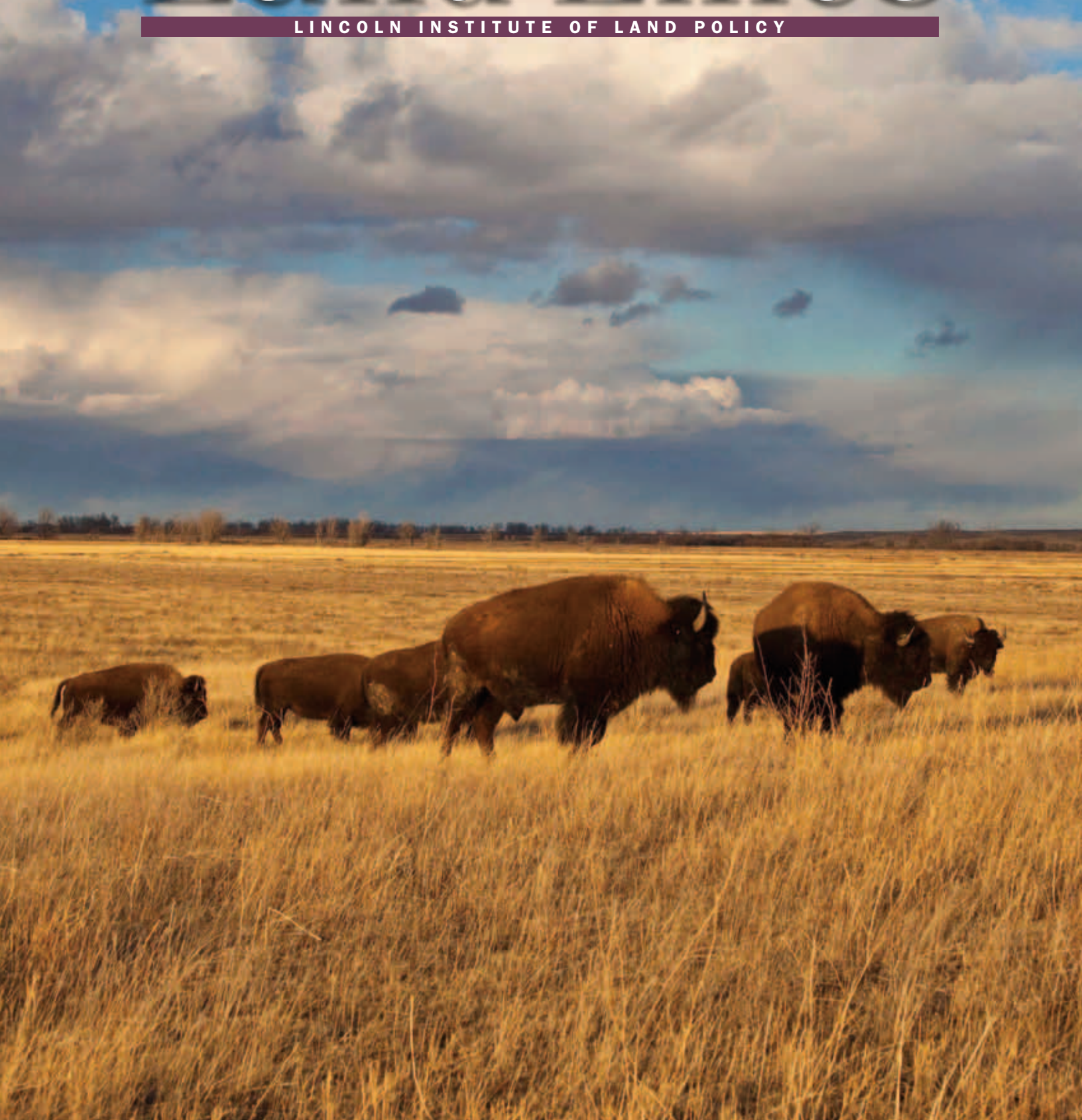


# Land Lines

LINCOLN INSTITUTE OF LAND POLICY



# Land Lines

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## CONTENTS



PAGE 2



PAGE 15

### FEATURES

#### 2 Valuing and Taxing Iconic Properties: A Perspective from the United Kingdom

WILLIAM McCLUSKEY AND DAVID TRETTON

*In most countries, government property is not liable for property taxes, but the United Kingdom has started charging Crown properties notional rents to help meet the cost of local services.*

#### 8 A Tale of Two Land Trusts: Strategies for Success

AUDREY RUST

*Land trusts across the United States differ vastly in terms of age, size of protected acreage, mission, strategy, budget, and context. Analysis of their particular histories and characteristics offers lessons for all involved in the work of preserving open space.*

#### 15 Planning for States and Nation/States: A TransAtlantic Exploration

GERRIT KNAAP AND ZORICA NEDOVIC-BUDIC

*Our ability to meet critical global challenges depends on the legal and institutional foundations of planning. Several U.S. states and European nations have begun to experiment with new and innovative institutional approaches to planning to address these issues.*

### DEPARTMENTS

#### 1 Report from the President

#### 22 Faculty Profile: Alan Mallach

#### 24 New Lincoln Institute Publications

*Regenerating America's Legacy Cities*

*Land in Conflict: Managing and Resolving*

*Land Use Disputes*

*Infrastructure and Land Policies*

*Financing Metropolitan Governments in*

*Developing Countries*

*Políticas de suelo urbano (Urban Land Policy)*

#### 29 Focus on the Website



Bison in the American Prairie Reserve, Montana

© Dennis Lingohr/APR

## China's Environmental Policy and Urban Development

From its initial economic reform in 1978 through its liberalization of foreign investment and private sector development from the mid-1980s to the present, China's major economic reforms have given priority to achieving a high rate of economic growth. The policies worked so well that China's constant dollar GDP per capita grew nearly 10 percent a year from 1980 to 2010. This growth performance is unparalleled for a large country, but it has been accompanied by unaccounted-for costs, including the structural transformation of the economy, social adjustment and migration, and environmental degradation. A new Lincoln Institute book, *China's Environmental Policy and Urban Development*, edited by Joyce Yanyun Man, addresses the last of these topics. It reports estimates from governmental agencies of undocumented environmental costs associated with economic production ranging from 9.7 percent of GDP in 1999 to 3 percent in 2004.

Economic growth in low-income countries is typically accompanied by environmental costs. This tradeoff is embodied in the "environmental Kuznets curve," which postulates that environmental quality deteriorates with economic growth at low income levels and then improves with growth at higher income levels. Estimates of the environmental Kuznets curve for Chinese cities over the years 1997 to 2007 as reported in this book show that measures of industrial pollution in China declined as incomes increased over this period, indicating that cities with higher incomes experienced improvements in these measures of environmental quality as their incomes grew.

Several chapter authors argue that China's environmental policies and performance are in transition. Environmental indicators are improving in response to new policies and regulations while economic growth continues. At the same time, there have been setbacks. For example, extreme events, such as this winter's combination of extremely cold weather and atmospheric inversions in Beijing, produced very high levels of particulate concentrations in that city.

The logic behind the environmental Kuznets curve involves elements of both demand and supply. On the demand side, higher income populations have a growing appreciation for environmental amenities, and they advocate for environ-




Gregory K. Ingram

mental improvements. On the supply side, investment in new capacity uses modern equipment with more environmentally friendly processes and more affordable control technologies. China's recent environmental improvements also stem from its strengthened environmental regulatory institutions. In 1982 the role of the Environmental Protection Agency was mainly advisory. It was transformed into a national agency in 1988, became the more independent State Environmental Protection Agency in 1998, and then was elevated as the Ministry of Environmental Protection in 2008.

The growing influence of central environmental agencies has been accompanied by a change in the style of regulation. The earlier emphasis on command-and-control regulations (such as emission standards) was partially replaced by instruments based on economic incentives (such as taxes on inputs and a newly announced tax on carbon emissions). Research indicates that to date the command-and-control regulations generally have been more effective.

While central agencies set national standards, the responsibility for monitoring and enforcement was largely decentralized to municipal or metropolitan environmental bureaus. The performance of local managers is reviewed annually based on criteria that emphasize economic growth. Additional improvements in environmental outcomes may occur only when these criteria give greater weight to environmental improvements. For example, a rapid increase in the control of sulfur dioxide emissions from power plants followed the inclusion of reduced sulfur emissions as an annual performance criterion.

While China has much to do to reduce urban air pollution, clean up rivers and lakes, and improve energy efficiency, these objectives are becoming more important to its citizens. The increased availability of data on environmental indicators is stimulating the national dialogue on environmental quality. Professor Man's new volume contributes to this dialogue by reporting on progress, identifying immediate challenges, and assessing new policies and regulatory approaches to environmental improvement.

To order the print or electronic version of this book, visit the Lincoln Institute website at [www.lincolninst.edu/pubs](http://www.lincolninst.edu/pubs). 



# Valuing and Taxing Iconic Properties

## A Perspective from the United Kingdom

© iStockphoto/Robert Ellis

**The property taxes on Stonehenge are determined by the income the megaliths generate as a UNESCO World Heritage Site.**

*William McCluskey and David Tretton*

In most countries, government property is not liable for property taxes; indeed, the whole idea may be seen as a circular shifting of money (Bird and Slack 2004; Youngman and Malme 1994). The United Kingdom has taken a very different perspective recently. Regarding it as important that both government and local government occupiers are aware of the true cost of holding property, the UK insists on a system of notional rents and ensures liability for local property taxes.

From the enactment of the Poor Relief Act in 1601, the generally accepted starting date for the taxing of local property in the UK, until 2000 when changes were enacted, property occupied by the government or Crown was not subject to property tax or “rates.” However, the Crown did accept that it was appropriate to make some contribution to meet the costs of local services and paid ex gratia contributions in lieu of rates (CILORs). This process suffered from a number of problems: the contributions were voluntary; Crown property did not appear in the valuation lists; and the basis

upon which the contributions were made lacked the rigor and transparency of valuation that applied to all other property.

The Local Government and Rating Act was introduced in 1997 for England, Scotland, and Wales (with an amendment in 1998 for Northern Ireland) to effectively place all Crown property on the same footing as all other taxable property, liable to be assessed for rates. These provisions came into effect from April 1, 2000. As a result, such iconic buildings as the Palace of Westminster and the Tower of London are now being valued in the same way as all other property for the first time.

### **Valuing Commercial Property**

Valuation officers of the Valuation Office Agency (VOA), a part of Her Majesty’s Revenue and Customs (HMRC), are responsible for compiling and maintaining commercial (nondomestic) property rating lists for England and Wales. The local assessors are responsible in Scotland, and the Land and Property Services have responsibility for Northern Ireland. Broadly speaking, the rateable value of a nondomestic property is based on the annual rent

that it could have been let for on the open market at a standard date (the antecedent valuation date). For England and Wales, the antecedent date of the 2000 lists was April 1, 1998; for the 2005 lists it was April 1, 2003; and for the 2010 lists, which came into effect on April 1, 2010, it was April 1, 2008.

Table 1 shows the number of taxable properties in England and Wales and their total rateable (taxable) value. Comparisons with capital value-based property taxes are a little difficult because it is necessary to know the relevant yields to make the comparison, but even so it is clear the level of taxation is unusually high for a property tax. The tax level for England and Wales is approximately 45 percent, but this is on rental, not capital, values.

The UK government sets a separate uniform tax rate (poundage) for England known as the nondomestic rating multiplier. For Scotland and Wales, it is set by their respective assemblies, and for Northern Ireland each district council sets its own rate. This determines the sum payable on every pound sterling of rateable value to arrive at the full rates bill. Local authorities remain responsible for calculating the bills and collecting nondomestic rates payable on properties within the authority's area. They do not, however, retain the rates they collect but pay them into a national pool (one each for England and Wales). The money in the pool is then redistributed to local authorities with special arrangements for the City of London.

### Background on the Crown Exemption

Prior to the 2000 rating lists, certain properties occupied by the Crown, e.g., central government offices and Ministry of Defence establishments, were exempt from rating and did not appear in any rating list. The Crown did, however, make an ex gratia CILOR based on a notional rateable value.

The Crown was neither expressly mentioned in the Poor Relief Act of 1601, the original rating act sometimes referred to as The Statute of Elizabeth, nor in the General Rate Act 1967 that replaced it. As it was a principle of UK law that the Crown was not bound by an act of Parliament unless specifically mentioned, there was no liability for rates. Further, no rates could be imposed with respect to property occupied by its servants whose occupation amounted to occupation by the Crown. This position was upheld by *Jones v. Mersey Docks* 11 HL Cas. 443 (1865).

However, as far back as 1860, the government accepted the principle of the Crown paying something by way of ex gratia CILORs with respect to property occupied for public purposes. This practice was made uniform in 1874. The Treasury of the UK, by formal Minute, adopted the principle that property occupied for the public service should contribute to the local rates equally with the other property in the parishes in which it was situated, having regard to its character in each case. The Treasury Minute established the Rating of Government Property Department (RGPD) to undertake the assessment of all government property with the intention of adopting in each case as far as possible the same principles as were applicable to the valuation of private property. Nineteenth-century case law established that the exemption applied only to property occupied by the Crown itself or its servants, but not to other property occupied for public purposes. Generally, therefore, the exemption applied to property occupied for the purposes of the central government and the Royal palaces and parks, and to other property occupied by servants of the Crown (for example, occupation by government ministers or by military personnel of Royal Naval, army, and Royal Air Force bases).

In 1896, a further Treasury Minute reaffirmed the principle of equal contribution and made certain concessions in order to carry it fully into effect. The concessions included periodical revaluation, punctual payment, and a contribution with respect to the Houses of Parliament.

The following were the main characteristics of the CILOR in the last few years of its existence:

- The Crown Property Unit (CPU) of the Valuation Office Agency (VOA) was responsible for agreeing to the assessment and CILOR (following its absorption of the RGPD).
- CILOR payments were collected by rating authorities from the CPU.

Jurisdiction	Number of Properties	Total Rateable Value (billions)	Rating Multiplier (tax rate)
England	1,736,000	£58.575 (US\$92.76)	45.8%
Wales	106,000	£2.587 (US\$4.11)	45.2%

Source: [http://www.hmrc.gov.uk/stats/non\\_domestic/menu.htm](http://www.hmrc.gov.uk/stats/non_domestic/menu.htm)

- Valuations were carried out, and bills calculated, on exactly the same rules and methods as under the rates proper, taking account of any relevant rating reliefs.
- Local authorities included CILOR payments with other nondomestic rate income paid into the rating pool, and the combined payments were then redistributed to receiving authorities.

The CILOR arrangements differed from standard rating procedures in the following main respects:

- Contributions were, in theory, voluntary.
- Valuations originally decided by the RGPD, albeit after discussion with the local valuation officer, were not always at the same level as normal assessments.
- Crown bodies did not have the same rights as ratepayers to appeal against their valuations, and to have their appeal determined by an independent Valuation Tribunal.
- Because the Crown is, in constitutional theory, one and indivisible, the CILOR treatment of properties occupied by more than one Crown body differed from the usual treatment of rateable property in more than one occupation. For CILOR, a single valuation was normally carried out for the property as a whole, and a single bill was calculated and sent to the major occupier, who then recouped the appropriate proportion of the total payable from the minor occupiers. Under standard rates, separate valuations are usually carried out for each

separately occupied part of the property, and each occupier receives a separate bill.

### Rationale for Removal of the Crown Exemption

The government debated the removal of the Crown exemption as far back as World War II. The Central Valuation Committee, in a letter of January 21, 1947, to the Minister of Health, while in effect suggesting such a removal also stated that it had long been its view that the then-arrangements for the rating of property occupied by the Crown were in many respects unfair and unsatisfactory to local authorities, who at the time set their own rate levels. In the 1950s, the English local authority associations expressed their dissatisfaction with the Crown exemption and went so far as to say that the manner of assessing CILORs was completely arbitrary and frequently worked to the detriment of local authorities. They estimated the rateable value of Crown property in England and Wales in 1952 to be around £14 million out of a total rateable value of about £341 million, which would equate to £2.2 billion based on levels of value at the 2010 revaluation.

In the mid-1990s the government considered several drivers for change:

- The Crown's exemption from rates served no clear public policy objective, since Crown occupiers were, in any case, expected to make CILORs.
- It was the government's general policy, as stated in the Citizens Charter White Paper (1991), that general Crown immunity should be removed progressively as legislative opportunities became available, so that the Crown should in general be subject to regulatory and enforcement arrangements on the same basis as others.
- The lack of appeal rights for Crown occupiers was unsatisfactory in principle.

The Local Government and Rating Act 1997 made provision to end the Crown exemption from nondomestic rates in England, Wales, and Scotland, effective April 1, 2000. Rating authorities would collect rates on Crown properties directly from the departments concerned, rather than from the CPU. These authorities also would be able to proceed with enforcement proceedings against the Crown, as they would with other ratepayers. Although this would happen in only the rarest of

**Dating to the Norman Conquest of England, the Tower of London pays property tax as one of the UK's most popular tourist attractions.**



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cases, rating authorities would in principle be able to take steps against a government department to obtain a liability order for unpaid rates if the need arose.

It has been suggested by the rating profession in the UK that, since rating is a tax, valuing and taxing properties occupied by public bodies is a waste of public resources. Properties that might fall in this category include those occupied by the Ministry of Defence, National Health Service, and local authorities. Superficially, valuing and taxing these properties may appear unjustified. The difficulty is that many activities traditionally carried out by central or local governments are now also performed in the private sector. Leisure centers are just one example. Exempting local authority properties from rates when they compete directly with the private sector could be argued to be unfair as it would give the public sector a fiscal advantage.

While the public sector occupies other buildings whose current use clearly does not compete with private business, it is difficult to justify exempting some publicly occupied properties and including others. The original justification for rating buildings

occupied by public sector bodies (including the removal of Crown exemption in 2000) was to establish a level playing field, ensure that the costs of occupation were fully recognized, and make transparent the contribution of public sector bodies to the cost of providing local services.

### **The Valuation of Iconic Buildings**

The removal of the Crown exemption precipitated the need to value a wide variety of unusual properties. Rating in the UK is an occupier's not an owner's tax and is based on broad actual use rather than highest and best use. Very old buildings often have to be valued, though many of them have been modernized and used for diverse purposes, such as offices, commercial mixed uses, or, at least in part, tourist attractions.

The traditional comparison valuation approach could be made with similarly used properties to enable determination of an indicative rental value for some structures, but for others the task was much more difficult. For example, Somerset House on the River Thames is a purpose-built office block, but it is the world's first purpose-built government office block, dating back to 1776, and it has been

**The two houses of British Parliament (Commons and Lords) meet at the Palace of Westminster and are liable for property tax.**



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**Buckingham Palace is a tax-paying Crown property as the official residence and office of HM Queen Elizabeth II.**

used in commercial filmmaking, and so is difficult to compare to other buildings.

Valuing unusual properties is not confined to Crown properties or those for which the rental comparison method cannot be used because there are no relevant comparisons. In such cases, the use of the Receipts and Expenditure (R&E) or income method may be a more reliable guide to assessing the market rental value of a property. This method is appropriate if the property to be valued is commercial in nature or has a degree of monopoly, and an occupier would be motivated primarily by the prospect of profit in its use of the property and, indeed, makes a profit (Bond and Brown 2006).

If neither the comparison nor R&E methods can be used, then the Contractors Basis or cost method is applied where the property is provided primarily for public purposes and is not occupied for commercial profit, or where the property concerned is commercial but it is not a profit center with its own accounts. In both cases the occupier (or owner) would be prepared to incur the cost of a replacement property to carry on the use of the property.

In addition to the problem of valuation is the UK complexity of having a separate tax on domestic property. In England, Scotland, and Wales this is the Council Tax, but in Northern Ireland the system is one of Domestic Rates. If any part of a property is used for domestic purposes, as defined in the legislation, then that use is assessed for the domestic tax. Thus, Buck-

ingham Palace and Windsor Castle, both royal palaces, have a rating assessment on the non-domestic, commercial element and a council tax on the domestic sections of the buildings.

**Palace of Westminster**

The Palace of Westminster, also known as the Houses of Parliament, is a royal palace and the meeting place of the two chambers of the Parliament of the United Kingdom—the House of Lords and the House of Commons. The Palace is the center of political life, and Westminster has become a metonym for the UK Parliament and the Westminster system of government for which it is named. The Elizabeth Tower, often referred to by the name of its main bell, Big Ben, is an iconic landmark of London. The Gothic Revival architecture by Sir Charles Barry dates from only 1840, but the remarkable Westminster Hall with its hammer beam roof dates from 1097.

The Palace of Westminster has been part of a World Heritage Site since 1987. The Palace had a rateable value of £14,700,000 in the local 2010 rating list (£5,500,000 in the 2000 rating list). If the standard tax rate of 45.8 percent is applied, then the tax liability ignoring any reliefs would be around £6,730,000 per year. The assessment actually combines four buildings: the Palace, Portcullis House, 1 Derby Gate, and the Norman Shaw buildings. All parts are valued on the comparative method with respect to offices, with allowances for layout and size if appropriate. In the case of the Palace the two chambers are valued at 65 percent of the main rate per square meter. There is a further end allowance to reflect the overall amount of floor space in the property.

**Buckingham Palace**

Buckingham Palace is the official London residence and principal workplace of HM Queen Elizabeth II, both with respect to her position as British monarch and head of state of many countries around the world, and as head of the Commonwealth. Located in the City of Westminster, the palace is a setting for state occasions and royal hospitality. Originally known as Buckingham House, the building that forms the core of today's palace was a large townhouse built for the Duke of Buckingham in 1705. Buckingham Palace became the official royal palace of the British monarch on the accession of Queen Victoria in 1837.



Buckingham Palace is used in part as one of the monarch's residences but consists mainly of offices. Recently limited commercial use has been introduced, as part of the building is open to visitors. The commercial portion has a rateable value of £1,300,000 in the local 2010 rating list. It is valued using two methods. First, the R&E or income method is used to reflect the commercial component (approximately 400,000 people visited during 2011). The property is open for 63 days per year with limited opening hours, so the relevant receipts are annualized, and 5 percent is added to reflect the fact that longer opening hours would generate more ticket sales. The trading accounts as published show that the rateable value equated to 6.3 percent of Fair Maintainable Receipts. Second, the Contractors or cost method is used for the Queen's Gallery. The residential component of the palace has 775 rooms, including 52 Royal and guest bedrooms, 188 staff bedrooms, 19 state rooms, and 78 bathrooms. In 2011–2012 it had a council tax bill of £1,369.

### **Tower of London**

Her Majesty's Royal Palace and Fortress, commonly known as the Tower of London, is a historic castle on the north bank of the River Thames in central London. It dates to the Norman Conquest of England in 1066, and the White Tower, which gives the entire castle its name, was built by William the Conqueror in 1078. The Tower has served variously as an armory, a treasury, a prison, a menagerie, the home of the Royal Mint, and a public records office. Now it is home to the Crown Jewels and is one of the country's most popular tourist attractions, having some 2.55 million visitors in 2011.

It is protected as a UNESCO World Heritage Site (and by some very high walls and elaborate alarm systems). It is valued by the R&E method, due to its particular value as a tourist attraction, and the rateable value equates to approximately 4.7 percent of fair maintainable receipts. For the local 2010 rating list the property had a rateable value of £1,790,000 (for the 2000 rating list the value was £1,180,000).

### **Stonehenge**

Stonehenge is a prehistoric stone circle on Salisbury Plain comprising a megalithic rock monument of 150 enormous stones set in a circular pattern

dating back to 3000 BC. While there are larger stone circles in the world, including one nearby at Avebury, Stonehenge is unique because the Sarsen stones are surmounted by lintels connecting to one another and once formed a complete, connected ring. Stonehenge was built over a period of 1,500 years. It is a World Heritage Site attracting some one million visitors per year. Given the commercial operation of the property, it has been valued using the R&E method at a rateable value of £700,000.

### **Summary**

Crown-owned and occupied property is currently valued in accordance with normal valuation methods and principles. The removal of the Crown exemption has resulted in the "correct" valuation of unique and often iconic historic buildings. The valuation methods applied have to reflect the use of the buildings and, where rental evidence is limited, the cost-based approach may be required. This latter approach brings with it significant difficulties when applied to buildings that are several hundred years old. In such circumstances valuers have to be creative, artistic, and scientific in their valuations. **L**

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# A Tale of Two Land Trusts: Strategies for Success

*Audrey Rust*

Land trusts across the United States differ vastly in terms of age, size of protected acreage, mission, strategy, budget, and context. Audrey Rust, an acknowledged conservation leader and the 2012 Kingsbury Browne Fellow at the Lincoln Institute, is in a unique position to parse the differences between two strikingly distinct yet successful preservation efforts in the American West. She served as president and CEO of the Peninsula Open Space Trust (POST) in Palo Alto, California, for 24 years until July 2011, and she is now a board member of the American Prairie Reserve (APR) in Bozeman, Montana.

APR is one of the nation's most ambitious new conservation efforts, aiming to assemble 3.5 million acres and create the largest wildlife complex in the lower 48 states—in Montana, the nation's fourth largest state with the seventh smallest population (just one million as of 2012). By contrast, POST encompasses only 2 percent of APR's projected acreage, yet is considered remarkably successful for amassing 70,000 acres of very expensive open space, farms, and parkland in a densely settled region, from San Francisco to Silicon Valley, with more than seven million inhabitants.

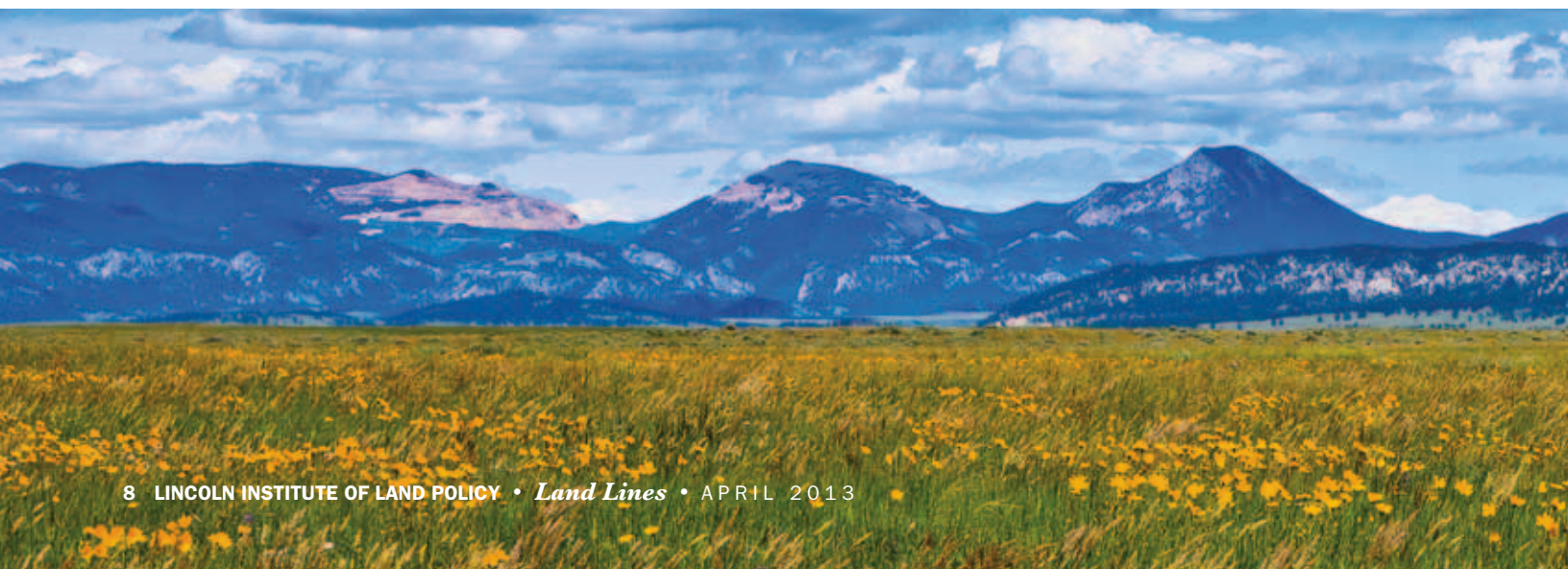
Despite their dissimilar profiles, these organizations share a surprising number of similarities. In this Q&A with the Lincoln Institute, Rust compares POST's and APR's particular histories and characteristics, based on her first-hand experience with each organization, and offers some universal lessons for all involved in the difficult and challenging work of preserving open space.

## ***Lincoln Institute:* How did the Peninsula Open Space Trust begin and what is its mission?**

***Audrey Rust:*** POST is a 35-year-old, traditional land trust in a dense metropolitan region, which has grown significantly since POST was founded in 1977. It began as a private conservation partner for the Midpeninsula Regional Open Space District, a public, tax-supported agency on the San Francisco Peninsula (figure 1). Working on the urban fringe, POST would raise private funds on behalf of the District and take on an occasional land donation project. To this day, all the territory it protects lies within a major metropolitan area.

Given POST's densely populated location, it was essential from the beginning to immediately include opportunities for low-intensity public recreation and provide exposure to the biodiversity

**Spring on the American Prairie Reserve.**



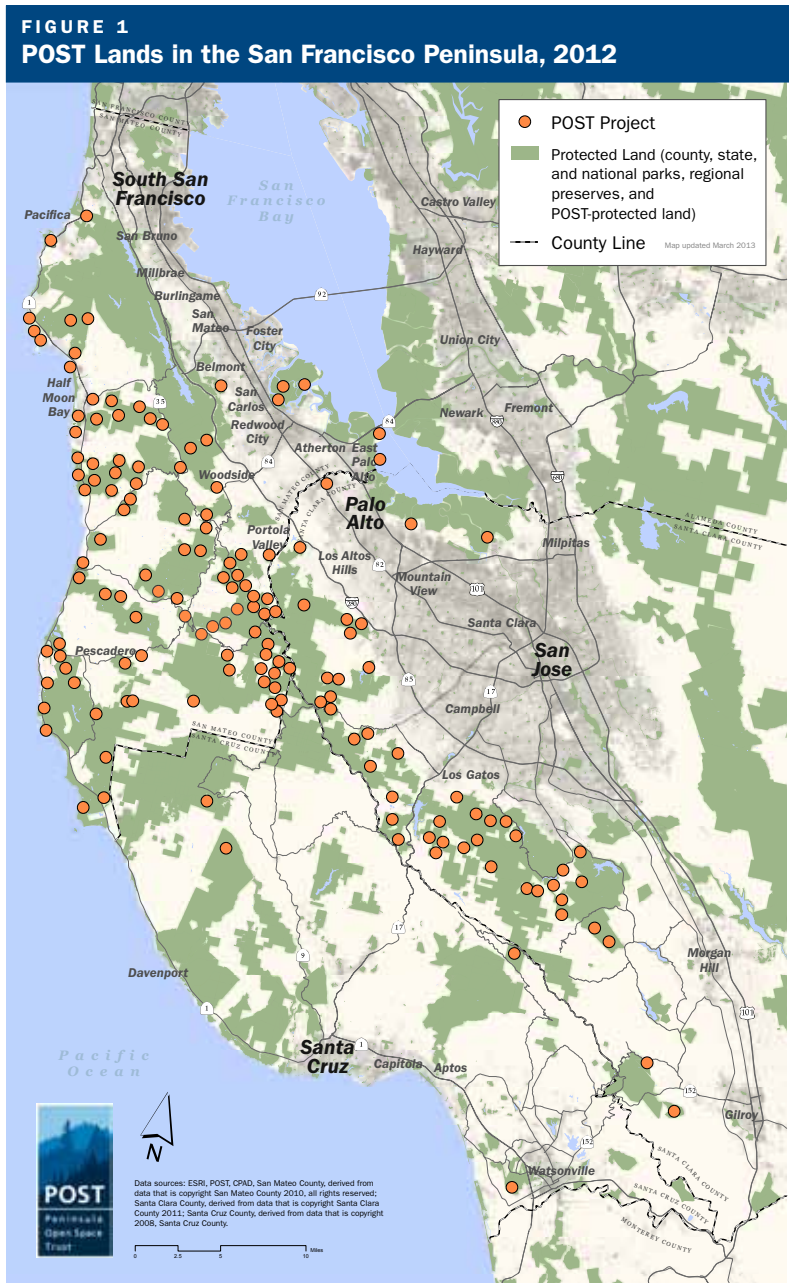
of the peninsula, where within a 12-mile transect one can pass through at least nine distinct ecosystems. POST works to assure a system of interconnected open lands in corridors along the San Francisco Bay, the Santa Cruz Mountains, and the Pacific Coast. No specific number of total acres is contemplated, unless a particular campaign is underway, but giving people a place to experience nature is a driving force.

**Lincoln Institute: How do the genesis and mission of the American Prairie Reserve compare?**

**Audrey Rust:** Since it was founded in 2002, APR has amassed 274,000 acres but seeks to permanently protect some 3.5 million contiguous acres of short-grass prairie as a wildlife reserve in northeastern Montana—one of only four places on earth where such a conservation effort is possible (figure 2). The idea originated from research done by a group of nonprofit conservation organizations working in the northern Rockies, with science assistance from the World Wildlife Fund at the start.

APR is reintroducing plains bison that are free of cattle gene introgression and intends to develop a sustainable herd of 10,000 animals while restoring other native species including prairie dogs, black-footed ferrets, and burrowing owls. APR acquired a lot of land quickly, but it will take decades to reintroduce wildlife and foster significant growth of species populations.

Federal lands form a large part of the wildlife habitat APR is assembling. The Reserve lands are adjacent on the south to the Charles M. Russell National Wildlife Refuge and on the west to the Upper Missouri River Breaks National Monument,



© Dave M. Shumway



which figures prominently in our nation’s history as part of the Lewis and Clark expedition.

**Lincoln Institute: What are the key challenges for POST and APR?**

**Audrey Rust:** Funding any conservation work is always the biggest challenge. The first hurdle is identifying potential donors and getting their attention. To do that, you need a clearly articulated vision and the ability to make the project relevant to the potential donor. Validation of the mission from a third respected party is key. You also need some means for the donor to experience the relevant work and feel appropriately included, in addition to a well-developed relationship that results in an appropriate request for support made at the right time.

**Lincoln Institute: What are the particular funding challenges at POST?**

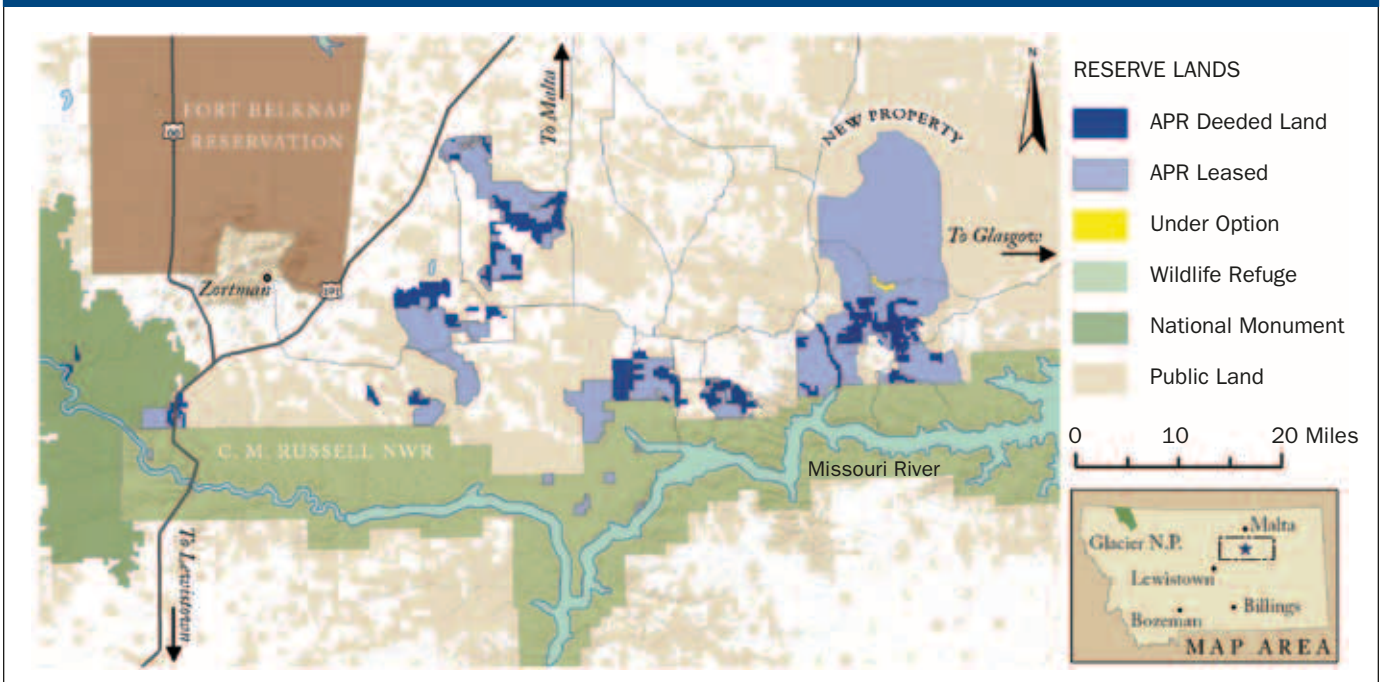
**Audrey Rust:** In the San Francisco Bay Area, millions of people see and appreciate how proximity to nature enhances their quality of life, but most do not know the role POST plays in assuring this; or, if they do know, they don’t necessarily feel moved to support POST’s work financially.

Competition for philanthropic dollars within the small geographic area of Silicon Valley is intense. All the major conservation organizations, plus Stanford University’s powerful fundraising machine, operate in the area.

Fundraising takes a traditional course at POST. There is a well-developed annual giving program that moves many donors to the upper capital gift levels. Many of them are willing to lend their networks to the effort, and because of the successes of the organization and the existing donor list, people feel comfortable and supported by their community when making a gift. POST’s model has also depended on finding and creating public funds and then selling land or easements to a public entity, at or below the price paid by POST, allowing the organization to return donor funds to be used again and again.

POST also faces the challenge of success. Often leadership-level donors are ready to move on to new ideas and new environmental issues, seeing that their personal impact is not as visible as it would be in starting their own new organization. Some donors feel they have done their part, and now it’s someone else’s turn. New top leadership-level donors are as difficult as ever to attract.

FIGURE 2  
American Prairie Reserve Lands in Montana, 2012



Source: American Prairie Reserve



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**Lincoln Institute: How do APR's mission and goals affect its fundraising strategy?**

**Audrey Rust:** APR faces what is often called a “pipeline” problem. As a relatively new organization—and one where the potential donor population is both scattered and at a great distance from the Reserve—finding the right people has required many false starts and unproductive gatherings. It has been difficult to expose potential donors to the project in ways that can build a philanthropic relationship. Although board members are willing, only a few have networks that have proven productive for APR. It's difficult and expensive to assess the real interest of a potential donor, estimate his or her likely gift level, and develop an ongoing relationship with a person who is geographically removed. As yet, status is not associated with being a supporter, and the enormity of the campaign goal (\$300 million to \$500 million) dwarfs even million-dollar gifts. Any practical campaign would need to attract a gift of \$80 million to \$100 million at the top of the fundraising pyramid.

Building a productive leadership-level prospect list is only worthwhile if meetings and relationships

can happen. Geography creates difficulties when there are not enough people in one area, and efforts can't be leveraged. Time is a key element in building the needed relationships.

Because of its rare size and scope, however, APR may have singular appeal to extremely wealthy individuals who, like the Rockefellers decades ago, could create this Reserve with their philanthropy alone. This is the unfulfilled dream of every executive director. Chances are slim, but history shows it is possible. APR's model has never looked to public funding as a way to leverage private dollars, since the leased public lands are in some measure doing just that.

Another key funding challenge for APR is the scale of the project. Impact comes in increments of 50,000 or 100,000 acres in a landscape where conservation biologists have determined that a mixed-grass prairie would need to be approximately 5,000 square miles (roughly 3.2 million acres) to be a healthy, functioning ecosystem that supports the full complement of native prairie biodiversity.

**Just south of San Francisco, Rancho Corral de Tierra was slated for development until POST preserved its nearly 4,000 acres, now managed by the Golden Gate Recreation Area.**

**Lincoln Institute: How has the leadership at both organizations handled the funding challenges?**

**Audrey Rust:** At both APR and POST, the first president/executive director, who also served as a board member, had a solid business background but no experience fundraising or running a non-profit organization. The second board chair of both organizations was a successful venture capitalist and was viewed as a founder. All these leaders were charismatic and well-connected. Last but not least, both founding executive directors had to contribute or lend substantial funds to the organization to keep it afloat.

APR's founding President Sean Gerrity is still at the helm after ten years, and his passion for conservation is undiminished. The time needed for extensive travel and meeting the financial needs of the organization was more than a full-time job, however, and none of the development professionals he hired could relieve his load. On the premise that potential donors want to meet someone with a title, two years ago Gerrity made a major change in how the organization functions by hiring two managing directors who are able to carry a significant fundraising and content load. The strategy requires regular telephone or in-person meetings to stay aligned on all aspects of the organization, but it's working. Organizing around the managing director model has allowed APR staff to travel more and develop better donor relationships. Current personnel have been in place for fewer than two years, but they are making progress.

**Lincoln Institute: How did you weather the fundraising challenge at POST?**

**Audrey Rust:** When POST hired me to replace Founding Executive Director Robert Augsburg in 1986, my first mission was to raise \$2 million in a few months in order to exercise an option on a key coastal ranch, POST's first truly independent project.

I understood the local donor community and had a good deal of experience in fundraising and nonprofit management. I was completely absorbed by the work and the need to meet our financial obligations. Although travel usually wasn't necessary to raise funds, the proximity of potential donors meant that every weekend, every farmer's market, every local event was an opportunity to connect. We undertook one major project after

another, doing good conservation work and building momentum, but I was exhausted.

To solve this problem, I also found really good staff people. My approach, however, was traditional: Get enough money in the bank to hire adequate staff and ensure one of them was a young lawyer with potential to take on additional responsibilities and leadership. I would continue doing large-gift fundraising as well as oversee key land acquisition strategy and negotiation, and others would take over more of the day-to-day work and administration. The ability to grow the staff and delegate some of the work was a major step forward for me and the organization.

**Lincoln Institute: What has been POST's basic approach to land acquisition and how has that affected its financial strategy?**

**Audrey Rust:** Both POST and APR want to connect existing public lands through acquisition of adjacent, privately held property, and both have treated local conservation entities as key allies in the task of preserving biodiversity, providing public access, and creating a larger vision of a protected landscape. Their different basic land conservation strategies, however, lead to very different funding patterns and long-term financial impacts.

POST plans to transfer all the land it protects, and most of it will go into public ownership as federal, state, and county parks or to one of the regional open space districts for its management and permanent protection. Agricultural land, protected by strict conservation easements, is sold to local farmers. POST retains the easements along with an easement endowment fund to assure their monitoring and compliance.

The first project POST undertook in the late 1970s resulted in the gift and subsequent sale (at half the appraised value) of a highly visible property adjacent to the town where a high percentage of potential donors lived. The funds resulting from this sale allowed POST to save some additional lands. However, the organization progressed slowly for nearly a decade, with no real financially sustainable land protection strategy in place.

In 1986, driven by an opportunity to purchase a 1,200-acre coastal ranch, POST optioned the property, which required owner-financing, significant fundraising, and later statewide political action. Success led to the creation of a working capital fund that allowed POST to repeat a similar strategy

several times, focusing on prominent and ambitious conservation projects. Gaining a reputation for delivering on its promises, POST transitioned to raising funds in a capital campaign for a much larger inventory of property. Having working capital freed POST to focus on what *needed* to be done, rather than what *could* be done.

**Lincoln Institute: What were the key accomplishments and shortfalls of POST's strategy?**

**Audrey Rust:** POST was able to build working capital and show donors a leveraged return. Success built on success, and today POST operates with a working capital account of more than \$125 million. Protected land was never at any risk of being lost due to financial issues. The type of public funds used, coupled with private gifts, provide further assurances.

Each accomplishment has given POST the confidence to move to another level in direct protection, restoration, and collaboration. Sustainable forestry, affirmative easements on farmland, conservation grazing, and exotic species removal are all now a part of its conservation arsenal.

On the other hand, a broad vision of what the future could hold was never well articulated, as POST essentially worked in an incremental fashion. Stirring the imagination of leadership-level entrepreneurial donors, the primary wealth in the Valley, became more difficult as time went on. It was also difficult for the organization to embrace the restoration and management of land being held for later transfer.

As public funds have begun to dry up, public agencies are less likely to take on the obligation of additional land ownership. POST experiences both the expense of holding the property indefinitely and the inability to sell the land to return capital to its account.

**Lincoln Institute: What has been APR's basic approach?**

**Audrey Rust:** APR faces a different situation in Montana, where the privately held ranches are far larger than any parcel in the Santa Cruz Mountains, and their owners control additional vast tracks of federally owned leased land. APR intends to hold these private fee lands and leases in perpetuity. Privately raised endowment funds will be required to ensure the management of these lands.

APR wanted to show from the beginning that it could make real progress on its large conservation vision, despite the lack of funds. APR moved quickly to acquire land and the accompanying leases using owner financing. The leadership of the organization felt putting a stake in the ground was the only way to begin to attract the money it would need to acquire the property that would make up the Reserve. Without sufficient fundraising experience or a developed prospect list, the struggle was enormous. Until recently, only minimal funds were held in reserve, making it extremely stressful to meet financial obligations, especially for debt.

**The American Prairie Reserve seeks to restore the region's population of burrowing owls.**



© Dennis Lingohr/APR

**Lincoln Institute: What are APR's key accomplishments and ongoing challenges?**

**Audrey Rust:** Persistence and good work are now paying off. Critical advances include the opportunity to acquire fees and associated leases on a 150,000-acre ranch and in 2012 a very important gift from one of the organization's largest supporters. APR also began building a high-end "safari camp" to open in 2013 that will allow them to bring leadership-level donors to the prairie, build relationships, and deepen their connection to the land.

The organization has a track record, demonstrating its ability to get things done, and can begin management practices to foreshadow future activity. Reintroducing genetically pure bison is a charismatic example. Extraordinary opportunities for acquiring key pieces of land can now be pursued. Without significant working reserves, however, APR staff and leadership are under great stress to meet their financial obligations. This creates a climate of looking for quick delivery on donations rather than developing the kind of leadership gifts the organization needs most for the long haul. As yet, plans are incomplete for assuring the permanent private protection of the acquired lands. Land that carries owner financing or is especially well priced may be purchased, even though its priority for acquisition may not be high. Raising the necessary endowment funds for the ongoing stewardship of the land has been slow.

**Lincoln Institute: In conclusion, what are key commonalities between these two very different organizations?**

**Audrey Rust:** POST and APR are at different stages in their organizational growth, and their futures are based on their most obvious differences and track records. However, it is possible to identify similar key elements leading to success:

- Capable leaders who are committed for the long haul;
- Strategy that fits the size of the vision;
- Developing funding sources that take years to come to fruition; and
- Partnerships with public agencies to leverage the conservation work.

Both organizations continue to face significant challenges in funding their goals. POST has successfully transitioned to new leadership and is pursuing ever larger and more complex conservation initiatives. Its success has dominated the organization for so long that it is difficult for new philanthropists to find something to "invent" and support. It is a very well-run organization, which leaves little room for the new Silicon Valley elite to provide their trademark "we can do it better" involvement. POST needs to do more to identify and attract those very few top-of-the-pyramid donors. This challenge is especially difficult because government participation has virtually ended, and POST's three largest donors are no longer making grants, in the \$20 million to \$50 million range, to this type of conservation. Further, it is difficult to point to an endgame, and, without it, the organization will lose urgency and gift support.

APR is new and exciting. The organization has sought a creative partnership with National Geographic, which produced an hour-long video called *The American Serengeti*, elevating APR's mission and bringing with it the national prominence APR needs to raise large gifts in the national arena. It is during this time that key leadership donors must become involved. In all nonprofit organizations, funding pyramids are becoming more and more vertical. Campaigns such as this one often depend upon one or two donors to make gifts equal to half or even two-thirds of the total goal. Without these donors, staff members are worn out by raising money, and the cost of fundraising rises rapidly.

I am convinced that the size, scope, and ability to measure the vision held by an organization are key determinants of success. Donors and the public in general are elevated by the idea that we can change our world. Clearly articulating and promoting that vision is instrumental. POST needs to work on its messaging to better articulate its current vision. APR needs to find more venues to effectively communicate its vision and develop a critical mass of supporters. **I**

*Conservation leader Audrey Rust, the 2012 Kingsbury Browne Fellow at the Lincoln Institute, will lecture on "The Peninsula and the Prairie: Regional and Large Landscape Conservation," at Lincoln House on May 1, 2013, at noon (lunch is free).*





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# Planning for States and Nation/States

## A TRANSATLANTIC EXPLORATION

*Gerrit Knaap and Zorica Nedovic-Budic*

**F**or planning processes to resolve the pressing issues of our day—such as climate change, traffic congestion, and social justice—plans must be made at the appropriate scale, must promulgate appropriate implementation tools, and must be enforced with legitimate authority. That is, our ability to meet critical challenges depends on the legal and institutional foundations of planning.

In the United States, responsibility for establishing these foundations for planning rests with the states, which in turn have delegated most land use authority to local governments. In Europe, the foundations of planning are established by each country, whose planning systems often feature national and regional plans as well as a mosaic of local plans. For better and for worse, these institutional foundations have framed the planning process on both sides of the Atlantic Ocean for most of the post-war period. But as the scope of our planning challenges continues to broaden, and discontent with the status quo continues to spread, several states and European nations have

begun to experiment with new and innovative approaches to planning. The opportunity to explore and discuss these issues brought scholars, practitioners, students, and others to Dublin, Ireland, in October 2012 for a two-day seminar sponsored by the Lincoln Institute of Land Policy and organized by the School of Geography, Planning, and Environmental Policy at University College Dublin and the National Center for Smart Growth at the University of Maryland. Held in the historic Newman House on St. Stephen's Green, the meetings featured overview papers on planning in the United States and Europe and case studies of five U.S. states and five European nations. Each presentation was followed by commentary from a high-level official from the corresponding state or nation (see box 1).

**A Framework for Spatial Planning in Europe**  
Planning in Europe is governed by a variety of traditions and governance structures (Faludi 2012). Some European nations have “unitary” governance structures, in which all land use authority ultimately rests with the national government. Italy and Spain have “regional” governance structures, in which

**Leinster House is the seat of Parliament in Ireland, one of few European countries engaged in planning that guides national investments and land use regulations.**

## BOX 1

**Papers Presented at the Dublin Seminar on Planning for States and Nation/States, October 2012**

Bierbaum, Marty

*The New Jersey State Development Plan*

Faludi, Andreas

*The Europeanisation of Planning and the Role of ESPON*

Fulton, Bill

*Planning for Climate Change in California*

Galland, Daniel

*The Danish National Spatial Planning Framework*

Geppert, Anna

*Spatial Planning in France*

Grist, Berna

*The Irish National Spatial Strategy*

Knaap, Gerrit

*PlanMaryland: A Work in Progress*

Lewis, Rebecca

*The Delaware State Development Plan*

Needham, Barrie

*The National Spatial Strategy for The Netherlands*

Salkin, Patricia

*Planning Frameworks in the United States and the Role of the Federal Government*

Seltzer, Ethan

*Land Use Planning in Oregon: The Quilt and the Struggle for Scale*

Tewdwer-Jones, Mark

*National Planning for the United Kingdom*

For more information about the seminar, see the program website: <http://www.ucd.ie/gpep/events/seminarsworkshops/conferences/natplansymp2012>

land use authority is constitutionally shared between the national government and regional governments. Austria, Belgium, and Germany have “federalist” governance structures, in which particular land use functions are distributed among the national, regional, and local governments. Within these frameworks a variety of planning cultures and traditions have evolved: “aménagement du territoire” in France; “town and country planning” in the UK; “Raumordnung” in Germany; and “ruimtelijke ordening” in The Netherlands. While these terms generally connote what “urban planning” means in the United States, there are important, nuanced, and fiercely defended differences.

The expression for urban planning used by the European Union is “spatial planning” (European Commission 1997, 24).

Spatial planning refers to the methods used largely by the public sector to influence the future distribution of activities in space. It is undertaken with the aims of creating a more rational territorial organization of land uses and the linkages between them, to balance demands for development with the need to protect the environment, and to achieve social and economic objectives.

Spatial planning embraces measures to co-ordinate the spatial impact of other sectoral policies, to achieve a more even distribution of economic development between regions than would otherwise be created by market forces, and to regulate the conversion of land and property uses.

The European Union has no authority to engage in spatial planning, but directly influences spatial planning outcomes through regional development initiatives, environmental directives, and structural and cohesion funding. This goal is articulated in the European Spatial Development Perspective (ESDP) signed in 1998 by the ministers responsible for spatial planning in the member states and the members of the European Commission responsible for regional policy (Faludi 2002).

Modern spatial planning in the European context is broadly understood to include national, regional, and local planning, where national plans provide broad national development strategies and guidelines for plans at lower levels of government; regional plans integrate physical development with social, economic, and environmental policies but without site-level specificity; and local plans are site-specific and address the physical and urban design elements of the built environment. While none of the planning frameworks for the member nations matches this neat hierarchical ideal exactly, the ESDP has influenced planning activity in every nation.

The ESDP itself is based on longstanding European planning traditions dating to World War II, when national development or reconstruction plans were indisputably necessary for post-war reparations. Many European nations still have national development plans and complementary national spatial strategies. But the influence and importance of those plans has diminished steadily since reconstruction. In the last decade in particular, nations once known for their ambitious and extensive commitment to planning—France,

Denmark, and the United Kingdom among them—have failed to adopt new national plans and expressly placed greater emphasis on regional and local plans.

### National European Spatial Strategies and Frameworks

#### France

Although France is a unitary, centralized nation-state, the national government has never played a leading role in spatial planning. Rather, responsibility for spatial planning was officially transferred to regional and local governments in devolutionary reforms adopted in 1982 and 2003 (Geppert 2012). Although coordination between governments at different levels continues, this process results more often in joint investment strategies rather than in shared spatial visions or common objectives. Before most other nations, the French national government began focusing less on spatial planning and more on sectoral policies, leaving spatial issues for lower levels of government.

#### Denmark

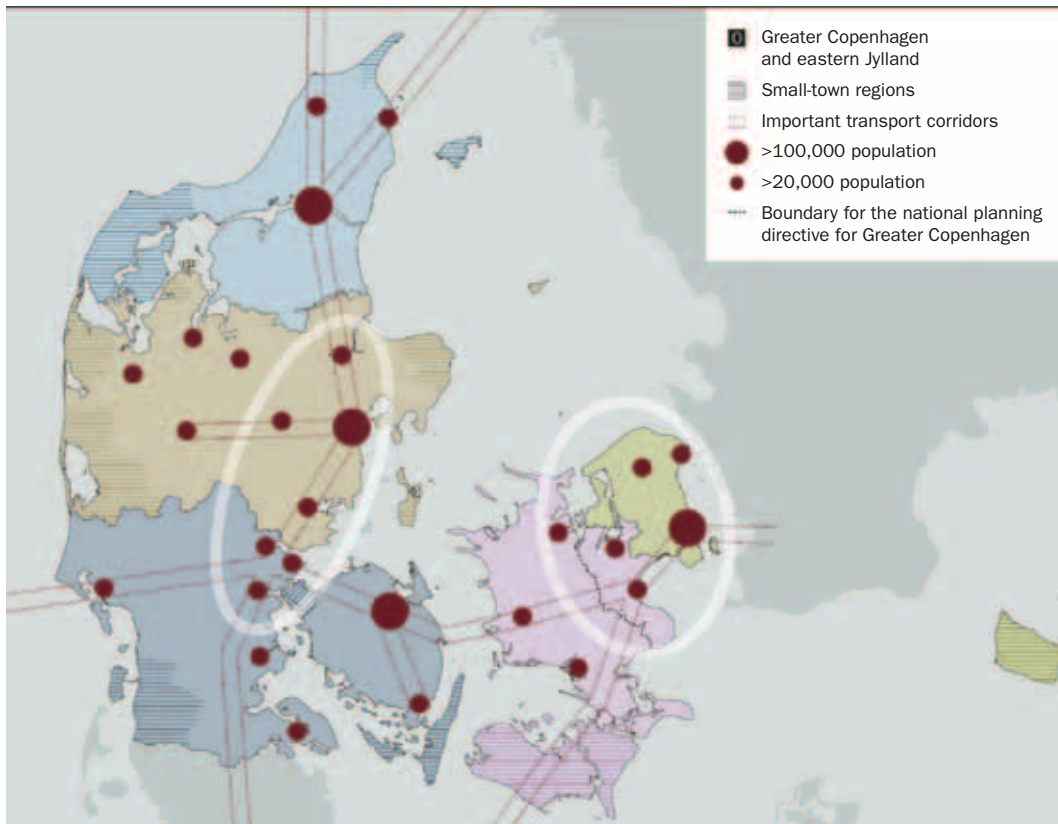
Planning in Denmark historically began with a comprehensive national planning framework (Gal-land 2012). Over the last two decades, however, as a result of interrelated political and economic factors, the land use roles of national, local, and regional governments within the national territory have significantly transformed the scope, structure, and understanding of Danish spatial planning (figure 1).

Among the implications of this reform, several spatial planning responsibilities have been decentralized to the local level while regional planning for Greater Copenhagen and other sectoral functions have been transferred to the national level. Moreover, the recent abolition of the county level of government has increased the risk of uncoordinated spatial planning and decreased coherence across diverse policy institutions and instruments.

#### The Netherlands

The Netherlands has perhaps the longest and best-known tradition of national spatial planning, and

**FIGURE 1**  
**The New Map of Denmark: Spatial Planning under New Conditions, 2006**



Source: Denmark Ministry of the Environment (2006).

its plans include industrial as well as detailed spatial policies (Needham 2012). For several decades, Dutch national plans influenced the distribution of people and activities throughout the country. In the first decades after World War II, all levels of government—national, provincial, and municipal—tended to work together in their spatial planning. In the 1990s, however, they started to move apart. In response, the national government strengthened its own powers over the local governments (a form of centralization), and at the same time reduced its own ambitions to pursue a national spatial strategy (a form of decentralization). The latest national spatial strategy expressly withdraws from some planning tasks previously carried out by the national government.

### ***United Kingdom***

In the early 1900s, the UK Parliament divested its direct powers to plan; instead, the powers of intervention, new state housing development, and regulation of private housing development were handed over to local governments (Tewdwr-Jones 2012). In the following decades, the central government did acquire new planning powers of its own as a consequence of World War II and the need to rebuild cities, infrastructure, and the economy in the national interest. Since 1945, central government has retained these powers, while also permitting the monitoring of local authorities in their operation of the planning system.

These powers have changed dramatically over the last 70 years. After 1999, devolution in Wales, Scotland, and Northern Ireland further fragmented the meaning of “national” in policy and planning terms. During the 2000s, the push toward regional spatial planning in England also rebalanced national planning matters toward sub-national interests. As a result of this trend in devolution, decentralization, regionalism, and localism over the last 20 years, it is increasingly questionable whether the UK now possesses anything that could be regarded as a national planning system, since so much has changed spatially and within policy-making institutions and processes across different parts of the country.

### ***Ireland***

Ireland is one of few European nations not following the trend toward decentralization of planning authority, partly due to the fact that its planning system has been fully decentralized (Grist 2012).

Largely following EU guidelines, Ireland adopted a series of national development plans, the latest one being the National Development Plan 2007–2013. Based on recommendations in the previous national plan, the Department of Environment, Community and Local Government in 2002 developed the Ireland National Spatial Strategy. This strategy identified critical gateways and hubs and articulated plans to decentralize economic activity from Dublin and throughout the island.

Following a turbulent period that saw the rise and fall of the Celtic Tiger, blamed in part on lax local planning policies allied with extensive incentivizing of property development and political corruption, the country is now revisiting that strategy, strengthening regional development guidelines, and imposing new consistency requirements on local governments.

Under the new evidence-based planning regime, local plans must conform more closely with regional planning guidelines, and local plans will have quantitative limits on how much development can be allowed. The future role of the National Spatial Strategy is currently in the review process as the new government, elected following the property crash in Ireland, examines the planning and development issues that prevailed during the property bubble.

### **The Federal Government and Land Use in the United States**

The U.S. federal government, like the European Union, has no authority to plan and manage land use, but probably has a greater influence on the location and nature of development patterns (Salkin 2012). Besides the billions of dollars it allocates for transportation infrastructure, social services, development, and redevelopment, the federal government is a major landowner of more than 630 million acres across the country. Federal regulations are also highly influential. The Clean Air and Water Acts, for example, impose no restrictions on land use *per se*, but in establishing targets for ambient air quality and nutrient loadings to rivers, lakes, and streams, both acts profoundly influence local land use plans, regulations, and development patterns.

More recently, President Barack Obama’s administration has established a new channel of federal influence on land use planning and regulation. While the federal government continues to refrain from direct intervention in local land use

governance, the secretaries of the Departments of Transportation and Housing and Urban Development and of the Environmental Protection Agency signed a memorandum of understanding establishing the Sustainable Communities Partnership. To promote six principles of sustainable communities, these agencies launched a number of new grants programs, including the Regional Sustainable Communities Planning Grants. To be eligible for such a grant, local governments must form inter-organizational consortia that include the metropolitan planning organization (MPO), the central city, the majority of local governments, and a representation of civic and advocacy groups.

While the stated purposes of these path-breaking grants include urban revitalization, environmental protection, social justice, and sustainable development, an equally important purpose is to establish new inter-institutional relationships by promoting greater inclusion and participation. Regional Sustainable Communities Planning is now underway in 74 metropolitan areas across the country. It remains to be seen, however, whether the incentives offered to local governments to engage in regional planning are sufficient to get them to participate in regional plan implementation without additional state-level intervention.

### State Plans and State Planning Frameworks

Every state established a framework for local planning and regulation in the 1920s and 1930s based on the standard planning and zoning enabling acts prepared by the U.S. Department of Commerce. Despite expectations of extensive institutional change, characterized in the “Quiet Revolution” more than 40 years ago, most states merely authorize local governments to plan (Salkin 2012).

Others, like Oregon, mandate, review, and approve local plans (Seltzer 2012). If local governments do not submit plans that meet the state’s land use goals and guidelines, the state can withhold funds or the authority to issue building permits. Several unique land use institutions also support the Oregon planning system, including a state planning commission, a land use court of appeals, and a directly elected regional government. Though simple in structure, and frequently challenged in the courts and at the ballot box, the Oregon system has a reputation as one of the most, if not the most, effective land use systems in the United States (Ingram et al. 2009).



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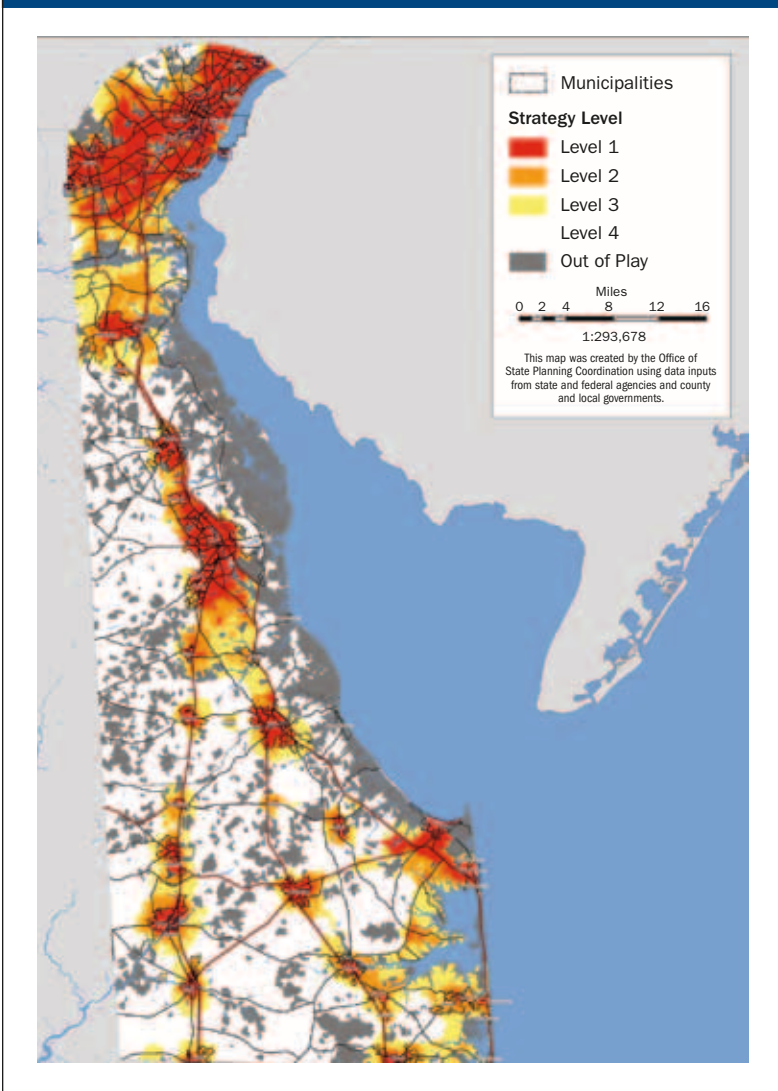
California is among the states that delegated substantial land use authority to local governments. Although major development projects have to pass a complex mini-National Environment Policy Act process, and the California Coastal Commission was an innovative new statewide institution in its day, local planning remains dominant. But in 2008, the state adopted a bold new initiative to address climate change—Senate Bill 375, which required MPOs to develop transportation and land use plans that meet state greenhouse gas targets. The difficulty is that local governments, not MPOs, retain land use authority in California. MPOs and the state governments are providing incentives for local governments to adopt plans that conform with metropolitan plans, but it remains uncertain whether the combination of financial and other incentives are sufficient to nudge local governments to follow the MPO plans (Fulton 2012).

At the other extreme, plans for entire states are not common in the United States. In response to federal requirements, most states do have transportation plans, and some have economic development plans, workforce development plans, or climate action plans, but only five have state development plans—Connecticut, Delaware, Maryland, New Jersey, and Rhode Island.

New Jersey and Delaware have perhaps the best- and least-known state plans, respectively. New Jersey adopted its State Planning Act in 1985, requiring the state planning commission to develop, adopt, and implement the New Jersey State Development and Redevelopment Plan (Bierbaum 2012). The planning process included a complex cross-acceptance procedure for identifying and resolving differences between the state and local governments. Since its adoption, the influence of

**Attendees from the October 2012 Lincoln Institute seminar, “Planning for States and Nation/States,” at Newman House, University College, Dublin.**

**FIGURE 2**  
**Delaware: State Strategies for Policies and Spending, 2010**



Source: State of Delaware Office of State Planning Coordination

and attention received by the plan has ebbed and flowed over successive gubernatorial administrations. Most recently, Governor Chris Christie’s administration developed an entirely new state plan, focused primarily on economic development without the cross-acceptance process. The state plan commission, however, has not yet adopted the plan.

The Delaware plan is much less well-known and far less controversial than the New Jersey plan, and both the content and process are less complex (Lewis 2012). The Delaware plan includes five general land designations (figure 2). It depends on state-local coordination and relies on the threat of withholding infrastructure funding (of which the state pays a significant share) to incentivize compliance by local governments. Because the state did not begin tracking data on development patterns

until 2008, and does not maintain spatial data on state expenditures, it is difficult to discern the impact of the approach on development and the consistency of state spending with the state plan map.

Maryland is the only state that rivals California and Oregon in its adoption of bold new approaches to planning, based on its long tradition of leadership in land use and environmental policy (Knaap 2012). Maryland established the first state plan commission in 1933, and broke into the national spotlight in 1997, when it adopted the path-breaking Smart Growth and Neighborhood Conservation Act. Since 1997 the use of state expenditures to provide incentives for smart growth has been the signature feature of the Maryland approach. Long before anyone in Maryland spoke the words “smart growth,” however, the state had passed legislation in 1959 that required the Maryland Department of Planning to develop and adopt a state development plan. More than 50 years later, the administration of Governor Martin O’Malley finally met that requirement.

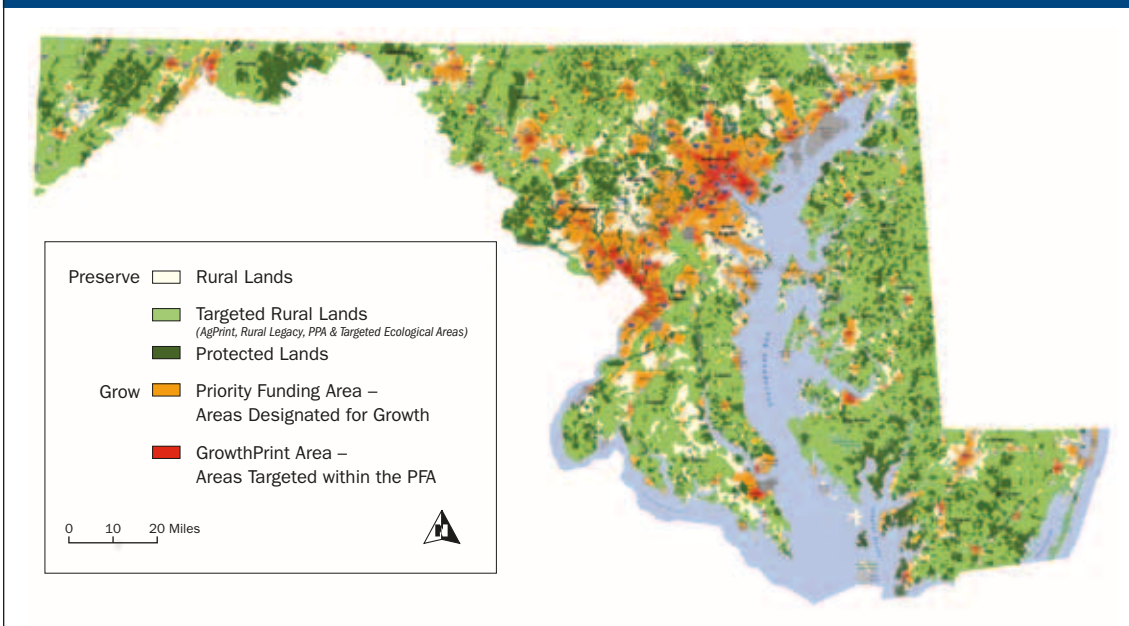
On December 19, 2011, Governor O’Malley signed PlanMaryland, establishing the first new state development plan in the United States in many years (figure 3). But unlike state plans in New Jersey or Delaware, the Maryland plan is more procedural than substantive. Specifically, it established six plan designation categories and, following a longstanding Maryland tradition, enabled local governments to allocate land for any or all designated uses. State agencies would then target programmatic funds to each of these areas. Since the plan was signed, state agencies have been developing and refining implementation plans, and local governments have just recently begun submitting plans for state certification.

**Concluding Comments**

The frameworks for land use and spatial planning vary extensively across Europe and the United States. On both sides of the Atlantic, local governments carry much of the load, especially with respect to community, neighborhood, and site-specific details. But the role of regions, states, and nations remains important.

Contrary to its reputation in the United States, planning in many European nations has decentralized extensively. Few European nations are engaged in full-scale national plans that guide national investments and land use regulations. In fact,

**FIGURE 3**  
**PlanMaryland Targeted Areas**



Source: Maryland Department of Planning

planning in Europe, while still far more comprehensive in sectoral details than in the United States, shares many policy features with its North American counterpart. An interesting exception is Ireland, which continues to expand the role of national and regional governments partly as a response to the recent period of extremely decentralized planning that failed to take into account and implement the national strategy. Ireland is also one of the few countries adhering to the broad principles of spatial planning formally adopted by the European Union.

In the United States, neither state development planning nor state approval of local plans is a rapidly growing practice. Indeed, despite the demonstrated success of the Oregon program and the growing recognition of the need for horizontal and vertical policy integration, land use planning in the United States remains a fiercely local affair. Although both the state of California and the federal government are providing financial incentives for intergovernmental coordination and planning at the metropolitan scale, it remains far from certain that incentives alone will secure the changes in local plans and regulations required to institute meaningful adjustments in land consumption, travel behavior, and access to opportunities.

New approaches are needed to make cities and metropolitan areas more productive, equitable,

and environmentally sustainable in light of anticipated challenges in the future. If these issues cannot be addressed adequately, other kinds of experiments in institutional planning reforms may become more common in many countries. **L**

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## Alan Mallach

**LAND LINES:** *How did you become involved with the Lincoln Institute?*

**ALAN MALLACH:** I have known about the Lincoln Institute for many years, and initially became involved in the 1990s through my work on brownfields redevelopment. Since then, I have served as faculty in a number of training sessions sponsored by the Institute and participated in meetings and conferences at Lincoln House. About seven years ago, Nico Calavita, professor emeritus in the Graduate Program in City Planning at San Diego State University, and I undertook research on inclusionary housing. This project led to the Institute's 2010 publication of our co-edited book, *Inclusionary Housing in International Perspective: Affordable Housing, Social Inclusion, and Land Value Recapture*. Most recently, I have been working with Lavea Brachman, executive director of the Greater Ohio Policy Center, on a policy focus report that looks at the issues associated with regenerating America's legacy cities (see page 24).

**LAND LINES:** *What do you mean by legacy cities?*

**ALAN MALLACH:** "Legacy cities" is a term that has come into use increasingly to replace "shrinking cities" as a way to describe the nation's older industrial cities that have lost a significant share of their population and jobs over the past 50 or more years. Iconic American cities such as Pittsburgh, Detroit, and Cleveland are typically mentioned in this context, but the category also includes many smaller cities like Flint, Michigan; Utica, New York; and Scranton, Pennsylvania.

**LAND LINES:** *How do the issues of legacy cities engage the Lincoln Institute's central policy concerns?*

**ALAN MALLACH:** They do so in many different respects, but I think the strongest connection is around the question of how land is to be used in these cities. All of these cities have had a significant oversupply of both residential and nonresidential buildings relative to demand, at least since the 1960s. As a result of extensive demolition over decades, they have accumulated large inventories of vacant or underutilized land. Detroit alone contains over 100,000 separate vacant land parcels and another 40,000 to 50,000 vacant buildings. While this inventory is a burden, it could also become an enormous asset for the city's future. How to develop effective strategies to use this land in ways that both benefit the public and stimulate economic growth and market demand is one of the central issues facing these legacy cities.

**LAND LINES:** *How would you compare this challenge to your work on inclusionary housing?*

**ALAN MALLACH:** From an economic standpoint, it's the other side of the coin. Inclusionary housing is a way of using the planning approval process to channel strong market demand in ways that create public benefit in the form of affordable housing—either directly, by incorporating some number of affordable housing units into the development gaining the approval, or indirectly, through off-site development or cash contributions by the developer. As such, it involves explicitly or implicitly recapturing the incremental land value being created by the planning approval process. Inclusionary housing presupposes the presence of strong market demand and cannot happen without it.

Land reuse strategies in legacy cities seek to create demand where it doesn't currently exist or alternatively find ways to use the land that benefit the public and can be implemented even under conditions where market demand cannot be induced, at least for the foreseeable future. These approaches are often called "green" land uses, such as urban agriculture, open space, wetlands restoration, or stormwater management. It can be difficult to get local officials and citizens to recognize that the traditional forms of redevelopment, including building new houses,



shopping centers, and so forth, require the existence of a market for those products. However, the demand simply does not exist in many of these devastated areas. Moreover, the demand cannot be induced artificially by massive public subsidies, even though public funds can, under certain conditions, act as a stimulus to build demand.

**LAND LINES:** *Is lack of demand evident everywhere in legacy cities?*

**ALAN MALLACH:** No, and that's one of the most interesting things about these cities. Some cities are seeing demand grow far more than others, but in most cases the revitalization is limited to certain parts of the city. One noticeable trend is that downtown and near-downtown areas, particularly those with strong walkable urban character, such as the Washington Avenue corridor in St. Louis or Cleveland's Warehouse District, are showing great dynamism, even while many other parts of those two cities are continuing to see population loss and housing abandonment.

Part of this dynamism is driven by walkability and strong urban form (see the new Lincoln Institute book by Julie Campoli, *Made for Walking: Density and Neighborhood Form* (2012), which examines 12 such walkable neighborhoods and the forces behind their recent popularity). A second important factor is that these areas appeal to a particular demographic—young single individuals and couples. This group is not only increasingly urban-oriented, but is growing in terms of its share of the overall American population.

**LAND LINES:** *What other issues are you exploring in your work on legacy cities?*

**ALAN MALLACH:** I am focusing on two research areas, one more quantitative and one more qualitative. In the first area, I am looking at how many of these cities are going through a pronounced spatial and demographic reconfiguration—a process that is exacerbating the economic disparities between different geographic areas and populations within these cities. While many older city downtowns, such as those of St. Louis, Cleveland, Baltimore, and even Detroit, are becoming increasingly attractive, particularly to young

adults, and are gaining population and economic activity, many other neighborhoods in these cities are losing ground at an increasing rate. In many places these trends are accentuating already problematic racial divides.

My second area of research revolves around the question of what it takes to foster successful, sustained regeneration. Lavea Brachman and I touch on this challenge in our policy focus report, but I am hoping to delve into it much more deeply, including looking at some European cities that have found themselves in situations similar to those of American legacy cities. I think the experiences of cities in northern England, for example, or Germany's Ruhr Valley, parallel changes in our own former industrial cities quite closely.

**LAND LINES:** *What do you mean by successful regeneration?*

**ALAN MALLACH:** That's a very important question. I think there's often a tendency to see a particular event—the Olympics in Barcelona or a major building like the Guggenheim Museum in Bilbao, Spain, for example—as evidence of regeneration, rather than, at best, a discrete spur to more substantial change. I believe that regeneration has to be a function of change in three fundamental areas: first, the well-being of the population, reflected in such measures as higher educational attainment and income or lower unemployment; second, a stronger housing market and greater neighborhood strength; and third, the creation of new export-oriented economic sectors to replace the lost industrial sector. Population growth alone (that is, reversal of historic population decline) may or may not be evidence of regeneration. It is more likely to follow these three changes rather than lead them.

**LAND LINES:** *What do you see as the future of America's legacy cities?*


**ALAN MALLACH:** I see a very mixed picture. As shown in the policy focus report, certain cities are doing far better than others. Pittsburgh and Philadelphia are showing strong signs of revival, while Cleveland, Detroit, and Buffalo are still losing ground. I think legacy cities are facing two daunting

challenges as they look to the future.

The first issue is what the new economic engines of these cities will be. The cities that have been more successful up to now tend to have the most significant clusters of major national research universities and medical centers. These institutions tend to dominate their cities' economies. While they have helped cities like Pittsburgh and Baltimore rebuild in the post-industrial era, I think a lot of questions remain about their sustainability as long-term economic engines.

The second question is demographic. Downtowns may be drawing young, single people and couples, but many of these cities' residential neighborhoods were built around 100 years ago as communities mainly for married couples to raise children. Now they are falling apart, including many neighborhoods that have remained stable until relatively recently. This demographic of married couples with children is shrinking across the country and even more so in our older cities. Today, only 8 percent of the households in Baltimore, for example, fit this description. I believe that the future of these neighborhoods is very important to the future of their cities, and I am very concerned about their prospects.

**LAND LINES:** *In spite of these challenges, how do you think your work is making a difference?*

**ALAN MALLACH:** The fact is, many cities are making progress. Pittsburgh has done an excellent job building on its assets to develop new economic engines, while Baltimore and Philadelphia are making impressive strides in reorganizing many of their governmental functions to better deal with their vacant and problem property challenges. Baltimore, for example, has initiated a program called Vacants to Value, which integrates code enforcement and problem property work with larger market-building strategies. I have been fortunate to be directly involved in this work in some cities, including Philadelphia and Detroit; elsewhere, I'm always gratified when local officials or community leaders tell me that they use my work, or that they have been influenced by my thinking. It makes all the effort very much worthwhile. 

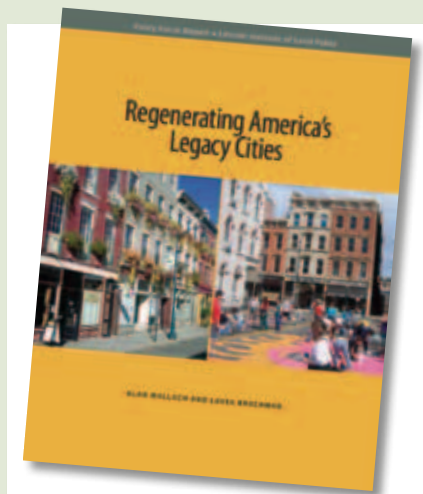
## Regenerating America's Legacy Cities

This policy focus report explores the challenges of regenerating America's legacy cities—older industrial cities that have experienced sustained job and population loss over the past few decades. It identifies the powerful obstacles that stand in the way of fundamental change in the dynamics of these cities, and suggests directions by which cities can overcome those obstacles and embark on the path of regeneration.

While almost all of the nation's older industrial cities declined through the 1980s, the picture has changed in more recent decades. The report examines 18 representative cities to explore how their trajectories have changed, with some showing signs of revival while others continued to decline. These 18 cities were selected from a universe of approximately 50 legacy cities, which met two primary criteria: population of at least 50,000 in 2010; and loss of at least 20 percent from the city's peak population. The cities represent geographic diversity, including New England, Mid-Atlantic, Southern, and Midwestern cities, as well as variation in their level of recovery or regeneration.

Alan Mallach and Lavea Brachman lay the groundwork by exploring the challenges these cities face and reviewing the economic, social, market, physical, and operational factors that have led to their present condition. The relative health or vitality of each of these cities was tracked with 15 separate indicators to measure population change, socioeconomic condition, housing markets, and economic activity. Some appear highly successful, at least in relative terms; others are clearly unsuccessful; and others fall in between.

Legacy cities have many assets that can be starting points for revitalization and change, including downtown employment bases, stable neighborhoods, multimodal transportation networks, colleges and universities, local businesses, historic buildings and areas, and arts, cultural, and entertainment facilities. A renewed competitive



### Regenerating America's Legacy Cities

Alan Mallach and Lavea Brachman  
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Policy Focus Report / Code PF034

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advantage, which will enable them to build new economic engines and draw new populations, is likely to come from leveraging the value of their assets.

The authors argue that regeneration is grounded in the cities' abilities to find new forms, including new physical forms that address the loss of population and changing economy. New models of governance and leadership, new forms of export-oriented economic activity, and new ways of building stronger regional and metropolitan relationships are other vehicles to successful regeneration.

In further addressing "what does it take to change?" the authors discuss what is meant by successful regeneration, followed by an exploration of obstacles to change, leading to the presentation of a model, which they call strategic incrementalism, as a framework with which cities can overcome these obstacles and pursue successful change.

The final section offers a series of recommendations to foster change in the nation's legacy cities. These include:

- Rebuilding the central core;
- Sustaining viable neighborhoods;
- Repurposing vacant land for new activities;
- Using assets to build cities' competitive advantages;
- Re-establishing the central economic role of the city;
- Using economic growth to increase community and resident well-being;
- Building stronger local governance and partnerships;
- Building stronger ties between legacy cities and their regions;
- Making change happen through strategic incrementalism; and
- Rethinking state and federal policy toward legacy cities.

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## Land in Conflict: Managing and Resolving Land Use Disputes

More than 25,000 local and regional governments in the United States play a role in making land use decisions that have become increasingly complicated and combative as diverse stakeholders voice their interests and concerns. Every day, public officials must make challenging decisions involving land that impact open space, economic development, transportation, and countless other issues. These decisions may affect the built environment, the landscape, the quality of life, and the economy for decades or even centuries. How officials make these decisions influences the way community members interact with one another and whether they work as a cohesive or a divided group.

Over the last one hundred years of land use management by local governments, a common four-stage approval process for decision making has developed: applicants are required to file proposals with a local board or department; these plans are reviewed and sometimes modified; the plans often come before a body such as the planning board or zoning board of appeals, which asks questions, may request further modifications, and hears public comment; and then the public body either makes a decision or refers its recommendation to a final decision-making body such as a town or city council.

This standard required process works well for the majority of noncontroversial land use decisions, which can be made quickly by various land use boards using this process. The relatively small number of decisions that are controversial can end up taking most of the board's time and effort. When faced with complex decisions, communities often become embroiled in battles that tear at the civic fabric, pit neighbor against neighbor, demonize the applicant, and wear down local officials. Volunteer board members, neighbors, and applicants are often disheartened by what seems to be an insufficient process for solving these difficult, heated land use disputes.



### Land in Conflict: Managing and Resolving Land Use Disputes

Sean Nolon, Ona Ferguson, and Pat Field  
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With years of professional experience and more than a decade of research sponsored by the Lincoln Institute of Land Policy, the authors, all associated with the Consensus Building Institute, have found that the mutual gains approach is a better way to manage the most challenging situations. This approach is guided by core principles, follows a set of clear action steps, and is useful at different stages of land use decision making. It is different from, though not incompatible with, the required land use procedures. In short, the mutual gains approach:

- is based on all stakeholder interests as well as the necessary technical information;
- involves stakeholders along with appointed and elected decision makers;
- generates information relevant and salient to stakeholders such as abutters, community leaders, and others;

- requires strong community and public engagement skills along with strong technical planning skills; and
- engages the public above and beyond sharing information and views.

The mutual gains approach to preventing and resolving land use disputes is not a single process or technique. It draws from the fields of negotiation, consensus building, collaborative problem solving, alternative dispute resolution, public participation, and public administration. The result is a more public, collaborative process designed to tease out the range of interests and criteria, compare various alternatives, and determine which alternatives meet the most interests. Case studies from across the United States and Canada illustrate the principles and steps in the mutual gains approach.

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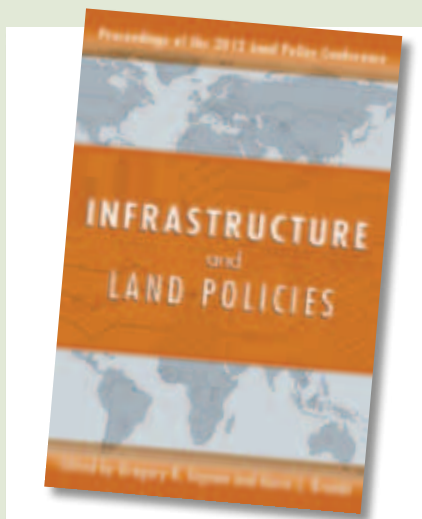
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## Infrastructure and Land Policies

More than 50 percent of the global population resides in urban areas where land policy and infrastructure interactions facilitate economic opportunities, affect the quality of life, and influence patterns of urban development. While infrastructure is as old as cities, technological changes and public policies on taxation and regulation produce new issues worthy of analysis, ranging from megaprojects and greenhouse gas emissions to involuntary resettlement. This volume, based on the 2012 seventh annual Land Policy Conference at the Lincoln Institute, brings together economists, social scientists, urban planners, and engineers to discuss how infrastructure issues impact low-, middle-, and high-income countries.

Infrastructure drives economic and social activities. For urban areas, the challenges of balancing economic growth with infrastructure development and maintenance are reflected in debates about finance, regulation, and location and about the sustainable levels of infrastructure services. Relevant sectors include energy (electricity and natural gas); telecommunications (phone lines, mobile phone service, and Internet); transportation (airports, railways, roads, waterways, and seaports); and water supply and sanitation (piped water, irrigation, and sewage collection and treatment).

Recent research shows that inadequate infrastructure is associated with income inequality. This is likely linked to the delivery of infrastructure services to households, such as direct health benefits, improved access to education, and enhanced economic opportunities. Because so much infrastructure is energy intensive, efforts to reduce greenhouse gas emissions and other negative impacts must address services such as electric power and transport. Bringing the management of infrastructure up to levels of good practice has a large economic payoff, and performance levels vary dramatically between and within countries. A crucial unmet challenge is to convince policy makers and voters that large economic returns can result from improving infrastructure performance and maintenance.



### Infrastructure and Land Policies

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### Contents

**Preface**, *Gregory K. Ingram and Karin L. Brandt*

#### Infrastructure, Land, and Development

- 1 Global Infrastructure: Ongoing Realities and Emerging Challenges, *Gregory K. Ingram and Karin L. Brandt*
- 2 Infrastructure and Urban Development: Evidence from Chinese Cities, *Yan Song*  
Commentary, *David Levinson*
- 3 Mobile Telephony and Socioeconomic Dynamics in Africa, *Mirjam de Bruijn*  
Commentary, *Anthony M. Townsend*

#### Finance, Regulation, and Taxation

- 4 Economic Regulation of Utility Infrastructure, *Janice A. Beecher*  
Commentary, *Timothy J. Brennan*
- 5 The Unit Approach to the Taxation of Railroad and Public Utility Property, *Gary C. Cornia, David J. Crapo, and Lawrence C. Walters*  
Commentary, *J. Fred Giertz*

- 6 The Location Effects of Alternative Road-Pricing Policies, *Alex Anas*  
Commentary, *Don Pickrell*

#### The Challenges of Large Projects

- 7 Chicago and Its Skyway: Lessons from an Urban Megaproject, *Louise Nelson Dyble*  
Commentary, *Richard G. Little*
- 8 Assessing the Infrastructure Impact of Mega-Events in Emerging Economies, *Victor A. Matheson*  
Commentary, *David E. Luberoff*
- 9 Involuntary Resettlement in Infrastructure Projects: A Development Perspective, *Robert Picciotto*  
Commentary, *Dolores Koenig*

#### Improving Sustainability and Efficiency

- 10 Sustainable Infrastructure for Urban Growth, *Katherine Sierra*
- 11 Understanding Urban Infrastructure-Related Greenhouse Gas Emissions and Key Mitigation Strategies, *Anu Ramaswami*  
Commentary, *W. Ross Morrow*
- 12 Strengthening Urban Industry: The Importance of Infrastructure and Location, *Nancey Green Leigh*  
Commentary, *Alain Bertaud*
- 13 What Is the Value of Infrastructure Maintenance? A Survey, *Felix Rioja*  
Commentary, *Waheed Uddin*
- 14 How and Why Does the Quality of Service Delivery Vary Across Countries?, *George R. G. Clarke*  
Commentary, *Ahmed Abdel Aziz*

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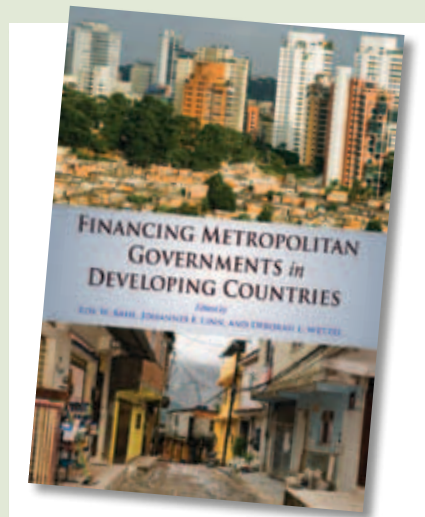
## Financing Metropolitan Governments in Developing Countries

The economic activity that drives growth in developing countries is heavily concentrated in cities. Catchphrases such as “metropolitan areas are the engines that pull the national economy” turn out to be fairly accurate. But the same advantages of metropolitan areas that draw investment also draw migrants who need jobs and housing, lead to demands for better infrastructure and social services, and result in increased congestion, environmental harm, and social problems.

The challenges for metropolitan public finance are to capture a share of the economic growth to adequately finance new and growing expenditures and to organize governance so that services can be delivered in a cost-effective way, giving the local population a voice in fiscal decision making. At the same time, care must be taken to avoid overregulation and overtaxation, which will hamper the now quite mobile economic engine of private investment and entrepreneurial initiative.

Metropolitan planning has become a reality in most large urban areas, even though the planning agencies are often ineffective in moving things forward and in linking their plans with the fiscal and financial realities of metropolitan government. A growing number of success stories in metropolitan finance and management, together with accumulated experience and proper efforts and support, could be extended to a broader array of forward-looking programs to address the growing public service needs of metropolitan-area populations. Nevertheless, sweeping metropolitan-area fiscal reforms have been few and far between; the urban policy reform agenda is still a long one; and there is a reasonable prospect that closing the gaps between what we know how to do and what is actually being done will continue to be difficult and slow.

This book identifies the most important issues in metropolitan governance and finance in developing countries, describes the practice, explores the gap between practice and what theory suggests should



### Financing Metropolitan Governments in Developing Countries

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be done, and lays out the reform paths that might be considered. Part of the solution will rest in rethinking expenditure assignments and instruments of finance. The “right” approach also will depend on the flexibility of political leaders to relinquish some control in order to find a better solution to the metropolitan finance problem.

### Contents

#### Foreword, Douglas H. Keare

- 1 Governing and Financing Metropolitan Areas in the Developing World, *Roy W. Bahl, Johannes F. Linn, Deborah L. Wetzel*
- 2 Metropolitan Cities: Their Rise, Role, and Future, *Shahid Yusuf*
- 3 Metropolitan Cities in the National Fiscal and Institutional Structure, *Paul J. Smoke*
- 4 The Decentralization of Governance in Metropolitan Areas, *Roy W. Bahl*

- 5 Institutions and Politics of Metropolitan Management, *Inder Sud and Serdar Yilmaz*
- 6 Metropolitan Public Finance: An Overview, *Richard M. Bird and Enid Slack*
- 7 Property Taxes in Metropolitan Cities, *William J. McCluskey and Riël C. D. Franszen*
- 8 Local Nonproperty Revenues, *Jorge Martinez-Vazquez*
- 9 Grant Financing of Metropolitan Areas: A Review of Principles and Worldwide Practices, *Anwar M. Shah*
- 10 Metropolitan Public Finances: The Case of Mumbai, *Abhay M. Pethé*
- 11 Paying for Urbanization in China: Challenges of Municipal Finance in the Twenty-First Century, *Christine P. Wong*
- 12 Metropolitan Governance and Finance in São Paulo, *Deborah L. Wetzel*
- 13 Metropolitan Infrastructure and Capital Finance, *Gregory K. Ingram, Zhi Liu, and Karin L. Brandt*
- 14 Slum Upgrading, *Maria E. Freire*
- 15 External Assistance for Urban Finance Development: Needs, Strategies, and Implementation, *Homi Kharas and Johannes F. Linn*

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## Políticas de suelo urbano: Perspectivas internacionales para América Latina Urban Land Policy: International Perspectives for Latin America

The Lincoln Institute of Land Policy has long given priority to translating *Land Lines* articles and other materials for our Latin American audience, and this new collection offers 53 articles on urban land policy issues and approaches originating in other countries around the world. As a complement to the previous compilation of *Land Lines* articles dealing with Latin American cases (*Perspectivas urbanas: Temas críticos en políticas de suelo en América Latina*; *Urban Perspectives: Critical Land Policy Themes in Latin America*), these articles dating from 2000 to 2012 report on studies conducted outside Latin America but chosen for their potential to inspire local improvements and innovations in land policy analysis, design, implementation, and evaluation.

Why should such a collection be of interest to Latin American decision makers whose reality is so very different from those represented by authors from Europe, the United States, China, and other places? The answer is two-fold. First, because many challenges and dilemmas involved in land policy are similar: the effects of land use regulation on housing supply; justification for fiscal exemptions for particular groups; tensions between individual property rights and social needs; sanctions for holding vacant land; integration of affordable housing into the social fabric; revitalization of abandoned or blighted central neighborhoods; mitigation of costs from urban sprawl; and the feasibility of designing and implementing a “green” agenda, to name just a few. Second, much can be learned from the specifics of different realities that can stimulate thinking on alternative ways to address familiar problems.

The introduction focuses on the topic that inspired this collection—the international transfer of ideas related to urban land policy, including the use of concepts, policies, programs, institutional arrangements, and planning tools developed in a different context. Idea transfer can occur in several forms: *emulation* or direct copy, where the original idea remains intact; *adaptation*,



**Políticas de suelo urbano:  
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where the idea is adjusted to the new context; and *inspiration*, where an idea originating elsewhere serves as the stimulus for a new policy or approach.

Despite the common tendency to think of Latin America as a homogeneous region, the cultural, political, historical, and institutional differences among countries may be as significant as the differences between the region and the rest of the world. For example, mixed-used developments at the fringe of Mexican cities may be less similar to those in Caracas than to their counterparts in the U.S. states of California and Arizona. In addition, insights gained from smart growth and other techniques to manage urban expansion in the United States may have greater resonance in some Latin American jurisdictions than would Colombia’s Nuevo Usme experience or Brazil’s Social Urbanizer efforts to provide serviced land and affordable housing.

Despite the recent expansion and dissemination of information—enabled by the Internet and other communication channels, growing international mobility, and the globalization of services—exposure to ideas is a necessary but not sufficient condition for the effective international transfer of good practices, and raises many unanswered questions. How are ideas from other places relevant to local problems? Has exposure to different ideas been effective in improving the quality of local debate? What consequences does idea transfer have for current public practices and the well-being of affected citizens? What metrics can be used to assess the impact of transferred practices in terms of efficiency, equity, and sustainability of land use?

These issues, germane to the work of the Lincoln Institute and other international organizations and agencies, require more comprehensive analysis, but the articles presented in this volume are designed to provide inspiration for the development of clearer answers.

### Contents

#### Introduction

- 1 Planning and Urban Development
- 2 Land Use and Urban Redevelopment
- 3 Accessible Housing, Urban Regulation, and Real Estate Markets
- 4 Property Rights and Conservation
- 5 Property Tax Policy
- 6 Property Tax Techniques and Valuation
- 7 Recent Themes in Land Policy

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# FOCUS ON THE WEBSITE

## LINCOLN INSTITUTE IN THE NEWS



Nearly 1,000 national and regional news stories have referenced the Lincoln Institute's experts, research, and publications since 2006, when we started tracking citations on the website in the regular homepage feature, Lincoln Institute in the News. Furthering our mission to "improve public dialogue and decisions about land policy," more and more journalists, editors, and book reviewers are turning to the Institute's website for reliable data and commentary regarding the use, regulation, and taxation of land.

Based on recent news coverage, the most frequently reported topics relate to Institute publications on walkable urban neighborhoods, preparing cities for population growth and climate change, and PILOTs (payments in lieu of taxes). This year's press highlights include:

### ***The Atlantic Cities, March 5, 2013***

The National Resource Defense Council's Kaid Benfield calls Julie Campoli's *Made for Walking* the "best illustrated book on neighborhood scale urbanism" . . . "written in measured prose" and "filled with not only the principles but also the design details we need" to create walkable cities.

### ***The New York Times, February 13, 2013***

Kate Zernike quotes Senior Fellow Armando Carbonell on preparing coastal cities for extreme weather induced by climate change: "It's very tricky and very new, and it's getting away from a single engineering criterion that says just build it 10 feet higher and you're absolutely safe."

### ***The Economist, January 28, 2013***

Reviewing *Planet of Cities*, Ludwig Siegele credits author Shlomo Angel with developing "clever methods to analyze detailed satellite images" to generate comparable data on cities worldwide—allowing for what Angel calls a "science of cities."

### ***The Cleveland Plain Dealer, Daily Princetonian, Minneapolis Star Tribune, Philadelphia News, Rochester Democrat & Chronicle, 2013***

Newspapers across the country continue to cite the 2010 policy focus report on how municipalities and nonprofit institutions deal with PILOTs (payments in lieu of taxes), by Daphne A. Kenyon and Adam H. Langley.

### **Lincoln Institute in the News**

02.15.2013

**Housing the coming billions in cities**  
TEDxBeaconStreet

02.13.2013

**Why modernism gets blamed for making snowstorms worse**  
*The Atlantic Cities*

02.13.2013

**Hoboken mayor seeks storm protection more suitable for high-rise buildings**  
*The New York Times*

## Land Lines

APRIL 2013

### 2013 Publications Catalog

The Lincoln Institute's 2013 Publications catalog features more than 100 books, eBooks, policy focus reports, and multimedia resources. These publications represent the work of Institute faculty, fellows, and associates who are researching and reporting on the following topics: property taxation, valuation, and assessment; urban and regional planning; smart growth; land conservation; housing and urban development; and other land policy concerns in the United States, Latin America, China, Europe, Africa, and other areas around the globe.

All of the books, reports, and other items listed in the catalog are available to purchase and/or download on the Institute's website, and we encourage their adoption for academic courses and other educational meetings. Follow the instructions for requesting exam copies on the Publications homepage. The entire catalog is posted on the website for free downloading. To request a printed copy of the catalog, send your complete mailing address to [help@lincolninst.edu](mailto:help@lincolninst.edu).

