

# **Metropolitan Land-Use Reform: The Promise and Challenge of Majority Consensus**

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**H**ow do efforts to address metropolitan land use and governance in the 1990s compare with such efforts in the 1960s, 1970s, and 1980s? In brief, ignorance of the causes and effects of land-use patterns has been the most important factor determining the rationale, goals, and effectiveness of reform efforts. Until the mid-1990s, this ignorance produced a narrow and distorted formulation of the issue. The result has been political weakness, if not irrelevance, in the face of a problem that is fundamentally grounded in existing policy and in the need to change that policy. As a result, the movement has hardly been able to articulate, let alone achieve, policy change.

In the mid-1990s, this began to change. A stronger, more comprehensive understanding of the causes and effects of land-use patterns has begun to be articulated by a small but vocal and diverse group of community leaders. The new formulation of the issue has created the potential for a majority of Americans to conclude that they have a stake in metropolitan land-use patterns. Whether this potential will be realized is unpredictable. Even less predictable is whether this sense of a common stake can be translated into active support for mutually beneficial, politically achievable solutions. Given the social issues and political obstacles involved, the task of devising, adopting, and implementing such solutions at the state and local level over the next

twenty or thirty years is the most important political challenge America faces at the dawn of the twenty-first century.

## **The Law of the Land**

In America sprawl is the law of the land. Of the many laws that prescribe or induce sprawl, municipal zoning laws are the most direct, pervasive, and important. In the 1920s, most state legislatures delegated their power to regulate land to some 39,000 municipalities by authorizing them to use zoning. A zoning ordinance is simply a list of uses a municipality allows in a specific area or “district” and the conditions that apply to these uses. Cities divided their jurisdictions into zoning districts by type of use to avoid conflicts between residential, commercial, industrial, and other activities. Lands zoned residential—involving the vast majority of American landowners—were stripped of their “right” to be developed at more lucrative commercial or industrial densities. Suburban municipalities used zoning to attract many kinds of development; however, fast-growing, job-rich suburbs also used zoning to exclude affordable housing, pushing it to the fringes. Zoning in poor areas allowed any development that would increase the tax base, such as cheap apartments, despite potentially higher costs down the road for schools or police. Counties or townships at or just beyond the suburban fringe used zoning to allow landowners to partition open land and develop commercial or residential projects as they wished. The unstated premise of suburban fringe and rural zoning—and the clear effect of such ordinances—is that landowners there have a right to develop land as they wish, a right their far more numerous central-city and inner-suburb counterparts have not had for seventy years.

State laws that authorize municipalities to tax real property or the sale of products or services also have promoted sprawl. Municipalities naturally use zoning to build their tax base so that school, police, and road costs can be paid. However, this taxing authority combined with state laws that make it easy for landowners to form new communities have created unanticipated land-use and social consequences. The growth of small suburban municipalities around central cities over the course of the twentieth century has gradually fragmented metropolitan regions into tiny tax and zoning blocks. Chicago is surrounded by 262 cities; Philadelphia, 245; and New York, 765. Disparate tax bases and tax rates among these municipalities induce cost-averse investors

to locate in high-tax-base/low-tax-rate municipalities, usually at the metropolitan edge.

Housing laws also encourage sprawl. Federal, state, and local laws have concentrated public housing in small areas of central cities. Such policies not only isolate the poor from opportunity, they also contribute to sprawl by creating conditions (poverty-dominated schools, crime) that repel investment. Limiting federal subsidies to single-family housing also distorts the market forces toward sprawl. Congress guarantees about \$700 billion a year in mortgage insurance for single-family homes and provides a cost- and risk-reducing secondary market for these mortgages. But Congress has never provided similar financial support to other more compact or transit-oriented residential development, such as mixed-use, multifamily development, despite the demand for it in the marketplace.

A vast array of federal, state, and local laws ostensibly unrelated to land use affect metropolitan regions and supercharge the sprawl proclivity of municipal zoning, taxation, and housing laws. For decades these non-land-use laws have opened vast new areas for development by subsidizing real estate investment at the outer edge of metropolitan regions. Highway, sewer, and water system programs are prominent examples of such government influence. The “average cost” policies most states use to set gas, electric, and other utility rates are another example. Low-cost ratepayers in the city pay more than what it costs the utility to serve them. The excess revenue collected in the city subsidizes utility service in expensive-to-serve developments in far-flung suburbs.

The “supercharge” effect is a product of federal, state, and local laws, as illustrated by the following scenario. A congressional committee approves highway money for a state. A state legislative committee approves a gubernatorially proposed, project-specific budget for a state department of transportation. The department lets contracts to build a highway on the edge of a region where the county long ago zoned everything for development. Thus do rural areas that have been quiet backwaters for decades become real estate bonanzas overnight.

Local planning commissions make the initial policy choice of anything-goes zoning that state legislatures have authorized municipalities to make, unfettered by any limitation or guidance. That policy applies to land where the new highway will go. Planning commissions typically include local realtors, town boosters, old-line landowners, and the occasional out-gunned, financially disinterested, and well-intentioned but bewildered citizen or two, participating more or less

on a casual basis. Meetings last late, which is often when important votes occur. Those with something at stake stay until the end. Decisions are little noted in local newspapers, which have small reportorial staff and low tolerance for criticism from downtown advertisers.

Occasionally, a citizen or official proposes something offbeat that would restrain development. Such proposals are met with stern talk of "property rights" and the prospect of litigation that the county or township cannot afford. The county would have to pay outside counsel by the hour or hire a special lawyer from one of the firms downtown. "Better just to give in. Joe won't build for a few years anyway. Besides, I went to grade school with Joe. He's just doin' what everyone else is doin', or wished they could."

Once an anything-goes zoning law is adopted, it reigns supreme. A zoning ordinance adopted within the scope of the authority delegated by the state legislature is a law with as much force and effect as a bill enacted by the legislature itself or by Congress. A landowner may demand that the local government approve his or her development if the proposed use is authorized by the zone and if it meets typically straightforward conditions, such as approvals for septic tanks or wells. An adjacent landowner cannot prevent or invalidate such an approval except by going to court. This is as costly as it is futile. A court cannot revoke the ordinance, or any approval pursuant to the ordinance, unless it finds the ordinance to be unconstitutional. This is highly improbable and extremely rare.

A local zoning ordinance in one of America's 39,004 municipalities can be changed only two ways. First, the governing body might vote to change it, an unlikely reversal, given local fiscal incentives and political pressures. Second, the state legislature could enact a law conditioning municipal exercise of the zoning power on compliance with certain minimum state standards and requiring that existing zoning be changed to meet the new state standards.

Such is the law of the land. This complicated, multilevel, highly dispersed, legally well armored, and politically well defended bramble of laws is the heart and soul of America's land-use problem. Unless and until this bramble of laws is altered, sprawl will continue.

Of all these laws, local zoning ordinances are far and away the most important and challenging. Local zoning that geographically contains deconcentration would render benign, if not positive, the sprawl-inducing effect of non-land-use laws that currently energize anything-goes zoning ordinances. Conversely, simply changing various

non-land-use laws will do little. For example, greater local flexibility in the expenditure of federal highway dollars will not prevent more beltways at the urban fringe without a new metropolitan land-use policy that discourages deconcentration and encourages reinvestment and redevelopment.

## Four Decades Of Failure

The movement to reform land use in America has not put a dent in the law of the land as described above. By that or any other measure, the movement has been a failure. There has been much well-intentioned talk, and a great deal of well-intended money has been spent. But very little has happened in state legislatures that has endured or been implemented, and even less has happened on the ground. In almost every state, there is more suburban sprawl and urban disinvestment today than there was ten, twenty, or thirty years ago. The comparatively tiny bits of progress scattered here and there have been overwhelmed by the pace of sprawl and disinvestment nationally. With a few notable exceptions, for nearly half a century, the movement has been characterized by political weakness, if not irrelevance. The reformers' diagnoses have been wrong. Their goals are variously off target, too modest, too narrow, or all three, and their strategies are fatally apolitical.

In the 1960s, the issue of land use gradually seeped from the domain of academics and planners into the edges of the political realm, roughly tracking the emergence of the environmental movement. Since the late 1960s, there have been countless conferences and symposia, newspaper and technical articles, task force reports, agency studies, nonprofit newsletters, gubernatorial commission proceedings, think-tank workshop materials, new foundation initiatives, and innumerable ad hoc committees and working groups on subjects ranging from biodiversity to infrastructure to affordable housing. Dozens of useful books have been written. The issue has been periodically repackaged in mildly appealing but vague terms: land use and "carrying capacity" in the 1970s, "growth management" in the 1980s, "sustainable development" in the early 1990s, and "smart growth" in the mid 1990s. Doubtless it will be repackaged again within a few years, as the old bromides are seen to be unproductive and passé as the need arises to spice up agency newsletters and new project fund-

ing proposals. Innumerable earnest individuals have arrived on the nonprofit scene, laboring energetically for a few years before moving on to “real” jobs. An occasional member of Congress has gotten the bug and weighed in with a symbolic bill or op-ed piece. Now and then a governor features land use or sprawl in a “state of the state” speech or blue-ribbon commission.

However, the bottom line is that few legislatures have been inspired by any of this bustle to make land use a priority, let alone to enact bills. As a result, with the exception of Oregon, America remains zoned for sprawl. The few legislatures that have been asked to reconsider and modify the decades-old delegation of zoning authority to municipal governments have refused to do so. Most legislatures have not seriously debated the matter. Because the complex of laws that authorizes and induces sprawl remains in place, the sprawl that burst on the scene in the 1950s and 1960s—and accelerated in the 1970s, 1980s, and 1990s—is predicted to continue into the foreseeable future.

The first phase of reform, the so-called “quiet revolution in land use,” was launched in the early 1970s as the environmental movement burst on the scene. Reform focused on states protecting “critical areas” and establishing permit systems for development that had regional impact. A few special areas, like the California coast and the pinelands in New Jersey, did benefit. However, over the next twenty-five years, statewide reforms were tried in only thirteen of the fifty states. Some suffered almost immediate legislative reversal; others were budgeted out of business. With the exception of reforms in Oregon and Hawaii, all of the rest have had no significant impact.

In the mid-1980s and early 1990s, seven states (Vermont, Florida, New Jersey, Rhode Island, Georgia, Maine, and Washington) followed Hawaii (1960) and Oregon (1973) in adopting programs featuring state goals and local plans. There was much talk of a rebirth of land-use reform. However, the Vermont and Maine programs were gutted or defunded. The voluntary programs in Rhode Island, Georgia, and New Jersey have had little effect. The 1972 Florida program, revamped in 1985, has had only modest impact. Undermined by budget cuts and legislative modifications, the Florida program has been politically orphaned by an unsympathetic new governor. The jury is out on the Washington (1993), Maryland (1997), and Tennessee (1998) programs.

Political weakness characterizes the land-use reform movement throughout both its early and late periods, and the constancy of that

circumstance is more important than all the differences between the two periods combined. However, two major differences are noteworthy: (1) sprawl and disinvestment intensified after World War II, and (2) America's financial capacity to respond to the cost of sprawl gradually decreased.

In the earlier decades, America was richer. Annual growth in economic output, productivity, and household income created America's rapidly expanding and rapidly prospering middle class. This increasing base of wealth generated vast sums of public revenue that met key social needs while requiring a smaller share of GNP than today. In contrast, a surging Dow Jones average and low inflation do not mask and cannot compensate for the fact that since 1973 slow economic growth and low productivity have shrunk working-class and middle-class incomes, increased tax payments as a percentage of GNP, and slowed investment in roads, schools, and other infrastructure. Until the last few years, tax cutting and deficits have dominated politics.

As America's economic strength weakened, sprawl and disinvestments accelerated. For example, as measured by census tracts with poverty rates of 40 percent or more, urban disinvestment increased nationally by 54 percent in the 1980s alone.<sup>1</sup> Similarly, while the geographic extent of development in metropolitan regions has expanded five to ten times as fast as population growth from 1970 to 1990 (see table 1-1), America's fifth generation of sprawl is expanding regions ten to fifteen times as fast as population growth in the 1990s.<sup>2</sup> While a booming post-war America could afford not to worry about relatively small costs of sprawl, that is not true today.

Despite these differences and others, the prevailing political weakness of the land-reform movement is paramount because sprawl and disinvestment are rooted in law and policy. The effort to limit sprawl and disinvestment must rest on a political strategy: build majority support that can persuade state legislatures to change the zoning laws that continue to authorize sprawl and disinvestment. Well-intentioned strategies that do not seek to correct defective municipal zoning—such as buying land zoned for sprawl—are not only inadequate, but also misdirect public attention, forestalling the policy change that is most needed.

From 1970 to 1990, as far as the media and elected officials were concerned, the land-use reform movement was a barely noticeable sideshow usually led by politically naive do-gooders and speechifiers. The posture of the movement's spokespersons and publications was

**Table 1-1. Geographic versus Population Expansion**

Region	Period	Rate of Expansion	
		Geographic	Population
Chicago	1970–90	46/74 <sup>a</sup>	4
Cleveland	1970–90	33	–11
Kansas City	1970–90	110	29
Los Angeles	1970–90	200	45
New York	1960–85	65	8
Philadelphia	1970–90	32	2.8
San Antonio	mid-1950s–1990	600	100 <sup>b</sup>

Sources: Northeast Illinois Planning Commission, Chicago; Anita A. Summers, “A New Strategy for America’s Large Cities,” speech, Chicago, October 20, 1994, p. 6; Chris Lester and Jeffrey Spivak, “Divided We Sprawl” (six-part series), *Kansas City Star*, December 17, 1995, citing U.S. Census Bureau of Mid-America Regional Council; Christopher B. Leinberger, remarks, Hilton Hotel, Portland, Oregon, April 18, 1993; Regional Plan Association, *The Region Tomorrow* (New York, 1990), p. 3; Greenspace Alliance, *Toward a Green Space Legacy: A Call to Action in Southeastern Pennsylvania* (Pennsylvania Environmental Council, 1994); Henry G. Cisneros, *Regionalism: The New Geography of Opportunity* (Department of Housing and Urban Development, March 1995), pp. 1–2.

a. Area increased 46 percent for housing and 74 percent for commercial use.

b. Population doubled to 1.3 million.

one of blithe resignation to political incapacity, as if personal association with a virtuous cause was more important than actually leading the cause anywhere. In the inner circles of the movement, including the movement’s various funders, the lack of political clout was regarded as an unstated premise, an almost immutable given. Talk of justifiably ambitious goals was met with, “Oh, *that* could never happen in *our* legislature.” Political strategizing occurred almost exclusively for defensive purposes. Legislative nose-counting for offensive purposes was practically unheard of.

## Ignorance Begets Political Weakness

The land-use reform movement has focused almost exclusively on only the most readily apparent environmental concerns. One obvious lesson of the past four decades is that environmental concerns are too slender a political reed on which to base reform efforts, whether state-level policy change or implementation at the local level.



However, the political insufficiency of environmentalism as the rationale for land-use reform is merely symptomatic of a second, more important lesson. The reason land-use and regional reform movements have been politically marginal for so long is that they lack understanding of the causes and broader effects of land-use patterns.

Without knowledge about the *effects* of land-use patterns on people, households, businesses, and community functions such as education and public safety, it is hard to see how moral standards, like simple fairness, or economic values, like productivity, relate to land-use patterns. Without this knowledge the impetus for change cannot develop, proposals cannot be advanced, and public consensus will not form. Thus the debate is limited to thinly documented, usually abstract utilitarian complaints.

Similarly, lack of knowledge about the *causes* of land-use patterns is mainly why change has seemed politically impossible for so long. For nearly half a century various “false devils”—racial prejudice, free-market forces, population growth, “greedy developers,” or the automobile—have been incorrectly blamed for sprawl and disinvestment. Focusing on these issues was not only substantively off target, it was also politically self-defeating. These forces were so big and insuperable that change seemed impossible. Therefore people resigned themselves to nibbling around the edges and symbolic efforts.

### ***Race***

Race is certainly a factor in development patterns. Racial groups sometimes self-select to live among themselves. Also, different races discriminate against or avoid members of other races. These phenomena are real. However, it is also true that development patterns in American metropolitan areas are much the same, region to region, despite major differences in racial composition. Moreover, many areas within a given region have changed from being all-white, sparsely settled backwaters to all-white suburban boom towns to all-white declining suburbs dominated by dying shopping malls and cheap frame housing—all without a trace of racial change. Something else important is at work here.

### ***Free-Market Forces***

Free-market forces are often blamed for promoting sprawl. It is a common belief that government should not control sprawl because to

do so would impair the market's ability to allocate critical resources. Ironically, ignorance about the influence of policy in land-use patterns has denied reformers the argument that sprawl must be limited to *protect* market functions. Markets operate well to align supply and demand with respect to specific transactions, but policy pervasively shapes the underlying strength of that supply and demand. If policy allows financial values (like infrastructure) to be integrated into projects free of charge and allows projects to externalize costs, then policy also makes these projects artificially attractive to capital investment by reducing their price below their cost of production and operation. Then businesses and households respond to these policy-induced advantages for metropolitan-edge real estate investments and to disadvantages for urban and inner-suburb investments.

### ***Population Growth***

Regions (not just central cities) that *lost* population from 1970 to 1990 (Cleveland and Pittsburgh, for example) disinvested and sprawled in much the same way as regions with rapid population growth. Moreover, nations such as England and Germany are the same size as Oregon and Colorado but have fifteen to twenty times the population of those states. Yet large populations have not wrecked England and Germany; to the contrary, Americans spend large sums to travel to those countries to marvel at the beautiful countryside, compact cities, and thriving transit. Therefore, population growth also does not explain sprawl.

### ***Development***

The "stop development" misconceptions inherent in the old-style approach to reform needlessly positioned developers as opponents of land-use reform. As long as the premise was that developers simply responded to consumer preferences, it was not surprising that developers would vigorously oppose reforms that appeared, at their core, to be antidevelopment both in motivation and effect. Developers were particularly ready to oppose reform when they heard themselves called "greedy land-rapers" by opponents of development projects, who diverted attention from their own self-interest by appearing under a "good guy" banner of environmentalism.

Yet developers are no more self-interested than any other class of economic players. Moreover, developers dislike the land-use process

for allowing too little development as much as neighborhood and environmental groups dislike it for allowing too much. Far from being the cause of development patterns, developers essentially play the policy hand they have been dealt. For all their campaign contributions, public profile, and presumed political influence, developers have not been able to shape the development process to their liking. Furthermore, new development is the ingredient needed to repair the automobile-dependent fabric of the suburbs and the disinvested centers of the region. The dysfunctional, environmentally harmful suburban development fabric is a physical problem. It cannot be regulated away any more than it can be wished away. Only transit-oriented, mixed-use, affordable redevelopment and new development can “fix” this situation. When properly directed, development is not the problem—it is the solution.

### ***Technology***

Doubtless, technology contributes to sprawl. Freight delivery has switched from trains to trucks. Messages now are delivered instantaneously by fax and modem instead of by mail or messenger. Businesses and people are more footloose and less dependent on proximity than they used to be. Yet technological change spans the globe. Refrigerated lorries have not ravaged the Gloucestershire countryside; back office data processing and fax modems have not pushed sprawl beyond the service area of Hamburg’s light-rail system.

### ***Wealth***

American wealth also is said to cause sprawl. Yet sprawl moved outward more rapidly from 1970 to 1990, when the real income of most American households stagnated, than it did from 1950 to 1970, when economic growth and household incomes boomed.

## **New Understanding Heightens Prospects for Change**

A fuller understanding of the causes and consequences of metropolitan land-use patterns emerged in the late 1990s, improving the prospects for change. A broader range of concerned interest groups and citizens now see their stake in the issue. People are questioning whether sprawl may be at the root of systemic national problems such

as slow productivity growth, unsuccessful schools, costly and ineffective public safety programs, and environmental conflicts. The powerful effects of sprawl and disinvestment are leading others to scale back the optimistic expectations of the 1970s that nonprofit, private-sector responses to sprawl and disinvestment, such as land trusts and community development corporations, could deal with these problems.

## **Sprawl: A Concern to More Than Environmentalists**

The heightened pace of sprawl and disinvestment in the 1980s and 1990s, coupled with greater awareness of their effects, is leading many interests not previously associated with land use and regionalism to speak out. Officials in older suburbs, corporate and religious leaders, and urban advocates are introducing important new insights, energy, and people into the debate. In many metropolitan areas these interests are providing the most important leadership for the movement.

### ***Suburban Interests***

Suburban sprawl and urban disinvestment advanced outward so far and so fast from 1970 to 1990 that a majority of Americans are now adversely affected. This lesson has been learned only recently and very slowly. Sprawl and disinvestment have greatly harmed central cities and older suburbs, increasing the extent of repair work that is one of the key tasks of land-use reform. However, because that harm has been pervasive, a change in land-use policy has finally become politically possible in America.

The brilliant analysis of Myron Orfield, a Minnesota state representative, explodes the myth that suburbs are monolithically prosperous and happy and therefore will be bulwarks against reform. As project director of the American Land Institute's Metropolitan Area Program, Orfield analyzed eighteen major U.S. metropolitan regions from 1995 to 1998 and found that the majority of metropolitan populations would benefit from policies that rein in sprawl and encourage reinvestment. Far from being contented and prosperous, many low-tax-base suburbs—older inner suburbs as well as outer “sheetrock” suburbs—are suffering the same kind of disinvestment, school performance declines, crime rate increases, and property value stagnation and decline that rocked central cities decades ago.

Residents of older inner suburbs did not respond to environmental complaints about sprawl in the 1970s and 1980s. Incomes in many households in the older suburbs were flat or falling, and environmental complaints about sprawl echoed the conflict between jobs and the environment being played out at the national level and in the media. However, as sprawl continued moving out, its “backside”—disinvestment—moved out, too: out of the central cities and into the older suburbs. When the emphasis of the land-use debate shifted from natural resource issues to the fact that the socioeconomic rug was slowly being pulled out from under middle America’s neighborhoods, suburbanites started having second thoughts. With the cost of housing in the new suburbs rising faster than incomes in the older suburbs, and with the value of older housing in the inner suburbs flat or falling, people were trapped in neighborhoods with failing schools, rising poverty, and declining social services. Land use suddenly became interesting, especially if (1) the local mayor or a familiar preacher, not some jargon-talking environmentalist, was the messenger; and (2) government action, not the market, was the cause of the problem. Moreover, unlike poor urban blacks, working-class white people were not politically marginalized and stigmatized; they could politically obliterate anyone who tried to tell them socioeconomic decline in their neighborhoods was explained by some kind of morally objectionable “culture of poverty.”

As disinvestment engulfed older suburbs, the political underpinnings of the land-use reform movement began to be recast in three ways, vastly increasing the prospect that majorities could be built around metropolitan land-use issues.

First, the populations of older inner suburbs, outer low-tax-capacity suburbs, and central cities add up to 60 to 75 percent of total population in every U.S. metropolitan region the American Land Institute has studied. Each of these sectors is being harmed by the same patterns of development.

Second, the inner-suburb perspective on the issue strips the land-use debate of politically fatal misconceptions that have marginalized and immobilized it for three decades. Inner-suburb officials are objecting that state government allocations of highway money, and other actions that induce private investment, are causing sprawl at the metropolitan edge, thereby undermining inner-suburb property values, municipal fiscal well-being, and local control. These suburban officials are asking state legislators to give older suburbs their share of

public investments and programs that attract private investment, strengthen housing values and tax bases, and create jobs and income.

For example, America's inner suburbs have substantial quantities of usable housing stock. With repair and renovation to accommodate smaller, older households, this housing can (1) contribute greatly to the nation's home ownership and housing opportunity goals, (2) anchor established neighborhoods, (3) improve the climate for private investments in the center of metropolitan areas, and (4) slow sprawl at the edge. However, continued central-city and inner-suburb disinvestment discourages repair and renovation, and federal and state housing policies mainly boost new housing at the fringe or provide housing for the very poor in the central city. Why should national and state housing policies ignore the huge housing needs in the inner suburbs?

The First Suburban Consortium in Ohio is the leading proponent of such arguments nationally. Mayors representing 750,000 citizens in twenty-six suburbs across Ohio are asking the state legislature for a fair share of highway and other public investments and a halt to state subsidies of sprawl. This pro-investment and pro-local-control rallying cry for land-use reform is 180 degrees different from the essentially antidevelopment, anti-local-government rallying cry of environmentalists in the 1970s, which stated that

- development causes sprawl,
- local governments cave in to developers,
- states must limit local government authority in order to prevent excessive development.

The new rationale makes local control one of the *purposes* of state-level reforms, not part of the problem that has to be reined in. Furthermore, private investment and development are viewed as principal means to achieve land-use reform, not a problem to be regulated. Under these banners, city officials and real estate investors interested in redevelopment and asset appreciation are no longer opponents, nor are they merely neutralized. Rather, they are important players in a restructured, potentially far more powerful movement.

The new suburban formulation also dramatically turns the tables on "property rights" advocates. Now property rights can be a reason to *stop* sprawl, not let it continue. The new formulation also politically isolates property rights advocates from their more respectable former allies: local officials and developers. It also reveals the property rights cause for what it largely is: a handful of landowners insisting on continuation of subsidized sprawl at the metropolitan edge, even though

sprawl at the edge will flatten or reduce the property values of a far greater number of property owners in the interior of the region. The reform movement insists that the rights of all property owners—not just a few—be considered in the land-use policy debate,

The third way the land-reform movement will be recast is when urban minority and environmental interests follow the inner suburbs' lead because their goals of regional *containment*, *stability*, and *repair* also advance urban and environmental interests. Moreover, partnering with suburban leaders is the best way that urban minority and environmental interests can break out of self-defeating patterns of isolation and marginalization.

A recent study in Michigan illustrates the kind of land-use circumstance that could draw this new coalition of interests together. The Michigan Society of Planning Officials (MSPO) projects that all of Michigan's urban areas will expand between 63 and 87 percent from 1990 to 2020, while population will grow a modest 11 percent.<sup>3</sup> The MSPO report also finds that Michigan faces a \$65 *billion* price tag for infrastructure repair, deferred maintenance, and construction backlog, much of it in the vast suburban areas that grew from 1960 to 1990. If the state continues to ignore the investment backlog in its older suburbs and continues to foster the vast expansion of sprawl at the metropolitan edge, then two things will happen. First, substantial portions of suburban areas developed since World War II will deteriorate, experiencing much the same process of abandonment and disinvestment that hollowed out Detroit from 1950 to 1990. Second, developed areas of Michigan characterized by lack of critical mass, inadequate tax base, operating inefficiencies, and inadequate public investment will expand.

### ***Religious Leaders***

The kinds of religious and moral arguments that have underlain great domestic causes in American history are now beginning to bolster the utilitarian and public health arguments about land use that environmentalists have advanced for the past thirty years. Religious leaders long have expressed concerns about sprawl on environmental grounds, most notably the "Heartland Catholic Bishops" paper in 1976 about farmland loss. In the 1990s, the nation's clergy began to express concern about the impact of sprawl on metropolitan regions and their populations. Most notable was Bishop Anthony M. Pilla,

immediate past president of the U.S. Conference of Catholic Bishops. In his report *Church in the City*, Bishop Pilla cites “investment imbalances” between central cities, teetering older suburbs, and newer outer suburbs. The abandonment of private investments and of people is not just environmentally damaging; it also violates the central tenet of Catholic social doctrine: the inherent dignity of every human being. In a region that sprawled 33 percent from 1970 to 1990 while losing 11 percent of its *regional* population (and half its *central-city* population since 1950), the Church cannot afford to see its huge investment in physically sound schools, hospitals, and social service programs in the central city go underutilized and then duplicate them in the suburbs. No other enterprise can afford to, either.

National coalitions of locally grounded, faith-based organizations, such as the Gamaliel Foundation, are far ahead of national minority groups (the Urban League, Mexican American Legal Defense and Educational Fund, and NAACP, for example) and community development corporations in recognizing and responding to the harmful impacts of metropolitan-wide land-use patterns on the urban poor. Moreover, churches have a higher standing and better communication with urban and inner suburban neighborhoods and with elected officials than either of the other types of organizations.

### ***Corporate Groups***

For different reasons corporate leaders are concerned about the same patterns of sprawl and disinvestment as bishops and suburban mayors. Corporate leaders see how sprawl and disinvestment affect economic productivity, both at the macroeconomic level (nationally) and the microeconomic level (the individual plant). They see sprawl making unfeasible the public investment in infrastructure on which private capital depends for efficiency and profitability. They see disinvestment undermining the quality of schools and the work force. Corporate leaders also are concerned that sprawl-spawned housing costs and traffic congestion make it hard to recruit and retain employees.

The most powerful force for land-use reform and regional governance in California is the Silicon Valley Manufacturers Group (SVMG). SVMG believes that sprawling development threatens worker productivity and the future economic vitality of Silicon Valley. SVMG’s analysis found that zoning in Santa Clara County’s fifteen municipalities was driving up housing costs by creating a shortage of



sites for housing and a huge surplus of industrial land. Zoning policy also compelled people to use automobiles by requiring development in patterns that made rail and bus service impossible.

SVMG's conclusions were better documented but less well publicized than Bank of America's now famous *Beyond Sprawl*, in which the nation's (then) second-largest bank stated that California could no longer afford sprawl.<sup>4</sup> In addition, SVMG made specific recommendations; their successful proposals for housing-policy reform, transportation investment, and urban growth boundaries (see "Lessons from Adopted Policy Changes") are the greatest unsung land-use success story in America. It will take time for SVMG's strategy of sprawl containment, deregulation of housing markets, and transportation investments to gradually change, through "corrective development," the patterns of the past four decades. But the policies and investment structure to do so are in place in Santa Clara County as firmly as any place in America.

Other respected corporate voices warning about the adverse economic effects of sprawl development include the Civic Committee of the Commercial Club in Chicago, Providence Gas CEO Jim Dodge in Rhode Island, and business groups in Grand Rapids, Michigan, and in midsize industrial cities in Pennsylvania.

### ***Traditional Urban Interests***

More African Americans live in urban census tracts of 40 percent or more poverty in 1990 than were living in slavery (3,953,580) in 1860.<sup>5</sup> Thus experts on and advocates for poor urban minorities have begun to speak out about the connection between sprawl at the edge and disinvestment in the center—the investment imbalance Bishop Pilla emphasized.

In 1954, when the U.S. Supreme Court handed down *Brown v. Board of Education*, 11 percent of the U.S. population was "minority." The Census Bureau now projects Caucasians will no longer constitute a majority of the population by 2040. Hispanics will replace blacks as the second largest racial group by 2010. As the United States undergoes this unprecedented change in its racial composition, the nation is coming face to face with its third great challenge of racial justice: ensuring that people of color have equal access to jobs, schools, and housing throughout metropolitan regions. That challenge requires modernization of existing land-use and public finance systems.

Harvard's William Julius Wilson, in *When Work Disappears*, calls for metropolitan-wide land-use and regional governance reform, emphasizing that isolated, go-it-alone strategies of the past will not work for the urban poor any more than they have worked for environmentalists. John Powell, former ACLU staff attorney and director of the Center for Race and Poverty at the University of Minnesota Law School, echoes Wilson's conclusions and advocates the formation of new metropolitan-wide coalitions to make policy change possible in state legislatures.<sup>6</sup>

## Connection to Systemic Problems

The broadened base of concerned interests and citizens is one result of increased understanding about the nature and effects of sprawl. Greater knowledge is also leading people to ask whether local development patterns have something to do with larger systemic problems.

### *Standard of Living*

Economists have been perplexed at the slowdown in annual productivity growth in the U.S. economy since 1973. Land-use patterns are the physical matrix in which all economic and social activity must take place, for better or worse. Productivity-spurring private investment depends in part on the integrity and extent of the nation's infrastructure. Does sprawl partly explain the slowdown in core infrastructure investment that has mirrored the quarter-century slowdown in productivity?

Economists of all stripes agree that the nation's standard of living is not determined by job growth, low unemployment, low inflation, or a surging Dow Jones (as important as those factors are), but by annual growth in productivity. This is because productivity growth is the key to per capita income growth and to economic growth that generally does not trigger inflation.

The problem is that growth in productivity has decreased in the last twenty-five years and with it America's standard of living, a development that has baffled economists and other observers. From 1973 to 1995, productivity growth averaged only 1.1 percent, less than half the 2.3 percent annual average since the Civil War and less than the 1.9 percent annual growth since 1909.<sup>7</sup> From 1989 to 1995, annual

productivity growth has been an even lower 0.9 percent. This results in lower household incomes and a smaller economic pie.

It is well recognized that private investment relies on core infrastructure—roads, transit, sewers, and utilities—for its efficient operations. For example, businesses depend on transportation systems for efficient movement of employees, supplies, and finished products. Moreover, there is a well-established connection between public investment in core infrastructure on the one hand, and productivity growth and high rates of return on private investment on the other.

However, core infrastructure, in turn, depends on factors of density and distance for its initial feasibility and efficient operation. Have the rapid spatial expansion of America's metropolitan regions and low densities of new development contributed to America's productivity slowdown? From 1948 to 1973, when metropolitan areas expanded more modestly, the nation's stock of core infrastructure annually increased in value an average 4.2 percent, peaking at 5.2 percent a year during the 1960s. In that twenty-five-year period, as noted earlier, productivity and incomes boomed. However, from 1973 to 1996, as sprawl intensified, growth in the value of core infrastructure averaged only 2.4 percent a year; from 1979 to 1987, it was only 2.2 percent, half the 1948–1973 annual rate. During that latter twenty-three-year period, productivity growth fell by more than half, and incomes fell or were stagnant for half the population.

### ***Education and Equal Opportunities***

Sprawl and disinvestment make the nation's massive spending on schools inefficient and ineffective. Although many forces are at play, is it coincidental that the nation's public schools commenced a three-decade slide in SAT scores as suburban sprawl and urban disinvestment intensified in the 1960s?

America depends on its K–12 education system to supply the largest component of “capital” in the nation's economy—its high-school-graduate work force. Only about 30 percent of the work force are college graduates, a proportion not expected to change.

Urban disinvestment has created concentrations of joblessness and poverty that render America's once-great city school systems incapable of creating a skilled, adaptable work force. In the Chicago system, 73 percent of schoolchildren are from low-income households; in Rochester, 80 percent; and in Atlanta, 85 percent. The poor per-

formance of poverty-dominated central-city school systems is the “thousand pound gorilla” that pulls down metropolitan and national test score averages—and this occurs in the same school systems, often the same buildings, that earlier produced America’s greatest scientists and business and community leaders.

Central-city high school graduates gain comparatively low levels of skill. In addition, about 45 percent of entering freshmen drop out of central-city systems. This phenomenon annually pours hundreds of thousands of essentially unemployable young people into the already oversupplied, economically sinking, low-skill end of the work force. In Chicago alone there have been 73,000 dropouts from 1995 to 1999. In addition, children locked into failing urban schools by the residential isolation of their parents and the poverty concentrations in their neighborhoods are deprived of equal opportunity.

Sprawl also hurts school systems regionwide. Sprawl and disinvestment can cause construction of excess school capacity. When school districts close physically functional schools in the center of the region and build new schools at the edge, especially in times of a flat or falling school-age population, taxes for education needlessly rise, fueling tax-cut sentiments. State financing of local public education means all taxpayers’ dollars participate in the waste, even though they may not reside in the districts where schools are being built. For example, in the Twin Cities, sprawl caused education officials to close sixty schools in the center of the region and sixty in the inner suburbs while building fifty new schools in the outer suburbs—even though the school-age population regionwide was declining. A new high school costs about \$40 million to build; a new elementary school costs \$20 million. Because of sprawl, money that could have been spent for enhanced curricula, smaller class sizes, and building maintenance was spent to duplicate physically sound facilities.

### ***Public Safety***

Sprawl makes it difficult for police to respond to or deter crime. While America sprawled, police strategies shifted from the cop on the street to the cop in the squad car to 911 systems. Businesses and homeowners have learned that the average burglary takes three minutes and average police response takes fourteen minutes. Government’s inability to deter crime in sprawling regions is partly the reason why, by 1993, (1) police costs had risen 50 percent faster than

inflation during the two prior decades and (2) there were two and a half times more people employed in private security firms than in all the nation's municipal police departments combined.

Between 1996 and 2010, the population of crime-prone juveniles is estimated to increase from 27 million to 39 million. The arrest rate for people aged twelve to seventeen is 48 percent higher than for people aged eighteen and older. The juvenile arrest rate in 1995 was 61 percent higher than in 1986. Most of this crime occurs in urban areas with high poverty concentrations.

### ***Environmental Quality***

The same patterns of development that make infrastructure investment unfeasible, stretch school budgets, and deny equal opportunity for education also damage the environment. The power and extent of locally authorized sprawl are so great that within 15 years they threaten to undo congressionally achieved reductions in air and water pollution since the early 1970s while intensifying unabated damage to natural resources.

Sprawl needlessly destroys productive farmland, scenic countryside, wildlife habitat, and creeks and streams. Because sprawl separates nearly every suburban destination by a distance requiring the use of a car, it also generates pollution and congestion by increasing vehicle miles traveled, which have increased three times faster than the rate of population growth since 1960. Pollution prevention, not regulation, has been the goal of national environment protection since William K. Reilly led the EPA. Yet, unchecked sprawl remains the greatest potential destroyer of the gains produced by pollution prevention in the past twenty-five years—as well as the greatest potential opportunity to extend the principle of pollution prevention.

### ***Outdated Rationales***

Activists, academics, and officials have increasingly inclined to the views of Columbia University professors Kenneth Jackson and Elliot Sclar and others that a mass of unintended or outdated public-policy interventions in local real estate markets is a major, if not primary, cause of sprawl and disinvestment in region after region.

For example, the zoning of most municipalities is still based on the nineteenth-century rationale of strictly separating different classes

of use. Hence automobile-dominated suburban landscapes are caused not only by low densities and rapid expansion of urbanized areas, but by development patterns in which nearly all suburban destinations are separated by driving-only distances. With the growth of the service and information sectors, only about 18 percent of all jobs today are in manufacturing. In addition, modern manufacturing is largely clean and getting cleaner. The strict separation of uses that continues to blanket metropolitan real estate markets is not only almost entirely unnecessary, it also is a major cause of pollution and congestion by generating vehicular travel at a rate that exceeded population growth by three times since 1950.

With greater understanding of how policy influences sprawl and disinvestment, alternative land-use patterns seem more achievable as a political matter. The substance of reform is seen less as new regulation of market activity and more as repealing or modifying outdated laws and regulations that cause sprawl. Similarly, reform does not mean more of the same regulations of the past, or having a big fight with the market, or changing the American Dream, as some claim. Through judicious modification of existing law, reform can reduce sprawl and disinvestment and leave real estate markets with less net regulation than before.

## **Limits of Private Sector Intervention**

Building houses for the urban poor and buying suburban-fringe land to fend off bulldozers cannot substitute for policy change, regardless of how much money is spent. Post–World War II development patterns have generated so much unemployment and poverty in inner cities and destroyed so much rural land and open space, they have overwhelmed heroic private sector efforts to respond to disinvestment and sprawl. In addition, the maze of laws pulls and pushes private investment ever outward, stacking the deck against church, community development corporation, and land-trust programs. Therefore, land-use policy change is essential if the huge investments in these efforts are ever to realize their full potential of social returns.

### ***Churches***

Thousands of central-city churches, especially Roman Catholic parishes and African-American congregations, operate major educa-

tional, hospital, and social service programs. Sprawl and disinvestment strain the financial capacity of these institutions to operate such programs. As middle-class households and businesses leave the central city and the inner suburbs, the operating efficiencies and financial base of these programs decline. At the same time, churches are under pressure to duplicate facilities and programs in the suburbs.

### ***Community Development Corporations***

More than 2,000 community development corporations have aggressively used tax credits and private grants to build inner-city housing. But rates of poverty and racial isolation in the working areas of the nation's strongest community development corporations have increased, not decreased, since 1980.<sup>8</sup> As valuable as housing is, it is not a substitute for either private investment that creates jobs and household income or for residential (not school-bus or van-pool) access to areas with successful schools and job growth.

### ***Land Trusts***

More than 1,300 land trusts creatively pry money from public agencies, individuals, and foundations to buy land zoned for sprawl. They also persuade generous landowners to donate land or development rights. Yet sprawl, subdivisions, and partitions consume more land each year than all the acreage that all the land trusts put together have saved in five decades, at least in areas in the path of development. Absent policy reform, lands saved by purchase or gift are often likely to end up isolated in a sea of sprawl, ultimately benefiting adjacent property owners more than the public.

For example, the Packard Foundation recently committed \$175 million to protect 250,000 acres in seven California counties. This is a valuable initiative: many critical land-conservation objectives at particular sites cannot be achieved by policy because their conservation requires such substantial limitations on development or on agricultural or forestry operations that the regulations needed to achieve the conservation purpose would not be constitutional.

On the other hand, conservation objectives for nearly all the 80-million-acre balance of private land in California *can* be achieved by land-use policy because restricting rural land to farm and forest use is

constitutional. Policies to achieve such land-conservation objectives are not in place, not because of any constitutional impediment, but solely because local political support to continue anything-goes zoning at the county level is stronger than community support to change such county zoning policies.

The success of both policy and land-acquisition strategies depends on (1) recognition of what each of these strategies can and cannot do, (2) using the strategies in mutually reinforcing ways, and (3) not using one strategy to do what the other can and should. Strategies to conserve land by acquisition or donation should focus on critical lands that policy cannot treat. If the functional lines of responsibility are not clearly observed, and if acquisition money is used to save land that policy should save, money spent to buy land or development rights ultimately will make policy reform politically impossible. Use of the acquisition strategy for lands more appropriately protected by policy creates a reasonable expectation of payment in the minds of all similarly situated landowners. With each inappropriate purchase, more rural and urban-fringe landowners will expect to be paid. The more that happens, the more difficult it becomes politically for state legislatures ever to adopt and counties ever to apply new policy to the vast extent of rural land that can be saved only by policy.

The \$76 million purchase of 300,000 acres of forest land in New York State, Vermont, and New Hampshire in December 1998 illustrates this point.<sup>9</sup> Nearly 60 percent of this acreage was resold to investors who will manage the land for timber growth and harvest. Given the reasonable economic return implied by that resale, there would have been no “taking” if the New York and New Hampshire legislatures had required counties to limit land use on *at least* the resold lands to activities compatible with forest management.

This transaction has been hailed as the largest single land transaction in U.S. history. But it amounts to less than 1 percent of the rural land in New England, which has 26 million acres of forest land alone. And it is less than 0.05 percent of the 235 million acres of cropland, 525 million acres of pasture and rangeland, and 358 million acres of forest land in America. At the rate of one of these huge transactions a year—a herculean effort—we are a century away from “saving” New England’s open space, and well over a millennium away from saving rural America, assuming no one develops this land in the meantime.



Vice President Gore's recent \$9.5 billion proposal for "Better America Bonds" must recognize the different roles purchase and policy play in the cause of land conservation. If those roles are confused, a new federal policy that citizens must pay to preserve commercially useful farmland could fatally undermine America's land-use reform movement. The vice president's initiative could end up promoting the antiregulatory shift in public policy the property rights movement has pushed for unsuccessfully ever since zoning was established in the 1920s and upheld by the U.S. Supreme Court, even though zoning significantly reduced potential sale values.

America's land-conservation future depends on the democratic principle that state constitutions authorize state legislatures to condition municipal exercise of the zoning power to limit the development of farm and forest land to farm and forest uses. Such limitations most certainly are not a taking of productive farm or forest land within the meaning of the U.S. Constitution.

Apart from the fact that such land-use policy is not a taking, the taxpayers should not have to pay to avoid the harms imposed by sprawl. For example, why should taxpayers and property owners in established portions of Michigan have to pay suburban-fringe or rural landowners not to develop land, when the sprawl that results would cause far more harm to far more people in the existing cities and towns than it would benefit? The unfairness of paying to avoid such harm is particularly striking given that taxpayers have already paid to build the roads and public services that make the new suburban-fringe development possible in the first place. A New Jersey study projected that from 1990 to 2010, sprawl would benefit suburban-fringe and rural landowners by \$357 million, but the same sprawl would impose \$8 billion more in costs on the public just for infrastructure investments alone.<sup>10</sup> Should a small group of New Jersey suburban-fringe landowners be heard to insist that the U.S. Constitution entitles them to land uses that will impose great financial harm on the rest of society unless they are paid not to impose that harm? Should leaders of the nation's smart-growth movement applaud new laws that authorize such payments?

Substantial sums of public and private money will be needed far into the future to buy parks, secure public access to special areas, and protect habitats that are intolerant of farm and forest practices. But the use of those funds must not undermine the policy reforms that are not only fair but feasible means of maintaining the working rural

landscape on, say, ninety percent of the 1.2 billion acres of the magnificent American countryside.

## Lessons from Adopted Policy Changes

Experience to date with legislative efforts to overcome fragmentation, modernize zoning, and simplify procedures and processes has yielded seven lessons.

### *Saving the Countryside Boosts the City*

Each of Oregon's 241 cities has urban growth boundaries (UGBs), including the regional UGB around the twenty-one cities in the Portland metropolitan area. Oregon's land-use laws require that soils outside UGBs that are rated I–IV, according to the U.S. Soil Conservation Service, be zoned "exclusive farm use." Over 16 million acres in thirty-six counties have been zoned that way, plus 9 million acres of forest land. This rural land-conservation law has done more to make Portland a beautiful, economically thriving city than the UGB itself or any other law, state or local. Limiting lands outside the UGB to farm uses has channeled tax-base-boosting, job-creating, quality-of-life-enhancing private investment into a critical mass in which old and new investments enhance each others' value. Portland has never been as physically attractive and pleasant, never been more alive on a twenty-four-hour basis, and never had more construction occurring downtown than is happening today. The biggest reason for this urban vitality is a protected countryside outside the UGB, just miles from Pioneer Courthouse Square.

### *Multiple Benefits a Political Key*

Policy changes that advance multiple goals have political benefits—as well as the kind of operational benefits described above. If any given policy—rural land conservation, for example—is justified on the basis of how well it advances *only a single purpose*—such as protection of species habitat—that justification likely will be politically insufficient to support limiting development to serve *urban* purposes or other legitimate rural land-conservation purposes, such as avoiding falling water tables or wildfires. The result of a single-purpose rural

land-conservation strategy is that any rural land not proven to be needed for such a purpose is open for development.

### ***Comprehensive Approach May Be Easier***

People recognize that both the land-use problem *and* the regional governance issues are comprehensive, but some say that trying to limit development “outside” and boost development “inside” at one time may be too much to bite off. In fact, the experiences in both Oregon and Santa Clara County, California, suggest that doing both is politically essential. Developers agreed with ruling 25 million acres of farm and forest land outside UGBs off-limits to urban-scale development in Oregon, but only if development would be faster and more profitable *inside*. Environmentalists accepted the risk of policies that support development inside the UGB only if a large area (the size of Ohio) *outside* the UGB was protected. That was the heart of Oregon’s “grand compromise.” If both had not been done, neither could have been done.

### ***State Policy Key to Regional Success***

Metro, the elected regional planning entity in Portland, has been effective because it administers mandatory state land-use laws, including judicially enforceable criteria for the UGB, fair-share housing, transportation, and conservation of land outside the UGB. Without these state laws, Metro would have foundered.

The Met Council in the Twin Cities has a budget three times larger than Metro’s and also authority to adopt a metropolitan urban services area line, the “MUSA line.” However, because the Minnesota legislature has not established a process to determine how much land the MUSA line may contain, or what may be built on farmland outside, the MUSA line might as well not exist. Counties are free to approve subdivisions outside the MUSA line. Inside a huge MUSA line, the Twin Cities region is the lowest-density, most sprawling large region in America outside of Atlanta.

### ***Deregulation is a Prominent Strategy***

In both Portland and Santa Clara County, stripping away outdated zoning restrictions on markets for residential and industrial

land improved prospects for housing affordability and made transit feasible.

### *Market Sensitivity*

Public and official acceptance of changes in zoning policy in Portland and Santa Clara County was grounded in independent professional surveys of consumer preference for housing type and means of transportation, in addition to basics such as absorption rate and projections for work, income, and house sizes. Similarly, in Montgomery County, Maryland, the successful, twenty-six-year-old assisted housing program avoided a formulaic or community “grid” approach to housing location issues and instead let the process be incentive based and developer driven. (“Let’s see, with the density bonus the county gives me, where will this project pencil out?”)

### *Many Winners*

Where the adoption of modernized zoning tools is urged on the basis that it will advance numerous consensus goals, including investment feasibility, equal opportunity, and environmental quality, these new applications of zoning have won broad community support, as in Portland and Santa Clara County.

## **The Historic Challenge**

Building a constituency for changes in land-use policy and governance, wresting corrective policy from 50 state legislatures, and implementing that new policy in 270 metropolitan regions and 39,004 municipalities is the most important community-building challenge to face America since the adoption of the Constitution.<sup>11</sup>

The substantive dimensions of the problem are difficult enough by themselves:

- reversing the anything-goes policy formally locked into suburban-fringe and rural zoning ordinances all across the nation,
- removing zoning barriers so people of color have residential access to areas in regions with successful schools and job growth,
- removing zoning barriers to new development that is needed to enable cost-effective public transportation investments that extend over many municipalities within a region.

However, even if we assume that state legislatures will modernize zoning to achieve these substantive goals, modernized zoning cannot be adopted or implemented without also addressing the historical challenge of governance. More than two centuries ago, under the old Articles of Confederation, states individually printed money, taxed each others' commerce, declared war on Indian tribes, taxed imports and exports, and raised armies. Subsequently, citizens in the individual states voted to give up some of the sovereign political authority provided by their state constitutions to create workable governmental authority at the national level—defined by the then-proposed U.S. Constitution—to protect the national community.

Few would argue that America would have flourished without clear, unfragmented governmental capacity to act as a nation, on behalf of all its people, in the face of national need—whether creating vibrant national markets in the late nineteenth century or defending liberty and democracy globally in the twentieth century. Most would agree that the Articles of Confederation would have nipped American greatness in the bud, as well as changed the course of world history for the worse. Worldwide, the U.S. Constitution—the design of our federal system—is regarded as the most successful political document of all time.

Today America faces a challenge of fragmented governance similar to that of the 1780s. This time the question is not unworkable fragmentation with respect to common national concerns, but unworkable fragmentation with respect to metropolitan concerns—and metropolitan regions are where 80 percent of the American people now live.

The current structure of municipal government prevents the American people from democratically determining matters of metropolitan character and condition that directly and daily affect their lives. The actions of a mass of governmental entities—from federal and state governments to municipalities and special districts—affect community and individual welfare on a metropolitan basis, on issues such as housing, traffic congestion, tax-base disparity, quality of life, and conservation.

The Oregon, Minnesota, and most recently, Georgia legislatures have passed laws creating metropolitan mechanisms that enable people of the Portland, Twin Cities, and Atlanta regions to address key regional issues.<sup>12</sup> Elsewhere, American citizens living in a given metropolitan region have no political means to hold government account-

able for its performance in these regards, just as American citizens two centuries ago had inadequate means to ensure that their stake in a national citizenship was being protected.

As before, at the heart of the matter is the centrality of state legislative authority in the scheme of American politics. The authority of the federal government to act exists entirely by virtue of delegations of authority—by means of the U.S. Constitution—from the *states* to the three branches of the federal government. By the same token, the regulatory and taxing authority of municipal governments is also the result of laws passed by *state* legislatures, which delegate these powers to municipalities. If the state legislature had not delegated such authority, the localities would not have it. Although the fact is frequently lost in the national media's news coverage, the fundamental policymaking institution in America remains the state legislature.

This is why the political challenge posed by sprawl and by the fragmentation of metropolitan life in America today—whether in Denver or Philadelphia or Atlanta—is fundamentally a matter of state law. The problem is not the sheer number or rapid growth of municipalities and special districts in America today. The problem is that *state laws* have allowed the creation of 262 cities around Chicago, 245 around Philadelphia, and 765 around New York.

The national challenge of land-use reform cannot be addressed effectively by Congress or the federal courts. The substantive policy challenges are embedded in issues of land use and land taxation that must be played out primarily at the state and local level. The metropolitan governance challenges involved are primarily issues of state law. Rapid change in America is placing new and increasingly heavy burdens on the highly fragmented zoning and property-tax systems that were adopted to deal with conditions of bygone centuries and that proved inadequate for the comparatively modest pressures of post-World War II American life. Congressional “devolution” of formerly national policies (welfare, immigration) and financial responsibilities onto states will intensify the pressures that rapid social change is placing on outmoded state and local systems.

The American people created a great nation in the eighteenth century and defended it in bloody wars in the nineteenth and twentieth centuries. Those have been some of America's greatest achievements. The greatest political challenge in the twenty-first century will be a reprise of the eighteenth century—once again defining and building community to meet current social needs. The challenge is to

make America's constitutionally based system work at the metropolitan level.

## Notes

1. Paul Jargowski, "Ghetto Poverty among Blacks in the 1980s," *Journal of Policy Analysis and Management*, vol. 13, no. 2 (1994), pp. 228–310.

2. Christopher B. Leinberger, remarks, Hilton Hotel, Portland, Oregon, April 18, 1993.

3. Michigan Office of State Planning, *Michigan Trend Futures* (1995).

4. Bank of America and others, *Beyond Sprawl: New Patterns of Growth to Fit the New California* (1995).

5. The 1860 census reported 3,953,580 slaves and 8,099,760 whites in the slave states. Harold Underwood Faulkner, *American Economic History*, 8th ed. (Harper and Row, 1960) p. 316.

6. Institute on Race and Poverty, *Concentrated Poverty: Causes, Effects, and Solutions* (University of Minnesota Law School, September 1999).

7. The nation's 1.1 percent rate of productivity growth since 1973 is even punier compared to the nation's 2.7 percent yearly growth from 1946 to 1973. However, some say this period was an anomaly. For the sake of argument, this paper uses the more modest historic performance of 2.3 percent as a standard. (Productivity was only 0.04 percent since the 1970s). Peter G. Peterson, "Will America Grow Up Before It Grows Old?" *Atlantic Monthly* (May 1996). See also Alicia H. Munnell, "Why Has Productivity Declined? New England Economic Review" *New England Economic Development* (January–February 1990), table 4, p. 15.

8. David Rusk, *Inside Game, Outside Game* (Brookings, 1999), pp. 21–36.

9. Wilderness Society, "300,000 Acres of Northern Forest Protected by Landmark Conservation Deal," press release, December 9, 1998.

10. New Jersey Office of State Planning, *Impact Assessment of the New Jersey Interim State Development and Redevelopment Plan* (February 28, 1992).

11. The number of municipalities is from Bureau of the Census, *Statistical Abstract of the United States, 1997* (Department of Commerce, 1997), table 496, p. 305.

12. The Georgia legislature created the Georgia Regional Transportation Authority in 1999.

