

## BRA's e-mail bonding: Cozying up to Kensington

By Paul Restuccia

Sunday, September 11, 2005

For a city agency charged with protecting the public interest, the Boston Redevelopment Authority has been unusually cozy in its dealings with Kensington Development - the company behind plans to build a 30-story residential tower on Lower Washington Street.

The BRA is the city's development arm - a powerful tool for self-styled "urban mechanic" Mayor Thomas M. Menino.

But it is also charged with regulating the public approval process for development and ensuring that opponents of a project are allowed genuine input.

Now, a trail of e-mails obtained exclusively by the Herald strongly suggests the BRA acted in collusion with a top Kensington executive - Ralph Cole - to actually promote the company's development agenda and guide its controversial project through the approval process.

The BRA even hired Cole's son.

Those e-mails - obtained by a longtime Boston activist through the Freedom of Information Act and made available to the Herald - show the BRA actively orchestrating opposition to a now-failed effort to save the old Gaiety Theatre.

The historic Gaiety's demolition - decried by many preservationists but today well on its way to completion - will make it possible for Kensington to go forward with its \$120 million development.

The e-mail evidence shows that Kensington lawyers were all but allowed to do the BRA's oversight work - setting the stage for plans to create a 290-foot tower in a neighborhood zoned for buildings no higher than 150 feet.

Indeed, BRA officials appeared to be cheerleading the developer and its lawyers in a series of communications between January 2003 and March 2005.

In one e-mail to Cole - dated Dec. 28, 2004 - BRA lawyer Donald Wiest wrote, "Congratulations on a terrific legal victory last week. As you know, I've been quite worried about that injunction motion (by Gaiety neighbor the Glass Slipper), and the potential it represented for gumming up the works on the Kensington project. It is a great relief, all around, to be past that now. My guess is that last week's ruling pretty much put a stake through the heart of the plaintiff's legal challenges to the project. I'm looking forward to seeing the steel start rising on the site."

Owners of the Glass Slipper strip club had tried to stop demolition of the Gaiety, which was needed in order for Kensington to clear the site for building

Cole, for his part, was rapturous in his praise of the BRA as well, e-mailing Wiest on Dec. 18, 2003, right after the city's mayoral-appointed Zoning Commission gave Kensington a key approval to include city streets and an adjoining building as part of its development site.

"I know you cannot accept gifts so I will send out heartfelt thanks for the hard work, tenacity and execution you caused to make this project happen," Cole wrote.

Last November, the BRA hired Ralph Cole's son, Devin Cole, to a newly-created position as a pro-



Mayor Menino's BRA has acted in collusion with top Kensington aide- Ralph Cole. (file)  
[from electronic version]

gram assistant for economic initiatives making \$37,500 per year.

Wiest wasn't alone at the BRA in taking unusual steps to be helpful to Cole and Kensington.

Longtime BRA official Paul McCann, according to an e-mail from November 2004, instructed Wiest to expedite the final step toward obtaining a demolition order for the theater. written by Kensington attorney Matthew Kiefer and was signed by BRA director Mark Maloney on Nov. 23, 2004.

Earlier, when Kensington presented its plan, Wiest appears to have gone against his own legal judgment. He initially crossed out a section of the developer's plan that declared that the Gaiety was no longer a theater, noting that the theater's existing use could not be overridden by such a statement.

But after Kensington's lawyers objected to deleting the section, Wiest changed his mind and helped the developer evade a BRA provision that protects theaters as well as requires a public zoning review for change of use.

E-mails show Kensington expressing fear that if the Gaiety were subject to the provision, they might never be able to tear the theater down.

In a Dec. 28, 2004 e-mail, Weist crowed to Kiefer that "no court" was going to rule the by-then approved plan - which gave the BRA all zoning power - unconstitutional.

Almost all would-be plaintiffs who tried to stop the plan that allowed Kensington's 290-foot tower and the Gaiety demolition were denied standing in court because they couldn't show it would harm property that they owned.

"It appears from the e-mail exchanges that the BRA leadership knowingly helped Kensington do things that the agency knew . . . were unlawful," said Shirley Kressel, co-founder of the Alliance of Boston Neighborhoods, and an opponent of the project.

Kressel - an acknowledged backer of Menino's mayoral opponent, Maura Hennigan - obtained the e-mails through a public records request and provided them to the Herald.

BRA spokeswoman Meredith Baumann said the e-mails "are being taken out of context and unfairly characterize the BRA's relationship with the developer.

"We work with developers, landowners and community groups throughout the approval process, but once a project is approved the job of the BRA is to move it forward, to advocate for it," Baumann added.

Indeed, the BRA's help for Kensington extended all the way to the top of the agency.

In a March 31, 2005 e-mail, BRA director Maloney instructed BRA policy director Tim McGourthy to get letters from preservation groups to support the demolition permit for the Gaiety. "I need support letters from Historic Boston (Carter Wilkie), the Preservation Alliance (Susan Parks (sic) and The Elma Lewis School (Barry Gaither)," Maloney wrote - referring to organizations that generally had a history of backing building preservation.

But Baumann said Maloney's assumption of support from preservationists was "not a given," and that he was merely seeking to let groups who had voiced support in the past "be aware of" the latest developments at the time.

"It's scary," said longtime preservationist Lee Eiseman, who led a failed attempt to win protected landmark status for the Gaiety. "All through this entire process, Maloney assumed he could get preservation groups to do his bidding."