Canada-United States Law Journal

Volume 30 | Issue

Article 12

January 2004

Cities: Competition for Inward Investment Proceedings of the Canada-United States Law Institute Conference on Multiple Actors in Canada-U.S. Relations: Cities: Competition for Inward Investment: Introduction

James E.P. Sisto

Recommended Citation

James E.P. Sisto, *Cities: Competition for Inward Investment Proceedings of the Canada-United States Law Institute Conference on Multiple Actors in Canada-U.S. Relations: Cities: Competition for Inward Investment: Introduction*, 30 Can.-U.S. L.J. 39 (2004)
Available at: https://scholarlycommons.law.case.edu/cuslj/vol30/iss/12

CITIES: COMPETITION FOR INWARD INVESTMENT

James E. P. Sisto
Introduction

MR. SISTO: For this session, we are going to try to take the conversation from what was a fascinating opening session on a very important issue on both a macro and micro level but I am saying we are going from the policy makers to the grunts. We are going to talk about competition and the use of incentives for competition among cities, states, and in some cases countries the United States and Canada.

My name is James Sisto. I am of counsel with Squires, Sanders & Dempsey. Prior to that, I was the State of Ohio's International Trade Director for seven years under Governor's Voinovich and Taft. In that capacity, I had the pleasure of working with several of you and I am humbled and grateful for the attendance from the Canadian representatives that are here.

I would like to thank Professor Henry King and his staff for annually pulling together this excellent conference. The Canada-U.S. Law Institute is serving a very valid role in our legal community in stimulating these conversations among practitioners and policy makers on both sides of the border.

We have two very knowledgeable speakers with us today on this topic. Before introducing each of them, I will make a quick apology. One of our speakers had to cancel, Andreas Steiner, CEO of Starlim/Steiner out of Austria. His company recently went through the process of concerting whether to invest in Ohio or in Ontario. They chose London, Ontario for the site of their investment. As part of that process, they went through a comparative study and analysis and considered many things, one of which was incentives. I think, in particular, Don Schjeldahl's remarks will put that in perspective of where incentives are considered.

Unfortunately, Andreas for various emergency family reasons, was unable to join us. On very short notice, Nate Green from the Cleveland Cuyahoga Port Authority was able to join us.

I will bring some contradictory perspective to this presentation. As Former Deputy Director of the Ohio Department of Development, I was in charge of the international investment recruitment process. Once a potential prospect was identified, they were turned over to people such as Nate Green, who, at the time, was working for the State, who understood roads, sewers, land issues, different community attributes and the incentive programs. However, on the recruitment side, through our foreign offices, we would be working including in Canada in trying to attract companies who are expanding into the North American market or into the U.S. market to consider Ohio.

Our chief incentive was location, location, location. I think that to put this entire session in perspective, the location is, without a doubt, the number one driving force in any investment or relocation decision. Often times, incentives will be a tiebreaker or will advance things.

As a deputy director, the department was actually involved in the creation and the writing of incentives. One of the incentive programs was the Ohio export tax credit, which has since sunsetted, but was up and running for ten years and was an incentive to companies, both who located in the state and who or are already in the state to export more product with the ruling under the foreign sales corporation by the WTO. We can now look back in retrospect and say that may have been illegal at the time, but it served its purpose.

One of the readings that was presented to you prior to the conference or in your conference materials talks about the constitutionality of incentives. We will not be going there in this conversation, nor should we.

Actually, both of the presenters wanted me to give the disclaimer that neither are attorneys and both positively chose that career path to avoid the legal profession.

So, in that policy-making decision, we were to create an incentive for a specific purpose, but we are also guided by the principle from our treasurer, state treasurer, that it had to be revenue natural. In other words, we were offering an incentive, but, in essence, the incentive was only created by the offset of activity that created revenue to the state in some other fashion or form.

I think in many of the incentive programs that is at the core of them, often you can say they run amuck in the sense of what they were intended for, why they were created is not necessarily the way that they had been used in practice, and our two practitioners will hopefully make a few comments and give us some light on that.

The third perspective I bring is as a practicing attorney now where on behalf of my clients it is my duty or obligation to try to find the best potential incentive package for them to compare, negotiate and document every conceivable incentive possible in a location decision.

I had the opportunity last year, actually in a project I worked with Nate, about a million dollar investment in Ohio where we were comparing sites in Ohio, Illinois, Arkansas, Texas, and Mexico. And, at the tie breaker stage, with all other things being considered in the location decision, indeed incentive became a very important part.

So I've gone from the regulator to the person now trying to take advantage of and on behalf of my clients, negotiate.

Clients include both international and domestic companies, those who are relocating or creating new investment.

I will wrap the fourth and fifth perspective together, but, as the current secretary to the Board of the State International Development Organization, I work with individuals who are trade and investment professionals from throughout the United States. Also with the Council of Great Lakes Governors, and together the states and the Canadian provinces who are invited to participate in those programs, sit down and discuss as practitioners these incentives. How do you do this? How do you work with the companies? It has not to design incentives, but rather how are they used and packaged in the field. That is on a very cooperative basis. Although you notice, I do not have a representative from either side present on the panel, because, at the end of day, they feel there is an art to their process, and there is only a certain amount of information they would chose to share with one another.

Finally, I serve on an incentive review panel for a local community on the suburbs of Columbus; and, in that capacity, I am often skeptical that this incentive is really making the difference in the relocation and expansion decision. And it is my job to safeguard the public trust of those in our community that we are not forsaking some revenue, where we need not go there.

So, from regulating, to negotiating, to policing the use of incentives, I've been able to observe various different roles and functions of incentive programs; and I can tell you that it's often contradictory and conflicting in my own views of how these work.

Just recently, and I would make this last comment before getting into the presentations, it often depends, and you can tell on who it is that's negotiating the incentive within the organization as to what exactly is the importance the company is placing on this in their location decision.

In the case I mentioned with Nate and I with a -million dollar plant and equipment, it was the controller. So at the bottom line, it was financial and the facts and figures were put down and that was the end analysis, a financial one.

In a recent small R & D operation from Sweden that I worked with, they were considering Ohio, North Carolina research triangle, or Pal Alto, their decision was really going to be based on where they had available electrical engineer PhD candidates who could design chips.

Now, as part of that, they found these three locations in the United States where this was available and they sent electrical engineers to do the site analysis. Therefore, he really was not too concerned about the facts and figures, but he knew one thing that he had to take back packages to his bosses to say I have negotiated and done a good job. Hans did do a very good job, but I do not think he understood incentives.

A recent one I did in the City of Columbus, the CFO, the client was involved and, again, it was the data and bottom line dollars. I attend the City Council meeting where this was to be discussed and brought up, and it was a five-hour grueling session, not over a small little tax credit, but another tax credit did come up which involved the relocation of 400 jobs from the suburb to the city core.

This could be the difference of London to downtown Toronto or Shaker Heights to Cleveland, or, in this case, Dublin, Ohio into Columbus.

Therefore, it was really a situation of a very, very local issue. I was amazed at the conversation of City Council. They had identified the competition, or, in this case, the enemy, and it was their suburb. It was really remarkable to me to listen to this debate, that maybe we weren't giving enough of an incentive to compete with our suburbs. Of course, from my perspective, I'm saying "your competition isn't your suburb, it's not anywhere within your state, it's within states and it's internationally to provide the best package," but I wasn't registered as a speaker, I hadn't put in my speaker slip, so I was biting my tongue on that one.

I would like to go forward with our presentations. I hope that it will give you a perspective from the vocational side, the practitioner side, of how we use incentives, when we use incentives, and what kinds of incentives are available.

We will, as best as possible comment on why we think this incentive program exists, but often times, that comes out of the State Legislature and debates the part of which we were not invited to or are party to.

So with that being stated, I would like to move to our first presentation that is the role of incentives in an economic development project.

Nate Green is the Corporate Finance Manager for Cleveland Cuyahoga Port Authority. He has been there just for about a year now and prior to that, was an industrial development representative in the Ohio Department Development Economic Development Division and worked on relocations, expansions, and actually right now, has a project involving both the United States and Canada.

Second, we will hear from Don Schjeldahl, who is Vice President and Director of the Facilities Location Group in the Cleveland office of the Austin Company, is the one who would then take these programs and the programs of other states and provinces and work with the companies in consulting with them in making their site selection location decision. The Austin Company is a fully integrated consulting, design, engineering, and construction company that would help a company in all facets of their site relocation decision or expansion.

And with that, Nate.