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THE SIT-DOWN

Gary Rosenberg Has a Feeling He's Been Here Before

The star attorney on 4 Times Square, One Bryant Park and One World Trade

BY JOTHAM SEDERSTROM

The Commercial Observer: Since we're here on the 49th floor of One Bryant Park, why don't we start by talking about the building's construction, shall we? Rosenberg & Estis has been credited with keeping the project on track, in part thanks to the law firm's expertise in assemblage. Care to give a little insight into the complexities of the deal?

Mr. Rosenberg: Well, we started in November of 2002. Bank of America came to us and was interested in a potential headquarters building. At that particular moment, we owned about 85 percent of the site, and we had two or three, we'll call it, hold-out parcels. These were people who had, for a very long time, decided that they wanted to hold on to their parcel until the last possible moment.

The issue became how would we be able to guarantee that Condé ... I mean, Bank of America ... that they would be able to move in—because they had a firm date. They had a substantial lease expiring in October of 2008. This was literally six years before. So for us, the issue was how are we going to get them serious six years before the lease expired.

What kind of lead time do you normally have with major tenants?

Major tenants building a new building, maybe it's four years—maybe four and a half years. It's very unusual that somebody is out six years ahead of time. And if they are out six years ahead of time, they're just kicking tires. They're really just doing due diligence because most people like to wait as long as they can to know where things are.

But Bank of America had a rather unique head of real estate, who we were able to explain [to] that, in order to assemble the site, and in order to build the building they wanted, we needed to get the state to make it an [Empire State Development Corp.] project, which meant that you had to go through an environmental review process. You'd have the right to condemn. So we put together a schedule for them to show that if they started right now, we could guarantee the delivery. But if they waited, we could be short because we had to go through these processes and then build the building.

So we put together a 70-month schedule, and then, right away, they said, 'Oh, but we have to be out six months earlier because we have to restore our premises.' [laughs] So

right off the bat it was wrong. I said, 'We gotta move faster!'

You must have had a pretty good poker face through all these negotiations.

It was fascinating. It had a lot of moving parts because, for one, we had to get the rest of the site together because they were only interested in this building. It hadn't been designed, but they wanted a monumental building. We could have built a smaller building on two-thirds of the site, because of the hold-out parcels, or a strange-shaped building. But they wanted a huge floor plate for their trading floors.

So how did you negotiate all this with Bank of America when you had no plans?

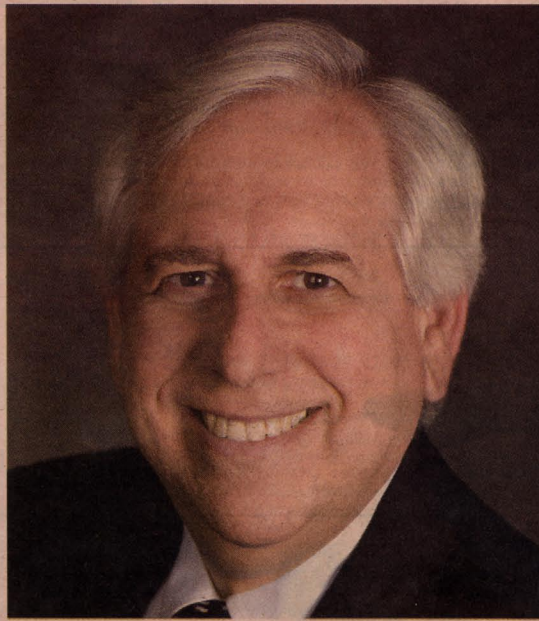
We were able to negotiate what I think was a fascinating deal, because one of the greatest difficulties is coming up with what is the rent. And it's impossible to come up with the rent without knowing what the building is—because you could pick a rent and then you'll argue about what the building is. So we came up with a rather unique structure, in that we agreed that they would pay percentage rent. They would pay a percentage of all costs, so that if they wanted something spectacular, they were going to pay a percentage of it.

So the key element was aligning our interests with theirs—to make sure they understood that whatever we were going to do, we'd be doing for their benefit, and they would be making the decisions as to the quality they wanted. And they'd be paying for whatever that quality was—because that's always the greatest difficulty in new construction. You set a rent and then you argue about what the person gets for the rent. At this point, we didn't have plans for the building. So they're saying, 'Well, what will the building even look like?'

What role is Rosenberg & Estis playing right now at One World Trade Center?

Basically, the two roles we play right now are, one, we're representing the Dursts in a joint-venture deal with the Port Authority. But then, two, I'm involved on a day-to-day basis not simply on structuring the deal, but with how to make sure the building works for timing, works for Condé Nast and works for the Port.

The thing Douglas [Durst] always says is that when things go wrong, first, we don't panic. If that doesn't work, then we lower our standards. And if that doesn't work, blame



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Rosenberg. My job is to make sure nothing goes wrong. These days, I spend the vast majority—almost all my time—on One World Trade Center at this point. That's the truth.

About 15 years ago you were working on behalf of the Dursts with 4 Times Square, when Condé Nast was in discussions to become an anchor tenant at the building. With the publishing group now coming to One World Trade, does it feel like déjà vu?

It's an amazing thing. Fifteen years ago, we were negotiating with Condé Nast to move from Madison Avenue to Times Square. Times Square was a disaster. There was nothing being built. It was the worst time in real estate, and we were negotiating with them to build a new building.

At that time, Robert Bennis and Andrew Levine represented Condé Nast in-house—one is an attorney and one is the head of construc-

tion. Jon Mechanic was the attorney. Mary Ann Tighe was the broker. On our side, Douglas Durst was here. Jody Durst was here. Myself. As negotiation, we had Patterson Belknap as our attorneys, Bob Safran and Lauren Slifer. Now, today, we walk into the room and the same parties are negotiating a million-square-foot lease to leave 4 Times Square and go to One World Trade Center. ... There are a couple new parties—[Cushman & Wakefield vice chairman] Tara Stacom, the Port Authority—but it's fascinating to be arguing the very same things 15 years later.

These days you have a 44-lawyer firm, but when you began it was just a two-man team. In those days, who were your clients?

It was one man—or one boy. At that point, I represented landlords who were involved with rent-controlled apartments. This was 1975. So it was all basically landlords—smaller landlords, medium-sized landlords—

Since founding the law firm Rosenberg & Estis, Gary Rosenberg has hurdled from representing the landlords of rent-controlled outer-borough apartment buildings to the city's most successful developers, most notably the Durst Organization, which he has worked with since the 1970s. The 60-year-old Bronx native sat down last week to discuss the considerably smooth assembly of One Bryant Park, his current role at One World Trade Center and how his work as one of New York's most-sought-after real estate attorneys seems to be déjà vu all over again.

who had rent-controlled apartments. And I helped them in dealing with the regulations at that time.

How long before you were representing developers?

The firm grew very rapidly, and we were very fortunate because we sort of created a little niche industry and became well known in that area. And I would say probably in the first 10 years it was exclusively in that area, until the mid-1980s. And then we started branching out and doing more and more transactional work, and litigation work outside of just landlord and tenant work.

It sounds like you evolved during the 1980s building boom.

Yes. As construction increased, we did more and more assemblage work, and then from the assemblage work we did more of the business side of the deals as we grew. And so for the last 15 to 20 years, the vast majority of the work has been putting together deals and putting together assemblages.

In regards to the economic downturn, how has your business changed?

Certainly, in the last three years, we were fortunate in that we didn't have a huge lending practice. We had about three attorneys working in it, and we were able to reshuffle them. Certainly, there have been fewer transactions. I think we decided that, very simply, we liked the attorneys we had, and so the partners determined that if we made a little less, it's not the worst thing. And so we've been pretty stable, and people are just not working as hard as they did before. And we've been very fortunate, and luckily our client base wasn't necessarily high fliers who collapsed.

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