

## **The High Line: The Long and Winding Road**

By Jerry Gottesman, founder and chairman of Edison Properties

*This is the story of how close one of the New York City's most popular public spaces came to never existing.*

**P**eople began strolling along a small section of the High Line in the spring of 2008, and what was once a decaying, desolate viaduct is today a beautifully landscaped park that stretches 1.5 miles along Tenth Avenue in New York City. In just a short time, it has been transformed into an enormously popular public space, one that has helped revitalize a neighborhood in one of the world's great cities and draws five million people annually.

The historic plaques posted strategically on the High Line focus on the days when it was a functioning and useful way to move milk, meat, produce, and raw and manufactured goods by rail from the industrial west side of Manhattan to outlying areas. But no plaque tells what transpired from the time the last train operated in 1980 to the time two young men launched an advocacy group in 1999 that successfully turned the High Line into a public space.

Why am I giving this account? Mainly so my grandchildren might learn from my experience. The High Line's history will always be part of New York City's lore, but in large part, it is also the untold story of political maneuverings, backroom deals, patience and persistence, and good fortune.

## **Built to Move**

It begins in 1847, the year the original Madison Square Garden was built, when the City of New York authorized street-level railroad tracks down Manhattan's west side to ship freight. By the 1920s, accident and fatalities due to the confluence of trains, people, and horses were so common that Tenth Avenue was known as "Death Avenue."

In 1929, just before the stock market crashed and the Great Depression began, the New York Central Railroad and city and state pols agreed to launch the West Side Improvement Project. The project also included the construction of an elevated West Side Highway. Still, committing \$150 million in 1929 dollars—more than \$2 billion in today's dollars—sparked considerable debate over safety versus cost. The original High Line was a 13-mile long, partly elevated viaduct that eliminated 105 street-level railroad crossings and added 32 acres to Riverside Park.

Built on huge steel girders and considered an engineering marvel, the line was completed in 1934 and ran from Spring Street at the south to Spuyten Duyvil (the separation of Manhattan from the Bronx) at its northern edge. Where it became elevated, it was built through the second and third floors of several industrial buildings along the route—an aspect still in evidence. For much of its length, it burrowed through a tunnel below Riverside Park. From 34<sup>th</sup> Street to 59<sup>th</sup> Street, it was an open cut below street level.

Due to advances in technology and transportation, the High Line gradually outlived its usefulness. First, the advent of refrigeration made it more

practical to slaughter animals in larger industrial sites. Second, trucks—able to use the Holland and Lincoln Tunnels and the George Washington Bridge—were more efficient than trains to move raw materials and finished products from factories. Eventually, the meat-packing industry moved out of Manhattan to cities such as Chicago and Omaha and, by the 1950s, trucks were transporting far more freight than trains. In Manhattan, finance, advertising, publishing, and other enterprises took the place of traditional manufacturing businesses.

Typical of property near the High Line was a former slaughterhouse that I considered buying at Eleventh Avenue between 39<sup>th</sup> and 40<sup>th</sup> Streets. The building had not been used in many years and was decaying. It had troughs in the floors that carried the blood of the slaughtered animals down to a central point. I was glad I had not been there to witness the horror.

By the 1960s, much of the railroad industry in the northeast was threatened. In New York City, transportation czar Robert Moses had closed rail yards to build the rest of the West Side Highway and tenements and warehouses had been demolished in an area known as Lincoln Square to make way for Lincoln Center. In 1968, the New York Central Railroad tried to survive by merging with Penn Central. By 1976, the merged company went bankrupt and Conrail took over the High Line. Four years later, the last train rumbled over the structure, carrying frozen turkeys to the Gansevoort Market in Greenwich Village. Today, that's where the southern terminus of the recreational walkway begins.

We had opened the first storage parking lot in Manhattan—on 17<sup>th</sup> Street

(We called it Station 168). By that time, the High Line had already devolved into a rusty, weed-strewn stretch perched above an industrial wasteland. Many of the former industrial buildings, such as the one I had toured, were demolished. Taxi garages and auto body repair shops began to dominate the area. There was a metal scrap yard in the block between 27<sup>th</sup> Street and 28<sup>th</sup> Street.

Railroad enthusiasts suffered another major blow in 1986 with the construction of the Javits Convention Center from 34<sup>th</sup> to 39<sup>th</sup> streets along Ten and Eleventh avenues. Javits was constructed on the site that had been a New York Central freight yard. Its disappearance was the nail in the coffin for the era shipping of raw or finished materials by train in Manhattan.

### **Encountering Peter Oblatz**

My first association with the High Line came in 1985 when a character named Peter Oblatz, a railroad buff and a Metropolitan Transit Authority consultant, organized the West Side Rail Foundation to preserve the High Line. Oblatz owned a railroad car parked in the 30<sup>th</sup> Street rail yards, which he had converted into a decent place to live but a peculiar railroad fantasy.

Conrail announced that it was going to sell the line south of 34<sup>th</sup> Street to Oblatz for \$10, under Oblatz's "offer of financial assistance." The agreement complied with the Interstate Commerce Commission's (ICC) complex "railroad abandonment" classification procedures.

Since we owned the storage parking lot under the High Line, this strange turn-of-events was of concern to us. With the help of Doug Sarini, our point

person on government-related matters, we figured out that it was an underhanded attempt by Conrail to protect itself from any environmental liability issues involving the decaying viaduct. We knew that since Obletz had no real income or savings, in the event that falling debris killed or maimed someone, there would be no assets to seize in a negligence lawsuit. Doug found that Conrail had previously pulled a similar stunt with a phantom buyer involving one of its old Hudson River railroad bridges near Poughkeepsie. Conrail ‘sold’ the bridge to an entity that could never be traced and, by doing so, had avoided paying the cost of demolition. The bridge still exists and the local government is still paying the costs for making it safe.

We were fast realizing that the High Line might be a passive, rusting hunk of steel, but it was also going to be an impediment to any plans we might have to sell our parking lot or develop the property. We also knew that it was in our best interest to have either Conrail or some other party pay the demolition costs.

We consulted with an attorney, who told us that when it came to property law and condemnation rights, the railroads followed their own set of rules—far more protective than conventional real estate law. As the railroads had developed in the 1800s, new laws were passed which gave them “exceptional” rights under the auspices of the mighty ICC and later the same entity under a different name, the Surface Transportation Board.

Words like “unreasonable” or “unconstitutional” might better describe the protections railroad companies were granted. Moreover, the executives

working for these companies knew they played by their own set of rules. I found many of them to be among the nastiest people I have ever dealt with in business.

### **Creating a Public Voice**

Thus began a long, protracted legal battle between Conrail and Chelsea Property Owners, an advocacy group that Doug and I organized in 1985. The group consisted of some 20 property-owners affected by High Line easements. It was our attempt to create a public voice in what was turning contentious. Our company, Edison Properties, paid the costs and Doug set the agenda and kept members in the loop.

Around the same time, the Department of Real Property for the City of New York threatened eminent domain to seize our parking lot to build a maintenance garage for Department of Sanitation trucks that were assigned to Manhattan. (Sanitation has a maintenance garage in every borough.) Land without a building on it always becomes a target when government is seeking a site.

In this case, we fought against the condemnation by rallying the community against the potential of a smelly, neighborhood eyesore. Since we had recently paid \$4 million for the property, I feared that it would be condemned for an amount near or less than that. Part of our strategy was helping the City find a better site. We recommended privately owned land between Eleventh and Twelfth Avenues on the south side of 26<sup>th</sup> Street.

This encounter—one of my first public efforts—taught me some important

lessons: When government comes after your property, find where they may have made a mistake, arouse the public to your side, and offer the condemning group an alternative. We utilized this thinking to fend the City off. We lobbied all of the Borough Presidents, who then controlled New York City through a body called the “Board of Estimate.”

The vote that allowed us to retain ownership over the property was settled at a meeting that ended at 3 a.m. I still have a collage of the newspaper articles I saved about the struggle.

A short time later, Oblatz made the silly claim to community groups and the media that a revived High Line could haul construction and demolition debris out of Manhattan, and that he could raise the money to re-open it for that purpose. But his proposed terminal for loading the debris would cut through our parking lot. We again fought Conrail, but the idea petered out when it failed to gain support.

For the next several years, Oblatz wore out the soles of his shoes working to find financing to bring the High Line back to life. Doug researched the strength of Amherst Development in Buffalo and found it was a phantom company connected to Oblatz’s father. He drove to the Bronx to locate another backer, but instead found a dilapidated building and locked front door full of graffiti. Oblatz somehow talked the powerful New Jersey developer, John Cali, into writing a letter of support. We had Cali deposed by our attorneys, and he sounded misinformed. Cali quickly withdrew his support.

Conrail's plans to transfer the High Line to Oblatz for \$10 eventually ended up in court: Chelsea Property Owners vs. Conrail and Peter Oblatz.

The law held that a party had to be "financially responsible" and "bona fide" in the transfer of title. The proposed transaction was halted in 1992.

It's worth mentioning that while the Oblatz plan never got off the ground, the press loved the David vs. Goliath type story and gave him more coverage than his preposterous deal deserved. If we hadn't intervened, Oblatz would have owned the High Line.

I didn't think it unreasonable for the courts to rule that the High Line was a decaying hazard and that Conrail should be ordered to bring it down.

But the ICC's archaic procedures protected decaying viaducts—even though they were a dangerous hazard. In the hopes that Conrail's executives might listen to reason, we traveled to their Philadelphia headquarters to work out a settlement. The structure surely was a thorn in their side, they admitted, but claimed they couldn't pay to demolish it. Perhaps their thinking might change if business improved.

Interestingly, another real-estate company, Rockrose, bought three of the four most southern blocks where the High Line ended. They wanted to eliminate it as much as we did and convinced Conrail to allow them to demolish the structure south of Gansevoort Street to Spring Street—on the condition that they would pay all the demolition costs. They had no problem gaining approval and later convincing the New York City Planning Commission to rezone their property for residential development. Four apartment buildings were built on those four blocks soon after the land was



cleared.

In the midst of the litigation, Conrail's lawyers told us point blank that they would sell us the line if we would agree to pay the demolition costs and protect them from any environmental liability.

They told the court that it would take \$34 million to remove the remaining structure, but we found a contractor who would do the job for \$7 million. Our group, the Chelsea Property Owners, told the ICC it would pay all costs over that amount, and the ICC ruled in our favor.

I was stubborn and didn't want to let them off the hook, however. Instead of negotiating a settlement, which Harold wanted to do, I decided that time was on our side, reasoning that we were still using the land profitably for parking. In retrospect, I shouldn't have insisted that Conrail would ultimately be obligated to pay for the demolition, including the expensive insurance liability costs.

Why I didn't figure out a solution and act more reasonably in finding one was a mistake I still regret. You learn from your mistakes, and I certainly learned from this one. In real estate, don't hesitate when you have the opportunity to settle an issue and make a deal involving complicated issues, especially when it comes to government approvals.

### **Pablo Escobar Saves the Day**

So on and on we went. Mitch Baron, Edison's real estate attorney, also became involved. Baron was soon to experience firsthand Conrail's ability

to manipulate the regulatory agencies and drag things out. I did not give up my stubbornness on the demolition issue. The case dragged on and soon an old foe reappeared: the Department of Real Property.

This time they were even more determined. They wanted to seize our storage parking lot for the City's enormous Third Water Tunnel project. The Department of Environmental Protection, charged with building a new tunnel to distribute water from the upstate reservoirs to local water mains, was seeking a construction site for their main construction shaft.

Since our block was near the middle of the tunnel length in Manhattan, they started condemnation proceedings against us. We searched for alternate sites and recommended land within the MTA's rail yard at Tenth Avenue and 30<sup>th</sup> Street.

This time we were saved by a very strange turn of events involving Pablo Escobar, the high-profile Columbia drug lord. Across the street from the lot, Abe Hirshfeld and we had bought the building and leased several floors to our Manhattan Mini-Storage business. Seven floors had been leased to the Drug Enforcement Agency (DEA) for their regional headquarters.

The DEA spent \$500 million on renovations and, soon after they moved in, they began to get regular bomb threats from Escobar's people—an obvious effort to disrupt operations. But they still needed to err on the side of caution and needed our cooperation to let their bomb-sniffing dogs and explosive detection equipment into our mini-storage rooms above their floors. As a result, we forged a solid and trusting relationship with Robert Bryden, the

DEA's director of operations.

Coincidentally, Doug ran into an attorney who knew eminent domain law. The attorney told him that our parking lot would be protected if we could find a federal agency to lease spots. Federal law, he said, superseded a state or city's condemnation rights. We told Bryden that it looked like we might lose our parking lot and added that it was a terrible shame that his new \$500-million renovated headquarters was going to be directly across the street from a large, noisy construction site—one that was expected to take years to complete. But we also offered a way out: lease our parking lot for the exclusive use of your employees and the City couldn't touch it.

A 10-year deal was struck and, the day the lease was signed, the head of the Condemnation Section of the City's Department of Real Property called Doug and said he was sending over the final papers for Edison to review the 'taking.' Doug told him he might want to save his 32-cent stamp, since we now had a signed agreement from a Federal agency to lease the property. The silence on the other end of the line was deafening, Doug reported.

### **Rudy Enters the Picture**

Another one of our potential allies was New York City Mayor Rudy Giuliani. We already had a relationship with Randy Mastro, one of Giuliani's deputy mayors and a litigator who had been trying to get the mob out of the South Street Seaport, where we owned parking lots and managed parking for the City. (The mob actually controlled a parking lot adjoining one of ours).

When Mastro left to become a partner in a law firm, we hired him to lobby the City on our behalf. He helped make Giuliani one of the most important advocates for the Chelsea Property Owners. In 1993, Giuliani took the position that the High Line was an eyesore and an impediment to development. City Planning Commissioner Joseph Rose backed up his boss, going so far as to call the High Line in one newspaper account, “the Vietnam of old railroad trestles.”

But even with Giuliani on our side, we still made little progress, and continued spending money on legal fees. In 1996, a whole new set of executives and attorneys arrived on the scene when Conrail split into CSX and Norfolk Southern Railroad. The High Line became the responsibility of CSX, a Richmond, Virginia based international conglomerate with more than \$14 billion in revenue.

That same year, FedEx was considering our parking lot for the location of a new distribution center and garage. Their proposed facility was contingent on the removal of the High Line, and optimism abounded on both sides that we would find a way to finally tear it down. Even with the issue unresolved, we negotiated a 49-year lease with FedEx, a credit-worthy tenant. The plan included constructing a parking garage under the property for the DEA; with the FedEx portion of the building above.

### **New Advocacy Surfaces**

We stepped up our efforts big-time, but still couldn't get CSX to budge. We brought representatives of CSX, the City, and FedEx together and, just when it appeared a resolution might finally be in site, a new hurdle surfaced.

Joshua David, a freelance writer who lived at 21<sup>st</sup> Street, and Robert Hammond, a painter and business consultant who lived under the High Line on West 10<sup>th</sup> Street, formed an advocacy group called Friends of the High Line. The duo brought a considerable amount of energy, enthusiasm, and connections to their preservation efforts, proving to be a much more formidable foe than Obletz, who had passed away in 1995.

It didn't hurt that Hammond had graduated from Princeton, where his roommate had been Gifford Miller, president of the New York City Council. Hammond and city council member Christine Quinn, who represented the district, helped Miller 'fall in love' with the idea of turning the High Line into a public space. Miller's mother was also a landscape architect and park designer, adding to his interest in preserving the structure.

Even more helpful to their cause were new mayor Michael Bloomberg and his City Planning Director, Amanda Burden. They reversed the Giuliani administration's opposition to repurposing the High Line. At a hearing of the Surface Transportation Board, Burden and Deputy Mayor Dan Doctoroff testified that they foresaw the viaduct being transformed into a green spine linking three evolving neighborhoods. They and other advocates pointed out the success of Promenade Plantée, an old railroad viaduct that had been converted into a park in Paris.

The momentum was quickly shifting in other ways as well. A West Chelsea art gallery garnered considerable publicity when it opened an exhibit of a photographer's images of the line. The Friend's group was now attracting celebrity supporters such as Glenn Close, Danny DeVito, and

Martha Stewart, and a \$500 per person High Line-preservation benefit attracted high-profile people and publicity. They also hired a city planning think-tank who endorsed their position.

CSX, sensing new political and community support, suddenly saw a whole new set of options, including the federal government's "rails-to-trails" program, which had the potential to play a major role in financing some or all of the costs associated with converting their albatross into something much more.

Although the momentum had completely shifted and we sensed a new, uphill battle, influential partners (the MTA, the State and City Departments of Transportation, and the Javits Center) decided to stick with our lawsuit that involved removing the High Line. After all, we had committed considerable time, effort, and millions of dollars in litigation and consultant studies, and fair was fair.

### **The Art of the Deal**

Representatives from the Bloomberg administration asked for a meeting and the discussion centered on the City rezoning the area "residential" if we would drop our opposition to the "rails-to-trails" program. After years and year of haggling, we and the other property owners agreed to allow the High Line to exist in return for residential zoning. The agreement meant that our site— an entire square block—would be allowed to build 10 times the land area or 750,000 square feet, or potentially 800 apartment units.

Rarely does zoning change so radically, and the value of our property and all

the property near the High Line skyrocketed. Soon after the deal was struck, the public was invited to submit their ideas for the High Line in an international design competition. At one point, 720 entries from 26 countries poured in. I laughed when I read about one entry, which proposed turning the entire 1.5 miles into a swimming pool.

A more selective competition followed and architectural, landscape, and horticultural teams were selected for the project. The City committed \$60 million; state and federal grants and donations from philanthropists, celebrities, and the business world helped offset a renovation that cost close to \$200 million. A development boom in Chelsea that continues to this day.

On April 15, 2006 Doug attended the rail-lifting ceremony on 14<sup>th</sup> Street. Mayor Bloomberg, Senators Hillary Clinton and Chuck Schumer, and Congressmen Jerry Nadler were all present. There was a brass band and free food for at least 300 people.

A small piece of the High Line opened in the spring of 2008. Today, the High Line to 34<sup>th</sup> Street draws five million visitors annually. The opening of the new Whitney Museum near the Gansevoort entrance brings even more people into the area and provides great views of the High Line from its outdoor terraces.

I admire the fact that Friends of the High Line organized City and private support for their vision. I give all the people who opposed us, especially Jonathan David, Robert Hammond, and Amanda Burden, a lot of credit. They helped us solve our High Line problem and get quite a bit out of the

negotiation. It was a long and hard battle, but as far as I'm concerned, it turned into a very happy ending for the employees of Edison Properties, for my children and their spouses, and for my grandchildren.