

RECENT DEVELOPMENTS IN URBAN REDEVELOPMENT

FOREWORD

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Successful urban redevelopment strategies for the 1980's are literally the survival kit for America's industrial complex and our country's strength in the western world. Capital investment dollars owe no patriotism to any country nor loyalty to any city. As the auto companies struggle to regain their competitive position, they will find it increasingly tempting to locate where labor costs are low, rather than in the skilled labor areas of the northern east-midwest industrial complex.

It is a harsh fact of life that some national planners, like the National Commission for an Agenda for the '80's, have recommended that we do nothing to stop urban decay. Such organizations are apparently resigned to the gradual abandonment of our aging industrial areas. We are not, however, a nation of nomads who settle in one place for a time and then move on when the hunting and fishing have ended. America cannot afford disposable, throw-away cities.

Preservation of our cities requires Solomon-like decisions and a balancing of competing loyalties. It is one thing to build a shining city in the desert. It is quite another to redevelop already existing urban areas. This requires judgments as to which existing neighbor-

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hoods must be made available for new land uses; which neighborhoods must be preserved to reflect the roots of our historic development; and which vacant land should be recycled for adequate housing.

As an example of the potential conflict inherent in even a superficially simple urban redevelopment project, let me recite the facts of a recent lawsuit the City of Detroit was called to defend. In December, 1977, the Detroit City Council accepted a grant of \$415,000 from the Federal Land and Water Conservation Fund to enhance and renew Clark Park, a major recreation area of approximately 30 acres in southwest Detroit. Clark Park had not been re-landscaped since the late 1940's and was badly deteriorated. Its two baseball diamonds were hard packed from use and the outfields overlapped. The proposed redevelopment included regrading the ball fields, installing basketball courts for warm weather use on the existing ice rink, removing old tennis courts and constructing new ones. In addition, the plan called for improvements in play areas, construction of a grassy amphitheatre, and installation of a small parking lot adjacent to the ice rink. Twelve trees were to be removed, but an additional 109 shade trees, 8 ornamental trees, 46 evergreens, and almost 100 shrubs were to be added to the park.

This is the type of "renewal" one might suppose would be met with universal acclaim. In fact, all the major block clubs in the area approved the proposed facelift in 1977. Nonetheless, as work was in progress in 1980, a small group of citizens brought a lawsuit to block the removal of the one remaining tree and the construction of the parking lot! As a result, the city paid \$26,000 in lost contractor's time, and construction was halted until it successfully defeated an action to enjoin the project.

I do not doubt the sincerity of those who wanted to halt this project. But the lawsuit illustrates the problems of urban decisionmaking, even when the decisions involve no change in land use. What was perceived in 1977 as a welcome and long awaited improvement was challenged in 1980 as an illegal attempt to manipulate the environment.

If park beautification arouses controversy, it is not hard to understand the difficulties in developing an action plan for the General Motors project. Never before in America has anyone undertaken to build so vast an industrial complex within the boundaries of an established city—putting jobs where people already live. It will be the

largest plant General Motors has ever built. When it is completed in 1983, it will be a showplace production facility, second to none in the world. Its construction will generate 5,000 jobs during the next two and one-half years. After that, it will provide 6,000 permanent jobs for Detroit area workers.

We all know there is no such thing as a free lunch, and that we will pay a price in the neighborhood where the new plant is to be built. The alternative, however, would be to locate it in the suburbs—or even in another state—once again draining our city's job strength, just as the flight of business and industry has been doing for years. It was a difficult balance to strike, but the majority of the members of the Central Industrial Park Citizens District Council—the organization which officially represents the neighborhood involved—has overwhelmingly supported the project since its beginning. As of today, we have already reached voluntary settlements with 70% of the area's property owners. We have title to another 20%, with only the question of value remaining to be settled. Yet, this project could be jettisoned by judicial fiat.

To continue to rebuild Detroit's job base, the city has used every tool available—including Block Grant funds, Urban Development Action Grants, and tax abatements—to encourage business and industry to locate in Detroit or to expand their facilities here. Tax abatement is an important tool of urban redevelopment. Opponents of the tax abatement program say it is unfair for private companies to get tax breaks when private citizens are paying higher taxes. I do not enjoy giving away tax money either, but the 116 companies that have received abatements since the program began have invested nearly \$500 million of their own money in capital improvements. Moreover, they have generated more than \$21 million in employee and corporate income taxes, utility taxes, and state revenue sharing payments, netting us \$18 million more than they cost. Of even greater importance, I believe, are the 3,000 new jobs we brought to Detroit, and the 47,000 we have kept here since the program began.

The fundamental stuff a healthy city is made of are its neighborhoods and job base. It takes homes to build neighborhoods. Last year, for the first time in many, many years, Detroit led all other communities in the metropolitan area in the construction of new dwelling units, issuing permits to build or upgrade more than \$56 million worth of housing. Before 1981 is over, the city will break ground on—or complete construction of—5,300 new units for De-

troiters of all income levels. These new units are located in neighborhoods all over the city.

Our work in certain specific neighborhoods deserves special mention because of its significance to Detroit. In Elmwood Park, on the east side, we have almost completely restored the neighborhood formerly called Black Bottom. This neighborhood was the first victim of the urban renewal bulldozer in Detroit, and many of its former residents have now returned to live there in new homes and apartments. In the New Center area, where GM's commitment is bringing stability to all of midtown Detroit, we will complete work in 1981 on rehabing 500 more homes. We will also open the doors to the new office building which will become home for GM's purchasing division, as it moves back into the city from the suburbs. Other less known urban redevelopment projects include two new multipurpose recreation centers, a new swimming pool at a third center, a new zoo on our urban island, Belle Isle, and two new fire stations.

In Detroit's newest neighborhood, downtown Detroit, we will have started or completed construction of 2,400 new units of housing before 1981 is over.

Trolley Plaza, on Washington Boulevard, has already confounded the experts who predicted it would take years to build. Not only was it topped off ahead of schedule, but half its apartments are already leased. The building will open this summer, laying to rest once and for all the argument that there is no housing market in downtown Detroit. At the other end of downtown, on the riverfront, we will break ground in the fall on Riverfront West, a hotel and apartment complex, and in July on the construction of a new apartment complex just east of the Renaissance Center. North, across Jefferson, is the site of our new multi-use Millender Center, where groundbreaking is assured this fall now that we have all the public and private funding commitments the project requires.

Thus, we in Detroit have tried to balance the need for strong neighborhoods, a sound job base, and recreational amenities. There is no question that urban redevelopment has worked here and that the city has utilized every economic tool in the redevelopment kit to renew its deteriorating areas. The majority of the projects I've enumerated were greeted with whole hearted acceptance. Others created controversy. For every 100 citizens who applaud the creation of new jobs and new homes, there are ten who decry any change in the status quo. Each decision displeases someone and disrupts someone's

plans. One planner's urban dream is another civil activist's nightmare. This precipitates the inevitable rush to the courthouse to enjoin the proposed change in the status quo.

Beyond the specific issues discussed in the *Urban Law Annual*, I trust its readers will consider the limits of litigation as a realistic dispute and arbitration mechanism in urban planning. Obviously, any community contemplating change must preserve the minority's right to be heard, its right to protest. That is the essential rationale of our division of civil powers. The Mayor proposes; the City Council disposes. The City Charter and the guidelines for federal funds are replete with provisions for public hearings, environmental assessments, and area-wide review of each redevelopment proposal. Nonetheless, endless lawsuits, spurred by Monday morning quarterbacking of the decisionmaking process, clog the courts and result in expensive delays in the realization of any urban redevelopment effort.

Basically, each urban redevelopment project represents a judgment call. Absent actual fraud or deception, and given provision for procedural due process (which is built into every piece of federal, state, or local redevelopment legislation I am aware of), I perceive a critical need to achieve finality in the development of urban plans and their enactment. Limitless litigation only serves to put off the final "GO." In our present inflationary climate, delays occasioned by a lack of finality may automatically jeopardize an entire project by pricing it out of the market.

Perhaps even more important for the social fabric of our society, limitless litigation substitutes for elected leaders charged with municipal responsibility a federal or state supreme court judge for the ultimate judgment call. In my view, the constitution never contemplated the judiciary as a supreme arbiter of urban planning decisions. Urban redevelopment involves essentially executive and legislative decisions. While the judiciary should be utilized to insure the fairness of the *process* of these decisions, the ultimate decision should rest with the city's elected representatives, and the governmental processes of election and recall.

I trust, therefore, that the ensuing discussion of urban redevelopment will be evaluated in the context of the stark realities of city life. There are no "perfect" redevelopment project proposals. There is only a range of hard choices—each with some negative trade offs. The only certainty is that to do nothing today in urban redevel-

ment will guarantee the eventual dissolution of urban opportunity as we know it in 20th century American cities.

I. STATE AND LOCAL FINANCING OF HOUSING

State and local government activities in the area of housing finance have expanded in recent years. This growth corresponds to two factors. First, federal programs enacted in the late 1960's and 1970's, such as the model cities program¹ and the Community Development Block Grant program,² emphasized increased local control and initiative. Second, the suspension of federal community development grants in 1973 necessitated greater state and local involvement in financing community development.³ The Reagan Administration's federal budget reduction policy will force state and local governments to continue utilizing innovative financing mechanisms.

One mechanism, which forty-six states now employ, is the housing finance agency (HFA).⁴ HFAs provide financing for low- and moderate-income multi-family and single family developments.⁵ They also provide loans to lenders and engage in secondary mortgage

1. 42 U.S.C. §§ 3301-3374 (1976). Model cities represented a highly focused grant approach. The program directed a coordinated physical, economic, and human development effort toward specifically targeted urban neighborhoods. See PRESIDENT'S TASK FORCE ON MODEL CITIES, MODEL CITIES: A STEP TOWARD THE NEW FEDERALISM (1970).

2. 42 U.S.C. §§ 5301-5317 (1976). Under the Block Grant program, a community files an application with the Department of Housing and Urban Development (HUD) which includes a three-year plan and program for community development. The locality must also file a housing assistance plan and give assurance and certifications that it will comply with federal requirements. The federal role is limited to review and monitoring of the local regulation. See Fishman, *Title I of the Housing and Community Development Act of 1974: New Federal and Local Dynamics in Community Development*, 7 URB. LAW. 189 (1975).

3. President Nixon announced the suspension of funds in his Budget Message to Congress for 1973. He criticized "outmoded and narrowly focused community development programs which have not produced benefits that justify their costs to the taxpayer." 9 WEEKLY COMP. OF PRES. DOC. 86, 97 (Jan. 29, 1973). Funds for urban renewal and housing assistance were impounded for eighteen months prior to enactment of the Housing and Community Development Act in August, 1974.

4. See HOUS. & DEV. REP. (BNA) § 50:001 for a complete listing of housing finance agencies, their enabling legislation, programs, and statistical information. [1980] 8 HOUS. & DEV. REP. (BNA) 117.

5. See notes 22-26 and accompanying text *infra*.