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Q&A With Stradley Ronon's Cathy Ward

Law360, New York (April 16, 2013, 1:29 PM ET) -- Catherine Ward is a partner with Stradley Ronon Stevens & Young LLP, whose practice focuses on brownfields, redevelopment, remediation and energy. She was an environmental consultant prior to being an attorney and serves on statewide and local committees involving both the legal and the technical side of remediation and other environmental issues in New Jersey.

Q: What is the most challenging case you have worked on and what made it challenging?

A: Redevelopment projects, by their nature, are complex and multidisciplinary, and a large project can be a significant catalyst for revitalizing an urban area. They bring together numerous elements that make them both difficult and rewarding to undertake, and it is an honor to represent a municipality in those circumstances.

The most challenging redevelopment project I worked on involved the acquisition of 20-plus tracts of land, all privately owned, and the remediation of contamination, the costs which expanded from $300,000 to $2.4 million over the course of the project. It was a high-profile and important project for the community, and residents were very interested in its progress; however, not all of the interest was supportive, and much of it was very vocal.

The early years of the project also occurred in a highly politicized environment, which dissolved into name-calling and litigation among the members of the redevelopment entity, as well as between the public and the redeveloper. What made the project challenging was not so much the various legal issues that arose but the social and personal issues that affected how decisions were made and which, at times, threatened to derail the project.

Managing those issues required more than just legal skills. It required an understanding that redevelopment projects affect people in a very personal way — in their community, near their homes — and that we, as attorneys, are entrusted with conducting the redevelopment process in a respectful and credible manner.

Q: What aspects of your practice area are in need of reform and why?

A: There is a real dichotomy between the land use regulations and the remediation regulatory framework, which can be frustrating for people trying to redevelop brownfields. Despite the clear benefits of redeveloping properties in areas which have historically been developed, and therefore saving from developing “greenfields” such as farmland, redevelopers can be stymied by conflicting regulations, which both encourage and prohibit certain types of activities.

That is certainly true where historic fill is concerned. Historic fill is classified as material which had been used as fill, usually decades in the past, to create buildable land in marsh areas and raise other land to enhance development. By definition, the material contains certain categories of hazardous materials, which do not readily leach but which must be capped as part of any development.

The amount of fill on any specific site generally makes it cost-prohibitive to remove and replace with "clean" fill. As the sites are in urban areas, capping can be readily accomplished by construction of buildings, parking lots, driveways, berms, etc. Aside from reducing the potential exposure to contaminants in the fill, however, the historic aspect calls for a different approach in the administration of such sites.

Q: What is an important issue or case relevant to your practice area and why?

A: Oddly enough, the provision of adequate affordable housing is an issue relevant to redevelopment in New Jersey. It is widely agreed that we should be committed to ensuring that persons of all income levels should be able to find places to live that they can afford in every community. We have, however, been bogged down for years on the hows, wheres and whens of providing affordable housing.

Lack of clarity on this issue, coupled with aggressive litigation by nonprofit organizations and judicial rejection of recent efforts to overhaul the regulatory programs, have resulted in gridlock. Without having this issue resolved, developers and municipalities lack guidance on the compliance specifics, which prevents otherwise worthy projects from proceeding. Until the state Supreme Court addresses the issue and a new regulatory framework is established, low and moderate income units go unbuilt, and redevelopment projects are in limbo.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: Early in my career, I worked for Allan Kanner [of Kanner & Whiteley LLC], who was then based in Philadelphia. Allan was one of the first attorneys in the field of toxic tort law and tried numerous high-profile cases across the country. Besides having a brilliant legal mind, he was creative and forward thinking, completely unconcerned with maintaining the status quo.

In the 1980s, it was still extremely unusual for law firms to accommodate working mothers, yet Allan saw no reason why a nursery could not be established in the office to allow young mothers additional flexibility when their presence was required in the office. From Allan, I learned that the practice of law can be innovative and fun and that nothing beats working as part of a team where everyone's input is valued.

Q: What is a mistake you made early in your career and what did you learn from it?

A: Landfill litigation was very prominent when I was a young environmental attorney, and we represented municipalities who were named as generators and transporters of waste and therefore jointly and severally liable for the remediation costs. New Jersey law required pre-1985 general liability policies to cover such costs if evidence of coverage could be found.

We were told repeatedly by one client that, after searching their records, they had determined that the older policies did not exist, which meant that the taxpayers would have to bear the costs of the landfill litigation and remediation. We accepted that finding and proceeded to defend the client, despite a nagging suspicion that the search had not been thorough.

Months later, as costs began mounting, I reopened the issue with the client and this time, offered to spend some time, at my cost, if necessary, looking through an old bank vault of documents where council meeting minutes and historical records were kept. Unbeknownst to the client, it turned out that information documenting the existence of commercial general liability policies had been filed in the vault, and we were able to secure the client 100-percent coverage for the litigation costs as a result. This taught me that attorneys bring more than straight legal advice to the attorney-client relationship and that our role as counselors requires perception and understanding of clients as people. It also taught me that documents are not always where they are supposed to be!

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