Public Statement of Principles for High Road Development of Buffalo's Waterfront (July 11, 2013)*

“This consensus document was developed by the Canal Side Community Alliance (CSCA) and the Erie Canal Harbor Development Corporation (ECHDC). It is the product of a concerned community’s involvement in the larger development process of its city. It is not a legally-binding agreement, but is deeply tied to a spirit of cooperation and good faith. Its purpose is to establish clear expectations and goals for the development of Buffalo’s waterfront in accordance to the following High Road Economic Development (HRED) principles.”

1. Quality Jobs.
 - a. Living Wages (as defined by City law) for ECHDC employees and for certain contractors, subcontractors, and tenants (over 30 employees).
2. Local Worker Opportunities
 - a. Tenants (over 30 employees) to use first source hiring to prioritize city residents
 - b. ECHDC to employ a person or contractor to oversee implementation of local hiring, local construction, and MWBE goals
3. Local Business Opportunities
 - a. Goal of 50% locally owned businesses at Canalside, with priority for independent local entrepreneurs
 - b. ECHDC to employ a person or contractor to specifically oversee and promote local business development
4. Environmental Impact and Innovation
 - a. LEED Certification in all design and construction (strive for Silver, but investigate feasibility of Gold or Platinum Certification Level)
 - b. Reduce storm water run-off
 - c. Transportation accessibility
 - d. Plant trees and other hardy vegetation
 - e. Pedestrian and bicycle-friendly planning (traffic-calming)
 - f. Incorporate renewable energy resources into projects
 - g. Maximize public’s ability to access the waterfront
5. Community Building, Urban Development, and Affordable Housing
 - a. Mixed use, mixed income, affordable housing construction
 - b. Increase use and enjoyment of Canalside for current and future residents of surrounding neighborhoods and communities
6. Collaborative Process and Implementation
 - a. Provide annual public progress reports on principles on these principles
 - b. Annual meetings to review progress towards meeting the goals of these principles

- ¹ “Cuomo Commits \$2 million to Kickstart South Aud Block at Canalside,” *Buffalo Rising*, May 24, 2017, <https://www.buffalorising.com/2017/05/cuomo-commits-2-million-to-kickstart-south-aud-block-canalside/>.
- ² “Preservation Coalition v. Federal Transit Admin., 129 F. Supp. 2d 551,” U.S. District Court for the Western District of New York, March 31, 2000, <http://law.justia.com/cases/federal/district-courts/FSupp2/129/551/2471425/>.
- ³ Tim O’Shei, “The quiet billionaire: Bob Rich is still Buffalo’s ultimate booster,” *The Buffalo News*, May 26, 2017, <http://buffalonews.com/2017/05/26/a-rich-existence/>.
- ⁴ “Mindy Rich,” Rich Products Corporation, <http://doclibrary.com/msc132/doc/mindyrichbio6.075857.pdf>.
- ⁵ Lou Jean Fleron & Sam Magavern, “New Vision is Needed for Economic Development,” *The Buffalo News*, February 29, 2012, <http://buffalonews.com/2012/02/29/new-vision-is-needed-for-economic-development/>.
- ⁶ Brian Higgins, “Governor Paterson Bolsters Commitment to Buffalo’s Waterfront Redevelopment Effort,” December 12, 2009, <https://higgins.house.gov/media-center/press-releases/governor-paterson-bolsters-commitment-to-buffalos-waterfront>.
- ⁷ Community Benefits 101,” Partnership for Working Families, <http://www.forworkingfamilies.org/page/cba-101>.
- ⁸ The Public Law Center, Summary and Index of Community Benefits Agreements, 2011.
- ⁹ Ibid.
- ¹⁰ “Community groups rally at City Hall to call for Community Benefits Agreement for Canalside,” Coalition for Economic Justice, March 16, 2010, <http://cejbuffalo.org/posts/press/2010/03/community-groups-rally-at-city-hall-to-call-for-community-benefits-agreement-for-canal-side/>.
- ¹¹ Queenseyes, “Goldman and Others Sue to Block Bass Pro,” *Buffalo Rising*, July 26, 2010, <https://www.buffalorising.com/2010/07/goldman-others-sue-to-block-bass-pro-2>.
- ¹² “In Light of Bass Pro Collapse, Community Groups Announce a Collaborative Effort to Envision Sound Principles for Waterfront Development,” Coalition for Economic Justice, September 20, 2010, <http://cejbuffalo.org/posts/press/2010/09/in-light-of-bass-pro-collapse-community-groups-announce-a-collaborative-effort-to-envision-sound-principles-for-waterfront-development/>.
- ¹³ Bruce Fisher, “Two Weeks in Timeout,” *Artvoice*, November 26, 2010, http://artvoice.com/issues/v9n46/two_weeks_in_timeout.html.
- ¹⁴ Brian Higgins, “Congressman Higgins Joins Mayor Brown in Announcing Historic Waterfront/Neighborhood Development Agreement,” July 19, 2010, <https://higgins.house.gov/media-center/press-releases/congressman-higgins-joins-mayor-brown-in-announcing-historic-waterfront>.
- ¹⁵ “Canalside Community Alliance Responds to Erie Canal Harbor Development Corporation Statement on Bass Pro,” Coalition for Economic Justice, September 22, 2010, <http://cejbuffalo.org/posts/press/2010/09/canal-side-community-alliance-responds-to-erie-canal-harbor-development-corporation-statement-on-bass-pro/>.

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