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Depot fight put on hold

By: Douglas Hadden , Times staff writer

PAWTUCKET - Agreeing, for a change, to agree, parties involved in the ongoing depot redevelopment dispute told a judge they had reached a 30-day settlement agreement last week that will put any further legal action on hold until Jan. 15.

Reaching the interim peace took an appeal to the governor's office to intervene with CVS, which is building a pharmacy on the 3.4-acre site, and a quiet sitdown meeting in a Cumberland Dunkin' Donuts between Mayor James E. Doyle and Central Falls Mayor Charles Moreau.

But by Monday, the city filed a dismissal stipulation in Superior Court to drop its bid to make permanent a temporary restraining order that had halted further demolition of part of the dilapidated Pawtucket-Central Falls Train Station on Broad Street, which straddles the city lines.

The developers, SMPO Properties/Warwick RICS LLC, has agreed to hold off on any demolition work, for which it had obtained a permit from Central Falls for part of the 90-year-old building's west wing, which lies in that city.

But another concerned party, with its own special set of concerns, has now entered the matter: Amtrak, which runs trains that pass beneath the depot overhang.

Amtrak, in a letter to SMPO attorney Thomas Moses, called for an immediate halt in all work by the developer, saying the rail operator had not been properly notified.

"We have no record of receiving either demolition plans or advance notice of the proposed demolition," Michael Stern, senior associate general counsel in the New Haven office for Amtrak, wrote in the Dec. 13 letter.

"Effective immediately, all demolition work must cease until Amtrak has the opportunity to review the plans and determine whether the proposed work will have an impact on rail operations," Stern said.

"Any demolition, alteration or reconstruction of the structure must be reviewed and approved by Amtrak before work can go forward," Stern said citing the July 31, 1972 deed agreement by which Penn Central Transportation Co. granted ownership interest in the depot property to A.B. Corporation, legally applicable to all "successors and assigns" who may come to own the property.

The late Albert Vitali Sr. was one of the two principals in A. B. Corp. when the 1972 deed agreement was executed. His surviving spouse, Jean Vitali, sold the property to SMPO principal Oscar "Ike" Seelbinder and two partners for approximately \$1.2 million to \$1.4 million in August 2005 but retains an ownership interest.

Stern asked the developers to submit to Amtrak "five sets of detailed demolition plans, calculations, means and methods," signed by a registered professional engineer, "to my office for approval."

He also said that to ensure safe operations for Amtrak in the depot site area, "demolition work may not proceed until Amtrak reviews and approves the developer's demolition plans and the contractor's means and methods of demolition."

Superior Court Judge Stephen Fortunato two weeks ago issued a temporary restraining order sought by Pawtucket officials to halt the just-begun teardown work by SMPO contractor Bilray Demolition Co.. But before work was stopped, much of the west wing's decayed roof was removed, among other work. The developer also wants to peel back several feet from the front of the depot building.

Seelbinder at the time said the added space was needed for traffic and pedestrian access required in his longterm lease with CVS.

All along, as the mayors of both cities told The Times Monday, that has been the linchpin issue: Whether the pharmacy blueprint can be accommodated without taking down some of the old brick building.

Doyle said he called Gov. Donald Carcieri (whose office did not respond to a reporter's calls for comment last week and Monday) for help a little over two weeks ago in arranging a meeting or conversation with CVS chief executive Thomas Ryan.

"I said, 'I need your help,'" Doyle related his talk with the governor. "He said, 'I'll do what I can for you.'"

What soon followed was a response from CVS that Doyle said brought top officials Robert Nault, regional real estate vice president for the pharmacy giant, and Dino DeThomas, senior vice president for real estate development, to City Hall.

"It was always my calculation that we had to have CVS as a player, we had to have CVS as a partner to make this happen," Doyle said. "CVS has a great reputation," he added, "as a community oriented company."

A late afternoon meeting was arranged for a week ago Friday, where other attendees included City Planner Michael Cassidy and Pawtucket Foundation executive director Richard Davis, where Doyle explained the city's interest in preserving the historic depot.

"Finally they said, 'Mayor, what do you want us to do?' I said, 'I want you to call the developer and see if he can reconfigure (the site plans),' including looking at the the possibility of increasing the parcel's footprint if Pawtucket and Central Falls were to abandon their adjacent short stretches of Clay Street. The CVS officials, Doyle related, said they would talk to the developer, then called the mayor back later saying they wanted something in return: A 30-day moratorium on any legal action "for both sides," leading to yesterday's court-filed agreement.

On another front, Doyle set up a meeting with Moreau, who has been frank that his city needs the pharmacy and depot site rehab to bring jobs and a boost to the tax base.

"We met at the Dunkin Donuts in Cumberland," where Doyle related the moratorium terms. "We sat in the back," Doyle related. "He said go for it."

Going forward, "I think there will be some discussions, that's what this period is for. This thing has become so ballooned with issues," Doyle added, from the new Amtrak intervention to ethics charges raised against city councilors on whether they had conflicts that should have prohibited them from recent eminent domain-related votes on the depot issue.

Moreau said he considered several procedural questions raised Monday, in a letter by Pawtucket City Solicitor Margaret Lynch-Gadaleta to her Central Falls counterpart, Raymond Cooney, challenging the validity of the demolition permit's issuance, as "technical" issues that could readily be remedied. Lynch-Gadaleta said in part that the permit needed to be accompanied by a sworn statement and more complete background information from the developers.

"If they're hanging their hat on technicalities, I'm sure it can be corrected," Moreau said.

Moreau confirmed the Dunkin Donuts meeting with Doyle and said the question is "can we reach a happy medium" for all involved.

"It's not like we're at odds," Moreau said of the two cities, but "we need development in Central Falls for the tax revenue. (Doyle) understands where we're coming from. We're on the same page, both areas need economic development," and overcoming obstacles "so a project can come to fruition here," Moreau said.

"I think people are making mountains out of molehills. These are minor problems and they can be addressed. The developers are good quality developers. CVS wants what's best for the community because then they win also. But we'll iron it out and I'm confident we'll have a quality development."

Moreau expressed confidence the two cities, the developers and CVS can come to a suitable compromise.

"We're all working together," he said.

"The eminent domain is the hard part," Moreau added, referring to the Doyle administration's continued push, narrowly rejected by the City Council in January 2005 and again earlier this month, to condemn and seize the property and have the Pawtucket Redevelopment Agency preserve and redevelop the station and site.

"I just hate to see a project sit vacant for however number of years," Moreau said. I'm all for historic preservation. But there's a phrase [applied to old buildings], 'functional obsolescence.' That building is functionally obsolete to meet fire codes, ADA [handicapped access regulations]. It's not going to happen as far as I can see," Moreau said. "It's been a problem child for 47 years."

To think CVS would move into a revamped depot, which sprawls over 14,000 square feet and has 40-foot ceilings in the station area, is not realistic, Moreau said. The developers, who by late afternoon had not returned a call for comment, have previously said CVS examined and rejected the site.

"We're shooting for the moon here [to think] CVS is going into that old building. It's functionally obsolete. [The proposed T stop] can't be there because the curve on the track is too much of an angle," Moreau said.