

PERSPECTIVES
on Eminent Domain Abuse

3
Volume

Baltimore's Flawed Renaissance

The Failure of Plan-Control-Subsidize Redevelopment

by Stephen J.K. Walters
and Louis Miserendino



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The Harbor vs. The Corner: Two Vastly Different Baltimores Living Side by Side

If everything you know about Baltimore is drawn from its regular appearances on national television, then you might be . . . a little confused.

Watch a football game featuring the Ravens in their state-of-the-art stadium or a baseball game from charming Oriole Park at Camden Yards and you will see cutaway shots of what is surely a thriving, pleasant downtown. Happy pedestrians stroll near the city's Inner Harbor and visit attractions such as the National Aquarium or U.S.S. Constellation; diners crowd the harbor's numerous restaurants; pleasure boats are docked within walking distance of their owners' ritzy waterfront condos.

You may, on the other hand, have a completely different impression if you have ever tuned in to gritty crime shows such as HBO's "The Wire," NBC's "Homicide" or an HBO miniseries on the drug culture called "The Corner." All have been critically acclaimed as realistic, compelling dramatizations of life on Baltimore's mean streets, and all paint a grim picture of a city that is dysfunctional, dangerous and in decline.

Which image is valid?

Both.

The story of Baltimore and its "amazing revitalization" is very much a tale of two cities. Visitors to the Inner Harbor will find plenty to do and to like—and not just in the nearby stadiums, aquarium, Maryland Science Center or Baltimore Convention Center (all funded with state and/or federal subsidies), but in the hotels, shops, restaurants, bars and other attractions (most receiving generous tax breaks from the city) that have clustered nearby, much as redevelopment officials had hoped and planned.

Look away from the waterfront, however, and the city's many problems immediately become apparent: dilapidated housing and crumbling infrastructure, pervasive poverty, unsafe streets, a stagnant economy.



Baltimore's Inner Harbor and Aquarium are tourist attractions, but its many mean streets have been immortalized in shows such as "Homicide," "The Corner" (Fayette and Monroe Streets, shown here), and "The Wire."

Look away from the waterfront, however, and the city's many problems immediately become apparent: dilapidated housing and crumbling infrastructure, pervasive poverty, unsafe streets, a stagnant economy.

Voting with their feet, Baltimoreans continue to flee these problems by the thousands. The city's population has declined by over a third since 1950, and the redevelopment of the Inner Harbor—kicked off by the opening of Harborplace in 1980 and the Aquarium in 1981—did not end the exodus. The city lost 6.5 percent of its residents in the 1980s and 11.5 percent in the 1990s; though inter-census population estimates are a subject of some dispute, the Census Bureau has put the decline at 3 percent over 2000-06, perhaps reflecting the loss of over 4,400 housing units during the same period. More alarmingly, Baltimore's total private-sector employment base fell 12.7 percent (a loss of 46,800 jobs) during the 1990s and another 10.4 percent (33,600 jobs) over 2000-07. By contrast, private-sector employment in the surrounding suburbs soared 25.1 percent in the 1990s and another 13.9 percent since.¹

In most explanations of the city's downward spiral, the usual suspects are street crime and poor quality public schools. Baltimore's homicide rate has more than doubled in the past 30 years, from 20.6 per 100,000 residents in 1977 to 44 per 100,000 residents in 2007. Of course, most urban areas endured a surge in violent crime during the height of the crack cocaine epidemic in the 1980s, but while homicide rates in cities like Chicago, Boston, Houston, Los Angeles and Washington D.C. have fallen by 50 percent or more since 1990—and New York's has fallen a remarkable two-thirds—Baltimore has bucked that trend, its rate actually rising about ten percent over the period.²

The city's schools, despite per-pupil expenditures above national and state averages, have chronically underperformed. As of 2005 (the latest year for which such comparisons are available), the proportion of Baltimore third- and eighth-graders who read or understood math at only a "basic" level (i.e., were unable to comprehend grade-appropriate literature, or demonstrated only partial mastery of standard math skills) was 60 to 70 percent above the Maryland average. And as of 2004, less than 35 percent of city public school students who started high school earned

a diploma within four years—the third-lowest rate among the nation's 50 largest school districts.³

Other social indicators are equally discouraging. The city has 40,000 abandoned houses—about one for every heroin addict living within its borders (though some estimates put the population of addicts as high as 60,000—about 10 percent of the city's population).⁴ Despite the fact that Maryland had the highest median household income in the nation between 1998 and 2000,⁵ Baltimore ranked 87th among the 100 most populous cities in that statistic, and nearly 40 percent of its families with children live below or near the official poverty line.⁶ In sum, if Baltimore is a revitalization success story, one really does not want to see a failure.

Defenders of Baltimore's approach argue that although the city has some obvious problems, it would be far worse off but for the bold and admittedly costly redevelopment programs that began a half-century ago. Further, they assert that this rescue could not have been attempted without aggressive use of the government's power to condemn "blighted" property through eminent domain. Sure, they might admit, many of the city's neighborhoods are on life support, but they would all have flat-lined long ago if downtown had not been rebuilt from the foundation up. Give it a little more time (another half-century?), and the redevelopment ripples are bound to spread through the rest of the city.

The city's lack of progress on so many fronts is a direct by-product of its failure to understand and treat the real source of its problems: hostility to private property rights and a resulting flight of capital that largely drained the city of its economic lifeblood.

We concur that downtown Baltimore needed rescuing. Doing *nothing* was never an option. We submit, however, that the city would be far better off today had it done the *right* thing. We argue that

Baltimore's redevelopment strategy has long been deeply flawed, and that eminent domain's contribution to its renewal has been, on net, *negative*. In a nutshell, the city's lack of progress on so many fronts is a direct by-product of its failure to understand and treat the real source of its problems: hostility to private property rights and a resulting flight of capital that largely drained the city of its economic lifeblood. In this view, the aggressive use of eminent domain is not part of the solution to Baltimore's many problems but another manifestation of their root cause.

Baltimore's business and political leaders understood that the city faced a disinvestment crisis by the late 1950s. During the previous three decades, there had been negligible construction of new office buildings, stores, apartments or entertainment venues in the downtown area—and precious little interest in upgrading the old ones. Without giving much consideration to why that was—after all, leafy suburbs seemed to be the new residential location of choice, and the only policy question worth pondering seemed to be how to coax people back into town to work, shop or play—the city's movers and shakers determined to reverse or at least reduce the outflow of capital dramatically. In so doing, they committed the city to a renewal strategy that we will describe as “plan, control and subsidize.” It was an authoritarian, government-centered approach; it injected the city bureaucracy into virtually every major development project in Baltimore since; and it has favored large-scale, core-focused projects above all others.⁷

Often, areas that were well-functioning (if unappealing to planners' eyes) became emptied-out slums only *after* they were designated as part of a renewal area.

But this strategy has been deficient in two important respects.

First and foremost, its failure to treat the root causes of the city's disinvestment crisis doomed the majority of the city's neighborhoods to continued decay. Baltimore is today two cities, separate

and unequal, not *in spite of* its extravagant and interventionist redevelopment program, but *because of* it. The sad fact is that its “plan, control and subsidize” doctrine is antithetical to the types of policies that would have created a far more inviting environment for investment and a far more organic, widely shared and enduring renewal. By trampling on private property rights and relying on a high-tax, command-and-control development approach, Baltimore would ultimately repel far more investment than it would attract and net far less new, private capital than it would need to truly thrive.

What is more, the city's implementation of its grand design—which relies heavily on aggressive (and often ham-handed) use of its powers of condemnation under eminent domain—itself has had a chilling effect on investment over vast sections of the city. Often, areas that were well-functioning (if unappealing to planners' eyes) became emptied-out slums only *after* they were designated as part of a renewal area or were unlucky enough to sit in the path of a planned transit artery thought necessary to revitalize downtown. This collateral damage has been widely ignored in earlier accounts of Baltimore's “renaissance” because (a) the planners meant well, after all, and (b) grassroots political resistance sometimes fended off their planned improvements.

In what follows, we offer a more thorough analysis of Baltimore's lengthy, expensive and ultimately disappointing efforts to reverse its decline via “plan, control and subsidize” redevelopment. We look at what happened downtown and in the rest of the city. We also look at an ill-fated attempt to use eminent domain to condemn Baltimore's beloved Colts football team. Along the way, we focus on results rather than intentions and we do not ignore collateral effects; damage is damage, whether or not it was intended or flowed from plans that were never consummated. Finally, we highlight the public policies that actually fueled the disinvestment crisis that the city's leaders diagnosed at the middle of the last century and explain how the strategies they chose to treat it—including their reliance on eminent domain—were shortsighted, politically cynical and ultimately harmful. To start the discussion, let us go back in time.

Backstory: Eminent Domain- Led “Renewal” in Downtown Baltimore



Downtown renewal began in Charles Center, but the area is now a “dead zone” once office workers depart, and its centerpiece Morris Mechanic Theatre is vacant and awaiting demolition or rehabilitation.

By the 1950s, civic leaders had plenty of reason to be concerned about the viability of Baltimore’s central business district (CBD). Only one new office building had been constructed since 1929, while six major employers and countless smaller ones had relocated or gone out of business, leaving two million square feet of vacant loft and warehouse space. On some blocks, vacancy rates reached 25 percent. Between 1952 and 1957, the assessed value of property in the CBD fell 10 percent, while assessments in the city as a whole grew 20 percent. Typically, city property sold for one-third more than its assessed value for tax purposes, but downtown real estate was in such a slump that properties frequently sold below their assessed value.⁸

The initial impetus for action came not from politicians but business leaders, who formed two groups dedicated to figuring out how to renew downtown. Members of the Retail Merchants Association, bankers and other property owners formed the Committee for Downtown, and top executives from the metropolitan area formed the Greater Baltimore Committee (GBC). Together, the groups raised private funds to study downtown’s ills and prepare a master plan, but it soon

became clear that creating a comprehensive strategy for the 300 acres that made up Baltimore’s CBD would take too much time. Officials narrowed their focus to a 22-acre site off the waterfront but right in the middle of downtown, and by 1958 the GBC’s Planning Council completed a proposal for what it called the Charles Center Project and presented it to Mayor Thomas J. D’Alessandro, Jr.

The plan for Charles Center envisioned a “public-private partnership” aimed at luring people, businesses and investment back downtown. The city government would spend about \$41.2 million to acquire—via eminent domain if the owners didn’t want to sell—targeted properties, demolish most of them, and upgrade streets and utilities. Then it would resell the large tracts it had assembled and improved for \$24 million to private developers, who would construct eight new office towers, 400,000 square feet of commercial and specialty retail space, an 800-room hotel, a 3,000-seat “TV Theater Center,” a bus terminal, and a 4,000-car underground parking garage. Total estimated cost: a net of \$17.2 million in public subsidies and \$110 in private funds (or, respectively, \$124 million and \$791 million in today’s dollars). The GBC trumpeted the proposal as “urgent” because downtown was “everybody’s problem.”⁹

Readers should take note of two subtle but important aspects of this early use of eminent domain for the “public purpose” of economic development. First, the need for public subsidies to private developers should have raised some eyebrows. Advocates of eminent domain takings often argue that redevelopment requires assembling large tracts (because new facilities often involve a “big footprint”), and that doing so is excessively expensive or impossible for private entities because of high transaction costs and/or hold-out problems. Resolving those issues presumably would have considerable value for developers, but here the city was not capturing this value but *selling these tracts at a huge discount*—perhaps because the developers with whom the GBC was discussing its plans insisted on it. That should have alerted officials that the problem here was *not* that high transaction costs stood in the way of development, but rather something deeper. Evidently it did not. What is more, the original Charles Center proposal included

support for a related plan: a ring of expressways to be built around the heart of the CBD and over the Inner Harbor. Fortunately, that part of the planners' initial vision would encounter considerable resistance and never come to pass, but it is worth remembering that had the downtown rescue plan been implemented as first imagined, much of what would subsequently be regarded as emblematic of its success likely would not exist. Much more will be said later about both issues.

As various political and bureaucratic entities chewed on the Charles Center proposal, downtown's descent accelerated. The problem, as the GBC's Planning Council chair, Hunter Moss, confessed, was that "when the plan was first announced in 1958, it spelled the 'kiss of death' for a lot of real estate immediately, because people began to realize that this was an area in which the properties were going to be taken. When the owners tried to lease the properties, there was a great reluctance on the part of tenants to go in. There were vacancy signs everywhere."¹⁰ But this would just help renewal advocates demonstrate the urgency of their mission.

When the plan was first announced in 1958, it spelled the "kiss of death" for a lot of real estate.

City Council approval of the plan came in 1959, and the Charles Center Management Office—a newly formed quasi-public entity—went to work, relocating 280 establishments within the city, 11 outside it but within the metro area, one outside the area, and ten out of state; 44 establishments went out of business. Using the threat of eminent domain as leverage, the city's Real Estate Division purchased 216 properties in 148 separate acquisitions; in most cases, sellers found the city's offer acceptable—or, at least, not worth litigating—but 23 failed negotiations were settled in court. The city did not compensate owners for lost rents during the time after the project became public.¹¹ Predictably, the plan was implemented slowly, and costs soared above initial estimates. In particular, the public subsidy more than doubled, and private developers' costs rose almost a third. Fortunately for the increasingly-nervous planners, the federal government

agreed to make a considerable contribution.¹²

By 1963, with leading opinion-makers already hailing Charles Center as a success even though most of its new buildings were still in the planning and design phases, Mayor Theodore McKeldin, the Committee for Downtown, and the GBC began envisioning redevelopment of downtown's Inner Harbor waterfront. Within a year, they announced a spectacular new project, expected to cost \$260 million (\$1.74 billion today) over 30 years. This time, however, the vast majority of the funding would come from public coffers: 69.2 percent from the federal government, 22.3 percent from the city, and only 8.5 percent from private sources.¹³ The plan included open, public spaces and new buildings facing the waterfront, a World Trade Center, 3,700 dwelling units, an extension of Charles Center with new office buildings, a marina, a science center, a theater and a community college campus.

A new quasi-public corporation, Charles Center-Inner Harbor Management (CC-IH), and the city's Real Estate Division began dealing with the latest group of owners of property in the path of progress. But there was a glitch. Condemnations began in 1966, but a \$22.4 million federal grant was delayed, so deals could not be consummated. Owners were in limbo—unable to sell to the municipal government, but unable to benefit fully from their property—until the grant was released in 1968.¹⁴ To casual observers, of course, the area's accelerating decline simply proved the need to do something. Once the federal money started flowing, CC-IH acquired nearly 1,000 properties and relocated more than 700 businesses, including Baltimore's wholesale produce market, Maryland's state tobacco warehouse, and an operating fish-oil refinery. CC-IH also helped convince the State Highway Administration to divert its planned expressway away from the Inner Harbor, but not to scratch the idea entirely—a fact which would have unfortunate fallout effects for additional neighborhoods.¹⁵

Slowly, the city's new waterfront took shape—thanks to massive expenditures of public funds and smaller private investments that were induced via tax breaks or other subsidies. In 1972, Pier I was rebuilt for the historic *U.S.S. Constellation*, the Christ Lutheran Church's Harbor Apartments for

the elderly were completed, and Maryland's Board of Public Works approved construction of the World Trade Center east of Pier I on the harbor's northern shoreline. In 1973, Baltimore's annual City Fair relocated to open space on the waterfront and USF&G (now part of The Travelers Companies) moved into its new headquarters a block west of the harbor. In 1975, the IBM office tower was finished and a brick promenade was placed on the harbor's northern, western, and southern shorelines. At about this time, the city initiated a "dollar home" program in which many abandoned, tax-delinquent townhouses on the periphery of the harbor were sold for \$1 each to buyers willing to rehabilitate and occupy them.

By 1976, the Maryland Science Center and the Harbor Campus of the Community College of Baltimore were completed and construction began on the C&P Telephone Company building and the World Trade Center. More important, as part of the nation's bicentennial celebration, the Inner Harbor attracted an estimated two-and-a-half million visitors with a two-week-long celebration of "tall ships" that sailed to Baltimore from around the world. Convinced of the harbor's potential as a tourist destination, in 1977 the city put together a package of subsidies that lured a Hyatt Hotel, which would open in 1981. The publicly funded Baltimore Convention Center opened in 1979.¹⁶

Undoubtedly, however, the jewels in the Inner Harbor's crown were Harborplace—two pavilions of shops and restaurants along the shoreline's brick promenade—and the National Aquarium, which opened in the summers of 1980 and 1981, respectively. Though now regarded as a model attraction, Harborplace was politically controversial. The idea of commercializing what had been open space since the early 1970s (thanks to demolition of the prior enterprises) did not sit well with many Baltimoreans, and the plan was put to a public referendum, which passed in 1978 with 54 percent of the vote.¹⁷

Though most of the Aquarium's \$21.3 million construction cost (almost \$50 million today) was borne by the city, it faced fewer political hurdles because of some imaginative financing: 35 percent came from a long-term bond issue, an equivalent fraction came from the sale of Friendship Airport

(now Baltimore/Washington International Thurgood Marshall Airport) to the state, 12 percent was a federal grant, and philanthropists kicked in about five percent.¹⁸ It looked like a lunch that, if not quite free, was attractively cheap.

Federal redevelopment grants were harder to come by in the 1980s, so the city focused its downtown renewal efforts on clearing and selling sites for additional hotels, condos and other structures. In all cases, private investments were secured with promises of generous tax breaks or explicit up-front subsidies in the form of favorable financing or discounted prices for land.

The next big piece of public infrastructure was Oriole Park at Camden Yards (just west of the Convention Center), which opened in 1992.

When government is one of the biggest real estate developers and property managers in town, it pays handsomely to have friends in high places.

Interestingly, the site had been selected by a panel that included Willard Hackerman, chief executive of Whiting-Turner Contracting Company, which had built the Convention Center and Aquarium. Then-Mayor William Donald Schaefer had put Hackerman—a friend and staunch political supporter—on the panel in 1984. Within months, the field of potential sites had been narrowed to two, including the Camden Yards location in the shadow of the old B&O Railroad Warehouse—which, coincidentally, had been purchased by Hackerman and a partner the previous year. Eventually, the Maryland Stadium Authority acquired the 1,116-foot-long warehouse and paid Hackerman and his partner \$11 million—a tidy 189 percent return on their \$3.8 million initial investment. In addition, two years after the stadium opened, Whiting-Turner was awarded an \$860,000 no-bid contract with the Stadium Authority to renovate the warehouse's interior.¹⁹ Clearly, when government is one of the biggest real estate developers and property managers in town, it pays handsomely to have friends in high places.

Meanwhile, in the Rest of the City

If its downtown rescue efforts enabled Baltimore to manufacture (at great expense) an attractive and well-functioning Inner Harbor, elsewhere its reliance on “plan, control and subsidize” renewal has wreaked havoc.

Spurred by federal subsidies for “decent, safe, and affordable housing” promised in the New Deal’s U.S. Housing Act of 1937 and the Housing Act of 1949, Baltimore had begun a program of slum clearance long before the Charles Center project was conceived. Born in 1937, the Baltimore Housing Authority (BHA) had by 1942 spent \$26.4 million (roughly \$338.4 million in current dollars) from the Department of Housing and Urban Development (HUD) to take 75 acres over six sites and replace the dilapidated, privately owned structures thereon with 3,101 new, publicly owned apartments. From 1943 to 1956, six more sites covering 256 acres were cleared to build 3,209 additional units; another thousand units that had been used for World War II housing were transferred to the BHA in 1953, putting roughly six percent of the city’s stock of rental housing under government management.²⁰

Most of the neighborhoods selected for clearance were populated largely by African-Americans. In Baltimore and many other cities, therefore, “urban renewal” often was criticized as racially biased “Negro removal.”²¹ What is more, city bureaucrats soon proved to be remarkably ineffectual landlords. In the early days of the public housing program, federal taxpayers footed the bill for site acquisition, demolition and construction, but local authorities like the BHA were supposed to recover operating costs from their tenants. Accordingly, applicants initially were screened carefully; intact families with employed heads of household were favored, as the authorities sought to build economically balanced “model communities.” Over time, however, this became harder to do. The planners, fond of the utilitarian International Style of architecture and constrained by tight budgets, imposed rigid design standards and brought forth unadorned and unappealing structures. Inexperienced

and undisciplined by any profit motive, authority staff were ill-adept at maintaining the structures or pleasing their customers. Working-class, mobile tenants tended to depart, and poorer ones paying lower rents replaced them. Awash in red ink, local authorities eventually convinced HUD to subsidize their operating costs and shifted toward construction of high-rises (considered cheaper to build and operate). Though troubled, the program grew; by 1963, with work on Charles Center ongoing, the BHA had taken another 63 acres over four sites and increased Baltimore’s total number of public housing units to 10,256, over eight percent of the city’s stock of rental housing.²²

By the late 1960s, however, it was clear that most of “the projects” were in crisis. Though eminently affordable (the Brooke Amendment capped rents for HUD-funded dwellings at 25 percent of a tenant’s income, whatever that might be), public housing was far from safe and decent.²³ The planners’ vision had always been that subsidized, government-run projects would uplift their residents; the reverse seemed to occur. Structures populated almost entirely by poor, under-educated tenants who were largely disconnected from labor markets and lacking working-class role models quickly spun out of control. According to Mark Bowden (then a reporter for the *Baltimore News American* and later the author of the best-seller *Black Hawk Down*), the BHA considered the Murphy Homes high-rise complex to be “a failure” by 1968, a mere five years after its opening. Bowden’s description of life in Murphy’s Building 725 is telling:

Inside are the condensed effects of 14 city blocks of poverty. Walls and floors are coated with filth and graffiti. Fluorescent lights, the ones that aren’t broken, cast a sickly pale institutional light down stark, cinderblock hallways at all hours. The elevators, which frequently break down, are coated inside with gray sheet metal. They are littered with garbage and they stink, especially in summer of urine. The children play in them.

...[T]hey’re the children of 725 and they’re prison bound. They deal in drugs and stolen goods, they sniff Quick, a hardware store glue that wafts straight from nostril to brain—quick. The hoodlums bully children who won’t go their way.

They carry razor blades and knives and pistols, and they prey, in the secluded stairwells and elevators of no man's land between apartment door and apartment house entrance, on their own people.²⁴

In the mid-1970s, the federal government faced reality and banned further construction of high-rise public housing. Gradually, many local housing authorities, recognizing their deficiencies as landlords, contracted out the management of their dismal inventory of rental units. In the 1980s, HUD recognized that it could subsidize housing for the poor without putting city governments into the real estate business, and began to allocate much of its budget to vouchers enabling low-income tenants to pay for privately owned rental housing.

Meanwhile, however, public housing tenants continued to suffer the consequences of the planners' attempts to improve their lives. Michael Fletcher of *The Sun* filed this report on life in one of the city's oldest projects, Flag House Courts:

Drugs and the culture they foster are the defining fact of life at Flag, an East Baltimore complex of deteriorating brick buildings and 2,000 residents, two-thirds of them children, near Little Italy. ...[T]he rules of ordinary neighborhoods hardly apply here. With its three high-rises and 133 low-rise apartments packed into 11 acres, Flag is more like a small city, striking in its lawlessness. ...While junkies and crack addicts and dealers come from all over Baltimore, the core of the drug problem is among the residents.

...The constant dealing makes Flag one of Baltimore's most dangerous neighborhoods. Housing police say last year there was one serious crime for every 10 residents. The numbers would be even higher if violence on nearby streets was included in the record-keeping. Most residents can tick off a long list of victims of murder and other violence. They say a lot of other crime goes unreported at Flag, where the sound of gunfire or a loud fight is so common that often no one calls police.²⁵



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After a 40-year existence during which poor families were "warehoused" in six overcrowded, crime-infested, badly managed high rises, Baltimore's Lafayette Courts went down in smoke on August 19, 1995.

And so, as the 1990s dawned, Baltimore convened a task force to address the deplorable state of the city's public housing and determine the best use for the \$100-plus million in federal funds that the BHA expected to receive over the next decade. It recommended first that children not be exposed to the inhumane conditions in public high-rises, and that all families should be relocated to low-rises.²⁶ Then the BHA took the next logical step: it relocated all the residents of its inventory of high-rises and simply dynamited the structures. Each implosion illustrated the utter failure of the "plan, control and subsidize" doctrine as it applied to affordable housing; each provided dramatic evidence that the city's program of slum clearance had destabilized many neighborhoods and resulted in degraded living environments for the poor. Murphy Homes came down in 1999. Flag Courts, the last of Baltimore's public housing high-rises, was destroyed in 2001. With luck, we will never see their like again.²⁷



EAST-WEST EXPRESSWAY STUDY
HARBOR ROUTE—VIEW OF INNER HARBOR
CITY OF BALTIMORE DEPARTMENT OF PLANNING

January 1960

SHEET
29

If planners had had it all their way, downtown Baltimore today would have a lot more expressways, ramps, and interchanges than waterfront condos and tourist attractions, as this 1960 schematic shows.

Highway vs. The Harbor: The Planners' First "Vision"

To assure the rescue of downtown, the planners believed they had to make it easier for commuters and other visitors to move—or, more specifically, to *drive*—in and out of the commercial core. Accordingly, an East-West Expressway that skirted the northern edge of Baltimore's CBD was included in the federal interstate highway plan in 1956, and, as we have already noted, the 1958 proposal for Charles Center envisioned expressways circling the CBD, with a bridge crossing the Inner Harbor. This Inner Ring System was essentially a downtown beltway, with exits for city neighborhoods and massive interchanges with highways heading east, north, west and southwest. Luckily, that vision was never implemented, for it

would have walled off the central business district from surrounding residential areas and pre-empted development of several sites now considered emblematic of the harbor's successful renewal.

But the planners' modified visions were not much better—and each new plan unsettled residents and chilled investment in additional neighborhoods. In 1962, their Baltimore 10-D Interstate System was officially approved. It included no inner ring, but channeled I-95 east-west through historic Federal Hill, over the Inner Harbor to an interchange with I-83 that would have wiped out much of stable Little Italy and working class Fells Point, and then along the harbor's northern shoreline, through now-gentrifying Canton. Another planned interchange about a mile west of the harbor linked I-95 with I-70, which was intended to speed travel to and from the western suburbs via an eight-lane freeway that would cut through Gwynns Falls Park, Leakin Park and the neighborhoods along the Franklin-Mulberry corridor.²⁸

Predictably, the idea of displacing several thousand families and razing hundreds of residences that, though rundown, dated as far back as the Civil War era proved politically toxic. Grassroots resistance forced city officials to include many more constituencies in the design process—not just planners, architects and engineers, but land use experts, sociologists and community relations specialists. It was all very expensive, but the hope was that the next plan would be economically efficient, aesthetically appealing and politically acceptable.

It was not. Though the 3-A Interstate and Boulevard System concept, adopted in 1969, tended to bypass rather than penetrate the CBD, many of its key elements remained highly controversial. In particular, though it routed I-95 south along the industrial Locust Point peninsula—and so no longer required wiping out much of Federal Hill and bridging the Inner Harbor—it included an eight-lane, double-decked



Several predominantly black neighborhoods were bulldozed to build this 1.4-mile segment of Interstate 70 that ends rather abruptly.

bridge towering above the nearby Fort McHenry (and reaching a height of 180 feet as it crossed the harbor, so that oceangoing vessels could pass beneath). I-83 was to be routed through Fells Point on a six-lane elevated viaduct, toward an interchange with I-95 in East Baltimore. Another sprawling junction between I-95 and I-70 was planned for Southwest Baltimore.

Again, sustained and vigorous opposition from neighborhood groups and community activists

forestalled the most disruptive of these plans. By the mid-1970s, for example, officials deep-sixed the idea of a bridge near Fort McHenry and decided to build a tunnel under it (which opened in 1985). The elevated I-83 extension through Fells Point was similarly reimagined as a tunnel, but ultimately dropped entirely. The I-70 extension into the city also was never built (or, more precisely, never *entirely* built: an isolated 1.4-mile segment opened in 1979 and still stands as a signature “highway to nowhere” and monument to planning failure in West Baltimore).²⁹

The tragedy here is not simply that so many citizens had to spend years of effort and considerable treasure defending their homes and neighborhoods from the planners’ bulldozers. The fact is that as soon as officials announced their intention to take these vast and various tracts and slice expressways through them, it was as if the bulldozers were already at work. Rational homeowners, landlords and shopkeepers would have been foolish to maintain or upgrade their properties if they were soon to be the site of an interchange or sit in the shadow of an elevated thruway. Their resistance was commendable but the outcome of their efforts was uncertain. In the meantime, their neighborhoods—and the list of affected areas is long indeed—decayed physically, socially and economically, as the more mobile threw in the towel and left and only the most determined dug in and hoped for the best. All the while, of course, the city’s accelerating rate of decline simply convinced officials that their renewal plans were more necessary and important than ever.

In the two-plus decades since the worst of these schemes were consigned to the dustbin, some—though by no means all—of the neighborhoods that were in the transportation planners’ path have enjoyed a rebirth. Ironically, those most deeply devoted to the “plan, control and subsidize” doctrine of urban renewal especially love to point to the gentrifying historic districts within walking distance of the waterfront, such as Federal Hill, Fells Point and Canton, as evidence of the spillover benefits of their rescue of the CBD. They rarely consider that, had planners had their way, these areas would today not be seemingly delightful illustrations of the wisdom of their vision, but the sites of interstates, interchanges and on-ramps.

What Was the Real Source of Baltimore's Disinvestment Problem?

So let us review: Baltimore suffered from Acute Disinvestment Syndrome in the post-WWII era, and

Acute Disinvestment Syndrome, n.:

A chronic outflow of capital investment, usually caused by an inhospitable treatment of capital—and capitalists—such as punitive tax rates or expropriation of private property.

decided to treat that problem with grandiose renewal projects centered on its downtown. All of these aimed to make up for absent private investment flows by leveraging injections of taxpayer dollars—whether for wholly public facilities or in heavily subsidized private developments—and many relied on the use of eminent domain. Some are now regarded as models of successful redevelopment and proof positive that eminent domain for private use serves a vital public purpose. Others failed miserably and caused considerable collateral damage to areas on the periphery of downtown—though these outcomes are rarely linked to the city's commitment to “plan, control and subsidize”-style renewal.

Remarkably little scrutiny has been given to the root causes of Baltimore's repulsiveness to private investors in the first place. If, however, we take stock of history—and especially if we look closely at the basic game plan used to redevelop Charles Center and every major tract that followed—the problem becomes clear.

We have already noted that the city's initial plan for Charles Center envisioned a total investment of \$127.2 million (in 1958 dollars), a non-trivial portion of which would come from taxpayers. What is more, we noted the puzzling fact that the city used eminent domain to assemble the “big footprint” it claimed developers wanted, cleared and improved the tract for them at great expense, but *still discounted it heavily*. Why?

Consider the property taxes for which developers would be liable if they located their office and retail

space in the city rather than in surrounding Baltimore County. At the time (in 1958), the city's property tax rate was 38 percent higher than the county's (and is today more than 100 percent higher). At then-prevailing rates, a development worth \$127.2 million in the county would expose the owners to an annual property tax liability of \$2.06 million. In the city, the same property would carry a tax bill of \$2.84 million annually.³³ Now *that* is the way to repel capital investment. All else equal (i.e., if rents, occupancy rates, etc. were comparable in city and county), the city's inhospitable tax climate would have reduced the annual return on a downtown investment by \$780,000 (or \$5.6 million in today's dollars) below what it would have been in the nearby suburbs—and this assumes the city's tax rate would not climb relative to the county's, which it soon did.

How did the city level the scale and get “buy-in” from developers? Subsidies—one explicit, one hidden. In addition to the up-front payoff to developers in the form of a heavily discounted price for the improved tract, the published plan for Charles Center stated that the city would realize annual property tax revenue on the redeveloped site of \$2.06 *million*—not so coincidentally, this was exactly the amount developers would pay on a similar project in the county.³⁴ This promise (buried in the plan's descriptive financial tables) was crucially important to potential investors, for it assured them that the redeveloped tract would be assessed at a sufficiently low value that their annual tax bills would match the ones they would face in the county. Without that pledge—without making the tax on any hoped-for city development competitive with a similar one in the county—the city doubtless would continue to channel investment out to the greener (both literally and figuratively) pastures in the suburbs. And so it has been, from Charles Center onward: for the last half-century, no large-scale private investment in or near downtown Baltimore has occurred without special subsidies or tax breaks.

Which raises an obvious question: *What were they thinking?* If those who sought to renew Baltimore could see the necessity of competitive taxation in select projects as early as the 1950s, why did they not go for a *real* cure for the city's Acute Disinvestment Syndrome?

Why did they not make the city's property tax rate less repulsive *across the map*, and not just for the developers with whom they were negotiating in Charles Center and, later, throughout the Inner Harbor? If making the property tax rate competitive on 22 acres downtown was a good idea and *a necessary condition for attracting vital private investment*, it should have been seen as a *great* idea to remove this roadblock to redevelopment of the rest of the city's 49,000 acres. Imagine the creative energy that would have been unleashed if, for the last half-century, entrepreneurs knew that the city tax collector would not confiscate the value they would create in turning around a decaying neighborhood with new shops or condos. Imagine the infusions of capital that would have occurred if every investor—from the developer thinking of building an office or entertainment complex to the individual homeowner deciding whether to renovate in the city or beat it to the suburbs—got the same incentives extended to the well-connected players involved in planners' chosen redevelopment areas.

For the last half-century, no large-scale private investment in or near downtown Baltimore has occurred without special subsidies or tax breaks.

But, of course, across-the-board property tax cuts would not have been a *great political* idea. Cutting rates significantly would have entailed cutting city government expenditures apace, at least in the short run. And down that road lies much political peril. Smaller budgets lead to disgruntled (and perhaps laid-off) city employees, who are a vocal lobby and a large and potent voting bloc. Smaller budgets also make it difficult for politicians to dole out goodies to favored constituencies—not just patronage jobs, but subsidized housing, public works projects, social programs, etc. Undoubtedly, some budget cuts would have reduced the quantity or quality of services provided by the municipal government, but some would simply have limited the capacity of politicians to buy the votes of special interest groups.

Students of public finance will correctly point

out that the budget squeeze resulting from lower property tax rates would not have lasted all that long. The new investment attracted by the lower rates (or, more precisely, the new investment no longer repelled by the old, higher rates) would have delivered new tax receipts. What is more, older properties, over time, would have been appraised at higher market values—a phenomenon known as “tax capitalization,” in which lower (or higher) taxes lead to higher (or lower) sale prices—even if owners had not bothered to invest to improve their holdings. Of course, once the city's tax rate was competitive with that in the surrounding county, its residents would have been *rewarded rather than punished* for upgrading and/or rehabilitating property. Over several years, the city government's budget would have recovered and the city itself would have been profoundly healthier. In politics, however, short-run pain to achieve long-run gain is risky at best and suicidal if the gains are too long arriving or (horrors!) attributed to a successor. So Baltimore went for a fix that was ultimately neither quick nor real and ignored a surer, more powerful, organic renewal strategy because it was politically expedient to do so.

Unfortunately, city officials soon found they had a tiger by the tail. Condemn vast swaths of real estate—or threaten to do so—and you first accelerate an area's decline before you “rescue” it, as we have noted. This damages the tax base, crimps revenues, and also creates a short-run budget pinch (though certainly a smaller one than would follow an across-the-board rate cut). If you are not willing to cut city spending, you must re-balance the budget by raising the tax rate. That, in turn, deepens the disinvestment crisis, which exacerbates the budget pinch ... and away we go. It is noteworthy that the city's property tax rate, which had been kept under \$3 per \$100 of assessed value for all but a single year of the city's prior history, rose in six of the seven years after the renewal of downtown commenced, and by 1975 had more than doubled.³⁵

As Baltimore applied ever-greater amounts of “investment repellent,” of course, it continued to decay almost everywhere except in the areas targeted for renewal, where the aforementioned public attractions and private investments were put in place, one by one, and the city's new downtown took shape. The formula for attracting private developers was always the same:

The Colts: Fleeing in the Dead of Night

One final, emotionally wrenching example of the consequences of Baltimore's reflexive use of eminent domain merits mention: the March 1984 departure of the city's beloved Colts, winners of three National Football League championships from the late 1950s through the early 1970s. By the 1980s, however, the team had fallen on hard times, posting six straight losing seasons from 1978 to 1983. Fans blamed owner Robert Irsay for being tightfisted with the team payroll and generally incompetent; both charges were doubtless true. Irsay pointed at a city-run stadium that was below league standards in revenue-generating potential, another undeniable fact. He alternately begged local public officials to build him a state-of-the-art facility with taxpayers' money and threatened to move the franchise to other cities that would. At various times, Memphis, Indianapolis, Jacksonville, Los Angeles and Phoenix all played roles as leverage-enhancing suitors.

In the dead of winter, 1984, this sordid drama reached its climax. Indianapolis had built an \$80 million domed stadium without any tenant; desperate, the city offered Irsay irresistible rental terms that included a subsidized loan, attendance guarantees, and a free practice facility. Irsay also met with Arizona Governor Bruce Babbitt and Phoenix officials and pocketed a similar offer. Recognizing that this time the Colts' owner probably was not bluffing, Baltimore Mayor William Donald Schaefer partnered with officials from the surrounding county and Maryland's economic development agency to put together a stadium package that met all of Irsay's demands. They even sweetened the deal when they learned that Indianapolis and Phoenix had upped their bids.³⁰

But Irsay did not feel triumphant. The problem was that while some Baltimore pols were offering him gifts, others were threatening to take the Colts away from him. On March 26, 1984 (the day after Mayor Schaefer pitched the city's



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take control of “blighted” tracts, package them for resale at favorable prices (and sometimes with explicit government grants) and with friendly assessments; repeat. In planning circles, it won praise and attracted imitators. To the property owners cast aside in this process, however, it might have looked a bit like a shakedown scheme, since the subsidies and tax breaks were not offered to them—and, as we have seen, were a large part of the reason these areas had become capital-starved and cheap in the first place.³⁶

In sum, then, it is fair to say that eminent domain has never been part of a real, lasting and balanced solution to Baltimore's disinvestment problem, but rather a way to *avoid* such a solution. Even if we focus only on cases where it helped install “jewels in the city's downtown crown” and ignore its fallout elsewhere, it is apparent that eminent domain was part of a strategy of expedience. Down one path lay the kind of systemic changes in government taxing and spending policy that would have required considerable short-run belt-tightening—and so exacted a political cost—but which would have genuinely and broadly addressed the disinvestment crisis. Down another lay a strategy that required less short-term fiscal discipline, involved less political risk, and promised to enhance the power of city politicians and bureaucrats by handing them control over a vast array of decisions that previously had been left to individuals and the market. Politically, choosing the latter path was a no-brainer; economically, it was a tragedy.

Lessons Learned

Judging the success or failure of any public policy is, admittedly, dicey work. The world is complicated. It is hard to anticipate all the subtle, often unintended consequences of our policy choices. What is more, we can never be certain how things would have gone if a different path had been chosen.

Nevertheless, it would be a mistake to give policymakers a free pass simply because their intentions seemed good—“the road to hell...,” as the saying goes. We need to be thorough in our appraisal of the direct effects of our policy choices, and must not don blinders and ignore their collateral effects.

Further, it would be wrong to ignore readily-available alternative policy choices and fail to consider their likely outcomes. To do so is to set an artificially low bar for a verdict of success.

We believe that those who point to Baltimore as an example of the necessity and desirability of eminent domain-driven, “plan, control and subsidize”-style urban renewal are guilty of these errors. Partly because the planners meant well, their apologists seem determined to ignore how often the assumptions on which their grandiose visions rested have proven faulty—and how devastating have been the consequences, particularly in other parts of the city. Away from downtown, Baltimore suffered terribly from “blight clearance” programs that created high-rise slums so dismal and dangerous they would be dynamited within two generations. The city’s transportation planners’ ideas were so half-baked that they usually died on the drawing boards—but not before freezing investment and fueling flight of people and capital over wide areas. Such fallout is part and parcel of the renewal model to which Baltimore hitched its wagon in the 1950s and continued to follow for decades; its costs simply must be included in an appraisal of that model.

What is more, those who would emulate Baltimore commonly judge its redevelopment strategy on simple before-and-after comparisons of the tracts that have been “renewed.” They do not look at the city as a whole. For example, nearly every discussion of the history of the Inner Harbor project begins with a summary of the moribund enterprises and decaying docks and warehouses that occupied the site before the planners got busy identifying better uses for it and seizing it via eminent domain. The basic narrative is “the previous owners were not upgrading their property; the new ones favored by the planners did so; the project is therefore an unqualified success.” As we have seen, however, the decay brought about by disinvestment is neither an accident nor an indication that owners necessarily lack the desire to earn the returns associated with higher-valued uses of their property. Rather, it is frequently a result of a tax climate that repels new investment and the threat of impending eminent domain and loss of the property altogether. If redevelopment is at least partly a result

Colts (cont.)

improved offer to Irsay), two bills were introduced for study in the Maryland legislature. One called for the state to buy the team and sell it to local investors for \$40 million—about \$83 million in today’s dollars, or less than a tenth of the franchise’s current estimated value.³¹ The other authorized the state to use eminent domain proceedings to condemn the team and operate it “in the public interest.” Such proposals would have made any property owner nervous, but they should not have been a surprise. Over the previous couple of decades, Baltimore’s habit of taking private property—often on the cheap—had taken firm root. Invoking a public interest in seizing a football team (which, after three consecutive last-place finishes, was clearly a “blighted” property!) struck few leaders or pundits as outrageous or even an unusual exercise of government power. On March 27, Maryland’s Senate passed the second bill. It was like a gun to Irsay’s head.³²

The Colts were unlike previous targets of eminent domain seizures, however. Owners of bricks-and-mortar properties could only complain and litigate when confronted with condemnation threats; the Colts could get their assets out of town. And so they did. The very next day after the Senate voted, on the evening of March 28—Irsay had worried that if the move began during business hours officials would hurriedly finalize the legislation and obtain a court order to padlock the team’s rented offices—moving vans arrived and staffers packed up contracts, medical files, uniforms and other equipment. Under cover of darkness and with snowflakes swirling among a few somber onlookers, 22 vans rumbled away from the Colts’ rented facilities; by dawn, everything associated with the team was well down the highway to Indianapolis.

Baltimore hurriedly played its eminent domain trump card, but it was too late. On March 29, Maryland’s House of Delegates passed and Governor Harry Hughes signed the pending seizure legislation and city officials wired a \$40 million purchase “offer” to Irsay. On March 30, the city filed a formal condemnation suit. A year and a half and \$500,000 in legal fees later, U.S. District Court Judge Walter E. Black, Jr. ruled that the Colts had moved beyond Baltimore’s legal reach by the time the city had formally begun its seizure proceedings.

Ever since, the Irsay name has been an expletive among Baltimore football fans. A local treasure had been stolen under cover of darkness, and anger was directed almost entirely at the thief. Little thought was given—then or now—to the repulsive power of eminent domain and other threats to the security of private property rights in the city. In the view of most policy- and opinion-makers, the episode was a tragic anomaly. Because the targets of such seizures are almost always immobile, their assets can be taken without much controversy and converted to “better” uses—case closed.

of the local government's willingness to remove this impediment to investment via subsidies for *favored developers*, then we need to ask what would have happened to the affected areas if the same benefits had been extended to *former owners*. In short, we need a better benchmark for success than "well, compared to doing whatever it was that caused the problem in the first place, things improved."

Clearly, such a benchmark will be difficult to develop. The problem is that we will never know what would have happened on Charles Center's 22 acres had the early advocates of downtown renewal been empowered to simply offer the owners of the "blighted" properties on that site a similarly sizeable property tax cut and up-front cash infusion. The same can be said for adjoining acreage along the waterfront. And the big question, of course, is *what would have happened all over the city had the tax breaks given the favored few been available everywhere, to everyone?*

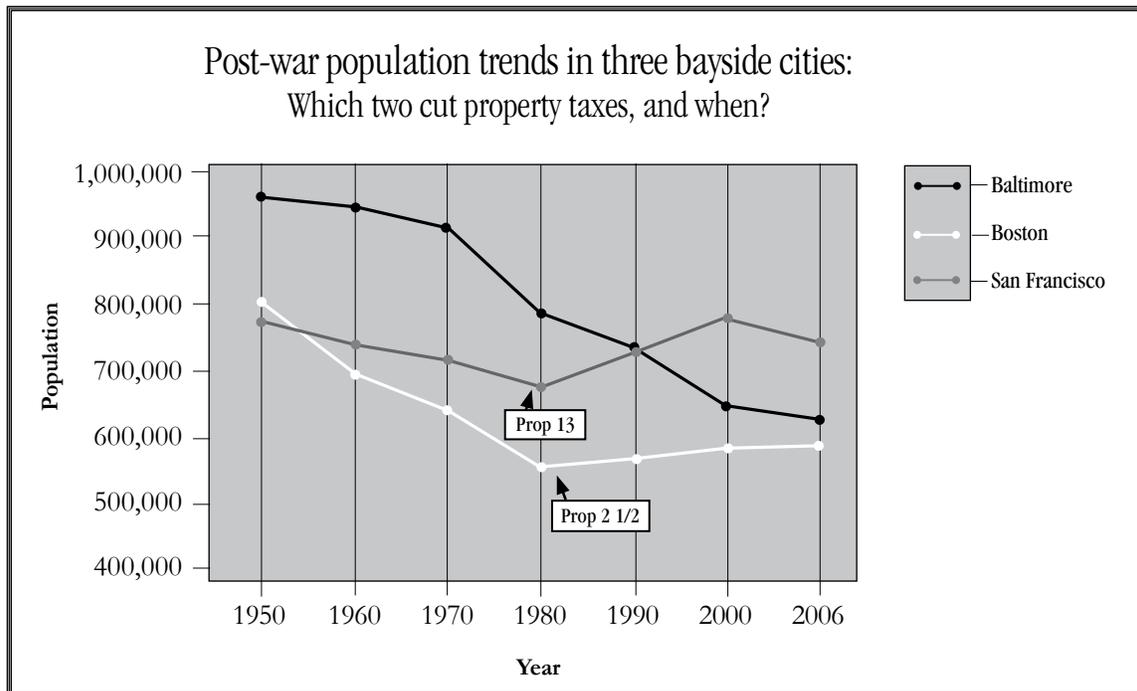
There is some tantalizing evidence on this point. Society has conducted a thought-provoking natural experiment showing what can happen when a city's disinvestment crisis is treated at its roots rather than symptomatically. Consider another politically

progressive city by a bay: San Francisco.

Skeptics might say that it is unfair to compare Baltimore and San Francisco. The latter is richer, safer, cleaner and healthier in virtually every respect. Plus, it has nicer weather and cable cars. Baltimore, unfortunately, is burdened with economic and social problems that San Franciscans do not have to deal with.

But these cities were not always incomparable. Up through 1950, both Baltimore and San Francisco had growing populations and reasonably healthy economies. Both had median family incomes well above the national average, smaller-than-average proportions of their populations earning low incomes, and larger-than-average proportions of the well-to-do. Then, however, both started to slide, with the damaging effects of disinvestment, decay and population flight becoming more obvious every year. Indeed, San Francisco actually lost population *faster* than Baltimore (down 7.6 percent vs. 4.7 percent) between the 1950 and 1970 censuses—its weather and cable cars notwithstanding.

Progressive to their cores, both cities responded in similar ways to their declining fortunes, embarking on



“plan, control and subsidize”-type renewal programs in various “blighted” neighborhoods. In most respects, San Francisco’s experience was no happier than Baltimore’s. For example, San Francisco’s largely African American Fillmore District was known as the “Harlem of the West” during the 1940s and 1950s, containing many minority-owned businesses and a thriving cultural scene (with prominent jazz clubs featuring the likes of Lionel Hampton, Duke Ellington, Billie Holiday, John Coltrane and other headliners).

Baltimore’s development strategy revolves entirely around the choices of its political elite.

But planning officials labeled the Fillmore a slum, targeted 64 city blocks for renewal, and displaced nearly 20,000 residents in two waves of redevelopment in the 1960s to make room for the Japan Trade Center and a massive boulevard along Geary Street. Since officials had not quite figured out what else was needed to revitalize the area, however, dozens of leveled blocks sat vacant for more than a decade.³⁷ The city’s population decline continued.

In 1978, however, voters delivered a huge shock to San Francisco government officials (and those in every other municipality in California). A statewide ballot initiative dubbed “Prop 13”—officially, the “People’s Initiative to Limit Property Taxation”—passed with 65 percent of the vote. The amendment to the state constitution rolled back property tax rates to “One percent (1%) of the full cash value of such property,” and limited increases in a property owner’s tax bill to a maximum of two percent per year until and unless the property was sold.³⁸ In San Francisco, this meant that owners’ tax bills were cut by more than half and, just as important, that *future investments or upgrades in one’s property could not be appropriated by local governments via tax hikes*. Predictably, local officials proclaimed that this was the end of the world as we know it and sued to overturn or modify Prop 13, but the courts upheld it. Lo and behold, the world is still here.

San Francisco, of course, is not only still here but *better than ever*. Between the censuses of 1980 and 2000, its population grew 14.4 percent—while

Eminent Domain’s Chilling Effect on Investment

Nam Seo Koo and his wife arrived in Baltimore from South Korea in 1977 with only \$2,000, but high hopes. Working long hours in restaurants and gas stations allowed them to save enough to open a women’s clothing store downtown in 1980. Business was good; the Kooos soon owned ten retail outlets scattered around the region and a thriving wholesale apparel business.

But a decade ago, the Baltimore City Council designated 127 properties on the city’s West Side for possible seizure and redevelopment, including Mr. Koo’s headquarters store and warehouse. The results have been nightmarish for the Kooos and their neighbors.

Shop owners immediately stopped investing in their property. As Jerald Goldfine, owner of a Valu-Plus store, explained, “who would invest substantial amounts of money with the idea that a month later they would get a letter from the city saying ‘We’re going to take your property with eminent domain?’”

But owners waited for those letters a long time; while the city spun its planning wheels, the tract steadily decayed. As some shops closed their doors, pedestrian traffic declined and others’ sales plummeted. Sales at Mr. Koo’s “New York Fashions” shop fell by 60 to 70 percent within a few years. What is more, costs soared; the Kooos rented special storage space in case they had to move quickly. “Every year they say, ‘this is your last Christmas,’” said Mr. Koo’s son and partner, Linn, “then, ‘just kidding.’”

Baltimore Development Corporation president Jay Brodie has explained that the city had to “wait... [until we knew] what we were doing. It wouldn’t have looked good if we moved Mr. Koo... and then nothing happened there.”

“They didn’t take a bad area. They took a good area and made it bad.”

Of course, how one looks is less important than what one does, and there can be little doubt that the “plan, control and subsidize” formula has been devastating to the Kooos and many others on the West Side. Linn says it best: “They didn’t take a bad area. They took a good area and made it bad.” Unfortunately, the area just wasn’t good enough for the planners—not upscale enough, not new enough, not glittery enough. By the time the city gets around to redeveloping the area, however—the Kooos were forced to sell and end their decade-long nightmare in November 2007—memories of its former vitality will fade and whatever mega-project is dropped into the decayed tract will be touted as another key step in Baltimore’s renaissance.

Source: Jen DeGregorio, “Superblock Tiff Leaves Fashion Store in Limbo,” *The Daily Record* (Baltimore, MD), Nov. 17, 2006; Andrew Cannarsa, “Settlement ends ‘Superblock’ battle,” *The Examiner* (Washington, DC), Nov. 8, 2007.

Baltimore's fell 17.3 percent. This is exactly the opposite of what politicians and bureaucrats promised would happen in the aftermath of Prop 13. City services would collapse, they predicted; schools would fail and infrastructure would crumble and flight to the suburbs would accelerate. Instead, citizens concluded that their real property investments were now protected from tax-happy city pols, and started to come back to town. With property tax rates equalized between the city and surrounding suburbs and exurbs, a major impetus toward sprawl was actually *removed*. And as residents returned and rebuilt neighborhoods and stimulated economies from the bottom up rather than the top down, city budgets quickly recovered and city services were restored or improved. Of course, reasonable people will differ about the overall wisdom of Prop 13, and even its fans have found some things they do not quite like about it. At the least, however, it provides a graphic example of the potential value of constitutional limits on the exercise of government power.³⁹

We cannot say for sure that Baltimore would have turned the redevelopment corner as sharply and successfully as San Francisco had it chosen (or been forced) to similarly limit its power to confiscate—via taxation and/or eminent domain takings—its citizens' investments in real property. *We can* say with certainty that Baltimore would look different, and we think it is arguable that it would be much healthier.

As things stand now, Baltimore's development strategy revolves entirely around the choices of its political elite. Within its borders, almost every commercial and residential investment decision of any size hinges on the favor of a gaggle of elected officials and appointed bureaucrats and their willingness to grant all-important permissions and crucial subsidies or tax relief. As we have seen, this is an excellent system for the consolidation of political power, but as an economic development mechanism it carries huge risks: although it sometimes serves up successful (if expensive) mega-developments, it often yields disaster for all the remaining neighborhoods. More important, it is *always* too narrowly focused to attract the enormous and geographically diffuse pattern of private investment that can lead to organic growth city-wide.

Public officials tend to chronically underestimate the incredible power of secure property rights and non-punitive tax rates to encourage investment, and lack confidence that private citizens can be trusted to invest wisely. As San Francisco and a host of other cities⁴⁰ daily demonstrate, a hospitable investment environment can produce dazzling improvements in the quality of urban life. Let us hope that, someday soon, Baltimore heeds that lesson.

Endnotes

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6. The Brookings Institution, "Baltimore in Focus: A Profile from Census 2000," November 2003, available at <http://www.brookings.edu/es/urban/livingcities/Baltimore.htm>, accessed May 7, 2008.
7. Baltimore was by no means the only major city to implement the major precepts of this "planning ideology" as part of a renewal program, or even a particularly early adopter. It is noteworthy, however, that shortly after it did so those precepts would be devastatingly critiqued by urbanologist Jane Jacobs in 1961, in her classic, *The Death and Life of Great American Cities* (Modern Library, 1993).
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28. City of Baltimore, Department of Planning, *A Study for an East-West Expressway*, January 1960.
29. Ben A. Franklin, "U.S. Approves Modified Designs for 2 Freeways: Plans for Roads in Baltimore and New Orleans End Dispute in Inner City Disruption," *The New York Times*, January 18, 1969, at 11.
30. For detailed discussions of these events, see Ken Murray and Sandy Banisky, "Colts' final days: The inside story," *The Baltimore Sun*, October 24, 1993, at 1C, and Ken Murray, "Dark details readily recalled 10 years after Colts' move," *The Baltimore Sun*, March 29, 1994, at 1C.
31. See Kurt Badenhausen, Michael K. Ozanian and Christina Settimi, eds., "The Business of Football," *Forbes*, September 13, 2007, available at http://www.forbes.com/lists/2007/30/biz_07nfl_Indianapolis-Colts_309104.html, accessed May 8, 2008.
32. While political spin doctors have succeeded in downplaying the importance of the seizure threat in the Colts' departure, the most objective testimony on this score comes from David Frick, the attorney who represented Indianapolis in their negotiations with the team. Frick has acknowledged that Baltimore's offered package of subsidies—assuming it was sincere, and not merely a delaying tactic—was superior to Indianapolis's. What's more, Frick has opined that Irsay was not predisposed to moving the team: "Bob had an attachment [to Baltimore]. That decision to move came very hard for him. I watched the man in the process. While the stadium was not the quality stadium that other teams were playing in and fan support had declined dramatically at the end, that was a long-standing franchise, and it troubled him to move it. ...[T]he real trigger mechanism for departure was eminent domain." Murray and Banisky, "Colts' final days: The inside story," *supra*.
33. The county's property tax rate was \$2.16 per \$100 of assessed value in 1958, versus \$2.98 in the city, and

“under ‘normal’ conditions, assessments average[d] about 75 percent of the market value” (per GBC’s *Charles Center* (1958), *supra*, at 24). Accordingly, at the time a development worth \$127.2 million in the county carried an annual tax liability of $\$127.2\text{m} \times 0.75 \times 0.0216$, or \$2.06m., against $\$2.84\text{m} = \$127.2\text{m} \times 0.75 \times 0.0298$ in the city. Since assets are worth the net income they will generate, it is noteworthy that just this difference in annual tax liability of roughly \$780,000 would reduce the value of the facilities, if located in the city, by about \$25 million relative to their value in the county (assuming a 50-year asset life and using a real, inflation-apart discount rate of 2.1 percent).

34. See GBC’s *Charles Center* (1958), *supra*, at 17. To equalize the city’s annual tax bite with what it would have been for comparable facilities in the nearby county, the city effectively promised to set the tract’s market value to be about \$92.2m (since $\$92.2\text{m} \times 0.75 \times 0.0298 = \2.06m).
35. It is possible, however, that this overstates the speed with which the city property tax rate was increasing, since the relationship of assessed value to market value was also changing during this period.
36. What is more, the city’s stratospheric property tax rate is not its only investment-unfriendly policy. As the eminent urban economist Edwin S. Mills has noted, hyper-restrictive zoning, cost-ineffective building codes, and a host of aggressive regulations aimed at limiting “externality problems” have become ever more common in many large cities; Baltimore is no exception. “The Attrition of Urban Real-Property Rights,” *The Independent Review*, v. XII, n. 2, Fall 2007, at 199–211.
37. For an excellent documentary on the subject, see *The Fillmore: It Was Called ‘The Harlem of the West’—Then Urban Renewal Came to Save It*, KQED Inc., 1999, available at <http://www.pbs.org/kqed/fillmore/program/index.html>.
38. See California Constitution, Article 13A (Tax Limitation), available at http://www.leginfo.ca.gov/const/article_13A.
39. A similar example can be found in Massachusetts, where Boston’s revival has been accelerated by the capital-friendly Prop 2 1/2, which took effect in 1982 and limited property tax rates to 2.5 percent of market value and annual increases to no more than 2.5 percent. In another amazing coincidence, Boston’s population rose 4.6 percent over 1980-2000 (vs. Baltimore’s 17.3 percent decline), after falling 29.7 percent over 1950-80 (even greater than Baltimore’s 17.2 percent reduction). See U.S. Census Bureau, *Census of Population* (various years) and *2006 Population Estimates*, available at <http://factfinder.census.gov>.
40. An excellent example of urban redevelopment that does not depend on the “plan, control and subsidize” approach can be found in Anaheim, California. See Curt Pringle, “Development without Eminent Domain: Foundation of Freedom Inspires Urban Growth,” Institute for Justice, June 2007, available at http://www.castlecoalition.org/index.php?option=com_content&task=view&id=186&Itemid=113.

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The Castle Coalition, a project of the Institute for Justice, is a nationwide network of citizen activists determined to stop the abuse of eminent domain. The Coalition helps property owners defeat private-to-private transfers of land through the use of eminent domain by providing activists around the country with grassroots tools, strategies and resources. Through its membership network and training workshops, the Castle Coalition provides support to communities endangered by eminent domain for private profit.



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