


# CARIBBEAN BUSINESS

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## CONSTRUCTION INDUSTRY UNDER SIEGE



**Industry representatives fear uncertainty over validity of government-issued construction permits and increased opposition by activist groups could bring the sector and the island's recessionary economy to a full stop**

By José L. Carmona  
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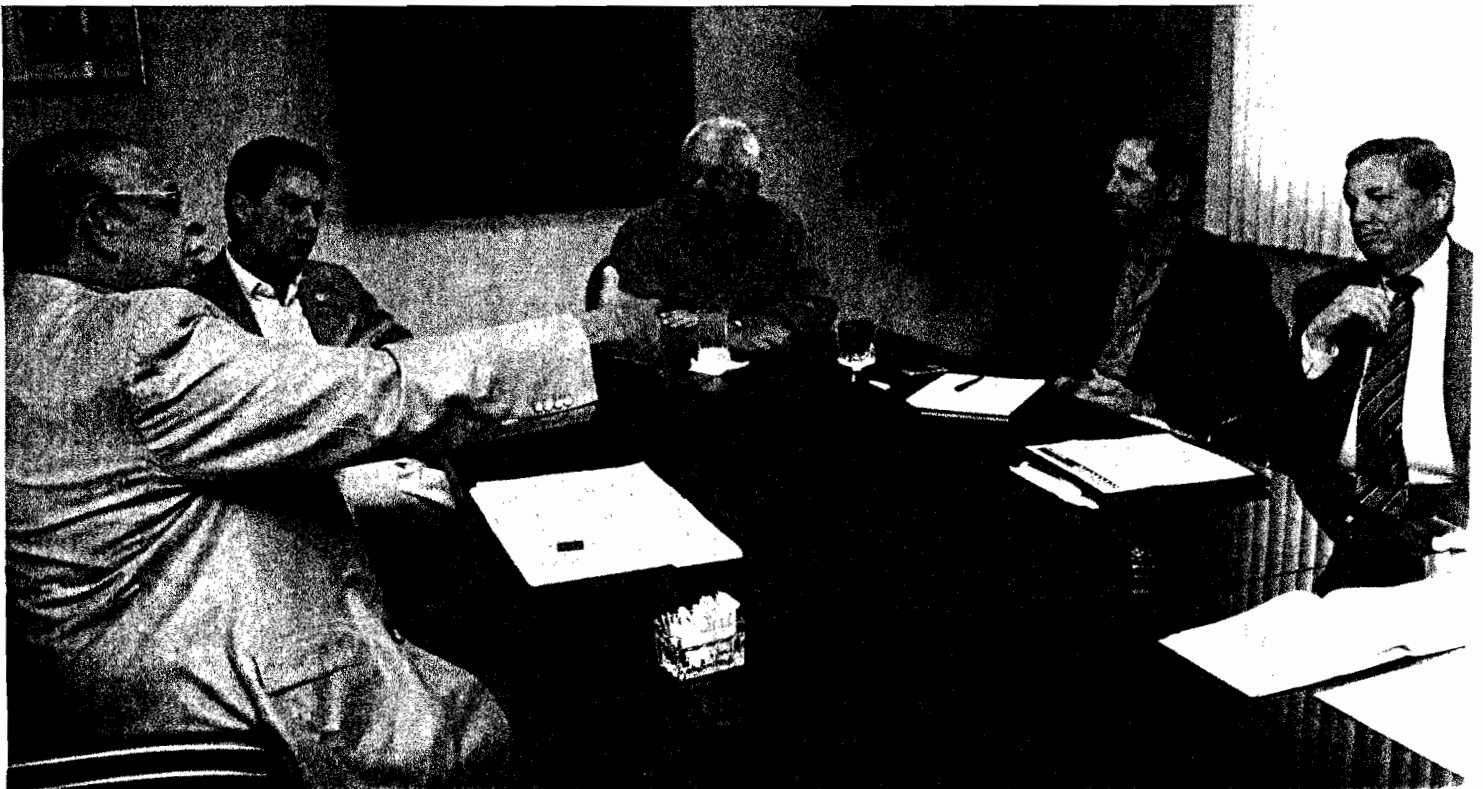
### SPECIAL REPORTS



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# It's still a matter of trust

**In an exclusive roundtable with CARIBBEAN BUSINESS, construction industry representatives express their concerns over the endless bureaucratic permit hurdles and increased challenges they face from opposition groups and even legislators, which imperil Puerto Rico's economic development.**



BY JOSE L. CARMONA  
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**N**o one can dispute the impact the construction industry has had on the local economy in past years in terms of economic activity and job creation. It has been Puerto Rico's most dynamic sector and its main economic activity backbone since the 1990s, when it started growing faster than most other sectors and helped sustain the local economy's overall growth.

Each year since 1999, the total value of the island's construction activity (public and private) has surpassed the \$6 billion mark, reaching a record high of \$6.9 billion in Fiscal 2000. It is estimated that at its peak the local construction

industry generated close to 85,000 direct jobs.

However, beginning in 2001, local developers and their multimillion-dollar projects, which bring thousands of jobs and spur much-needed economic activity throughout the island, began to come under siege and, in many cases, to a full stop, whether temporarily or permanently.

Route 66, the Condado Trio under its first developer and prior to becoming the Condado Duo, Princessa del Mar, the Madeira Condominium, the Golden Triangle Convention Center, the Millennium Condominium, the Puerto Rico Coliseum, the Marriott Courtyard Hotel & Casino in Isla Verde, Costa Serena, Dos Mares and, most recently, Paseo Caribe in Puerta de Tierra are a few examples of the countless construction projects

around the island whose government-approved and-issued construction permits have been questioned, challenged, and even revoked, either by the community, by the government or by opposition groups in local courts and in other forums.

## PASEO CARIBE THE LATEST TARGET

As if all the government red tape and the already long and costly permit process wasn't enough, developers and their projects now might also face the scrutiny of the legislative branch—even if they already got the green light from the appropriate government agencies and the executive and judicial branches—and of political activist groups.

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disguised as environmentalists.

Such is the case of developer Arturo Madero, managing partner of San Gerónimo Development Corp., and his mega project Paseo Caribe, the \$200 million tourist, residential and entertainment complex being built next to the Caribe Hilton hotel in Condado.

The project has generated more than 2,000 much-needed jobs during its construction plus will generate 700 direct and 1,500 indirect jobs once fully completed.

Last month, several members of one of the local opposition groups, wearing terrorist-style hoods, seized for several days a construction crane belonging to general contractor F&R Construction at the construction site, halting all construction work at the project. The group claimed Paseo Caribe was being built on public domain land and obstructed access to Ft. San Gerónimo.

The project's opponents, led by *Alfredo de Jesús*, better known as "Tito Kayak", demanded its demolition after condemning the project following the celebration of a Soviet Union-style "People's Court" organized by the *Movimiento Nacional Hostoniano*, a local left-wing socialist group.

Surprisingly, neither the Police nor the Justice Department arrested nor pressed charges against those who climbed the construction crane for trespassing private property. What's more, when F&R Construction requested a mandamus from the court to get the protesters down from the crane, the local judge ordered the contracting company to provide water and food to the protesters on the crane, while construction workers were unable to work and get paid to feed their families.

#### LONG PERMIT PROCESS

It took Madero three-and-a-half years of battling government bureaucracy and legal challenges to obtain the necessary final government approvals and building permits for Paseo Caribe. Concessions included altering the project's blueprints to satisfy neighbors opposing the project. On four occasions, the courts, including the Puerto Rico Supreme Court, ruled in favor of the developer.

All of the government agencies that had to approve a project under the Rosselló administration evaluated Paseo Caribe and gave the

developer the go-ahead by issuing all the necessary legal permits.

When Gov. Sila Calderón took office in 2001, those same agencies under her administration reviewed all the permits and approved new ones for the project. The same process was followed when Gov. Aníbal Acevedo Vilá took office in 2005. In essence, government agencies from three different administrations and all levels of the local courts have reviewed the project and none expressed any objections.

Just to get the construction of Paseo Caribe started, Madero and San Gerónimo Development Corp. initially invested \$26 million in the project, mainly to eliminate dilapidated, asbestos-filled military barracks dating back to the late 1940s. Additionally, a \$115 million interim construction loan was obtained from FirstBank.

Back in 2003, PDP Rep. Luis Raúl Torres, then chairman of the Municipality Development Committee, called for public hearings on the project despite the fact Paseo Caribe legally received all the required endorsements and approvals from all permitting agencies, followed all regulations and prevailed in court on four occasions.

For nearly a year now, Senate Vice President and Consumer Affairs & Government Audits Committee Chairman Orlando Parga has been conducting public hearings on Paseo Caribe's permit process.

#### THE CONSTRUCTION INDUSTRY FIGHTS BACK

At a recent roundtable with CARIBBEAN BUSINESS, local construction industry representatives expressed their concerns over what they claim is an orchestrated attack not just against their sector but against Puerto Rico's economic development by a handful of activists and opportunists disguised as environmentalists to promote their real political agenda.

"What we have here is a left-wing political agenda disguised as an environmental cause. What has Paseo Caribe got to do with the environment, when that land was filled up back in 1949? The fort access issue was resolved with the new cobblestone boardwalk, which for the first time will give the public access to the fort from Ponce de León Avenue yet these people continued to protest. One's rights end where

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the rights of others begin. We can't allow this because in every project there's a rumor they will go and paralyze it," commented Alfredo "Tito" González, president of the Puerto Rico Homebuilders Association.

Emilio Venegas, local chapter president of the Associated General Contractors of America (AGC), expressed his belief that the hooded protesters are part of an organized movement to dislodge our democratic way of life and our businesses.

"This is obviously orchestrated; someone's leading the group behind closed doors. The saddest part of this is, as they have stated in the media, so far they have not lost a case. Every time they have gone to our judicial system, they have gotten away with it," said Venegas.

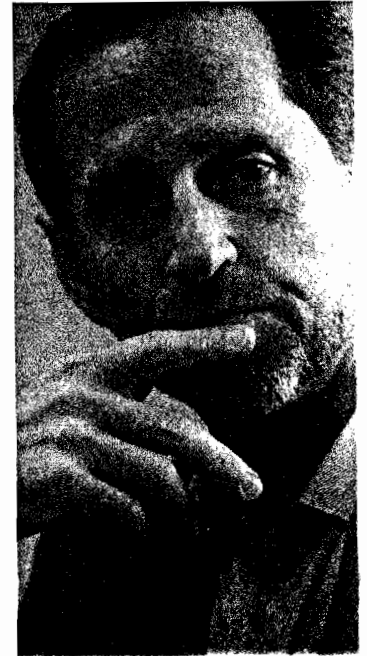
The AGC president suggested government agency heads should be the ones defending the permits they themselves issued and not construction industry members.

"We shouldn't be the ones defending the permits that were legally issued by the agencies. Where are Arpe and the Planning Board to defend the permits they issued? That's why we pay income taxes and have a government, to defend us," said Venegas.

"These are the kind of things we need to change in our government. We must defend the system and the current processes we have in place or there will be total anarchy, which is exactly what these mercenary protesters want. To destroy our system to implement theirs."

Rafael "Kaki" Torrens, president of Levitt Homes, said that the fact that protesters who raided the construction crane at Paseo Caribe were not arrested by local law enforcement authorities sets a bad precedent and sends the wrong message.

"If a stranger trespasses the patio of my home does it mean I have to provide food for this stranger? My patio is private property; a construction site is private property. It's the same principle. The justice system in Puerto Rico is crazy," said Torrens.



*Alfredo "Tito" González,  
president of the Puerto Rico  
Homebuilders Association*

Antonio Joglar Moreno, president of the Puerto Rico Ready Mix Concrete Producers Association, said despite having all the required permits if a project isn't endorsed now by Tito Kayak it can be stopped any time, even during construction or worse yet, at near completion.

"This trend can destroy whatever trust financial institutions may still have when financing a project. You can have all the required permits but if banks no longer trust legally obtained permits, then anyone could raise doubts and stop or kill a project. Thank God Gov. Acevedo Vilá stated he would not implode Paseo Caribe as the protesters

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demanded. That would be a terrible precedent with disastrous consequences," stated Joglar.

#### CALDERÓN ADMINISTRATION BLAMED FOR CONSTRUCTION INDUSTRY WOES

Torrens believes the problems the local construction industry has been facing with opposition groups over the past few years began under the Calderón Administration back in 2001.

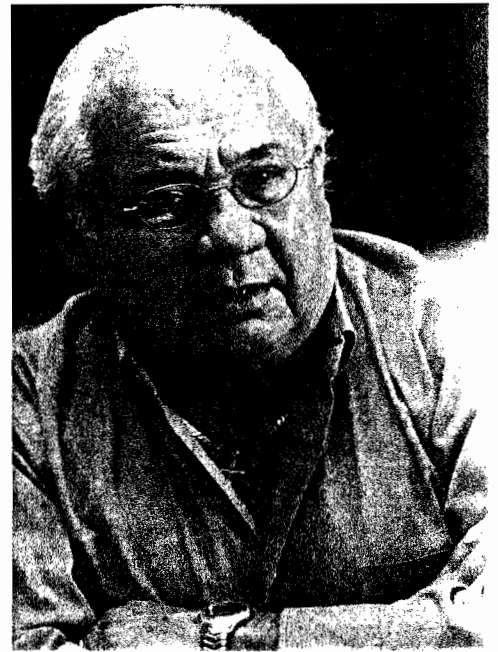
"The one who handed over the construction industry on a silver platter to these opposition groups was Gov. Sila Calderón. When she took office as Governor, she halted all construction permits issued during the Rosselló administration claiming those were issued suspiciously and were not good. This is not politics; it's a fact," stated Torrens. "Every time opposition groups contested a construction permit in court, government agency heads never defended a permit that was questioned. The end result was the loss of faith in the local regulatory agencies."

As a consequence, the judicial system began to assume the duties of the government agencies and the agencies have allowed the courts to make decisions that go against the correct administrative procedures that should pertain only to those agencies with the expertise and the know-how to indicate if a permit is valid or not, added Torrens.

"Until then, the courts had the courtesy to declare a construction permit 'good' as long as it was not a case involving fraud. And that's how the validity of permits was derailed. Agency heads then feared taking action or making decisions. They were afraid of being accused of corruption if they didn't deny a permit so they didn't sign them," commented the Levitt Homes president. "That began to paralyze the local permitting process."



*Emilio Venegas,  
local chapter president of the  
Associated General Contractors of America  
(AGC)*



*Rafael "Kaki" Torrens,  
president of Levitt Homes*

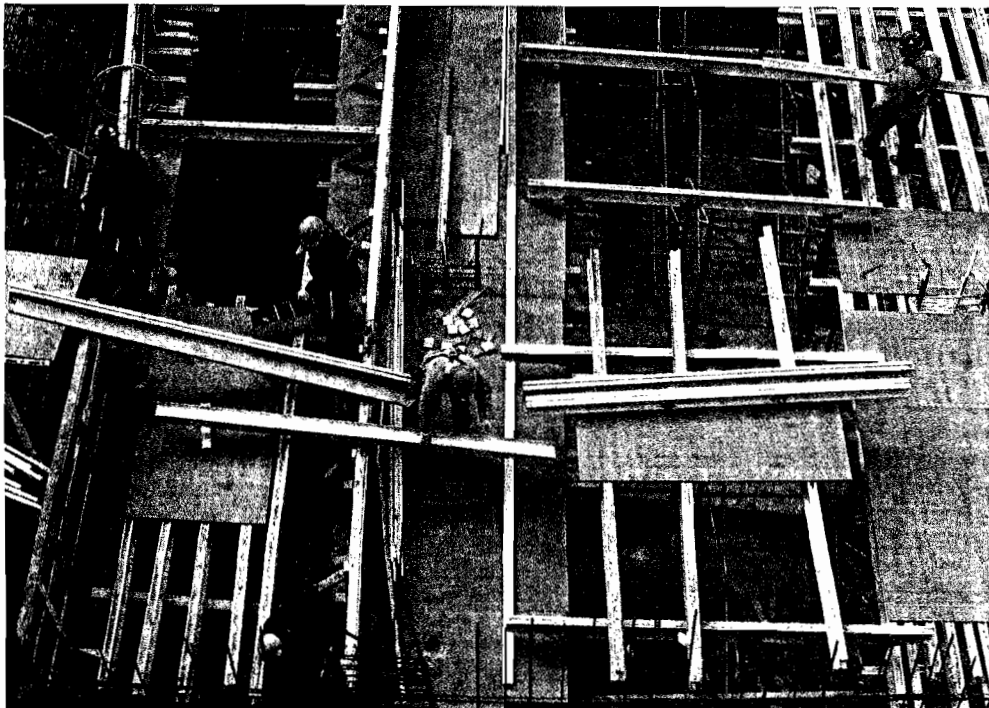
When the Acevedo Vilá Administration took over in 2005, Torrens said the Environmental Quality Board alone had more than 300 projects filed, which had already gone through public hearings but had not yet been processed, thus creating a huge backlog of projects that further exacerbated the crisis in the construction industry.

As previously reported by CARIBBEAN BUSINESS, more than \$12 billion in mostly private-sector investment is waiting on the sidelines (CB, Dec. 14, 2006). According to an internal Planning Board document, some 213 construction projects, each worth \$10 million or more, are on hold somewhere in the web of Puerto Rico's construction-permit process. These projects alone are worth \$9.6 billion and could generate 124,800 direct jobs.

CARIBBEAN BUSINESS sources estimated other projects on hold of lesser quantity could possibly represent an additional \$2 billion to \$3 billion investment and almost 40,000 direct jobs, bringing the total investment on hold to more than \$12 billion and the number of direct jobs that could be created to 165,000.

"This permits issue was started by situation and conditions that were political in nature. If those who issued the permits do not defend their validity then who is going to believe in them?" asked Torrens. "This is destroying the industry that provides jobs to thousands of workers. The ones they are really hurting with this situation are the construction workers and their families. Right now there are many men and women who used to work in the construction industry who cannot find a job."

Antonio "Toño" Medina, president of the Puerto Rico Engineers and Surveyors Association said the construction industry includes many members of his organization many of whom are leaving the island because they cannot find a job.



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"A construction project begins with surveyors, topographers, designers and an environmental impact statement...Surveyors and engineers are being greatly affected by this situation. They cannot find a job and are leaving the island. Architects are going through the same thing," commented Medina. "The situation is critical."

For every direct job in the construction industry, between two and three indirect jobs are created, noted AGC's Venegas. "There are very few local economic development areas that do not benefit from the construction activity: financial institutions provide construction and mortgage financing, insurance companies, construction material manufacturers, equipment sales, truckers to transport the materials, you name it. Even the retail stores benefit, because the more people have jobs, the more they spend. We are all affected one way or the other," said Venegas. "Construction is the industry with the highest multiplier effect in the economy and with the fastest impact. It's the backbone of the economy."

#### SENDING THE WRONG MESSAGE; WHO ARE THE REAL VILLAINS HERE?

Venegas said what happened at Paseo Caribe, in which the trespassers went unpunished, sends the wrong message to the younger generation.

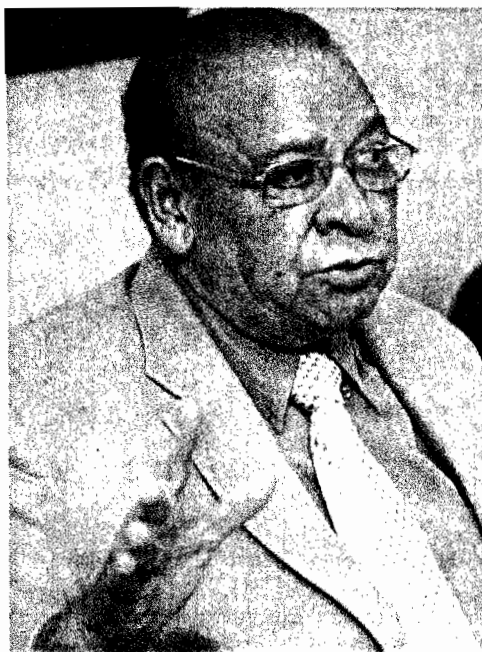
"The message we are sending to the younger generation is that anyone can do whatever they want with no consequences. Is that the Puerto Rico we want to raise our children and grandchildren in? Is this the message of education, respect and order that we want to instill as a society? They are playing with the basic fundamentals of our society but we refuse to see it even though they are doing it right in front of our eyes every single day. The rest of the world is watching and is reacting negatively to Puerto Rico," stated Venegas.

Homebuilders Association President González said when Tito Kayak was arrested in New York a few years ago for trespassing the Statue of Liberty, the incident was over in less than two hours. When he recently climbed a communications tower in Israel, he didn't last two minutes before he was brought down and arrested. But after days atop the construction crane at Paseo Caribe, he walked away scot-free.

"We have to defend the right to protest and the freedom of expression but within the current laws. He cannot break the law and risk other people's lives. Now every time someone has a complaint is he going to climb a construction crane or atop a building's ledge and risk his or her life? And that's what the authorities are promoting by not acting," said González.

What González has noticed over time is the "villainization" or criminalization of the construction industry through these opposition groups.

"What do we do? We provide jobs to thousands of heads of households, economic development and shelter. The construction in-



*Antonio "Toño" Medina,  
president of the Puerto Rico  
Engineers and Surveyors Association*

dustry is much more than housing, although half of the construction workers work on building homes," stated González. "If we can't build homes, where are the people going to live?"

González said the industry must work to restore its pride and transmit that message to every construction worker. He pointed out the fact that construction workers at Paseo Caribe stood up to the protesters trying to defend their right to work and provide the "rice and beans" for their families.

"People have asked me, if things are so bad and difficult in the construction industry why don't I do something else? My response to them is I love what I do. To me, it's a fantastic thing being able to build someone's dream."

The process of "villainizing" the construction industry, González noted, has also given way to political opportunists, in this case Senate Vice President Orlando Parga, who he said has been using Paseo Caribe to seek media exposure through public hearings on the project, which have been going on for nearly a year.

"By the way things are going the situation will get more complicated and one day we'll lose all privacy and before you know it developers will have to publish the lists of property buyers," insisted González. "At the public hearings they requested Madero submitted the list of buyers. Madero's lawyer indicated they could not provide such information because it's confidential. But they went to the Department of Consumer Affairs to try to obtain the list for other purposes. There's this view that it's bad to have money. What they are actually doing is causing terrible damage to



*Antonio Joglar Moreno,  
president of the Puerto Rico Ready Mix  
Concrete Producers Association*

Puerto Rico's economy and its credibility."

The sad thing about all this, added González, is that the original purpose of the Paseo Caribe project gets lost in the process, namely it will improve access to the fort, which the developer has done already with the construction of a cobblestone boardwalk, and to protect the fort, which passed to the hands of the local central government. Previously it was controlled and maintained by the Caribe Hilton.

"In addition, Paseo Caribe clearly follows the central government's public policy as it is a mixed-use project with a condo hotel, residences, commercial space, in a high density urban area and it even has redevelopment because that location was already built. There were tax credits that the developer could have used but decided not to. So what do opponents want us to do?" González pondered.

#### OVERHAUL OF PERMIT PROCESS URGENTLY NEEDED

González said the much-talked-about reengineering of the permit process opens a window of opportunity to make the system less vulnerable to critics, making the permit process a more solid one, with more certainty.

"Instead of a letter of endorsement, agencies should grant an official certificate signed by the agency head, so that he doesn't come back later and recant. This would speed up the process tremendously," said González.

AGC President Venegas pointed out that it would be useless to overhaul and speed up the permit

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# IF LOCAL ECONOMY IMPROVES, CONSUMER CONFIDENCE WILL REBOUND

BY JOSÉ L. CARMONA

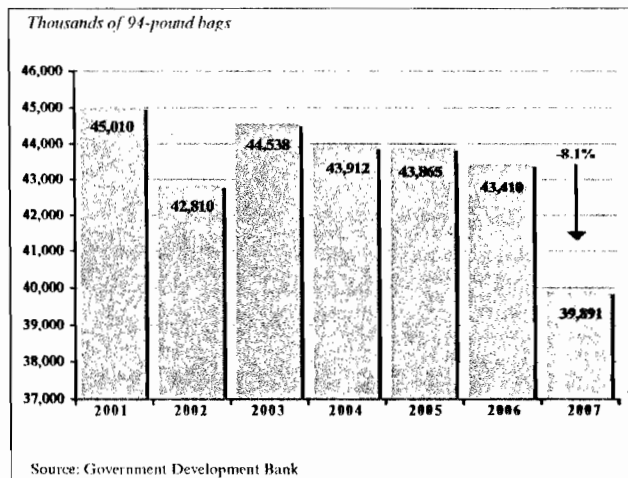
Puerto Rico's weak economic performance and gigantic government bureaucracy is bearing on consumers' confidence and therefore on the construction industry, commented Adolfo "Tito" González, president of the Puerto Rico Homebuilders Association.

The most recent statistics from the Planning Board indicate that the value and number of construction permits during Fiscal 2007 (ended June 30) dropped 22.2% and 4.8%, respectively, their steepest decline in more than 11 years. Likewise, the sale and production of cement declined 8.1% and 7.2% during fiscal year 2007. The number of mortgage originations made during the second quarter of this year has dropped 18% from the same period last year.

"When we look at the rest of the world we see that economies are growing an average 5% annually and in countries like Haiti at 6% and Dominican Republic at 8%. So where is Puerto Rico? At best, once we get out of this recession, the island's economy will grow no more than 1%. We can't accept that. We have gotten used to

a totally unacceptable economic growth rate," asserted González. Puerto Rico, said González, has a gigantic central government apparatus that is still not under control and at the same time the middle class, Puerto Rico's economic core, has not yet received the much promised tax relief measures. "That's the big risk we face right now," he said.

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Puerto Rico, he added, is no longer looked at as a destination.

"It's important that the people have confidence and trust in the economy, feel secure about their jobs and about the fact that things are going to get better. Right now, consumers visit our projects, they like what they see, think it's a good buy but when the time comes to sign the papers, they back off because there's no trust," stated Rafael "Kaki" Torrens, president of Levitt Homes. "People are basically postponing their purchasing decisions because they don't feel secure about the economy or their jobs."

Torrens insisted the reengineering of the permitting process will be fruitless unless the so-called pseudoenvironmental groups opposed to every major development project on the island are taken care of.

In Costa Rica for example, through public-private partnerships, there's a St. Regis Hotel resort under construction, a JW Marriott under construction and a recently completed Four Seasons hotel. Meanwhile, Puerto Rico lost Dos Mares and the proposed Four Seasons and the JW Marriott hotels are hanging by a thread, noted González.

"The government halted the construction permits for six years when the market was good, the economy was solid and there was trust. Now when they start issuing the permits, no one wants to buy. We now have permits but no buyers, so the permit is useless," he said. ■

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process if there's no certainty that the permits are valid and final and if developers don't know where to build.

"We need a land use plan that would allow us to build because it would be a wasted effort to have the most agile permits process in the world if there's no land to build on. Both go hand in hand," said Venegas.

Along with the historical costly delays of the current permit process, the slump in the real-estate market, the slowdown in the local economy and opposition groups threatening projects, the cost of construction materials has increased dramatically, which summed up has jacked up the cost of construction, noted Joglar of the Ready Mix Concrete Producers Association.

"Maybe it would be convenient to get rid of Arpe and go back to the old system when the permits were handled by the Planning Board and its permits office. When Arpe arrived, we were left with a head without a body and a body without a head. We need to go back to the old system.

Nowadays, decisions made by agencies go back and forth and that's when the process starts to lag behind," said Joglar.

At one point, Arpe worked well but right now there's too much distrust in the permit system, which has had a domino effect on other economic sectors, such as manufacturing and the construction industry, which continue to slide, Joglar pointed out.

"What's worse, the technicians at Arpe who review the permits and blueprints are not licensed engineers. Here's a technician who's not an engineer who is basically interpreting the regulations and telling the engineer what to do. No wonder we have lost trust in the system," commented Joglar.

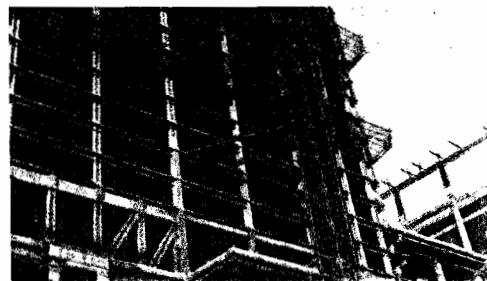
Society of Engineers President Medina said, while campaigning for the presidency, that he met with a group of young designers who told him that obtaining the preliminary endorsements from the government agencies was taking them between 12 and 18 months.

"After that they have to go back to the agencies to get the final endorsement. Once they get the final endorsements, they still have

to go to the Health and Fire departments to get their final approvals," said Medina.

During a recent radio program, Medina made several recommendations to improve the permit process. Among them was a request to give more weight and responsibility to the work done by engineers, architects and designers to make sure projects are complying with the comments made by the agencies during the preliminary endorsement process.

"Another recommendation was why can't we do all this online? Agency forms should be standardized because right now each one has a different set of requirements," added Medina. ■



## Industry under siege

The construction industry is fuming and it has every right to be. Its members are angry, frustrated and dejected as they watch in astonishment how one of the most important engines of Puerto Rico's economic development is put under siege by a group of left-wing, pseudo-environmental radicals, most of them with agendas that have nothing to do with the environment, while the government—including the judiciary—sits idly by, not doing anything about it.

At stake is much more than the particular interests of one or another developer or the fate of any particular construction project. What we have been witnessing in Puerto Rico for the past six or seven years is nothing short of a full frontal attack on our free enterprise system and the rule of law as the ultimate guarantor of peaceful economic development and progress.

There's no exaggeration here. This is how one industry representative put it to us: "What we have here is a left-wing political agenda disguised as an environmental cause. This is obviously orchestrated; someone's leading the group behind doors. The saddest part of this is so far they have not lost a case. Every time they have gone to our judicial system they have gotten away with it. This could never happen in the States or in most democratic countries. These people would end up in jail as one of them has when he has attempted these stunts in New York or Israel. These are the kinds of things we need to change in our government. We must defend the system and the current processes we have in place or there will be total anarchy, which is exactly what these mercenary protesters want: to destroy our system to implement theirs."

The construction industry has been Puerto Rico's most dynamic sector and its main economic activity backbone since the 1990s, when it started growing faster than most other sectors and helped sustain the local economy's overall growth. Each year since 1999 the total value of the island's construction activity has surpassed the \$6 billion mark, reaching a record high of \$6.9 billion in Fiscal 2000. It is estimated that at its peak the local construction industry generated close to 85,000 direct jobs. However, beginning in 2001, local developers and their multimillion-dollar projects came under siege and, in many cases, brought to a full stop.

The way these construction projects are stopped varies, but typically a single individual or a small group runs to the press and raises a storm in a teapot on the basis of some outlandish charge: that the project is harmful to the environment, that it doesn't have an adequate infrastructure, that it does not respect the idiosyncrasy or culture of neighboring locals, that the lights would be too bright for the turtles...whatever. The reason given doesn't matter. Any one excuse will do to file legal papers in court and have the project stopped. And the courts—and this is what's really worrisome—most of the time gladly oblige.

As if all the government red tape and the horribly long (up to three years) and costly permitting processes were not enough, developers and their projects now might also face the scrutiny of the legislative branch—even if they already received the green light from the appropriate government agencies and the courts—and of political activist groups disguised as environmentalists.

Why should we allow a power-hungry politician who just cares about getting reelected to mount a kangaroo court of his own to adjudge the expertise and wisdom of sometimes hundreds of government officials with expertise on the subject matter who considered the project and issued the myriad of required permits, administration after administration? And, indeed, why should the projects' proponents be the only ones defending the permits that were legally issued by the agencies? As another industry representative put it: "Where are Arpe and the Planning Board to defend the permits they have issued? That's why we pay income taxes and have a government, to defend us." Indeed! ■