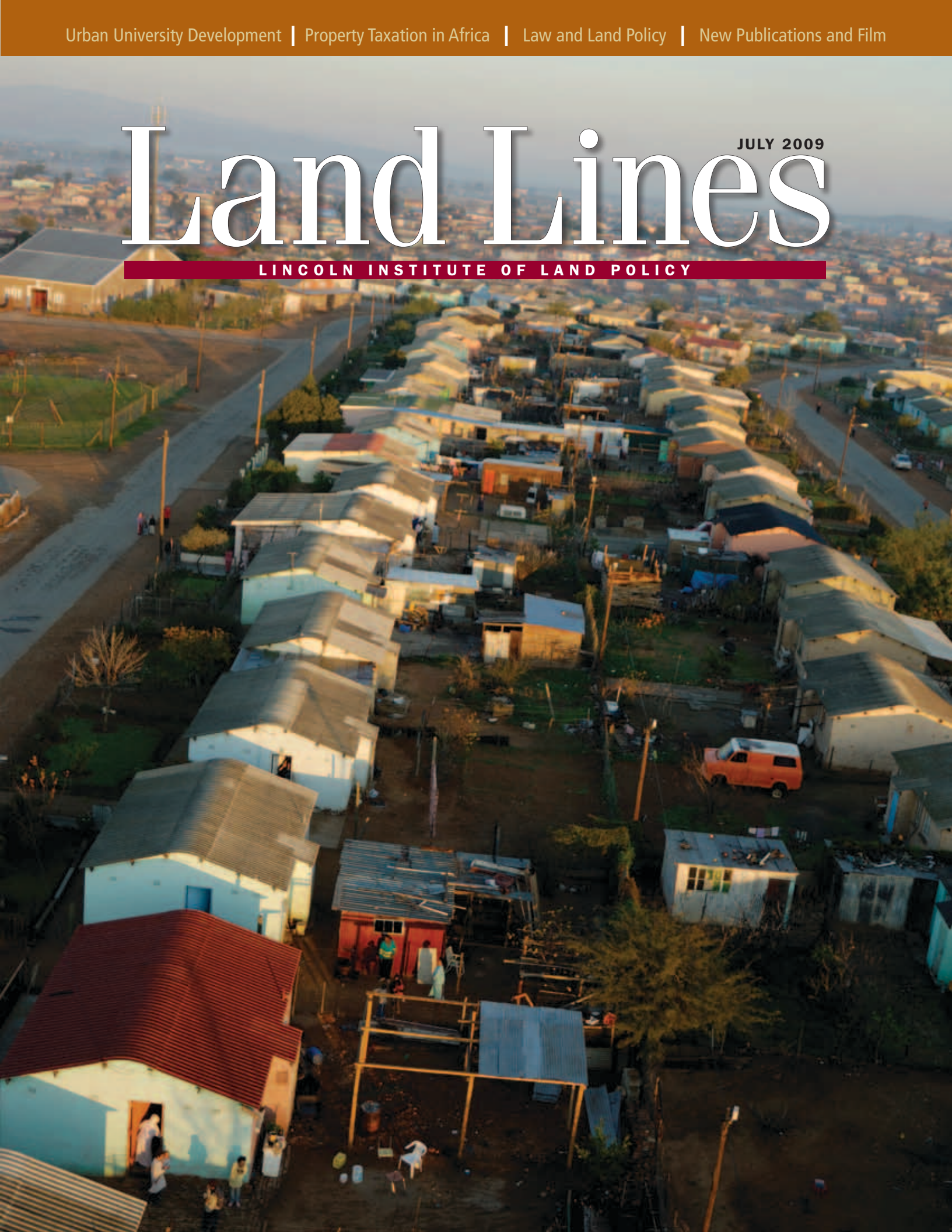


# Land Lines

JULY 2009

LINCOLN INSTITUTE OF LAND POLICY



# Land Lines

JULY 2009 • VOLUME 21, NUMBER 3

## EDITOR

Ann LeRoy

## PRESIDENT & CEO

Gregory K. Ingram

## CHAIRMAN OF THE BOARD

Kathryn J. Lincoln

## PUBLICATIONS ASSISTANT

Robyn F. Salbo

## DESIGN & PRODUCTION

David Gerratt & Amanda Wait  
www.NonprofitDesign.com

The Lincoln Institute of Land Policy is a private operating foundation whose mission is to improve the quality of public debate and decisions in the areas of land policy and land-related taxation in the United States and around the world. The Institute's goals are to integrate theory and practice to better shape land policy and to provide a nonpartisan forum for discussion of the multidisciplinary forces that influence public policy concerning the use, regulation, and taxation of land.

We seek to inform decision making through education, research, demonstration projects, and the dissemination of information through publications, our Web site, and other media. Our programs bring together scholars, practitioners, public officials, policy advisers, and involved citizens in a collegial learning environment. The Lincoln Institute of Land Policy is an equal opportunity institution.

*Land Lines* is published quarterly in January, April, July, and October to report on Institute-sponsored programs.

## For More Information

The Lincoln Institute Web site ([www.lincolnst.edu](http://www.lincolnst.edu)) provides a variety of features that make it easy for users to quickly obtain information on land and tax policy issues and on specific education programs, research, and publications. The e-commerce function permits users to order publications and multimedia products and to register for courses.

You can create your own "My Profile" to download current and past issues of *Land Lines*, more than 580 Working Papers, and other materials posted on the Web site. After you have completed your profile, you can "Log In" at any time by entering only your username and password. To create a profile, go to <http://www.lincolnst.edu/login/createprofile.asp>.

Copyright © 2009

## Lincoln Institute of Land Policy

113 Brattle Street  
Cambridge, MA 02138-3400 USA

Tel: 617-661-3016 or 1-800-526-3873

Fax: 617-661-7235 or 1-800-526-3944

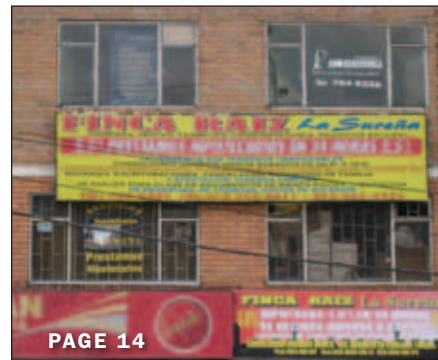
E-mail: [annleroyer@lincolnst.edu](mailto:annleroyer@lincolnst.edu) (editorial content)  
[help@lincolnst.edu](mailto:help@lincolnst.edu) (information services)

Web: [www.lincolnst.edu](http://www.lincolnst.edu)



**L** LINCOLN INSTITUTE  
OF LAND POLICY

# C O N T E N T S



## FEATURES

### 2 The University's Role in Urban Development: From Enclave to Anchor Institution

DAVID C. PERRY, WIM WIEWEL, AND CARRIE MENENDEZ

*For most its history the American university has been treated as an enclave—a scientific and reflective ivory tower removed from the subjective turmoil of the city. More recently the university has come to be viewed by many public officials and analysts as a driver of urban development.*

### 8 Mapping Property Taxes in Africa

RIËL C.D. FRANZSEN AND JOAN M. YOUNGMAN

*A joint venture between the Lincoln Institute and the African Tax Institute has begun to research data on property taxes. This information is extremely difficult to obtain in many nations, yet it could provide a basis for policy debate that has not been possible in the past.*

### 14 Law and Land Policy in Latin America: Shifting Paradigms and Possibilities for Action

EDÉSIO FERNANDES AND MARÍA MERCEDES MALDONADO COPELLO

*Legal systems have contributed to informal development in two main ways—through the exclusionary land, property rights, and registration legal provisions, and through flawed planning systems adopted in many large cities.*

## DEPARTMENTS

### 1 Report from the President

### 20 Faculty Profile: *John H. Bowman*

### 22 Fellowship Perspective: *Mark C. Ackelson*

### 24 New Lincoln Institute Publications

*Erosion of the Property Tax Base*

*Evaluating Smart Growth: State and Local Policy Outcomes*  
*Town-Gown Collaboration in Land Use and Development*

### 27 New Film

*Making Sense of Place: Portland—Quest for the Livable City*

### 28 Program Calendar

### 29 What's New on the Web

*Significant Features of the Property Tax*



South Africa  
© iStockphoto.com

## The Changing Landscape of Local Public Revenues

Public revenues are a focal point for hard-pressed state and local governments facing budget deficits because the recent recession has increased service demand and reduced proceeds from taxes, fees, and inter-governmental transfers. The Lincoln Institute's fourth annual land policy conference in June 2009 reviewed trends, insights, and new developments in local revenues. Varied practices across states and localities make it difficult to construct a typical case, yet offer opportunities to assess the performance of different revenue instruments.

### Local Taxes

Local governments have been reducing their reliance on the property tax and moving to other revenue sources including local sales taxes, income taxes, and user fees. Revenues from these sources are normally more volatile than property tax receipts, and some of them—especially local sales taxes—are much more regressive than the property tax. While the low volatility of property tax revenues is viewed as a virtue by local governments, the stability of property tax payments may in fact contribute to the tax's unpopularity.

Taxes often affect the decisions and behavior of firms and households, but the resulting economic distortions caused by taxes are better known to scholars than to policy makers. Simple calculations indicate that taxes on businesses and nonresidents have larger distortions than those on residents, largely because firms and nonresidents are better able to adjust, and even to relocate.

Conference participants supported the use of regional taxes, including local taxes mandated to be uniform across a region's jurisdictions, to avoid cross-border spillovers. For example, a regionally uniform sales tax would mitigate many of the border effects that plague local sales taxes. Most regional taxes now in place relate only to transportation, parks, and environmental agencies.

Local communities are also increasing their reliance on revenue from user fees that are likely to promote efficiency in both production and consumption of services such as utilities. These fees often secure bonds that are not subject to voter approval, especially when the fees are collected by an independent entity or special district.



Gregory K. Ingram

### State and Municipal Issues

While supporting more uniform regional tax systems, conference participants were concerned about the growth of state mandates and restrictions on local taxes. These regulations can reduce local autonomy and diminish a community's ability to differentiate fiscal tax and expenditure offerings in response to their residents' preferences, thereby reducing the benefits of civic participation.

Many local governments have ceded responsibility for the current costs of providing local public goods (e.g., road and sidewalk maintenance, street lighting, trash collection, recreation facilities) to homeowner associations, including condominiums, cooperatives, and private communities. Such associations provide services to about 50 million people and constitute about half the residences constructed in the U.S. in the past two decades. While these associations cover mainly current and not capital expenses, some are also part of community facility districts now widely used in fast-growing areas to finance capital improvements through bonds that must be repaid by community residents.

### Nontax Revenue Sources

Developers prefer impact fees to regulations, which involve more risk for them. However, there is little evidence that communities control development by using one of these approaches much more than the other. Theory suggests that levying impact fees will lower property tax rates, but empirical support for this view is also scarce. Although impact fees are used widely, there is virtually no evidence from ex post studies that the impact fees charged correspond to the actual expenditures communities incur from development.

Business improvement districts (BIDs) are also widespread—more than 700 are located in 46 states. Some analysts hypothesize that BID expenditures substitute for public spending, while others suggest that they complement and increase public expenditures. A careful analysis of their impacts suggests that any effects are small, amounting to no more than one percent of public expenditures in most cities.

More details on these points and related topics will be published in the conference volume in May 2010.

# The University's Role in Urban Development: FROM ENCLAVE TO ANCHOR INSTITUTION



The University of Illinois at Chicago's South Campus/ University Village project introduced new residential development to a formerly depressed part of the city.

Mesrirow Stain Real Estate Inc.

*David C. Perry, Wim Wiewel, and Carrie Menendez*

**F**or most its history the American university has been treated as an enclave—a scientific and reflective ivory tower removed from the subjective turmoil of the city. More recently the university has come to be viewed by many public officials and analysts as a driver of overall urban development (CEOs for Cities 2007). University leaders often represent their institutions as “engaged” with “urban agendas” (Kellogg Commission 1999).

By 1996 there were nearly 2,000 universities and colleges in the cores of U.S. cities, and their combined budgets comprised nearly 70 percent of the more than \$200 billion spent annually by universities nationwide. Put another way, urban universities were spending about \$136 billion on salaries, goods, and services, which is more than nine times what the federal government spends in cities on job and economic development (ICIC and CEOs for Cities 2002, 7). Universities consistently rank among the top employers in metropolitan areas, and are among the largest and most permanent land and building owners. It is estimated that, using original purchase price as a reference, urban colleges and universities own more than \$100 billion in fixed assets (ICIC and CEOs for Cities 2002, 8).

As impressive as these data are, they do not represent all of the activity or value of universities and other place-based or anchor institutions in cities, such as hospitals, civic foundations, and public utilities. These institutions are most successful as catalysts for urban change when they are fully engaged in the collective capacity of civic leaders to achieve the multiple interests of cities and communities, as a well as universities (Perry and Wiewel 2005).

## **Anchoring Urban Change**

Our previous studies of urban anchor institutions have centered on the land or real estate practices of urban universities (Perry and Wiewel 2005; Wiewel and Perry 2008). Here we continue to use universities as the institutional lens through which to conduct a national study, but we expand the focus, seeking to address the following question: In different types of metropolitan areas, how do institutions of higher education work with the government, business, and community/civic sectors to mutually define and shape (i.e., “anchor”) individual and collective interests in regard to planning and community development?



Mesirov Stein Real Estate Inc.



Mesirov Stein Real Estate Inc.

**UIC's South Campus before and after development.**

This article presents two cases of institutional collaboration that represent two types of cities: a global command and control center (Chicago) and a declining industrial city (Baltimore). Both have large and vigorous higher education sectors, strong community organizations, an organized business sector, and significant issues of local and metropolitan governance. Both also are good examples of how cities differ in the ways they benefit from place-based, multiple, and often contested relationships among anchor institutions that produce the processes of development.

### Global Cities: The Case of Chicago

The geographic center of the Chicago economy and its emergence as a global, knowledge-based, command and control center for most of the past hundred years has been the Loop (Abu Lughod 1999; Sassen 2003). This downtown business district surrounded by a circuit of train tracks is the centerpiece of the city's diverse economy: financial markets; business services; corporate headquarters; transport linkages; vibrant universities; public-private partnerships; dynamic immigrant communities; and new professionals (Cortright 2006).

A core element of this geo-economic, Loop-centered strategy has been the development of key educational anchors (Cohen and Taylor 2000). In the western area of the Loop, the University of Illinois at Chicago (UIC) is the primary institution; and in the economically challenged South Loop, a mix of public and private universities and colleges make up an academic corridor.

UIC's South Campus/University Village project has transformed a depressed, albeit historically well-known, area of immigrant landing, Southside Chicago blues, and the internationally renowned Hull House and Maxwell Street Market. Now the neighborhood is a \$700 million mixed-use area including university buildings, private residential development, and mixed lease/ownership retail and commercial ventures.

The entire project could not have occurred without the collaborative efforts of the mayor, city planners, and private developers, along with university and community organization buy-in, as well as university land banking and real estate development. Ironically, while the university was the anchor of development, almost everyone connected with the project suggests that it was the leadership of the city—from the political vision of the mayor to the technical capabilities of the planners—that created the institutional glue that made the project work. While the university was purchasing the land, the city was substantially driving the process through regulations, eminent domain, and its own prior ownership of land parcels.

Harkening back to the city's comprehensive plan from the 1960s, the current mayor, Richard M. Daley, continued his father's legacy to support an urban campus—viewing the university as a key institutional anchor driving the expansion of downtown-centered urban development. The city sold its land near the university via quitclaim deeds, and agreed to vacate certain streets, move the historic Maxwell Street Market, and undertake



Mestrow Stein Real Estate Inc.

**A new neighborhood park and housing are part of UIC's South Campus development.**

street improvements through the largest tax increment financing (TIF) district in history. In turn, the university agreed to finance the land use analysis and moving of the Market, thus becoming the public lightning rod for the community and historic displacement that such development represented (Weber, Theodore, and Hoch 2005).

Even after these actions had targeted the land for development, UIC still could not control the fiscal needs of the entire South Campus project through its own investment, and had to sell up to 40 percent of the property to private developers (Landek 2008). In some ways this collaboration was foreordained by the increasing scale of the project—almost 87 acres by the time the city and university were ready to proceed with development. By turning the area into a TIF district, the city contributed to renovation of the infrastructure and rationalization of the street grid for what quickly became one of the largest mixed-use development projects of any university in the nation.

In the end, the university could be credited with developing an integrated academic, residential,

recreational, and commercial complex. It included housing for more than 1,500 students, 930 units of private residential housing, academic offices, 40 retail establishments, parking facilities, and athletics fields. In 1999 the total development cost was estimated at \$600 million, although that figure ballooned to more than \$700 million, of which UIC had invested \$50 million in land acquisition, infrastructure, and other facilities. Through the issuance of tax-exempt and taxable bonds in 1999, 2000, and 2003, the university provided an additional \$83 million to complete land acquisition and infrastructure improvements.

The university maintains ownership of almost 60 percent of the land and properties, and has been credited with turning the once-forbidding south edge of the campus into an attractive residential-university setting. The process has contributed to enhanced university-community relations, workforce training, and service contracting, mediated by a 12-member community council that continues to meet with the university's vice chancellor for external affairs.

On the other hand, the university contributed to the destruction of the vernacular architecture of the historic immigrant entry point of the Midwest—the Maxwell Street Market and neighborhood. The university also stimulated advancing gentrification in the Near West Side and Pilsen neighborhoods of West Loop Chicago.

As a result, many community activists would disagree with the positive assessment of the city-university collaboration that is at the heart of Mayor Daley's strategic extension of universities as sources of Loop development. They would argue that, just as the original development of the UIC campus in the 1960s displaced thousands and erased important elements of Chicago's immigrant heritage in the past, the South Campus project displaced community members and businesses, removed the original site of the Maxwell Street and South Water Markets, disrupted retailers, and spread gentrification to surrounding neighborhoods.

It would be incorrect to lay these trends fully at the feet of the university, but the mix of anchor-driven collaborations that brought about the expansion of the Loop's Near West Side certainly contributed to the mixed-use urban development practices of the contemporary university and to displacement and gentrification as well.

## Declining Cities: The Case of Baltimore

Institutions of higher education in Baltimore boast campuses that are not only hubs of knowledge and social interaction, but also centers of employment and ongoing construction. In 2005, research and development funding at many of the city's academic institutions amounted to \$1.9 billion of investment in regional economic growth overall, and continued growth in high technology, education, and health services in particular. Despite this success, Greater Baltimore faces many of the challenges common to declining cities.

The East Baltimore Revitalization Initiative is a 10 to 15 year effort to invest \$1.8 billion to redevelop the 88-acre Middle East neighborhood adjacent to the Johns Hopkins Medical Institutions. Even though it was initiated by the city government under Mayor Martin O'Malley in 2001, the project received considerable skepticism and fear from many neighborhood residents, based on a history of tense relations with the medical complex.

It is hard to imagine a greater contrast between an anchor institution and its neighborhood than between the wealth and power of Johns Hopkins and the deprivation of one of Baltimore's worst neighborhoods. Through extensive discussions and negotiations, and ample funding from the Annie E. Casey Foundation and others, most issues have been resolved and the project is now managed by a quasi-public corporation, East Baltimore Development, Inc. (EBDI). The project is expected to create 2 million square feet of commercial and biotechnology research space, 2,200 new and renovated housing units, a new school, transit stops, and 4,000 to 6,000 new jobs.

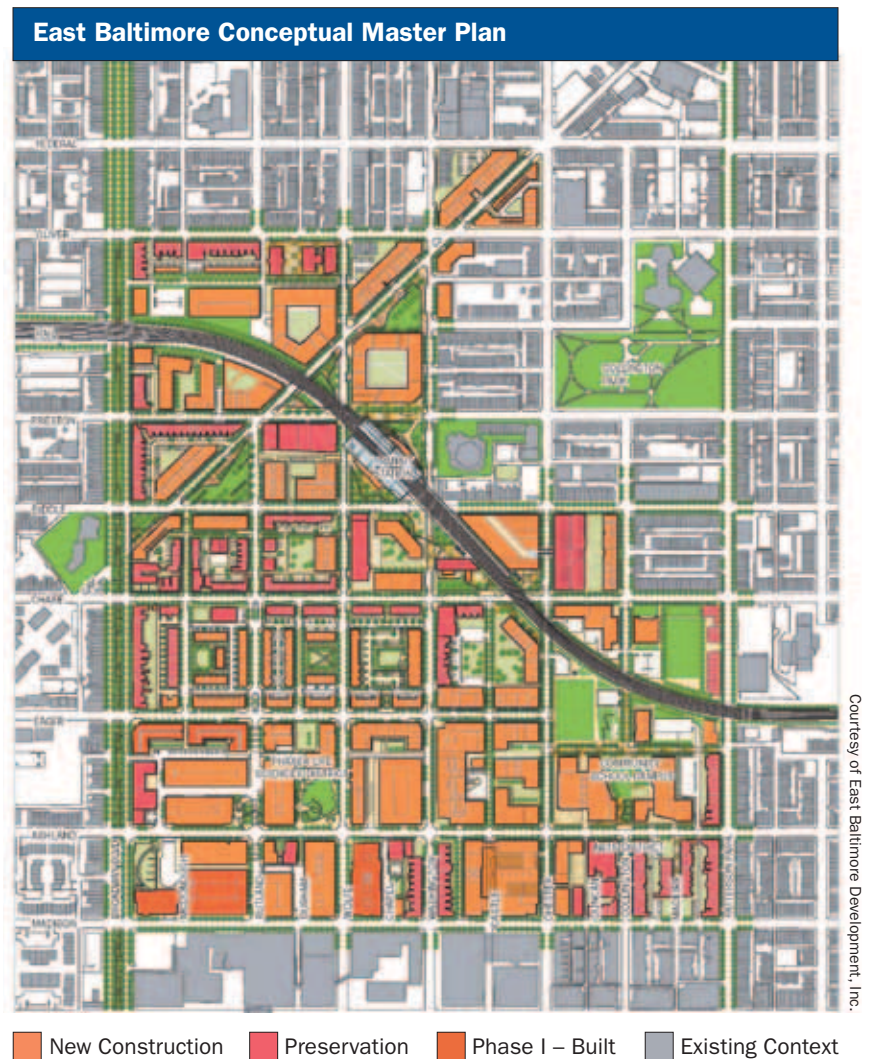
The Middle East is a low-income neighborhood whose population is 90 percent African-American and has a high unemployment rate. It is located about one mile from Baltimore's Inner Harbor, and immediately north of the Johns Hopkins Medical Institutions. Johns Hopkins has been in that location for more than a century, and is the largest private employer in Baltimore and in the state.

In the early 2000s, one of every four Middle East housing units was abandoned, more than in any other of Baltimore's 55 neighborhoods, and more than four times the citywide average (Baltimore Neighborhood Indicators Alliance 2005). Johns Hopkins owned many of these failing properties, but did little to maintain them or engage the neighborhood, even after several violent crimes

were committed against Hopkins students and staff in 1992 (Hummel 2007, 2).

In 1994 the area was designated a federal Empowerment Zone, entitling it to significant federal funds for renewal. The Historic East Baltimore Community Action Coalition (HEBCAC), with representatives from the city, state, Johns Hopkins, and various community organizations, secured funds to lead the revitalization of the area. Their efforts focused on housing rehabilitation, but by late 2000 they had rehabilitated only 46 homes and used less than one-third of the \$34.1 million in available federal funding (Hummel 2007, 26–27).

Dissatisfied with the slow-moving, community-based HEBCAC, Mayor O'Malley argued for the city to take over the project. The tension between the mayor and the community was eased with the establishment of a multi-institutional intermediary, the East Baltimore Development Corporation, with





© Mikal Veale

**The John G. Rangos Sr. Building was dedicated in April 2008. It is the first of five planned biotech buildings in the Science and Technology Park at Johns Hopkins.**

a board composed of three mayoral and one gubernatorial appointees, two members appointed by Johns Hopkins, two members from the community, three at-large members, and six city and state officials serving ex-officio. This model met the mayor's desire for control, and Johns Hopkins' desire not to be in the lead. The Goldseker Foundation agreed to provide \$750,000 as start-up funding for staffing. Deputy Mayor Laurie Schwartz left City Hall to become interim director.

Several local foundations joined Goldseker in sustaining this effort, the most important being the Annie E. Casey Foundation. Foundation President Doug Nelson was initially skeptical of the city's need for control and Johns Hopkins' lack of community interest. He agreed that Casey would provide up to \$33 million and play an active role only if the effort would help with relocation, family assistance, job training, and other social services. Combined with the federal funding still available from the original Empowerment Zone and significant new funding from Johns Hopkins and city and state government, the project became well-positioned for success.

This case is interesting because it took a multi-institutional intermediary to serve as the locus for the extensive negotiations and final resolution regarding payment of relocation benefits to residents; management of the demolition process; the preference given to local and minority contractors; the role of the private developer in the project; and the nature of ancillary services being provided by EBDI.

The relocation benefits, funded from a \$21 million loan from the U.S. Department of Housing and Urban Development and \$5 million from Casey

and Johns Hopkins, were considerable: \$109,133 per homeowner, in addition to the average \$30,450 purchase price (Hummel 2007, 31). According to survey data, the majority of households described their relocation experience as positive and believed they were better off after the move (Abt Associates 2008). This was only possible because of the extraordinary involvement of institutions with a strong interest in the project's success and very deep pockets. This case study makes clear that it is possible to accomplish successful displacement and redevelopment if investors do not need financial returns, or at least not within any normal economic timeframe.

Johns Hopkins University and its Medical Center had several motivations for involvement. The conditions around the medical complex were continuing to deteriorate. While relocation was considered several times over the decades, the Medical Center represents a multibillion dollar investment in plant and equipment that would be extremely difficult to replicate; in addition, the political ramifications of such a move would be enormous.

For EBDI, the physical redevelopment aspects of the project were only part of a broad range of its activities serving Middle East and parts of the entire East Baltimore community. In a neighborhood where in 2007 more than 40 percent of adults were not in the labor force at all and 14 percent were unemployed, EBDI facilitated job referrals for almost 475 residents, and supportive family services and educational programs for more than 300 residents, assisted by the Casey Foundation, Johns Hopkins, and public agencies.

By early 2008, 723 private properties had been acquired and demolished, and approximately 400 households had been relocated. Two new residential rental buildings have been completed, with a total of 152 units. Per the agreements developed between EBDI and the original residents, those who were displaced had the right of first refusal to return to the community. In the building for the elderly, developed by the Shelter Group, 45 percent of the units have been rented to returning residents (Shea 2008).

There is a compelling logic to the East Baltimore Revitalization Initiative from an economic, social, political, institutional, and planning perspective. Given Johns Hopkins' role as the largest medical center and private employer in Maryland, and given the state's emphasis on biotechnology development,



it is not surprising that redevelopment would focus around this niche, although a purely residential and mixed-use approach also would have been possible if the university's biotech interests had moved outside of the city.

## Conclusions

These case studies show that urban changes in Chicago and Baltimore did not result from the singular activities of universities. They are the outcomes of ongoing relationships between universities and multiple institutions and stakeholders. It is this process of relationship building to develop the city in mutually agreeable ways that is the major lesson. Several key features of institutional collaboration can frame the study of other cities.

- **Leadership.** In each city success was directly related to the role of a mayor, university president, or foundation leader, either directly or by assigning responsibility for their vision.
- **Resources.** Success is directly equated with resources, their institutionalization or sustainability, and the ability of public, civic, or private institutions to leverage them collaboratively.
- **Organizations.** Almost every example of the processes we are studying requires new or intermediary organizations of representation, resistance, accommodation, or development.
- **Expertise.** Each of the case studies required prodigious amounts of expertise in collective capacity building—whether in the reorganization of land around Johns Hopkins University or the multi-institutional development of the UIC South Campus expansion.

These two cases demonstrate a clear set of competitive differences or even conflicting interests among the key institutional actors that need to be identified both as part of the self-interested definition of the institutions and as potential opportunities for conflict resolution. University, government, and community actors all played prominent roles in both case studies. Civic foundation capital was more clearly a driving force in the declining industrial city of Baltimore, while private sector capital was critical in the globalizing city of Chicago.

After conducting these pilot studies, we believe even more strongly in the saliency of examining other cases to increase knowledge about the nature of the institutional relationships that produce the critical contributions of anchor institutions. **L**

## ABOUT THE AUTHORS

**DAVID C. PERRY** is director of the Great Cities Institute and professor of urban planning and policy at the University of Illinois at Chicago. Contact: [dperry@uic.edu](mailto:dperry@uic.edu)

**WIM WIEWEL** is president of Portland State University. He previously served as provost and senior vice president for academic affairs and professor of public affairs at the University of Baltimore. Contact: [president@pdx.edu](mailto:president@pdx.edu)

**CARRIE MENENDEZ** is a Ph.D. student at the University of Illinois at Chicago in the Urban Planning and Policy Program, and a research assistant at the Great Cities Institute. Contact: [cmenen3@uic.edu](mailto:cmenen3@uic.edu)

*This work is part of the Lincoln Institute's City, Land, and The University project to improve the collective capacity of leaders to achieve the multiple interests of their cities, universities, and communities in ways that are mutually beneficial.*

## REFERENCES

- Abt Associates. 2008. *East Baltimore neighborhood revitalization: Phase I—Baseline summary report 2001-2005*. Cambridge, MA: Abt Associates.
- Abu-Lughod, Janet L. 1999. *New York, Chicago, and Los Angeles: America's global cities*. Minneapolis: University of Minnesota Press.
- Baltimore Neighborhood Indicators Alliance. 2005. *Vital Signs 3*. Baltimore: University of Baltimore.
- CEOs for Cities. 2007. *City anchors: Leveraging anchor institutions for urban success*. Chicago: CEOs for Cities.
- Cohen A., and E. Taylor. 2000. *American pharaoh: Mayor Richard J. Daley: His battle for Chicago and the nation*. New York: Little Brown.
- Cortright, J. 2006. *City vital: New measures of success for cities*. Chicago: CEOs for Cities.
- Hummel, Phillip A. 2007. *East side story: The East Baltimore development initiative*. Maryland Legal History Publications. Paper 11. [http://digitalcommons.law.umaryland.edu/mlh\\_pubs/11](http://digitalcommons.law.umaryland.edu/mlh_pubs/11)
- Initiative for a Competitive Inner City (ICIC) and CEOs for Cities. 2002. *Leveraging colleges and universities for urban economic development: An action agenda*. Boston: CEOs for Cities.
- Kellogg Commission on Higher Education. 1999. *The engaged institution*. [www.nasulgc.org/Kellogg/kellogg.htm](http://www.nasulgc.org/Kellogg/kellogg.htm).
- Landek, Michael, Associate Vice Chancellor for Student Affairs, University of Illinois at Chicago, Personal Interview, May 14, 2008.
- Perry, David C., and Wim Wiewel, eds. 2005. *The university as urban developer: Case studies and analysis*. New York: M.E. Sharpe.
- Perry, David C., Wim Wiewel, and Carrie Menendez. 2009. *The city, communities, and universities: 360 degrees of planning and development*. Working Paper. Cambridge, MA: Lincoln Institute of Land Policy.
- Sassen, Saskia. 2003. A global city. In Madigan, Charles, ed. *Global Chicago*. Chicago: University of Illinois Press.
- Shea, Christopher, Chief Real Estate Officer, East Baltimore Development Initiative, Personal Interview, January 28, 2008.
- Weber, Rachel, Nik Theodore, and Charles Hoch. 2005. *Private choices and public obligations: Ethics of university real estate development*. In Perry and Wiewel 2005.
- Wiewel, Wim, and David C. Perry, eds. 2008. *Global universities and urban development: Case studies and analysis*. New York: M.E. Sharpe.



© Karin Franzzen

# Mapping Property Taxes in Africa

**Small commercial shops in Kigali, Rwanda, are assessed and taxed.**

*Riël C.D. Franzzen and Joan M. Youngman*

Africa's enormous challenges and equally great potential have led to intense international debate over how best to assist its citizens. According to the United Nations Educational, Scientific and Cultural Organization (2009), the continent contains 33 of the 49 least developed countries in the world. Its population faces pressing needs ranging from basic health care and education to improved governance and strengthened legal systems.

At the same time, some critics charge that direct aid to Africa has undermined indigenous economic and political growth (Moyo 2009). Even supporters concede that in some cases aid to African countries has “propped up corrupt elites, shielded leaders from the consequences of their own incompetence and delayed reforms necessary for the development of working markets” (Gerson 2009).

While this longstanding debate shows no signs

of resolution, there is little question that dissemination of basic information on current governmental systems, especially those concerned with revenue, finance, and decentralization, is one form of assistance that can help strengthen public institutions and promote policy improvements without imposing foreign solutions or bypassing indigenous reform.

## Research Goals and Challenges

A joint venture between the Lincoln Institute of Land Policy and the African Tax Institute (ATI) of the University of Pretoria in South Africa has begun to research and make available data on land-related taxes in Africa (Franzzen 2007). Property taxes are vastly underutilized in most countries, but they could potentially support a variety of local government services. Understanding their current status is the crucial first step in determining whether, how, and in what form property taxes might contribute to a strengthened revenue system in a particular region, country, or locality.

Property tax information is extremely difficult to obtain in many African nations, yet it could provide a basis for policy debate that has not been possible in the past. This need is particularly acute given the formidable linguistic divisions among countries. Information originating in Arabic-, Portuguese- (Lusophone), French-, or English-speaking countries or regions is rarely translated, and thus is inaccessible to many researchers elsewhere.

The joint venture between ATI and the Lincoln Institute fits the missions of both institutions. ATI seeks to assist in the development of tax policy and tax administration capacity within the African public sector and to publish research on African tax issues. The Lincoln Institute works to inform public decision making through education and research, including the development of databases related to land policy (see announcement of *Significant Features of the Property Tax* in this issue). The primary goal of the joint venture is to gather basic data on property taxation—both as legislated and as practiced—in all of Africa’s 53 countries as a catalyst for tax policy improvement.

*“Education is the most powerful weapon you can use to change the world.”*

*Nelson Mandela*

In the first stage of this project, ATI and the Lincoln Institute recruited research fellows to investigate tax legislation and practice in all linguistic regions. Fellows were required to hold at least an undergraduate degree in such fields as public finance, law, or urban economics; to be fluent in the language of their research zone and proficient in English; and to be a national of or residing in one of their study countries. Since January 2007 twelve research fellows have gathered material from primary and secondary sources, made site visits to their assigned countries, and prepared country reports, data templates, and sometimes regional overviews (table 1 and figure 1).

Field work in Africa can test the patience, stamina, and resourcefulness of even the best-prepared researchers. The sheer size of nations such as Ethiopia or Nigeria presents daunting hurdles, and intra-African air service can be irregular and extremely expensive. Simply gaining entrance to a number of countries was a significant initial step.

Dr. Monkam was unable to obtain a visa for Equatorial Guinea and was strongly advised to

**TABLE 1**  
**Research Fellows and Their Study Countries, 2007–2009**

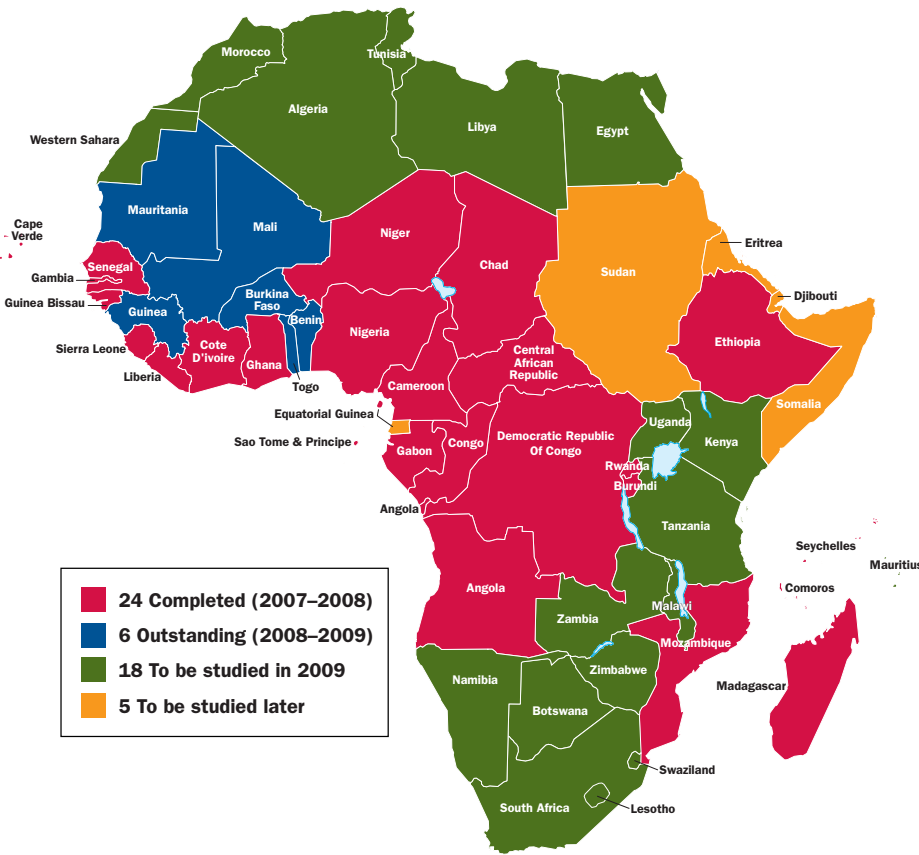
Research Fellows	Home Country	Countries Commissioned to Study
Samuel Jibao	Sierra Leone	<b>Gambia, Ghana</b> , Lesotho, <b>Liberia</b> , Namibia, Nigeria, <b>Sierra Leone</b> , South Africa, Swaziland
Dr. Washington Olima	Kenya	Kenya, Mauritius, Seychelles, Tanzania, Uganda
Mundia Kabinga	Zambia	Botswana, Malawi, Zambia, Zimbabwe
Dr. Vasco Nhabinde	Mozambique	Angola, <b>Cape Verde</b> , Guinea-Bissau, <b>Mozambique</b> , <b>São Tomé &amp; Príncipe</b>
Jean Jacques Nzewanga	Democratic Republic of the Congo	<b>Burundi, Comoros, Congo (Brazzaville), Democratic Republic of the Congo, Madagascar, Rwanda</b>
Dr. Doringar Allassebaye	Chad	Burkina Faso, Chad, Mali, Mauritania
Dr. Boubacar Hassane	Niger	Benin, Guinea, <b>Niger</b> , Togo
Dr. Nara Monkam	Cameroon	Equatorial Guinea, <b>Gabon, Senegal</b>
Bernard Tayoh	Cameroon	<b>Cameroon, Central African Republic, Côte d’Ivoire</b>
Alemayehu Negash Soressa & Bekalu Tilahun Gebreslus	Ethiopia	Eritrea, <b>Ethiopia</b>
Dr. Khaled Amin	Egypt	Algeria, Egypt, Libya, Morocco, Tunisia

**Language**

- Anglophone
- Lusophone (Portuguese)
- Francophone
- Amharic
- Arabic

Note: Reports on the countries in bold are documented in working papers available on the Lincoln Institute Web site ([www.lincolinst.edu](http://www.lincolinst.edu)). Reports on other countries will be posted in the future.

**FIGURE 1**  
**Status of Property Tax Research by Country**



avoid the country because of political unrest there. Tensions between Eritrea and Ethiopia left Mr. Soressa and Mr. Gebreslus, both Ethiopian nationals, unable to obtain visas for Eritrea. Thus, studies of Equatorial Guinea and Eritrea, as well as Djibouti, Somalia, and Sudan, will be deferred to a later stage of the project.

Dr. Allasembaye, from Chad, had just begun his research in the capital, N'Djamena, when an armed insurrection led to evacuation of the city.

He filed his first report from a refugee camp in northern Cameroon. Mr. Tayoh faced roadblocks, machine guns, military checkpoints, and hostile security forces as he traveled by bus to Bangui, the capital of the Central African Republic.

Personal visits, however arduous, are indispensable in ascertaining tax practice and occasionally even in obtaining copies of legislation. In the case of the Lusophone nations, archival material in Lisbon was sometimes the only source of data on original enactments. Determining the actual application of the tax in practice requires both site visits and establishment of a relationship of trust with the officials being interviewed. Public servants are often understandably uncomfortable with or suspicious of requests for data or information, whether on law, policy, or administrative procedures.

**Initial Insights on Tax Status**

The hard work by the first group of research fellows has yielded a wealth of data that offers some surprising insights into the current status of land-related taxes in many African countries. Perhaps the most significant is the level of continued interest in and support for the concept of property taxation in the face of decades of administrative neglect and meager collections. This greatly underutilized fiscal tool has been the subject of reform legislation in numerous countries over the past fifteen years, suggesting that further reform might be achievable if these nations chose to mobilize the property tax as a significant revenue source in the future (table 2).

The initial reports also demonstrate the strong links among countries within specific language groups, largely reflecting colonial influence. It can be surprising to outside observers that, after a half-century of independence and many intervening legislative reforms, this heritage shapes so many African governmental structures. Language is far

- Language**
- Anglophone
  - Lusophone (Portuguese)
  - Francophone
  - Amharic
  - Arabic

TABLE 2 Property Tax Reform in Selected African Countries since 1996							
Burundi	2006		Madagascar	2007		Rwanda	2002
Cameroon	2006		Malawi	1998		Senegal	1996, 2004
Congo	2007		Mauritius	2003, 2009		Sierra Leone	2004
Egypt	2009		Mozambique	2000		South Africa	2004
Lesotho	1997		Niger	2008		Uganda	2005
Liberia	2000		Nigeria (Lagos)	2001		Zambia	1997, 1999



**A rural farm in the Hessequa Municipality, South Africa, is valued and taxed in terms of new property tax legislation.**

© Riel Franzsen

more significant than geographic location in the understanding of property tax systems.

The British tradition of a strong civil service and a local value-based tax can be contrasted with the French approach of centralization and area-based taxes. In Anglophone countries the property tax is generally administered locally, and its revenue supports local government. Liberia, facing the special problem of recovery from a brutal civil war, is the only Anglophone nation in which the tax is a central government levy.

Most Francophone countries have a central government property tax, as in Burundi, Democratic Republic of the Congo, Gabon, and Niger. Some instances of revenue sharing between central and local governments are found in Cameroon, Chad, and Guinea, and the property tax is a local tax in Madagascar, Rwanda, and Senegal. The experience among Lusophone nations is also mixed. The property tax is still a national tax in Angola, Guinea-Bissau, and São Tomé and Príncipe, but a local tax in Cape Verde and Mozambique.

Colonial influence among language groups also strongly affects national approaches to legislative drafting and administration. Francophone countries generally have extremely detailed and highly codified tax systems with immensely complex administrative structures. In the absence of a tradition of a strong civil service, these systems are almost impossible to maintain and have contributed to the decline of ancillary revenue sources such as the property tax.

### **Tax Bases and Administration**

Perhaps the most surprising finding is the persistence of a value-based approach to property taxation despite a paucity of trained assessment professionals and the absence of market data of the type

familiar in developed countries. Property value is the most common base for property taxation, used in almost all Anglophone countries and in some Francophone and Lusophone nations as well.

In countries such as Angola and Guinea-Bissau this is a vestige of colonial practice, but in others a value base has been retained, introduced, or reintroduced at a time of tax reform, as in Malawi, Mozambique, Rwanda, Sierra Leone, and Uganda. Recent changes in tax systems include revaluations in Uganda and Ghana, a move to a capital value tax base in Niger, and a shift from an area base to a value base in Cameroon.

Value-based systems are divided between taxes on annual (rental) value and those on capital value (table 3). Anglophone countries are fairly evenly split between the two approaches, with annual value used more widely in West Africa and capital value in Southern and East Africa. The size, wealth, and importance of South Africa means its use of a market value base has influenced some other countries, especially since that nation encompasses a range of land uses, including commercial farms, rural tribal areas, and highly developed urban markets (Bell and Bowman 2002; 2006).

Lusophone countries often use a system of self-declaration of taxable values, which in practice approximates an area base, while a number of Francophone nations utilize an area base that may be modified by locational factors and other adjustments that introduce some degree of market influence into the tax.

Needless to say, local practice may diverge widely from the provisions of enacted legislation. It is common for taxes to be collected only from higher value properties, even though lower value parcels are not technically exempt. Taxes in specific cities and regions may operate differently from

**TABLE 3**  
**Property Tax Bases in Selected Study Countries**

Country	Government Level	Tax Base	Country	Government Level	Tax Base
Angola	National	Annual value	Gambia	Local	Annual value (buildings only)
Burundi	National	Area	Ghana	Local	Annual value (buildings only)
Cameroon	National <sup>1</sup>	Capital value; Area	Guinea-Bissau	National	Annual value
Cape Verde	Local	Capital value	Liberia	National	Land and buildings (separately)
Central African Republic	National	Annual value	Madagascar	Local	Annual value
Chad	National	Annual value	Mozambique	Local	Capital value (buildings only); Area
Comoros	Local	Area	Niger	National	Annual value
Congo	National	Area (land); Annual value (buildings)	Nigeria	State	Capital value; Annual value
Côte d'Ivoire	National	Capital value (undeveloped urban land); Annual value (developed urban property)	Rwanda	Local	Area (with limited locational adjustment)
Democratic Republic of the Congo	National	Area (with some locational factors)	São Tomé & Príncipe	National	Capital value
Ethiopia	Local	Area	Senegal	Local	Annual value (improved property); capital value (unimproved property)
Gabon <sup>2</sup>	National	Annual value	Sierra Leone <sup>3</sup>	Local	Annual value (buildings only)

Notes: 1. Local authorities in Cameroon are entitled to levy a surcharge on the central government property tax. Until 2006 the surcharge was 25 percent, but presently it is 10 percent. 2. In practice local authorities in Gabon still use an area-based system. 3. In practice local authorities in Sierra Leone still use an area-based system.

those in the rest of the same country. For example, a sheer lack of administrative capacity has led to the retention of an area-based system in the capital city of Freetown, although Sierra Leone adopted an annual value system in 2004.

Nigeria is unique in formally delegating authority for property tax legislation to its 36 states. This presents a challenge in reporting on the tax in this extremely important country, the most populous in Africa. For example, the state of Lagos uses a capital value “land use charge,” and the states of Ogun and Oyo use an annual (rental) value base.

The distinction between land and buildings as objects of taxation arises in a number of forms. Kenya’s land value tax is now unique on the continent, since South Africa has chosen a uniform,

capital value tax and eliminated the local option for a land value tax or split-rate system. A number of countries, such as Tanzania, Ghana, Mozambique, and Sierra Leone, consider land to be a national asset, and include only buildings in the property tax base while charging a rental or usage fee for land access. These payments are often extremely low and primarily benefit the national government.

The fellows have also encountered many surprising individual situations that may or may not have larger implications for property taxation in Africa. For example, Cameroon has undertaken a detailed mapping project for its capital, Yaoundé, and its largest city, Douala. It is not clear how this may affect land registration or the current shift

from an area-based tax to one based on capital value. Senegal is also planning to institute a computerized land mapping system, which may form part of an ambitious program of decentralization there.


### Preliminary Results

The ultimate goal of this project is to assist in improving tax policy and to lay the groundwork for exchange and collaboration among those concerned with property taxation in Africa. The development of knowledge and expertise among the research fellows themselves is one step on this path, for they will help form the nucleus of a professional community committed to understanding the problems and potential of land and building taxes in Africa.

Toward this end, the joint venture has supported the development of courses on local taxation as part of the ATI curriculum for African tax officials, and an annual workshop for the fellows in which they present and discuss their findings and research experiences. In 2009 some research fellows gave presentations of their work at a professional international symposium on mass appraisal and property taxation held in Pretoria.

The data presented in the country reports raise questions that may encourage new approaches to studying African property tax systems. For example, the persistence of value-based taxation in many countries challenges outside expert opinion that would dismiss its feasibility in the context of undeveloped property markets, limited valuation expertise, and a lack of administrative resources.

Understanding the legal, political, and cultural role of value-based levies can help identify the reforms that might enable them to succeed if future governments make a commitment to mobilize this revenue source. Local markets and expertise may take forms unfamiliar to developed nations, such as commonly owned rural lands, but they still could support market-based fiscal instruments (Bell and Bowman 2006).

The research reports are designed to draw responses from other analysts and officials, both in Africa and overseas, who are able to contribute to this dialogue. Understanding the successes and failures of the property tax in other similarly situated countries may provide valuable lessons for countries contemplating the introduction or reform of the property tax. 

© Riel Franzen



**A typical restaurant enterprise fills the sidewalk in Kinshasa, Democratic Republic of the Congo.**

### ▶ ABOUT THE AUTHORS

**RIËL C. D. FRANZSEN** is professor and director of the African Tax Institute, Department of Economics, University of Pretoria, South Africa. His primary research interests are international property tax systems and real estate transfer taxation. He is a member of the advisory board of the International Property Tax Institute. His interest in and research on property taxation in Africa began when he was a David C. Lincoln Fellow of the Lincoln Institute from 2001 to 2003. Contact: [riel.franzen@up.ac.za](mailto:riel.franzen@up.ac.za)

**JOAN M. YOUNGMAN**, a senior fellow and chairman of the Department of Valuation and Taxation at the Lincoln Institute, is an attorney specializing in state and local taxation and the legal problems of valuation for property taxation. Contact: [jyoungman@lincolinst.edu](mailto:jyoungman@lincolinst.edu)

### ▶ REFERENCES

Bell, Michael E., and John H. Bowman. 2002. *Property taxes in South Africa: Challenges in the post-Apartheid era*. Cambridge, MA: Lincoln Institute of Land Policy.

———. 2006. *Implementing a local property tax where there is no real estate market: The case of commonly owned land in rural South Africa*. Cambridge, MA: Lincoln Institute of Land Policy.

Franzen, Riel C.D. 2007. Property taxation in Anglophone Africa. *Land Lines* 19(2): 8–13.

Gerson, Michael. 2009. Dead aid, dead wrong. *The Washington Post*, April 3, A19.

Moyo, Dambisa. 2009. *Dead aid: Why aid is not working and how there is another way for Africa*. New York: Farrar, Straus and Giroux.

United Nations Educational, Scientific and Cultural Organization (UNESCO). 2009. Least developed countries. <http://www.unesco.org/ldc/list.htm>

# Law and Land Policy in

## SHIFTING PARADIGMS AND POSSIBILITIES FOR ACTION

*Edésio Fernandes and  
María Mercedes Maldonado Copello*

**T**he rapid and intense urbanization in Latin America over the last 50 years is often contrasted in the literature with an inadequate urban planning system as a way to explain many resulting social problems: high land prices and property speculation, rampant informality, extreme sociospatial segregation, inadequate urban infrastructure and services, environmental degradation, and the like. The literature is largely silent, however, on the role played by national legal systems, which have both contributed to this situation and reacted against it. The pivotal role of the legal order cannot be underestimated.

Legal systems also have contributed to informal development in two main ways—through the exclusionary land, property rights, and registration legal provisions, and through flawed planning systems adopted in many large cities. Both the lack of land regulation and the approval of elitist planning laws that fail to reflect the socioeconomic realities that limit access to land and housing by the poor have had a perverse role in aggravating, if not in determining, sociospatial segregation. Institutional disputes between local and national governments over the power to regulate urban development also have brought about renewed legal problems.

Conflicting legal perspectives have evolved from progressive jurisprudence, the demands of various social movements, and a growing legislative debate prompted by divergent stakeholder interests. As a result, legal discussions in Latin America range between anachronistic interpretations of existing legal provisions and a call for a more legitimated and socially responsive legal system. This article attempts to expose these tensions and offer some new directions for the debate.

### **The Search for a Consistent Legal Paradigm**

In many cities the legal systems regulating urban development are significantly obsolete and incon-

sistent, resulting in rampant noncompliance and a growing disconnection between the legal and the real city. Important urban management advances promoted by progressive local administrations have often been undermined by obstacles created by outdated national urban-legal orders. Within the broader context of the volatile democratization processes in the region, greater emphasis has been placed on the possibilities that a renewed urban-legal order could advance urban reform. Many academics, politicians, public officials, and community organizations understand that the promotion of efficient land markets, sociospatial inclusion, and environmental sustainability will be possible only through the adoption of a clearly defined and consistent new legal paradigm.

Legal principles in general, and particularly those regulating land development rights and property relations, are politically determined and culturally assimilated. Legal systems tend to be complex, as they accommodate different, contradictory, and even conflicting provisions adopted over time as a result of evolving sociopolitical processes. The maintenance of a legal system that does not fundamentally express the realities of the socioeconomic and political-institutional processes that it proposes to regulate generates distortions of all sorts.

Making sense of the legal system is a demanding but crucial task that requires the enactment of new laws as well as a consistent effort of (re)interpretation of the principles and provisions in force. However, interpretation may vary significantly according to the legal paradigm adopted by the interpreter. Different paradigms can coexist in the same legal culture, thus bringing about legal ambiguities and potential judicial conflicts, especially in countries where the traditional divide between private law and public law is still unclear.

Three complementary yet competing legal paradigms exist in Latin American countries—Civil Law, Administrative Law, and Urban Law. Historically, the hegemonic civilist paradigm, based on a highly partial reading of the Civil



# Latin America



Codes and expressing values of classical liberal legalism, has been gradually reformed by the more interventionist paradigm provided by Administrative Law. A recent, still incipient movement has gone one step further and claimed that only the more progressive framework of Urban Law would fully provide a comprehensive legal paradigm for contemporary times.

## The Civil Codes and *Laissez Faire* Urban Development

The dominant interpretation of the Civil Codes—as provided by doctrine and jurisprudence and as ingrained in the popular imagination throughout the twentieth century—still tends to overemphasize the rights of owners to the detriment of their responsibilities and fails to consider other social, environmental, and cultural interests that result from property ownership. This interpretation gives scarce consideration to use values, since ownership

of land and property is conceived largely as a commodity whose economic value is determined mainly by the owner's interests. Longstanding principles of private law, such as the condemnation of all forms of abuse of power and the requirement of a just cause to justify legitimate enrichment, have been largely ignored in this unbalanced definition of property rights.

From this perspective, state action through land management and urban policy is seriously restricted, and major new urban planning initiatives have often led to judicial conflict. Large public projects usually require expensive land expropriation, with the payment of compensation calculated at full market values. Developers' obligations are few and the burden of infrastructure implementation and service provision has fallen largely on the state. While development and building rights are assumed to be intrinsic expressions of individual land ownership rights, there is no established scope for the notion

**Realtors near the vibrant new area of USME in Bogotá, Colombia, announce many real estate “deals.”**

that public administrations should recapture the land value increment generated by public works and services. This legal tradition has been aggravated further by the bureaucratization of contractual and commercial transactions, as well as by excessive requirements for property registration and access to credit.

Within this individualistic legal tradition, the right to use and dispose of property is often misconstrued as the right not to use or dispose of property. More substantial legal obligations and compulsory orders are virtually nonexistent. The prevalence of this paradigm in Brazil, for example, means that while the housing deficit has been estimated as 7.9 million units and people live in some 12 million precarious constructions, another 5.5 million units are empty or underutilized. An estimated 20 to 25 percent of serviced land is vacant in some cities.

Also typical of this Civil Law paradigm is the absolutism of individual freehold to the detriment of collective or restricted forms of property rights such as leasehold or communal, surface, and possession rights. Some of these do exist in many Civil Codes, but they are largely ignored or underestimated. While prescriptive acquisition rights usually require extended periods of land occupation, there is an arsenal of available legal instruments to evict occupiers and tenants.

As a result of this *laissez faire* approach to land development, the urban-legal order in many Latin American cities cannot be considered fully democratic. The process of informal development reflects the reality that more and more people have had to step outside the law to gain access to urban land and housing.

### Administrative Law and State Intervention

Urban planning in some large cities has been supported by the legal principles of Administrative Law. This public law paradigm has tried to reform the private law tradition, but it has limited the scope of the notion of the “social function of property.” Since the 1930s, this concept has existed in most national constitutions as a nominal principle. This more interventionist paradigm recognizes the state’s “police power” to impose external restrictions and limitations on individual property rights in the name of the public interest, thus supporting traditional forms of regulatory planning.

These have been timid attempts, however, be-

cause the imposition of legal obligations, compulsory orders, and requirements of land reservation still tend to be met with strong popular and judicial resistance. In most countries, the courts have ruled that the state can impose certain limitations on property rights, but the imposition of obligations on landowners and developers has been more difficult. This is particularly the case with local laws that have tried to determine the earmarking of land or units for social housing as a condition for the approval of the development and have been declared unconstitutional.

Many cities continue to approve new land subdivisions, even though they already have a large stock of vacant plots. The problem is that they do not have the legal instruments to determine their use according to a social function. Whereas developers have been held more responsible for the implementation of infrastructure, some enormous developments, including high-income gated communities, have been approved without reserving land or housing units for domestic and service workers. This results in new informal developments and the greater densification of older settlements to accommodate the low-income sector.

In some cities that have attempted zoning, master plans, and other complex urban laws, a tradition of bureaucratic planning has emerged that reflects little understanding of how urban and environmental regulation impacts the formation, and increase, of land prices. Urban planners still have difficulties challenging the established notion that land and property owners have automatic rights to the gains in value resulting from urban planning and development. Most public administrations have not recaptured the generous land value increment generated by public works and services, as well by the changes in urban legislation governing use and development rights.

Most planning systems have failed to recognize the state’s limited capacity to act so as to guarantee the enforcement of urban legislation. As a result, plans have not been properly implemented, and many forms of disrespect for the legal order have been left unquestioned. In some cities, it takes years to license important development processes such as land subdivisions, which also affects the process of informal development.

Another recurrent problem is the parallel, sometimes antagonistic, development of distinct urban and environmental legal orders, with envi-



**A sign announcing that a property is not for sale is often used to prevent someone else from selling it, as in this case in Bogotá.**

ronmental provisions frequently being used to oppose socially oriented housing policies. In socio-political terms, most planning laws do not involve substantial popular participation in either their formulation or implementation.

By failing to change the dynamics of land markets, supposedly contemporary planning policies often end up reinforcing traditional processes of land and property speculation and sociospatial segregation. Urban planning has often been inefficient in promoting balanced land development, and instead has benefited land developers, property investors, and speculators. Their profits have been maximized by the significant growth in prices resulting from urban regulations that determine urban development boundaries. The areas left for the urban poor are those not regulated for the market, such as public land and environmentally sensitive areas.

It is from this tension between the interpretation of civil codes and bureaucratic planning laws that informal development and sociospatial segregation have resulted: law has been one of the main factors determining urban illegality. In cases where significant attempts have been made to promote sociospatial inclusion and environmental sustainability, the urban-legal order still fails to fully support the prevailing practice of urban management.

For example, aspects of public-private partnerships and the involvement of NGOs in the provision of public services have been questioned because of confusion between private and public values. Nominally recognized social rights, such as the right

to housing, also have not been fully enforced due to the lack of necessary processes, mechanisms, and instruments.

#### **Urban Law and the Principles of Legal Reform**

Since the 1980s, an important legal reform movement has questioned this exclusionary legal order, and a new paradigm has emerged in some countries. The proponents of Urban Law have argued that it is possible, and indeed necessary, to look in the Civil Codes for principles that allow for strong legal arguments to support sound state intervention in, and social control of, the regulation of land- and property-related processes. The reinterpretation of traditional legal principles, as well as the emphasis on neglected principles (such as the notion of no legitimate enrichment without a just cause), can help to enable significant progress in the formulation of urban land policy.

This effort requires sophisticated legal expertise, as it potentially involves legal debates and judicial disputes whose results are far from certain. From the viewpoint of the urban communities and public administrations committed to promoting inclusive policies, this approach seeks to organize the overall regulatory framework, in part through the enactment of new laws that more clearly express the principles of Urban Law.

Although this process is more advanced in Brazil (mainly through the 1988 Federal Constitution and 2001 City Statute) and Colombia (mainly through the 1991 Constitution and Law no. 388/1997), a series of common principles have been incorporated



© Edésio Fernandes

**A newly upgraded area in Medellín provides access via the Metro Cable.**

into the legal orders of other Latin American countries (Fernandes 2007a; 2007b; Maldonado Copello 2003; 2007).

The most important structural principle is the notion of the social function of property, including public property and property registration. Cities result from a collective process, and the promotion of a balanced territorial order is at once a collective right and the obligation of the state. The urban order cannot be determined exclusively by the individual rights and interests of landowners, nor only by state interests. Public intervention should be promoted through administrative limitations on property rights, and through legal responsibilities and development requirements.

Related legal principles operate to determine that a just distribution of the costs and opportunities of urban development is promoted between owners, developers, the state, and society; affirm the state's central role in determining an adequate territorial order through the planning and management system; establish a clear separation between property and development/building rights; determine different criteria for the calculation of compensation in different expropriation and other contexts; reduce the required time for adverse possession to take place for the materialization of social housing; and recognize more strongly the rights of occupiers and tenants.

A whole range of collective rights guides the processes of land use and development, such as the rights to urban planning, adequate housing, and a balanced environment; the community's right

and state's obligation to recapture the land value increment generated by state action and urban legislation; and the right to the regularization of consolidated informal settlements.

Some Colombian cities have amassed significant financial resources through land value capture mechanisms, making it possible (if not always feasible) to formulate a more sustainable process of legal access to serviced land by the urban poor. In Brazil, some municipalities also have been able to generate impressive financial resources as a result of "urban operations," in which development and building rights are negotiated within the framework of a master plan. Regularization programs involving both the upgrading and legalization of consolidated settlements also have been promoted in several countries.

However, the dispute among legal paradigms continues, and all new principles and rights are still the subject of fierce debate. Colombia's Constitutional Court has consistently adopted a progressive interpretation sustaining the notions of the social function of property and the social right to housing. A recent study of judicial decisions by high courts from several Brazilian states showed that the new legal paradigm has been assimilated in some 50 percent of those decisions, with the conservative Civil Code paradigm still orienting the other decisions (Mattos 2006).

In many countries progressive jurisprudence has been restricted by the strong tradition of positivism and formal legalism, which still views the law merely as a technical tool to resolve conflicts, as if it were totally independent from sociopolitical and economic processes. Most judges observe the civilist paradigm, which is taught in anachronistic law school syllabuses. Progressive decisions by local judges often are revoked by more traditional higher courts.

The second important structural principle of this emerging urban-legal order is the integration of law and management within the framework of three intertwined legal-political changes:

- Restoration of local democracy, especially in Brazil, through the recognition of several forms of popular participation in law-making (as a condition for the legitimacy of new urban laws and their legal validity) and in urban management (as in the participatory budgeting process);
- Decentralization of decision-making processes by strengthening local administrations, addressing the need for a metropolitan level of policy

making and action, and articulating intergovernmental systems to overcome accumulated urban, social, and environmental problems; and

- Creation of a new set of legal references to give more support to the new relations being established between state and society, particularly through public-private partnerships and other forms of relationships of between the state and the private, community, and voluntary sectors.

Whatever the shortcomings of the process are, the enormous challenge put to countries and cities promoting urban law reform is to guarantee the full enforcement of the newly approved laws.

### The Right to the City

Besides reinterpreting and reforming their national legal systems, jurists, policy makers, and social activists from Latin America have promoted international discussions of a Charter on the Right to the City that fully recognizes collective rights. At the same time, these progressive concepts regarding property rights and the nature of state action in land use and development control have been seriously challenged by those still favoring an unqualified approach to property rights and the homogenization of land and property regimes.

It is in this context of conceptual uncertainties that the regulatory framework governing urban land development and management has to be pursued. Spatial planning is a powerful process; if urban laws have long benefited certain economic groups and thus have contributed to the process of sociospatial segregation, then the promotion of urban law reform should contribute to creating the conditions for more inclusive and fairer cities.

The continued participation of jurists and policy makers, as well as national and international agencies, universities, and research organizations, is crucial, and it can take many forms:

- providing a framework to enable the reinterpretation of legal principles and provisions;
- disseminating information on new laws;
- supporting the discussion of new territorial organization and planning laws;
- giving incentives for interdisciplinary research and critical analyses in which the legal dimensions are considered;
- supporting publications and contributing consistent legal doctrine and jurisprudence;
- systematically assessing policies and projects based on the new laws;

- raising awareness of legal professionals such as judges, prosecutors for the government, and lawyers;
- legal training and capacity building of professionals from other fields; and
- supporting institutions committed to the promotion of legal reform.

The construction of a new urban-legal order in Latin America and other regions is an evolving debate full of contradictions and challenges, and none of the recent developments can be taken for granted. If the greater politicization of urban law-making has created a widened scope for popular participation in the process to defend collective rights and social interests, for the same reason the new laws have generated increasing resistance on the part of conservative stakeholders.

The full implementation of the possibilities introduced by the new urban-legal order in Brazil, Colombia, and elsewhere will depend on several factors, but above all on the renovation of the processes of sociopolitical mobilization, institutional change, and legal reform. **L**

#### ▶ ABOUT THE AUTHORS

**EDÉSIO FERNANDES** is a lawyer, urban planner, and professor associated with the Development Planning Unit of University College, London, the Institute of Housing and Urban Development Studies in Rotterdam, and several Brazilian universities. He is a visiting fellow of the Lincoln Institute in 2008–2009. Contact: edesiofernandes@compuserve.com

**MARÍA MERCEDES MALDONADO COPELLO**, attorney and urban planner, is professor at the National University of Colombia, Bogotá, and researcher at the university's Institute of Urban Studies. Her areas of interest include the legal significance of urban rights, property rights, and value capture. Contact: mmmaldonadoc@unal.edu.co

#### ▶ REFERENCES

- Fernandes, Edésio. 2007a. Implementing the urban reform agenda in Brazil. *Environment and Urbanization* 19(1): 177–189.
- . 2007b. Constructing the “right to the city” in Brazil. *Social and Legal Studies* 16(2):201–219.
- Maldonado Copello, María Mercedes. 2003. *Reforma territorial y desarrollo urbano—Experiencias y perspectivas de aplicación de las leyes 9 de 1989 y 388 de 1997*. Bogotá: CIDER-Universidad de los Andes/LILP/FEDEVIVIENDA.
- . 2007. El proceso de construcción del sistema urbanístico colombiano: entre reforma urbana y desarrollo territorial. In Fernandes, Edésio, and Betânia Alfonsin, *Direito Urbanístico: Estudos brasileiros e internacionais*. Belo Horizonte, Brazil: Del Rey.
- Mattos, Liana Portilho. 2006. *Função social da propriedade na prática dos tribunais*. Rio de Janeiro: Lumen Juris.



*John H. Bowman is professor emeritus of economics at Virginia Commonwealth University in Richmond, having retired in 2004. Since the mid-1990s he has worked on a number of Lincoln Institute projects, including three David C. Lincoln Fellowships with Michael E. Bell, now research professor at The George Washington Institute of Public Policy. Together they studied local property tax reform in South Africa, edited the book Property Taxes in South Africa: Challenges in the Post-Apartheid Era (2002), and wrote a short monograph on local property taxes on commonly owned rural lands.*

*In 2008 Bowman completed a major study of circuit breakers for property tax relief, available as a working paper on the Lincoln Institute Web site. That research served as the starting point for the recently released policy focus report, Property Tax Circuit Breakers: Fair and Cost-Effective Relief for Taxpayers, authored with Daphne A. Kenyon, Adam Langley, and Bethany P. Paquin.*

*Bowman served for 10 years on the Governor's Advisory Board of Economists under three Virginia governors, and was a consultant on state tax studies in several states, working mostly on property taxes. Before joining the VCU faculty in 1981, he held several academic and nonacademic positions. In the early 1970s he headed a tax policy unit in the Ohio Department of Taxation, which he left for a two-year stint as senior resident in public finance at the U.S. Advisory Commission on Intergovernmental Relations. In the late 1970s, Bowman was on the faculty of the School of Public and Environmental Affairs at Indiana University in Bloomington. He received his Ph.D. in economics from The Ohio State University in Columbus in 1973.*

## John H. Bowman

**LAND LINES:** *How did you become interested in property taxes?*

**JOHN BOWMAN:** My introduction to property taxes came about through a series of accidental developments. I entered Ohio State intending to major in industrial management. To my initial dismay, I had to take some economics courses, but I actually enjoyed them.

I did some work with Arthur D. Lynn, Jr., associate dean and a public finance economist and lawyer, who later became president of the National Tax Association (NTA). Lynn was very interested in the property tax, having edited *The Property Tax and Its Administration* in 1969, and he would go on to edit books on property taxation, land use, and public policy, and another on land value taxation. All of these were under the aegis of the Committee on Taxation, Resources, and Economic Development (TRED), which later was associated with the Lincoln Institute. So I had a lot of exposure to property tax issues, although my master's degree focused on labor economics.

After a few years away from Columbus, I returned to take a position on a manpower study at Battelle Memorial Institute, a large contract research organization. On my first day the manpower study had not materialized, but a request came in from the Ohio legislature to study a local tax restructuring proposal. Since I had taken several classes in public finance, I was put to work on the tax revision study. Frederick D. (Fritz) Stocker, another economist active in TRED and the NTA, and later the NTA executive director, was hired as a consultant, and my academic focus soon turned to public finance. A few years later, Stocker was my dissertation advisor at Ohio State.

**LAND LINES:** *Did your academic work continue to focus primarily on tax policy?*

**JOHN BOWMAN:** For the most part, yes. I think my early association with Art Lynn and Fritz Stocker, and consequent involvement with NTA, pointed me in that direction. My Battelle work led to being hired in early 1971 to head a tax policy unit in the Ohio Department of Taxation in the Gilligan administration; this was when Ohio adopted its state-level income taxes, as well as a property tax circuit breaker. That job led to my appointment to a newly created position at the Advisory Commission on Intergovernmental Relations, where I worked with John Shannon, then head of ACIR's public finance unit and later its executive director.

From ACIR, I went to the School of Public and Environmental Affairs at Indiana University's main campus in Bloomington, and then back to Columbus at the Academy for Contemporary Problems (ACP), which had started a few years earlier as a Battelle-Ohio State joint venture but was by then another contract research organization.

My work in contract research, by its nature, had a policy focus. I was generally doing research for state, local, and federal government agencies. My academic research, starting with my dissertation, also has been policy oriented. And while at VCU, I worked on state tax studies in eight states and the District of Columbia, most of them dealing with property taxation.

**LAND LINES:** *How did your research shift to property tax circuit breakers?*

**JOHN BOWMAN:** You cannot dabble in property taxes without becoming aware of complaints about it and pressures for property tax relief. The Battelle project for the Ohio legislature concerned the provision of property tax relief through the use of other taxes to replace property tax revenues.

That approach did not lead to any workable solutions, but it formed part of the backdrop for the 1970 gubernatorial race, in which taxes were front and center. Fritz Stocker worked with the Gilligan campaign and proposed a circuit breaker, in conjunction with new state income taxes. After a year-long legislative struggle, the

Gilligan-Stocker income taxes and circuit breaker were adopted in December 1971. Along the way, many alternative tax measures were considered, and as head of the policy unit in the Department of Taxation, I was closely involved with them.

**LAND LINES:** *How common were circuit breakers in 1971?*

**JOHN BOWMAN:** At the end of 1970, five states had circuit breakers. While this approach to property tax relief was not yet widespread, it was gaining acceptance rapidly after Wisconsin's pioneering 1964 program. Ohio's adoption was one of five in 1971, and by the end of 1974, circuit breakers had been adopted in 25 states, including the District of Columbia. Strong interest in circuit breakers caused the National Association of Tax Administrators to devote a session to them at its fall 1971 Revenue Estimating Conference, where I presented a paper on the Ohio efforts.

**LAND LINES:** *Were you involved with circuit breakers during your time at ACIR?*

**JOHN BOWMAN:** Yes, they were one of my areas of involvement there. Although this is now long ago, it is well-known in public finance circles, particularly among property tax people, that ACIR and John Shannon advocated the circuit breaker approach; in fact, he gave this approach its name. I was principal author of the 1975 ACIR report *Property Tax Circuit-Breakers: Current Status and Policy Issues*, and I made presentations on property tax relief and circuit breakers in various forums at that time.

**LAND LINES:** *Do you prefer circuit breakers over other property tax relief approaches and, if so, why?*

**JOHN BOWMAN:** Aside from deferral, which has never gained much political traction, a circuit breaker seems the best approach to residential property tax relief. I like the approach because—at least if designed well—it targets property tax relief to those who are most in need of it. I believe income, broadly defined, is the best measure of ability to pay taxes, and that property tax relief is best determined by considering the tax bill in relation to income. Some critics complain that, because circuit breakers rely on income to target property tax relief, they convert the

property tax into an income tax and are inconsistent with the logic of property taxation. These concerns have some merit, but several points must be kept in mind.

- Property taxes are unpopular, even relative to other taxes, and state and local policy makers are responsive to pressures for tax relief.
- Any property tax relief undermines the strict logic of the property tax as a levy on the market value of real property; property owners receiving preferential treatment face lower net effective property tax rates (net property tax liability as a percent of market value of property) than those not so favored.
- A well-designed and rather narrowly targeted circuit breaker will cause less distortion in the property tax than other forms of tax relief, and will reduce aggregate property tax relief cost.

**LAND LINES:** *Briefly, what do you consider to be a well-designed circuit breaker?*

**JOHN BOWMAN:** The recently published policy focus report and my working paper address this in some detail, but here are some highlights. First, a broad definition of income is the centerpiece of a good circuit breaker. A circuit breaker should target property tax relief to those most in need, as measured by income. Unfortunately, some states recently have eliminated part or all of Social Security from consideration, for example.

It is understandable that recipients of specific income sources wish to have their income disregarded, but caving in to such requests severely damages equity. It makes many who actually are better off appear worse off than those with little income from the favored income source, which qualifies the favored group for a larger piece of the property tax relief pie.

Second, circuit breakers should offer broad coverage and be available to those who meet the need standard; whether they are old or young and whether they own or rent should be irrelevant.

Third, among the circuit breaker types identified in the report, I favor the threshold approach—specifically, multiple thresholds, applied incrementally. This approach grants relief based on the property tax amount in relation to income; no prop-

erty tax relief is given until the tax rises above the defined threshold percentage of income. Incremental application of multiple thresholds abates more taxes for those at very low income levels, but increases the tax liability incrementally as income rises, rather than abruptly. The result is better targeting of property tax relief.

**LAND LINES:** *Do you have a candidate for the worst property tax relief approach?*

**JOHN BOWMAN:** Yes. Tax caps that limit the assessed value of property, or limit increases in the property tax bill, have been popular in the recent housing boom, but they move the property tax seriously away from the logic of a tax based on property value. Moreover, caps tend to distribute tax relief perversely, subsidizing those with windfall gains in property value (net worth) resulting from market forces and, often, government actions. Not everyone whose property value increases significantly is unable to deal with the tax bill change.

A circuit breaker can take care of the true problems resulting from value increases, as well as from income reductions. State limits on local tax collections are also problematic when state legislators seek political credit for lowering taxes but do not face the consequences of revenue shortfalls. A state-funded circuit breaker matches the decision to cut one tax with the responsibility for raising revenue in other ways. **L**

## REFERENCES

Bowman, John H. 2008. Property tax circuit breakers in 2007: Features, use, and policy issues. Working Paper. Cambridge, MA: Lincoln Institute of Land Policy.

Bowman, John H., Daphne A. Kenyon, Adam Langley, and Bethany P. Paquin. 2009. *Property tax circuit breakers: Fair and cost-effective relief for taxpayers*. Cambridge, MA: Lincoln Institute of Land Policy.

Note: Both of these publications can be downloaded from the Lincoln Institute Web site ([www.lincolnst.edu](http://www.lincolnst.edu)).

# Land Conservation and Communities

Mark C. Ackelson

We hear a lot about communities these days, and as individuals we likely belong to or live in several communities that may have shared values. In communities where peoples' values and interests are not necessarily shared, however, interactions and decision making may be more complicated.

Working within the land trust network, many of us have been acculturated to consider natural communities to the exclusion of our human surroundings. To be most effective, however, we must deal with the complete range of communities and all their human and ecological complexities.

## Creating the Land Trust Community

In 1980 Boston attorney Kingsbury Browne became a fellow at the Lincoln Institute of Land Policy. He traveled across the United States to explore the role of nonprofit organizations in protecting land, water, wildlife, and agricultural, historic, and scenic resource areas in their local communities. Browne found hundreds of organizations, referred to as land trusts, scattered across nearly every state, but most had little or no connection to one another.

Browne and the Lincoln Institute later convened leaders of many land trusts to explore ways to build a network to strengthen their effectiveness. Out of that gathering grew the Land Trust Exchange, which is now known as the Land Trust Alliance and has become the voice for the national land conservation community. More than 1,700 land trusts are found in every state, responding to local or regional conservation needs as defined by the

communities of which they are a part. Together these organizations have protected some 40 million acres.

## Linking Land Trusts to Local Communities

In my position with the Iowa Natural Heritage Foundation (INHF), I have dedicated my life to protecting natural resources. I have worked with colleagues and partners to conserve and restore special places primarily for their ecological, scenic, and public use values. The Foundation's work is supported primarily by urban residents, but almost all of our work occurs in rural areas.

Other land trusts work in urban or urbanizing neighborhoods, wilderness areas, tourist sites, or landscapes with diverse agriculture. Some land trusts work entirely within one community, county, watershed, or state, while others work nationally or internationally. Some work to protect community gardens and parks, high-quality natural areas, entire ecosystems, greenways and trails, water quality, wildlife habitat, or historic sites. Defining, understanding, and engaging the human communities in many of these diverse settings can be challenging but also rewarding.

One major difference between INHF and most other land trusts is our trails work, which can be controversial and difficult to manage. Trails require tenacity, complex financing, and political will, but they connect people and communities to each other and to nature. They also help build networks of users among local advocates, volunteers, and civic leaders who work together to acquire, develop, manage, enhance, and integrate trail use into the fabric of the community. INHF's trail work has helped me appreciate this rich land/people/community connection.



© Carl Kurtz

Conservation activity is sometimes framed as protecting land *from* people through laws and legal systems. But if we do not help to build relationships between people and the land, our efforts will be challenged and may very well be lost. As Iowa-born conservationist Aldo Leopold (1949, viii) stated, "We abuse land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect."

The way we interact with land and water says a lot about our future and our relationships with each other. Land trusts already respect our natural communities, but we need to respect our human communities as well. We appreciate the interconnected web of nature, but too often think of it as something abstract rather than part of the social/community web.

## A Study of Community

In early 2008 I helped explore these issues in a survey of land trusts undertaken in a collaboration between the Land Trust Alliance and the Center for Whole Communities (2008). The purpose of the survey and interviews was to better understand how land trusts



perceive and engage with the communities they serve. The report data came from 361 respondents in 39 states, representing nearly a quarter of the land trusts in the country. Respondents understood the need to engage communities in their work, even if they were not already doing so.

The survey and interviews showed that there was often, but not always, a lack of connection between where a land trust operates and the primary beneficiaries of their work. The results help us understand where the movement is today, and what paths it is exploring for becoming more inclusive.

For example, many land trusts are working to shift from protecting species and landscapes to engaging their broader human communities. Case studies help us understand how land trusts have arrived at their current goals and strategies for engagement, and how they are expanding their mission and partnerships to do this work more effectively. The reflections and stories of those interviewed provided valuable insight into the thinking of land trust leaders.

Land trusts are almost universally working in areas with shifting demographics, land use, and land ownership patterns. Many of these changes are happening quickly as rural landowners are increasingly older and absentee. Up to 50 percent of these lands could change hands within the next 20 years. Escalating land costs make it more difficult for landowners to compete with ever-expanding urban areas, industrial agriculture, and second homes.

We can no longer afford to assume that the values that motivate most of us in the land trust community (such as species diversity and open space) are those that motivate the human communities we serve, including past and current land conservation partners and landowners. We have to listen to their needs and values, and find where they mesh with the land trust's mission.

By engaging with the various communities of which it is a part, a land trust increases its understanding of the broader social and environmental work that needs to be done, and can better respond to local needs. Sharing resources with neighbors and exchanging management strategies can be beneficial not only to the stewardship of the land, but also to the deep relationships to land that are crucial to a long-term conservation agenda. Community engagement can also help expand public support for the land trust's work.

The survey also queried the issue of public access to protected lands as an indicator of the land trust's engagement with its community. Since many land trusts use conservation easements (voluntary perpetual legal conservation agreements), the protected land remains in private ownership and public access is often at the discretion of the owner. Lands owned outright by land trusts or acquired in partnership with public agencies generally are open to some level of public access.

Allowing traditional uses of the land (such as hunting, fishing, hiking, and appropriate forest and agriculture management) reinforces the sensitivity to and connections with the local community. This can help demonstrate and reinforce appropriate management of

the special resources while also connecting local residents more deeply with the land.

### Looking Ahead

Many land trusts are taking a longer-term view of their work in the context of community needs by collaborating with various constituencies to identify ways that conservation can benefit other agendas, such as low-income housing, public health, local food sources, economic development, and underserved residents. These efforts may require a reorientation of the land trusts themselves, a new focus on partnership, and a willingness to bring in new constituents to support a broader community agenda.

Land trusts have long recognized the importance of communities. Now the definitions are expanding and land trust leaders are learning how to understand those communities and their diverse needs. Remembering that our land business is indeed a people business will help us develop stronger communities and greater long-term support for conservation. Integrating land trusts, and our missions, with the communities we serve is good for natural resource conservation and good for communities across the country. **L**

### ▶ ABOUT THE AUTHOR

**MARK C. ACKELSON** is president of the Iowa Natural Heritage Foundation based in Des Moines ([www.inhf.org](http://www.inhf.org)). He was the recipient of the second annual Kingsbury Browne Fellowship at the Lincoln Institute of Land Policy in 2008–2009. This fellowship is awarded in connection with the Kingsbury Browne Conservation Leadership Award, which is presented annually by the Land Trust Alliance. Contact: [mackelson@inhf.org](mailto:mackelson@inhf.org)

### ▶ REFERENCES

- Center for Whole Communities. 2008. *Building a new movement: Land conservation and community*. September. [www.wholecommunities.org](http://www.wholecommunities.org)
- Leopold, Aldo. 1949. *A Sand County Almanac*. New York: Oxford University Press.

## Erosion of the Property Tax Base: Trends, Causes, and Consequences

Increased reliance on residential property to generate tax revenue combined with volatile property values in many parts of the country have placed pressure on local officials to respond to concerns about higher property taxes. The result has been erosion of the property tax base through a variety of policies designed to relieve residential property tax burdens and to accomplish other social and economic goals through property tax exemptions or abatements. Although the property tax remains the largest single source of state and local revenues, the extent of the decline of the property tax is clear.

This erosion of the property tax raises serious concerns about the future health of our federal system of government and the continued ability of local governments to protect what de Tocqueville called America's passion for popular sovereignty. Based on a 2007 collaborative conference between the Lincoln Institute of Land Policy and the George Washington Institute of Public Policy, this book advances understanding of the property tax and strengthens policy recommendations for its improvement.

The contributors to the volume take an in-depth look at trends in the growth and composition of the property tax base. The value of housing stock of all residential property and owner-occupied property as a share of GDP is studied, noting that since 2000 there has been a clear upward trend in both. Implications of various property tax exemptions on local property tax bases, revenues, and equity are explored, as well as various tools used by state and local governments to provide property tax relief, primarily to residential property owners.

Special analysis is given to a set of state-imposed limitations on local governments' ability to raise property taxes, referred to in the literature as tax and expenditure limits (TELs), which include assessment limits, rate limitations, and revenue and expenditure limits. The growth and impact of what are called Stand Alone Property Tax Abatement Programs (SAPTAPs),



### Erosion of the Property Tax Base: Trends, Causes, and Consequences

Edited by Nancy Y. Augustine, Michael E. Bell, David Brunori, and Joan Youngman  
2009 / 368 pages / Paper / \$30.00  
ISBN: 978-1-55844-186-6

#### Ordering Information

Contact Lincoln Institute at  
[www.lincolninst.edu](http://www.lincolninst.edu)

property tax incentives to support local nonprofit organizations, and incentives to encourage open space through the preservation of land used for agricultural purposes and setbacks to create green spaces are also discussed.

#### Contents

Foreword, Gregory K. Ingram and Hal Wolman

1. The Property Tax Under Siege, *Nancy Y. Augustine, Michael E. Bell, David Brunori, and Joan M. Youngman*
2. Overview of the Trends in Property Tax Base Erosion, *Jennifer Gravelle and Sally Wallace*  
Commentary, *Richard M. Bird*
3. Property Tax Exemptions, Revenues, and Equity: Some Lessons from Wisconsin, *Richard K. Green and Elaine Weiss*  
Commentary, *Robert M. Schwab*
4. Residential Property Tax Relief Measures: A Review and Assessment, *John H. Bowman*  
Commentary, *John E. Anderson*

5. Assessment Limits as a Means of Limiting Homeowner Property Taxes, *Terri A. Sexton*  
Commentary, *Jon Sonstelie*
6. Tax and Expenditure Limitations and Local Public Finances, *Bing Yuan, Joseph Cordes, David Brunori, and Michael E. Bell*  
Commentary, *Tracy M. Gordon*
7. Efforts to Override School District Property Tax Limitations, *Garry Young, Margaret Salas, Kelly Brown, and Jessica Menter*
8. Property Tax Abatement as a Means of Promoting State and Local Economic Activity, *Robert W. Wassmer*  
Commentary, *Nathan B. Anderson*
9. Preferential Tax Treatment of Property Used for Social Purposes: Fiscal Impacts and Public Policy Implications, *Woods Bowman, Joseph Cordes, and Lori Metcalf*  
Commentary, *Julia Friedman*
10. The Politics of the Property Tax Base, *John F. Witte*  
Commentary, *Michael A. Pagano*

#### ABOUT THE AUTHORS

**Nancy Y. Augustine** is senior research associate at George Washington Institute for Public Policy, Washington, DC. Contact: [nya@gwu.edu](mailto:nya@gwu.edu)

**Michael E. Bell** is research professor at George Washington Institute for Public Policy and president of MEB Associates, Inc. Contact: [mebassociates2@gmail.com](mailto:mebassociates2@gmail.com)

**David Brunori** is research professor at George Washington University Institute for Public Policy and teaches state and local taxation at its law school. Contact: [david\\_brunori@tax.org](mailto:david_brunori@tax.org)

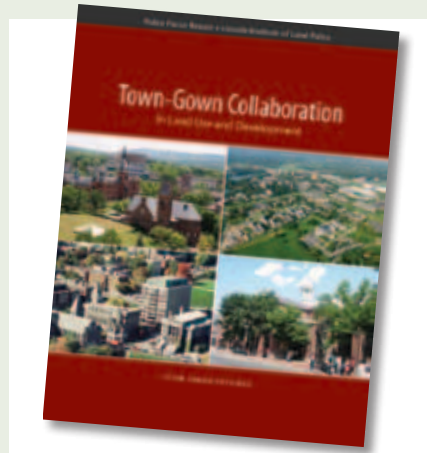
**Joan Youngman**, senior fellow and chair of the Department of Valuation and Taxation at the Lincoln Institute, is an attorney specializing in state and local taxation, and the legal problems of valuation. Contact: [jyoungman@lincolninst.edu](mailto:jyoungman@lincolninst.edu)

## Town-Gown Collaboration in Land Use and Development

Colleges and universities are among the largest landowners and developers in urban areas. To fulfill their mission, these institutions often become involved in land development at the campus edge, whether to construct new dormitories and research facilities or to offset neighborhood decline. These activities usually have an immediate impact on the neighborhood and even on the entire city.

When the use of urban land for university purposes competes with its use for local priorities, conflicts inevitably arise. A variety of stakeholders—ranging from local governments to nearby residents—may mobilize to counter university land development for reasons related to social and economic concerns, quality of life in the neighborhood, the planning and design process, and loss of property tax revenue.

This policy focus report lays out the competing interests affected by university land use and development activities, and highlights some approaches that have and



### Town-Gown Collaboration in Land Use and Development

Yesim Sungu-Eryilmaz  
2009 / 32 pages / Paper / \$15.00  
ISBN: 978-1-55844-195-8  
Policy Focus Report / Code PF022

#### Ordering Information

Contact Lincoln Institute at  
[www.lincolninst.edu](http://www.lincolninst.edu)

have not worked in solving conflicts between institutions and their communities. These approaches, of course, have the most potential for success when they balance academic and community needs through a participatory and inclusive planning process.

Institutions of higher education have entered a new era of community engagement. While once functioning mainly as enclaves of intellectual pursuit, colleges and universities today play a much broader role in the economic, social, and physical development of their host cities and neighborhoods. They have become key institutions, often termed anchor institutions, in their communities through their economic impacts on employment, spending, and workforce development, as well as through their ability to attract new businesses and highly skilled individuals and to revitalize adjacent neighborhoods.

It is clearly difficult to devise a formula for land use and development that functions efficiently and effectively while also honoring many different stakeholders' perspectives. Moreover, there is no single template for how such a partnership should be framed since each situation is different. Three considerations provide a general guide for designing successful town-gown collaborations: balancing university and community roles as part of a large, complex urban environment; working together toward a common goal by sharing responsibility, authority, and accountability for achieving results; and creating lasting change founded on ongoing communication and long-term relationships.

#### ABOUT THE AUTHOR

**Yesim Sungu-Eryilmaz** was a research associate at the Lincoln Institute of Land Policy from 2004 to 2009. Her work centered on strategies and tools that balance economic and community development goals such as community land trusts and the role of universities and other anchor institutions in urban development. *Contact:* [yesimsungu@gmail.com](mailto:yesimsungu@gmail.com)

### University Land Use and Development: What Works? What Does Not?

Community Concerns	What Works?	What Does Not?
<b>Social Equity</b>	Efforts to mitigate displacement and gentrification, and to generate job opportunities for local residents and businesses.	Ignoring the neighborhood's social and economic context.
<b>Spillover Effects</b>	Regulatory and nonregulatory planning mechanisms that balance the needs of the academic and local communities.	Land banking and lack of planning by colleges and universities.
<b>Design</b>	Planning and developing the university or college campus in ways that complement the community.	Development that is out of character with the surrounding neighborhood scale.
<b>Planning Process</b>	A joint planning process that involves the university, the community, and city leaders.	Finalizing university plans internally, or consulting only with city-wide organizations.
<b>Leadership</b>	Close involvement of the university president or other top-level leaders in developing and sustaining community engagement.	No formal mechanism for senior officials to work with the community, except on an ad hoc basis.
<b>Tax-exempt Status</b>	Recognition of inequitable tax burdens due to institutional status, and use of alternative payments.	Avoiding discussion of options to compensate municipalities for loss of property tax revenue.

## Evaluating Smart Growth: State and Local Policy Outcomes

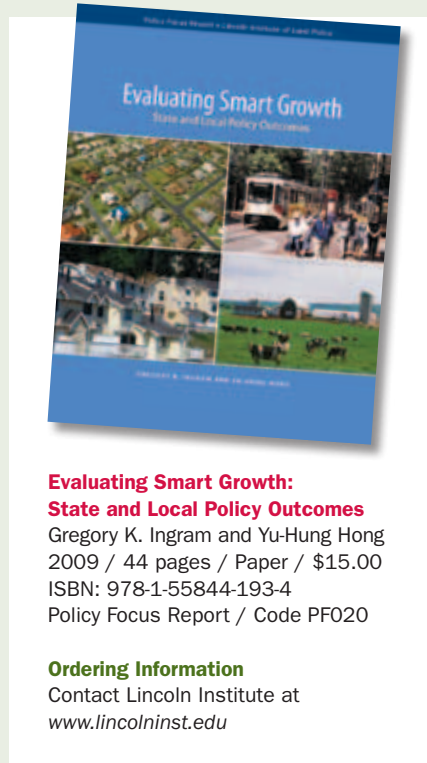
This evaluation of the effectiveness of smart growth policies in the United States focused on four states with well-established statewide smart growth programs (Florida, Maryland, New Jersey, and Oregon) and four other states (Colorado, Indiana, Texas, and Virginia) that demonstrate a range of other land management approaches. This policy focus report is based on a related volume, *Smart Growth Policies: An Evaluation of Programs and Outcomes*, published by the Lincoln Institute in May 2009.

The evaluation was objectives-based and examined the extent to which five specific smart growth objectives were achieved, based on measureable and comparable performance indicators primarily during the decade from 1990 to 2000:

- promote compact development;
- protect natural resources and environmental quality;
- provide and promote a variety of transportation options;
- supply affordable housing; and
- create net positive fiscal impacts.

No state did well on all performance measures, although individual states succeeded in one or more of their priority policy areas. Maryland was successful in protecting natural resources through land preservation programs and farmland conservation easements. New Jersey policies that responded to state supreme court decisions led to an affordable housing approach that slowed house price escalation and encouraged rental and multifamily housing production. Oregon's commitment to establishing urban growth boundaries was able to reduce development on farmland in the Willamette Valley.

The message is clear: achieving smart growth is possible, but states must remain focused on their key policy goals. No single approach is right for all states. For example, Colorado has no statewide smart growth program, but it outperformed some states with such policies by supporting local government actions to pursue effective land use planning within a regional context. The most successful states use a



**Evaluating Smart Growth: State and Local Policy Outcomes**  
 Gregory K. Ingram and Yu-Hung Hong  
 2009 / 44 pages / Paper / \$15.00  
 ISBN: 978-1-55844-193-4  
 Policy Focus Report / Code PF020

**Ordering Information**  
 Contact Lincoln Institute at  
[www.lincolninstitute.edu](http://www.lincolninstitute.edu)

variety of regulatory controls, market incentives, and institutional policies to achieve their objectives. This report offers three sets of recommendations.

### Program Structure and Transparency

- The design of smart growth programs and supporting regulations and incentives should be guided by a vision of sustainable and desirable outcomes.
- Any top-down or bottom-up smart growth policies must be coordinated at the regional level to be able to achieve their desired objectives.
- Policy makers must articulate the means of achieving smart growth objectives and specify implementation mechanisms.

### Functional Linkages for Policy Design

- The design of growth management policies should take account of interactions among policies and coordination across relevant agencies.
- Smart growth policies should make use of economic incentives, such as pricing

and tax policies that have shown promise in other countries.

- Smart growth programs need to consider the income distribution consequences of their policies.

### Sustainability and Monitoring of Programs

- Credible commitment from different levels of government is crucial for the successful implementation of smart growth programs.
- Improvements in measurement and collection of data, particularly related to environmental quality and public finance, are needed to monitor performance.
- More evidence is needed about the nature of interactions among smart growth policies—particularly those related to land use, transportation, and housing affordability.
- Clearer definition of performance indicators and measurement of their attainment would facilitate the evaluation of smart growth programs and contribute to their sustainability.

This evaluation of smart growth programs concentrates primarily on statewide performance during the 1990s, but the findings and recommendations will be useful for formulating growth management policies in today's context of high energy costs, historic housing market volatility, and increasing pressures to reduce greenhouse gas emissions. Many smart growth objectives are precisely the outcomes posited to address these current challenges facing state and local policy makers.

### ABOUT THE AUTHORS

**Gregory K. Ingram** is president and CEO of the Lincoln Institute and cochair of the Department of International Studies. Contact: [gkingram@lincolninstitute.edu](mailto:gkingram@lincolninstitute.edu)

**Yu-Hung Hong** is a fellow at the Lincoln Institute and a visiting assistant professor at Massachusetts Institute of Technology. Contact: [hong@lincolninstitute.edu](mailto:hong@lincolninstitute.edu)

## Portland: Quest for the Livable City

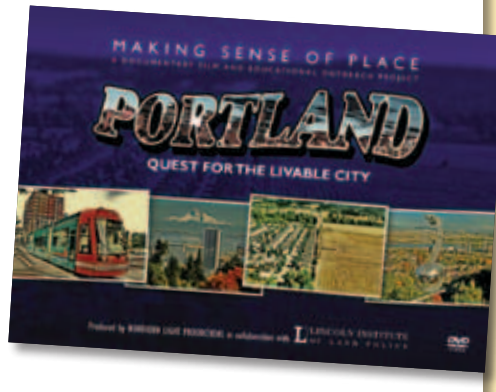
### Making Sense of Place Portland: Quest for the Livable City

Produced by Northern Light Productions  
in collaboration with the Lincoln Institute  
of Land Policy

2009 / 57 minutes / \$20.00 /  
ISBN: 978-1-55844-198-9 / DVD003  
English (Spanish subtitles available)

#### Ordering Information

Contact Lincoln Institute at  
[www.lincolnst.edu](http://www.lincolnst.edu)



The Lincoln Institute and Northern Light Productions have released the third film in their Making Sense of Place series. *Portland: Quest for the Livable City* documents the conflicts and triumphs as one city attempts to reduce its carbon footprint and grow more densely within an urban growth boundary.

“Portland has been a notable experiment in land use planning, and the film shows how challenging that can be,” said Gregory K. Ingram, president of the Lincoln Institute of Land Policy. “The issues that come to life in the film—property rights, the value of land, density and transportation, and the process of planning—include many that we think cities all over the United States will need to confront.”

Following the passage of Oregon’s landmark land use planning system in 1973, Portland established an urban growth boundary containing development within a 22-square-mile area to protect surrounding farmland and open space. The city also created a regional governance system spanning 24 municipalities and three counties. Its ambitious system of light rail and streetcars serve a more dense, compact, mixed-use urban form than most cities its size.

For three decades, Portland was considered the “poster child” for successful growth management practices that protected farmland, reduced low-density

sprawl, and expanded public transit use, among other objectives. Then, in 2004, voters passed Measure 37, which allowed development outside the boundary and raised questions about property rights and the fairness of the entire planning and regulatory framework. A competing initiative, Measure 49, was put on the ballot in 2008 to reverse those changes.

Incorporating historic footage of Portland’s growth as the self-proclaimed “City that Works,” and recent interviews with city leaders and neighborhood residents during the battles over ballot measures on the land use planning system, *Portland: Quest for the Livable City* offers a

cautionary tale. As cities across the country today attempt to reduce greenhouse gas emissions, invest in transit, and focus on infill redevelopment as an alternative to car-dependent sprawl, Portland’s experience underscores a complex web of issues including economic development and jobs, gentrification, local food and farming, property rights, and civic participation.

“We were impressed from the very beginning at the incredible story that had unfolded in Portland, and we think we captured both the drama and tension, and the essence of the city as a place to live,” said Bestor Cram, president of Northern Light Productions. The film crew made numerous trips to Portland between October 2007 and July 2008 for a total of 30 shooting days, with 160 hours of high-definition footage and interviews with about 90 civic leaders and citizens.

The one-hour Portland film began airing on public television stations around the country in May. Over the coming months, an outreach effort in Oregon will focus on community screenings and discussions of the issues raised in the film.

#### Phoenix and Cleveland Films

The first film in the Making Sense of Place documentary series, *Phoenix: The Urban Desert*, examines the city’s sprawling growth over the past several decades, the associated issues that threaten the region’s unique desert environment, as well as individual choices and market forces that affect development.

2003 / 58 minutes / \$20.00 (DVD or VHS format)

Codes: DVD001 (English only), VHS001 (English), or VHS002 (Spanish)

The second film, *Cleveland: Confronting Decline in an American City*, looks at the persistent crisis of urban decline and the erosion of inner suburbs. Cleveland was once America’s fifth largest city, but today it struggles to reverse the cumulative effects of industrial decline.

2006 / 56 minutes / \$20.00 (DVD or VHS format)

Codes: DVD002 (English only), VHS003 (English), or VHS004 (Spanish)

#### For More Information

A special section of the Lincoln Institute Web site presents additional information about the entire film series, the production company, and the schedule of public television showings: [www.makingsenseofplace.org](http://www.makingsenseofplace.org).

## Courses and Conferences

The education programs listed here are offered as open enrollment courses for diverse audiences of elected and appointed officials, policy advisers and analysts, taxation and assessing officers, planning and development practitioners, business and community leaders, scholars and advanced students, and concerned citizens.

For more information about the agenda, faculty, accommodations, tuition, fees, and registration procedures, visit the Lincoln Institute Web site at [www.lincolninst.edu/education/courses.asp](http://www.lincolninst.edu/education/courses.asp).

### National Community Land Trust Academy

The Lincoln Institute and the National Community Land Trust Network have formed a joint venture to provide comprehensive training taught by highly skilled and experienced instructors on theories and practices unique to community land trusts. The CLT Academy promotes public understanding of the community land trust model, sets a high standard for practitioner competence, and supports research and publication on evolving practices.

**MONDAY–FRIDAY, AUGUST 17–21**  
Chicago, Illinois

**Community Land Trust 101**  
Michael Brown, Burlington Associates  
in Community Development

This course covers the basics of the community land trust model. Participants learn the value of shared equity homeownership and the merits of permanent housing affordability.

### Financing CLT Homes

Julie Brunner, OPAL Community Land Trust, Washington

Participants explore ways of structuring public subsidies, mortgage financing options and how to negotiate with banks to set terms protecting the borrower and the CLT. Prerequisites are a familiarity with the CLT Legal Manual and a working knowledge of housing finance.

**TUESDAY, OCTOBER 6**

Leominster, Massachusetts

### Seminar on Renewable Energy Siting and Land Conservation

Patrick Field and Ona Ferguson, Consensus Building Institute, Cambridge, Massachusetts

A host of questions have arisen for those committed to land conservation as many communities, government agencies, and private companies look to the possibility of investing in and supporting renewable sources of energy. This one-day seminar provides participants with strategies for addressing the conflicts that arise as communities wrestle with the dual objectives of land conservation and new investments in renewable energy.

**WEDNESDAY–FRIDAY, OCTOBER 28–30**

Lincoln House, Cambridge, MA

### Adaptation Planning as Risk Management

Larry Susskind, Patrick Field and Ona Ferguson, Consensus Building Institute, Cambridge, Massachusetts

Climate change is already starting to cause impacts in some areas. Sea-level rise will increase the risks that decision makers must manage, such as increased flooding and inundation, water-borne diseases, storm intensification, displacement, shoreline erosion, and loss of critical habitat. By understanding these risks and the process options available to them, managers will be able to make informed, politically feasible decisions that can reduce the risks and address other concerns as well.

## Programs in Europe and Latin America

**JULY 29–AUGUST 28**

Rotterdam, The Netherlands

### Land Management and Regularization of Informal Settlements

Martim Smolka, Lincoln Institute of Land Policy; and Carlos Morales Schechinger, Institute for Housing and Urban Development Studies (IHS), Rotterdam

This course is designed in response to one of the UN Millennium Development Goals, which advocates improved living conditions for 100 million slum dwellers up to the year 2020, as well as policies to prevent the formation of new informal settlements. The course develops tools to deal with slum upgrading and land tenure regularization, and supports the development of policy intervention at the legal, institutional, financial, and program management levels.

**AUGUST–SEPTEMBER**

(dates to be determined)

Panama City, Panama

### Land Management and Urban Policy

Martim Smolka, Lincoln Institute of Land Policy; and Alvaro Uribe, University of Panama

This series of capacity building courses on the formulation and implementation of local master plans and new land management tools targets an audience of mayors and other high-level local officials. The program responds to the requirements of the newly enacted Law 6 on Urban Development in Panama.

**WEDNESDAY–FRIDAY, SEPTEMBER 2–4**

Mar del Plata, Argentina

### Local Governance and Value Capture Alternatives to Finance Urban Development

Martim Smolka, Lincoln Institute of Land Policy; and Eduardo Reese, Conurbano Institute at the General Sarmiento National University, Buenos Aires, Argentina

As part of the V Hemispherical Summit of Mayors for about 2000 mayors and their associates, the Lincoln Institute is organizing a session to discuss Henry George's notion of land value increments as an "unearned gain" and its application in Latin America.

**TUESDAY–THURSDAY, SEPTEMBER 15–17**

Brasília, Brazil

### Land Tenure Regularization

Martim Smolka, Lincoln Institute of Land Policy and Egláisa Micheline Pontes Cunha, Ministry of Cities, Brazil

This seminar presents and evaluates selected cases reflecting the Brazilian experience with land tenure regularization and its impacts.

**THURSDAY–SATURDAY, SEPTEMBER 24–26**

Tijuana, Mexico

### Land Policy Instruments for Urban Development

Martim O. Smolka and Diego Erba, Lincoln Institute of Land Policy; Claudia Valencia Díaz, City's Planning Group S.C., Mexicali

This seminar focuses on the relevance of land policy for urban social and economic development. Alternative tools for local administrations are discussed in the context of the latitude for local policy provided by existing national legislation on urban development.

# What's New on the Web

## Significant Features of the Property Tax

[www.lincolinst.edu/subcenters/significant-features-property-tax/](http://www.lincolinst.edu/subcenters/significant-features-property-tax/)

**The Lincoln Institute of Land Policy and the George Washington Institute of Public Policy have joined in a partnership to provide a new online database of property tax information in all 50 states.**

The term “Significant Features” pays tribute to the work of the Advisory Commission on Intergovernmental Relations (ACIR), which was established by Congress in 1959 to study the relationships among local, state, and national levels of government. Until its termination in 1996, ACIR provided a wealth of research on the federal system, particularly through its flagship publication, *Significant Features of Fiscal Federalism*.

Users can now access property tax data in a variety of forms, including tables of the most frequently sought figures, a query system for creating new tables, and a downloadable database. This Web site will be a valuable resource for a wide variety of users, including researchers, public officials, and journalists. It is organized in the following categories:

**General Characteristics of Local Taxation of Property:** What properties are taxed, local property tax rates, transfer charges, and limits placed by states on local jurisdictions’ authority to use the property tax.

**Property Tax Relief and Incentive Programs:** Special property tax relief programs, such as homeowner benefits, economic development incentives, and preferential treatment of farmland and open space.



**Structural Arrangements of Property Assessment:** State property tax bases by land use types and assessment standards.

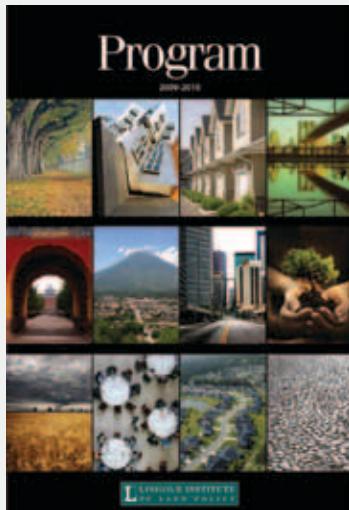
**Census of Governments Data:** Statistics from the U.S. Census Bureau’s Census of Governments on the property tax in the context of state and local finances. Data for the years 2005, 2002, and 1992 are reported for state and local governments combined, and for state governments and local governments separately. Data are presented in nominal dollars, as a share of all revenues, per capita, and as a percent of personal income.

**This database, located on the Lincoln Institute Web site under the Resources and Tools section, is part of a continuing effort to provide free online information to support research on land use and property tax policy. Another database documents university real estate development, and a third one is being developed on land values in the United States.**

Go to [www.lincolinst.edu/resources](http://www.lincolinst.edu/resources) to view twelve different subcenters on planning, urban development, and property taxation issues.

# Land Lines

JULY 2009



## 2009–2010 Program

The Lincoln Institute's annual Program for 2009–2010 presents a comprehensive overview of the Institute's mission and its diverse programs for the new academic year. It includes department descriptions; courses, seminars, conferences, and online education programs; research, demonstration, and evaluation projects; publications and multimedia products; Web-based resources and tools; and lists of fellows and faculty. The complete Program catalog will be posted on the Lincoln Web site for free downloading in early September. **To request a printed copy, contact [help@lincolninst.edu](mailto:help@lincolninst.edu).**

## Working Papers and Other Online Publications

More than 580 working papers are posted online for free downloading. These papers include the results of Institute-sponsored research, course-related materials, and occasional reports or papers cosponsored with other organizations. Some papers by associates affiliated with the Institute's programs in Latin America and China are available in Spanish, Portuguese, or Chinese.

The Lincoln Institute Web site also hosts all issues of **Land Lines** published since 1995, and 22 policy focus reports published since 1995. Most of these reports are also available for purchase.

The Web site search functions have been upgraded to help you find the title, author, or type of publication that you want.

**Go to [www.lincolninst.edu/pubs/index.asp](http://www.lincolninst.edu/pubs/index.asp) to begin your search.**

