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The Community Economic Development Movement

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THE COMMUNITY ECONOMIC DEVELOPMENT MOVEMENT*

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INTRODUCTION

Within a five-minute walk of the Stony Brook subway stop in the Jamaica Plain section of Boston, you can encounter the following:

- A renovated industrial site of about five acres and sixteen buildings that serves as a business incubator for small firms that receive technical assistance from the Jamaica Plain Neighborhood Development Corporation (JPNDC), a nonprofit community development corporation, which is also housed there. Known as the Brewery after its former proprietor, a beer-maker, the complex is owned by a nonprofit subsidiary of JPNDC.
- A 44,000-foot "Stop & Shop" supermarket. The market opened in 1991 after years in which the community had been without a major grocery store. It lies next to a recently renovated Community Health Center and a large high-rise public housing project. The land on which the market and health center sit was developed and is owned by a limited partnership that includes, in addition to a commercial investor, JPNDC and the Tenant Management Corporation of the housing project. Some of the income from the market and health center leases goes into a Community Benefits Trust Fund that supports job training and business development activities.
- A cluster of small, attractive multi-unit residential buildings containing a total of forty-one homes. These units were built with support from the Federal Low Income Housing Tax Credit, and they are occupied by low and moderate income families at rents limited to thirty percent of family income. The buildings are owned by a limited partnership in which the general partners are a subsidiary of JPNDC and a resident cooperative; the limited partners include five

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conventional business corporations and a nonprofit corporation with a board composed of prominent government and business figures that promotes housing development throughout the state.

- Two recently renovated apartment buildings—one with eleven units and one with forty-five units—designed with common areas and facilities for medical support for elderly residents. The project benefits from large federal grants. It is owned by JPNDC; the units are rented to the tenants at rents that cannot exceed thirty percent of their income.
- A wood-frame building containing three apartments recently renovated by JPNDC with support from various public programs. JPNDC then sold it at a price well below market value to an individual, who, as a condition of ownership set out in the deed, must live in one of the units and rent the others only to people who meet specified income eligibility conditions at specified rents.

These institutions are products of the Community Economic Development (CED) Movement. Although it is unusual to find so many concentrated in such a small area—there are still others there that I have not mentioned—such projects can be found in most cities; their numbers have increased substantially in recent years, and there will be many more of them if current programs succeed. Such projects figure prominently in the most optimistic and innovative approaches to urban poverty on both the left and the right. They exemplify a kind of social entrepreneurialism that is flourishing across the country.[1] As support for traditional welfare and public housing programs has waned, there has been a corresponding (though far from proportionate) increase in support for CED. The Movement has been fueled by trends toward decentralizing public administration on the one hand and channeling the development of local markets along socially desirable paths on the other. It has also been encouraged by changes in the contours of urban politics, especially new strategies by neighborhood activists.

Though there are many variations, the core definition of CED embraces: (1) efforts to develop housing, jobs, or business opportunities for low income people, (2) in which a leading role is played by nonprofit, nongovernmental organizations and (3) that are accountable to

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1. *See generally* HAROLD A. MCDOUGALL, BLACK BALTIMORE: A NEW THEORY OF COMMUNITY (1993); HAROLD WASHINGTON AND THE NEIGHBORHOODS: PROGRESSIVE CITY GOVERNMENT IN CHICAGO, 1983-1987 (Pierre Clavel & Wim Wiewel eds., 1991); PETER MEDOFF & HOLLY SKLAR, STREETS OF HOPE: THE FALL AND RISE OF AN URBAN NEIGHBORHOOD (1994) (discussing the Dudley Street area of Boston).

residentially defined communities.[2] Part I of this Article surveys the increasing focus on such efforts in a broad range of public programs.

A cluster of convergent policy rationales that, broadly viewed, represent at once a theory of local economic development, a strategy of social policy implementation, and a vision of grassroots democracy support these efforts. These "three logics of community action" are explored in Part II.

The focus here is on the institutional configuration of CED practice. I suggest that the Movement has developed a set of structures that usefully responds to the social forces emphasized in the "three logics of community action" discussed in Part II. These innovations represent an enduring achievement that promises a broad range of productive applications. This is not, however, a full-scale appraisal of community-based social policy. Such an effort would require a larger body of information than we possess, and it would also have to consider the interactions of the local values and forces emphasized in the CED perspective with competing values and surrounding structures above the local level.

I. THE TURN TO COMMUNITY-BASED ORGANIZATIONS IN SOCIAL POLICY

CED practitioners think of the Movement as a grassroots affair. To begin an account of CED by reviewing national, regional, and state support structures might strike them as looking through the wrong end of the telescope. Yet, no one denies that grassroots CED activities depend on an elaborate network of larger-scale efforts. Moreover, the increasing salience of CED in political and policy discourse can be most readily seen in the recent growth of national, regional, and state programs designed to encourage and sustain it.

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2. The average population of a community development corporation (CDC) community was 69,000 and the median was 32,500 in a 1992 study of 130 CDCs. AVIS C. VIDAL, REBUILDING COMMUNITIES: A NATIONAL STUDY OF COMMUNITY DEVELOPMENT CORPORATIONS 38 (1992). The range is broad. The Bronx Overall Economic Development Corporation, which coordinates the Federal Empowerment Zone program in the South Bronx, serves an area of about 100,000. The Jamaica Plain Neighborhood Development Corporation, as well as the CDCs I discuss below in East Palo Alto, California, and the Dudley Street area of Boston, have constituencies of about 25,000. Optimal size, of course, depends in part on the types of projects the organization undertakes. Job training tends to be done over larger areas than housing, and community development corporations within small areas may find larger real estate projects beyond their means. But generalization is difficult. In Marin City, California, where a CDC recently completed a major housing and commercial project, the population is only about 2,500 residents.

A. General Planning: The Revival of Redevelopment & "Community Action"

Looming over the current CED Movement are memories of two earlier experiments in community development, "urban renewal" or Redevelopment (a word I capitalize to indicate that it is a term of art referring to a special legal process), and the Community Action Program. Both are widely regarded as discredited, and to some extent, the current Movement has been shaped in reaction to their failures. However, in some respects, current efforts might also seem to be a continuation and vindication of the earlier movements.

1. REDEVELOPMENT

The Redevelopment process was created by the states under the impetus of the National Housing Act of 1949, which provided grants and other support for local efforts to revitalize "blighted" areas. The federal grant program came to be called "urban renewal." The state process it supported begins with the designation of an area as "blighted." A municipal agency then collaborates with private investors to formulate a plan of public and private investments to improve the area. The agency can draw on municipal powers of spending, eminent domain, land use regulation, and public finance with streamlined procedures. The plan often provides for public provision of structural improvements, as well as the condemnation and delivery to private developers of large tracts of land, perhaps at a substantial "write down" (below-cost price). The private developers undertake various improvements on their own account and perhaps build community facilities, such as parks, meeting places, or low income housing. The plans, and ensuing contracts, often limit or designate special uses for state and local taxes for the improvements.[3]

The Redevelopment process responds to a problem of coordination pervasive in real estate development that has been thought exceptionally severe in poor or otherwise "blighted" areas. One aspect of the coordination problem arises from the fact that the basic local instruments of economic development—providing tangible public goods such as roads and parks, delivering services such as police and schools, regulating land use, offering fiscal subsidies such as targeted tax breaks

3. For overviews with citations to the extensive literature, see generally Sonya Bekoff Molho & Gideon Kanner, *Urban Renewal: Laissez-Faire for the Poor, Welfare for the Rich*, 8 PAC. L.J. 627 (1977); Benjamin B. Quinones, *Redevelopment Redefined: Revitalizing the Central City with Resident Control*, 27 U. MICH. J.L. REFORM 689 (1994).

or favorable credit terms—often involve separate political processes. Bringing them to bear simultaneously on an ambitious development project could be cumbersome. Redevelopment combines the tools in a single, streamlined process.

The other aspect of the problem concerns the coordination of investments. The success of a real estate investment typically depends on other investments in the surrounding area, both public investments in goods and services and private investments that make the neighborhood more attractive or produce beneficial services. In a prosperous neighborhood, informal coordination or simply shared optimism may be sufficient to induce separate but mutually beneficial investment. However, in a "blighted" area, public and private investors may need more formal commitments from each other.[4] The Redevelopment process structures negotiation and produces binding contracts intended to create such commitments.

Redevelopment has been harshly criticized for decades. The critics have shown that, over and over, the development facilitated by the process has come at the expense of the initial residents of the communities being developed. In the worst case scenario, which has been often enacted, it takes the form of "Negro removal"—displacing low income, minority people by destroying rental housing or commercial buildings they used or occupied and replacing them with upper income housing or business facilities serving the affluent. The West End in Boston and the Western Addition in San Francisco are two famous examples.[5]

The Redevelopment process encouraged such injustice by weakening democratic constraints on governmental aid to development, by creating various fiscal incentives for localities to undertake the development, and by subsidizing the private participants through sweetheart land deals, cheap financing, tax breaks, and publicly provided infrastructure tailored to their investments. There is substantial evidence that the returns in economic growth to public Redevelopment investments have been small or negative and that the distributive effects of the program have been, on balance, regressive.

In 1974, the federal government ended specific support for Redevelopment and folded these funds into the Community Development Block Grant (CDBG) program.[6] Under this program, resources are not

4. A similar premise applies to new or "greenbelt" communities being built from scratch and accounts for another category of specialized development procedures applicable to these communities. *See, e.g.*, DANIEL R. MANDELKER ET AL., PLANNING AND CONTROL OF LAND DEVELOPMENT 631-51 (4th ed. 1995).

5. Molho & Kanner, *supra* note 3, at 643-62.

6. Housing and Community Development Act of 1974, Pub. L. No. 93-383, 88 Stat. 633 (codified at 42 U.S.C. §§ 5301 et seq. (1994 & Supp. V 2000)). The related

tied to specific projects or types of projects; instead, local governments have discretion to decide how to spend them within broad parameters.

Nevertheless, Redevelopment did not die, surviving as a state law process. In some states, its use expanded in the 1980s and 1990s under the impetus of property tax limitation efforts, such as California's Proposition 13.[7] By limiting revenues from the existing tax base, these measures prompted local governments to seek new taxable development.[8] The consequence in California has been called "the fiscalization of land use"; municipalities exercise their regulatory power over land use with a view to enhancing their tax revenues.[9] The Redevelopment process is especially attractive in this regard for two reasons. First, it streamlines large-scale development and second, the statutes typically allow local government to keep a larger share of tax revenues attributable to Redevelopment efforts than they keep from revenues arising from conventional sources.[10] Counties, school districts, and other taxing entities claim larger shares of the non-Redevelopment tax base.[11]

Federal support remained substantial even after the expiration of the "urban renewal" program. Although CDBG funds were not tied to Redevelopment projects, local governments that wanted to could so use them. Moreover, the federal tax code has continued to permit localities to issue tax-exempt bonds to finance Redevelopment projects.[12]

The fiscal attractions of Redevelopment are great enough in some areas to prompt local officials to characterize relatively prosperous areas, and even vacant land, as "blighted"; in California, many Redevelopment projects do not involve low income neighborhoods. The process continues to attract critics, who call it a wasteful public subsidy and arbitrary in its effects on taxation. However, assessments of its potential for low income neighborhoods are far less negative than in the past, and some prominent Redevelopment efforts have been viewed as CED success stories.

Urban Development Action Grant program came on line in 1977 but has since expired. *See* 42 U.S.C. § 5318 (1994).

7. *See* WILLIAM FULTON, GUIDE TO CALIFORNIA PLANNING 208-13 (1991).

8. *Id.*

9. *Id.* at 213.

10. *Id.* at 242-61.

11. *Id.*

12. 26 U.S.C. § 144(c) (1994 & Supp. V 2000). Lynne Sagalyn estimated that the annual value of the tax subsidy for Redevelopment finance in the 1980s considerably exceeded the annual amounts of direct expenditures under the prior "urban renewal" program. Lynne B. Sagalyn, *Explaining the Improbable: Local Redevelopment in the Wake of Federal Cutbacks*, 56 J. AM. PLAN. ASS'N 429, 432 (1990).

Statutory reform has strengthened the requirements of community participation and provided safeguards and remedies for displacement. California, for example, requires the formation of a "Project Area Committee" with representation of residents, community organizations, and businesses.[13] If the project involves displacement or the use of eminent domain, the committee must be chosen through an election publicized throughout the area.[14] The committee may be entitled to financial and technical support from the Redevelopment agency.[15] The Project Area Committee is entitled to information from the Redevelopment authority and is to be consulted on major decisions.[16] While it cannot veto a project, it does have potentially significant voting rights. If the Committee votes against the project, then the project may only proceed on a two-thirds vote by the Redevelopment authority, rather than the usual majority.[17] A thick body of judicial precedent also gives residents who oppose projects the right to challenge them in court on a variety of procedural grounds (for example, compliance with Environmental Impact assessment requirements or consistency with the city or county plan).[18]

Since the 1970s, federal law applicable to both federal projects and federally-supported state and local projects has given important rights to displaced tenants; homeowners and businesses also have strong relocation rights.[19] Some states, including California, have enacted similar protections for projects with only state support.[20] For example, displaced tenants are entitled, in addition to moving expenses,[21] to payments designed to compensate them for any increased rent they must pay for the next five years in their new apartments.[22] The reimbursement formula potentially compensates the lowest-income tenants by more than the costs of displacement and hence can leave them better off for being displaced.[23]

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13. CAL. HEALTH & SAFETY CODE § 33385 (West 1999).

14. *Id.*

15. *Id.* § 33388.

16. *Id.* § 33386.

17. *Id.* § 33385.5.

18. GOLDFARB & LIPMAN, A LEGAL GUIDE TO CALIFORNIA REDEVELOPMENT 87-88 (2d ed. 1994).

19. 24 C.F.R. § 42.325-.375 (2000).

20. *E.g.*, CAL. GOV'T CODE § 7260 (West 1995).

21. 24 C.F.R. § 42.350(b) (2000).

22. 42 U.S.C. § 5304(d)(2)(A)(iii)(I) (1994).

23. The federal standards require protection against rent increases for five years; the California standards, for three and a half years. *Id.* § 5304(d)(2)(A); CAL. GOV'T CODE § 7264 (Supp. 2002). Both federal and California law require that the compensation must enable the tenant during the period of protection to pay no more than thirty percent of his or her income for the new apartment. 42 U.S.C. §

Finally, if low or moderate income housing is eliminated by the project, federal and sometimes state law requires that localities build comparable replacement housing within a few years.[24] California further specifies that twenty percent of the incremental tax proceeds attributable to the project be used to fund affordable housing development.[25]

Some of these provisions are unenforced, and others can be circumvented or neutralized by a determined Redevelopment agency. But they do make abuse more difficult and increase the likelihood that development will involve grassroots participation and benefit. Here, for example, are two recent examples of Redevelopment activity that seem consistent with CED aspirations.

The City of East Palo Alto, California, is a low income minority area of about 25,000 residents. It has been desperately short of public revenues since its inception. The City can honestly be described as "blighted"; it has poor public services, a substantial crime problem, and despite rising land prices, has had comparatively little private investment. Yet it sits in the middle of booming Silicon Valley and contains large tracts of underdeveloped land. Aside from the fiscal incentives mentioned previously, the Redevelopment process offers an opportunity to induce greater investment by coordinating public and private efforts and to streamline the development process in a way that allows benefits to be widely shared.

Since the City is relatively small and participation in municipal government is extensive, citywide governmental processes have a "community" character. The City Council sits as the Redevelopment Agency, and its activities are closely and widely followed. In the planning for the first of its projects to reach the active development phase—a large commercial center along the highway that separates the city from the rest of Silicon Valley—several community organizations pressed with some success for various community benefits. For example, a "First Source Hiring Ordinance" gave preference to local

5304(d)(2)(A)(iii)(I); CAL. GOV'T CODE § 7260(i)(3). Moreover, California requires that the compensation must be based on the cost of a new apartment that complies with the Health & Safety Code. *See* CAL. GOV'T CODE § 7260(I)(1). Since many low income people pay more than thirty percent of their income for housing and most live in sub-Code apartments, the formula can leave them better off for being displaced. On the other hand, if the residents are being displaced from the community entirely because no satisfactory housing is available for them, then the payment might be viewed as compensation for the loss, not just of current benefits, but of the opportunity to enjoy the community benefits of the new development. From that point of view, it would be less likely to seem excessive.

24. 24 C.F.R. § 42.375; CAL. HEALTH & SAFETY CODE § 33413(a) (West 1999).

25. CAL. HEALTH & SAFETY CODE § 33334.2 (West 1999).

residents for jobs in the project area and general commitments for affordable housing to be built by nonprofit developers. The Project Area Committee and affiliated Resident Councils were active both in organizing their constituents and negotiating with the Redevelopment Agency. The project has displaced 150 families, but they too, have shared in its benefits. A few have received subsidized units in the city's first affordable housing project. The rest have received relocation payments averaging about $70,000, arguably large amounts for vacating dilapidated apartments in which they were tenants-at-will.

The Dudley Street Neighborhood Initiative (DSNI) in the Roxbury area of Boston is another example of a Redevelopment project that appears to involve genuine community control.[26] DSNI is a nonprofit corporation devoted to organizing residents around development planning. It operates in a low income minority neighborhood with a population about the same size as East Palo Alto. The neighborhood has suffered severely from poverty, crime, and disinvestment, and in the early 1980s had an appearance of unredeemed physical devastation. DSNI has sponsored a variety of projects, including social service programs, a new town "common," and a few hundred units of subsidized housing. It has been credited with improving the delivery of social services and reversing the trend of disinvestment. Its processes are widely considered a model of grassroots accountability and involvement.

In collaboration with the City of Boston, DSNI has made striking use of the Redevelopment process. Pursuant to a long dormant authorization in Massachusetts Redevelopment law, the City has delegated to DSNI various Redevelopment powers, including eminent domain.[27] DSNI's physical revitalization plans required acquisition of hundreds of small lots, mostly absentee-owned, many with untraceable ownership. This is a classic case where eminent domain seems necessary. In Boston, however, where Redevelopment-driven eminent domain has historical associations concerned more with liquidation than with revitalization of low income neighborhoods, the city's ability to engage in large-scale condemnation without arousing community opposition is constrained. By delegating the power to a community-based organization, the City of Boston neutralized much fear and suspicion.[28]

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26. *See* MEDOFF & SKLAR, *supra* note 1.

27. MASS. GEN. LAWS ch. 121A, §§ 3, 11 (1932).

28. State "brownfields" programs, which proliferated in the 1990s, should be mentioned as a specialized but important type of Redevelopment process. The programs are designed to facilitate remediation and development of environmentally-contaminated sites. They offer prospective developers financial assistance, liability protection, and relaxation of clean-up requirements. Some explicitly condition benefits on a showing of

2. FROM COMMUNITY ACTION AGENCIES TO EMPOWERMENT ZONES

The Community Action Program emerged from the Economic Opportunity Act of 1964, the controversial centerpiece of the Kennedy and Johnson Administrations' War on Poverty. A central provision of this act contemplated the delivery of a range of social services through "Community Action Programs" (CAPs). The Act provided for certification and support by the federal government of a single "community action" agency for low income urban neighborhoods. Both public and private nonprofit agencies could apply, but in either case, they were obliged to demonstrate "maximum feasible participation of the residents" of the geographic areas in which they were focused.[29] The agencies were expected to administer a range of services, most notably, educational enrichment and job training programs, but also including "community economic development."

The CAP program was an attempt to force decentralization of urban government. One premise was simply that municipalities were often too centralized and bureaucratic to effectively design and deliver services to poor neighborhoods. Another was that many municipalities were dominated by white political coalitions insensitive to racial minorities. The program responded to the first problem by inducing the formation of neighborhood institutions and giving them responsibilities for social service administration. It responded to the second by setting up relations between these local agencies and the federal government that were substantially independent of local power structures.

These programs disappointed the expectations of their designers in two distinct ways. For the most part, the citizen participation goals were never realized. Turnout in elections tended to be tiny, and ongoing involvement in the CAPs was limited. The programs tended to be dominated by their staffs, or in some cases, unaccountable boards. At best, the organizations were competent service providers; at worst, they were inefficient and patronage-ridden. Some CAPs appear to have been more effective in mobilizing constituents, but they were no more successful as organizations in the long run. These programs tended to engage in confrontation with established municipal power structures to demand more resources and attention to their communities. Although

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community support. Although these programs are not targeted at low income areas, many toxic sites are located in such areas, and community-based organizations have occasionally made effective use of the programs to support beneficial development. *See generally* Lincoln L. Davies, Note, *Working Toward a Common Goal? Three Case Studies of Brownfields Redevelopment in Environmental Justice Communities*, 18 STAN. ENVTL. L.J. 285 (1999).

29. Economic Opportunity Act of 1964, Pub. L. No. 88-452, § 202 , 78 Stat. 508, 516.

such confrontation was exactly what some of the program's designers hoped for, the protests from established local Democratic figures came as a surprise to Lyndon Johnson, who had no taste for inner city mobilization that threatened the Party's core constituents. The federal government failed to support the activist CAPs and came to regard them as liabilities.[30]

Unlike Redevelopment, the Community Action Program did not survive in name (though many CAPs continue as local social service providers), and its activities withered in the 1970s. One small fragment that did survive, however, played a significant role in the CED Movement. In 1968, the Equal Opportunity Act was amended to provide for grants to "Community Development Corporations," which were defined as locally-initiated nonprofits focused on the problems of low income areas. At least half of the seats on the organization's governing body were required to be held by residents of the relevant geographical area.[31] After the Office of Economic Opportunity was abolished, this grant-making function went to the Community Services Administration, later renamed the Office of Community Services within the Department of Housing and Urban Development. The HUD Community Services Program is a small operation, most interesting for its links to the past, though it has continued to support notable projects. Both the "Brewery" business incubator and the "Stop & Shop" supermarket project in Jamaica Plain benefited from its grants. The Community Services Program was one of several, including the Community Reinvestment Act and others to be discussed shortly, that encouraged community groups that had been founded as protest organizations and/or social service delivery agencies to reinvent themselves as economic developers.

Moreover, the federal urban grant programs that succeeded the Community Action Program, most importantly the Community Development Block Grant (CDBG) program, continued to mandate "public participation," though more ambiguously and less ostentatiously than in the past. The CDBG program requires that municipalities have a "citizen participation" plan that includes publicity about plans and opportunities, public hearings, and technical assistance to groups interested in applying for grants.[32] Although this is a far cry from the CAP idea of facilitating the formation of a community-based organization in each poor neighborhood, HUD has encouraged municipalities to consider the option of forming "Neighborhood Strategy

30. *See generally* ROBERT FISHER, LET THE PEOPLE DECIDE: NEIGHBORHOOD ORGANIZING IN AMERICA 110-20 (1984).

31. 42 U.S.C. § 9807(a)(1) (1994).

32. 24 C.F.R. § 91.105(a)(2) (2000).

Areas" in particular communities that look like promising sites for focused assistance. The Strategy Area involves the formation of a community-based development organization with an elected board.[33]

Despite the lowered profile of federal support for community-based organizations in the 1970s and 1980s, this period saw an explosion in neighborhood activism that has been described as a "backyard revolution,"[34] a "rebirth of urban democracy,"[35] and a "rise of sublocal structures in urban governance."[36] Community groups formed to demand more and better services from city governments. They formed to influence land use and investment decisions, protesting proposed uses with negative externalities (dumping facilities, high-density public housing projects, freeways) and pushing for uses likely to enhance the community (parks, schools). Many of these groups were reacting to decades of municipal policies that appeared to lavish investment on downtown areas at the expense of outlying neighborhoods. Some were fueled by political re-alignments induced by migration patterns that increased the electoral clout of minority neighborhoods (for example, "white flight" to the suburbs followed by arrival of immigrant groups of color).

State and local policy encouraged such developments by creating new structures designed to enhance community participation in municipal government—"little city halls," "neighborhood councils," "community boards"—and new opportunities to participate in land use and environmental decisions and to challenge them in the courts. Federal policy also played a role. In a study of the "rebirth of urban democracy" in five cities, researchers concluded that in four of the cities, community activism had resulted from local government initiatives encouraged by CDBG and related programs, and in the fifth, San Antonio, the grassroots Movement that had emerged without municipal assistance had been prompted in part by the goal of participating in CDBG allocations.[37] Some states have enacted on their

33. *Neighborhood Strategy Areas: City of Nashville, Tennessee, available at* http://www.hud.gov:80/ptw/docs/tn07.html (last visited Mar. 6, 2002).

34. HARRY C. BOYTE, THE BACKYARD REVOLUTION: UNDERSTANDING THE NEW CITIZEN MOVEMENT (1980).

35. JEFFREY M. BERRY ET AL., THE REBIRTH OF URBAN DEMOCRACY (1993).

36. Richard Briffault, *The Rise of Sublocal Structures in Urban Governance*, 82 MINN. L. REV. 503 (1997).

37. BERRY ET AL., *supra* note 35, at 57-60, 108-14. The cities which the book described as evincing extensive and effective grassroots activism are Birmingham, Dayton, Portland (Oregon), St. Paul, and San Antonio. *Id.* at 57-60; *see also* FISHER, *supra* note 30, at 121-52.

Briffault described the emergence of a different category of "sublocal structures"—tax increment finance districts, special zoning districts, business improvement districts, and enterprise zones. Briffault, *supra* note 36, at 508. With own programs of general financial support for "community development corporations,"[38] "community preservation companies,"[39] or "neighborhood assistance organizations."[40]

With the advent of the Clinton Administration, the federal government re-embraced the combination of developmental and participatory themes associated with the War on Poverty in the Empowerment Zone/Enterprise Community program.[41] Announced at the beginning of the Clinton Administration with great fanfare, the program offered an extraordinary package of federal benefits over a ten-year period to a small number of competitively selected "Empowerment Zones" and a smaller package to a larger number of "Enterprise Communities."[42] After an initial application period, HUD designated nine Empowerment Zones in 1994.[43] Impressed by initial reports, Congress then authorized funding for an additional twenty in 1997.[44] Ninety-five "Enterprise Communities" received the smaller set of benefits in 1994.[45]

Empowerment Zone benefits include increased grants for social services and economic development, regulatory waivers, use of tax-exempt bonding authority, and tax benefits for employers including a credit for wage payments to employees who reside in the Zone.[46] Communities with "pervasive poverty" compete for selection by producing "strategic plans" of coordinated public and private efforts at housing, business, and job development.[47] Congress mandated that the

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some exceptions, especially the new federally-supported enterprise zones discussed in the text, these entities are generally oriented toward, and often controlled by, businesses and landowners, rather than residents. *Id.* at 523. To that extent, they are not CED in our sense, but they are part of a common trend to decentralize municipal governance.

38. MASS. GEN. LAWS ch. 40F, §§ 1-5 (2000) (authorizing Community Development Finance Corporation to provide support for "community development corporations").

39. N.Y. PRIV. HOUS. FIN. LAW §§ 901-909 (McKinney 1991) (authorizing state assistance to "Neighborhood Preservation Companies," or "community-based not-for-profit organization[s]").

40. VA. CODE ANN. §§ 58.1-333, 63.1-321 (Michie 2000) (providing for tax credits for donations to "neighborhood organizations," I.R.C. § 501(c)(3) organizations, and qualified organizations providing "neighborhood assistance to impoverished people").

41. U.S. Dep't of Hous. & Urban Dev., Cmty. Planning & Dev., *Introduction to the rc/ez/ec Initiative*, [hereinafter HUD, *Introduction*], http://www.hud.gov/offices/cpd/ezec/about/ezecinit.cfm (last visited Mar. 31, 2002).

42. *Id.*

43. *Id.*

44. *Id.*

45. *Id.*

46. *See id.*

47. 24 C.F.R. § 597.202(b) (2001).

affected community was to be a full partner in the development of the plans.[48] An important criterion in evaluating the plans is the extent to which the affected community and its community-based organizations have participated in the plan's development and their commitment to implementing it.[49] Regulations require that applicants identify the community groups participating in the development of the plan, explain how they were chosen to participate, describe their history, show that they are collectively representative of the full range of the community, and "[d]escribe the role of the participants in the creation, development and future implementation of the plan."[50]

The "Empowerment Zone" idea combines themes from both Redevelopment and Community Action while attempting to respond to the salient criticisms of both. Like Redevelopment, it seeks to encourage coordination of large-scale public and private investment. It has, however, a considerably broader vision of investment that includes social services and physical improvements. Most importantly, it defines the goals of the program in terms of benefit to the "community," which it identifies with its current residents,[51] and mandates broad community participation. The social service themes and the emphasis on community participation resonate with the Community Action Program. The programs, however, do not bypass local government to fund community groups directly. Nominations for Enterprise Zone status must come from government entities.[52] Instead, the program gives state and local governments material inducements to support and cooperate with community groups by making such support and cooperation the central eligibility criterion for benefits. Moreover, in contrast to the Community Action Program, the program does not contemplate support for a single organization to mobilize and represent the entire community; it assumes that there will be multiple community-based organizations involved, with no one of them necessarily predominant.

A further reassertion of Community Action themes at the federal level came with the 1998 revision to the Community Services Block Grant program, which provides funds to local governments for a

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48. 26 U.S.C. § 1391(f)(2)(B) (1994).

49. 26 U.S.C. § 1391(f); 24 C.F.R. § 597.201(c).

50. 24 C.F.R. § 597.200(d). "The Initiative recognizes that local communities, working together, can best identify and develop local solutions to the problems they face." HUD, *Introduction*, *supra* note 41. An assessment of early efforts of the first round of designates found mixed results in terms of community participation. *See generally* Marilyn Gittell et al., *Expanding Civic Opportunity: Urban Empowerment Zones*, 33 URB. AFF. REV. 530 (1998).

51. 24 C.F.R. § 597.201(a).

52. *Id.* § 597.200.

panoply of social programs.[53] The statute describes the purpose of the program as "to provide assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations" for poverty alleviation and community revitalization.[54] It prescribes that specific expenditures be coordinated under a general plan formulated with "maximum participation of residents of the low-income communities and members of the groups served."[55]

B. Housing

The model of public housing institutionalized in the National Housing Act of 1934 involved rental housing constructed, owned, and operated by local public housing authorities (PHAs).[56] The Housing Act created a system of federal financial assistance to local PHAs for building and maintaining such housing under guidelines enforced by federal authorities, currently the Department of Housing and Urban Development. The guidelines restrict eligibility for housing to applicants who meet specified measures of low or moderate income status and restrict the rent charged to residents to (currently) thirty percent of the household's income.[57]

In the 1970s, a different model designed to enlarge both tenant choice and private market incentives was introduced. Under the "tenant-based Section 8" program, a local agency distributes certificates to eligible low income applicants.[58] The certificate obligates the agency to pay a portion of the applicant's rent on a qualifying apartment leased from a private landlord.[59] The portion is currently the difference between an amount intended to approximate the market value of the leasehold and thirty percent of the certificate holder's income.[60] The holder then pays thirty percent of his or her income to the landlord.[61] The holder has to find a landlord with a suitable apartment willing to

53. 42 U.S.C. § 9901 (Supp. V 2000).

54. *Id.* § 9901(1).

55. *Id.* § 9901(2)(D).

56. 12 U.S.C. §§ 1701 et seq. (2000).

57. *Id.* § 1715z-1.

58. U.S. DEP'T OF HOUS. & URBAN DEV., OPTING IN: RENEWING AMERICA'S COMMITMENT TO AFFORDABLE HOUSING (1999) [hereinafter HUD, OPTING IN], http://www.hud.gov/library/bookshelf18/pressrel/optingin.html (last visited Mar. 31, 2002).

59. *Id.*

60. *Id.*

61. *Id.*

accept the certificate and to enter into a triangular relation with the holder and the administering agency.[62]

The conventional model of PHA-owned-and-operated housing has steadily fallen into increasing disfavor since the 1960s. Some of the complaints focus on a particular physical configuration that is now discredited—the large high-rise located in a desolate area of concentrated poverty. Projects of this sort have long been considered breeding grounds for crime and other social pathologies. This view has led to a re-orientation of public housing design toward smaller, lower, more attractive, and more dispersed projects. Some of the older high-rise projects have been demolished, and HUD is funding the demolition or rehabilitation and redesign of others. PHAs continue to be active in the development of the newer style of projects, and they play important roles in HUD's demolition and rehabilitation programs.

However, another set of criticism questions the efficacy of PHAs more generally. PHA-owned housing is substantially more costly to build and maintain than comparable private housing, and notwithstanding the greater costs, it is often poorly maintained, sometimes horrendously so. The prevalent explanation points to the familiar limitations of public bureaucracy: poor incentives and information. PHAs have been monopolists largely immune from market pressures and highly vulnerable to political pressures that compromise efficiency. They have been organized in a centralized fashion that concentrates discretion at the top among administrators with limited knowledge of conditions in the projects they manage.

Although the matter is controversial, many believe that "tenant-based" private housing assistance programs have not performed any better.[63] This model does not directly produce new housing, and critics assert that private supply of low-end housing is not strongly responsive to the increased demand induced by the certificates. Moreover, the certificate model has incentive and information problems of its own. The administering agency has to estimate the market value of the leasehold in order to calculate the proper subsidies. It has no market incentive to get things right, and it has limited information. Because of resource constraints, the agencies set uniform levels across broad geographical areas. They are thus certain to get the figures wrong for many apartments and may well do so for most. To the extent that the standards underestimate the market value of minimally adequate apartments, the subsidy is not enough to induce landlords to rent to certificate holders. Thus, a substantial number of those awarded

62. *Id.*

63. *E.g.*, Jenifer J. Curhan, *The HUD Reinvention: A Critical Analysis*, 5 B.U. PUB. INT. L.J. 239, 243-45 (1996).

certificates, some studies suggest between twenty and forty percent, return their certificates unused because they can't find appropriate housing.[64] To the extent that the standards overestimate market rents, subsidies are excessive and resources wasted. The amount HUD pays above market is estimated to be as high as $1 billion per year.[65] The tenant has no incentive to search or bargain for a lower rent since the program pays the difference between thirty percent of her income and the standard.

In the many areas where it is hard to find an eligible apartment with a landlord who will accept a Section 8 certificate, tenants are not in a good position to enforce the landlord's obligations. They may fear that, if they complain, the landlord will evict or refuse to renew the lease. Thus, Section 8 landlords have been known to demand side payments above the legal maximum from their tenants and fail to perform basic maintenance.[66] Others object that the calculation of the tenant's rent share on a percentage basis reduces incentives to achieve self-support.[67]

The first Bush administration, under HUD Secretary Jack Kemp, and the Clinton Administration, under Secretaries Henry Cisneros and Andrew Cuomo, responded to the dissatisfaction with these established models with a more or less common approach that looks simultaneously in two quite different directions. One, which looks away from the Community Economic Development Movement, is voucherization. Vouchers resemble Section 8 certificates in their portability; recipients use them as subsidies in leases negotiated with private landlords. However, they differ from Section 8 certificates in providing for

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64. *Id.* at 250-51 & nn. 90-97.

65. HUD, OPTING IN, *supra* note 58, at 22.

66. Legal aid lawyers in the San Francisco area have told me that tenants frequently make such complaints but refuse to assert their rights to the authorities for fear of retaliatory eviction.

67. A third variation is "project-based" Section 8 private housing assistance in which the government subsidizes the construction or rehabilitation of privately-owned housing in return for an agreement by the owner to rent only to eligible tenants at specified rents for a specified period. Such programs are designed to directly induce increased supply, but they suffer from information problems similar to, and in some respects more severe than, the "tenant-based" assistance programs. Here the contracts between the government and the owner run for twenty years or more, rather than, as with "tenant-based" assistance, for one to three years. If the subsidy turns out to be too low and rents are insufficient to cover costs, the owner, whose obligations are usually nonrecourse and under-collateralized, can insist on a bail-out or walk away. Thus, in the adverse market conditions of the 1970s, mass defaults created a crisis. If the subsidy turns out to be higher than necessary, the owner recovers excess profits during the term of the contract, and if there is substantial appreciation, he can escape the use restrictions at the end of the term and capture the appreciation. Thus, in the boom market of the 1990s, HUD faced an expiring use crisis. *See generally* HUD, OPTING IN, *supra* note 58.

payment of a flat amount that does not vary with the negotiated rent and is not measured in terms of an estimate of market value. They are thus administratively simpler, and because the recipient bears full responsibility for the portion of the rent that exceeds the voucher amount, she has an incentive to seek the lowest rent. However, like certificates, vouchers do not directly increase housing supply and are thus unsatisfactory to those who believe the private market is not strongly responsive to demand-side subsidies. Moreover, vouchers operate through individual action by geographically-dispersed recipients and thus do not induce the types of institutions and experiences associated with Community Economic Development.[68]

The other tendency in recent HUD programs resonates strongly with CED. A 1997 HUD publication interprets recent policy shifts as an abandonment of "traditional top down" perspectives in favor a "community-building" approach encouraging "initiatives to create a network of partnerships among residents, management, and community organizations or enterprises."[69]

First, there is an emphasis on tenant participation in PHA projects that dates to the 1960s but has been strengthened in recent years. HUD's declared policy is to encourage resident participation "in all aspects of [a project's] overall mission and operation."[70] HUD mandates that local PHAs recognize and consult with duly-organized Tenant Councils.[71] It stipulates various democratic procedural requirements for such Councils and makes available technical assistance and material support for them.[72]

More ambitiously, HUD encourages resident management. Residents are invited to form Resident Management Corporations to bid to assume management responsibilities from the PHA. The management corporations must be nonprofit corporations that meet specified requirements designed to insure accountability to tenants generally.[73] Again, technical and material assistance is available to qualifying corporations.

HUD's current major support for PHA construction is for the rehabilitation or demolition and replacement of "distressed" projects.[74]

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68. *Compare* Curhan, *supra* note 63, at 241 (arguing against vouchers), *with* Stephen B. Kinnaird, *Public Housing: Abandon HOPE, but Not Privatization*, 103 YALE L.J. 961, 966 (1994) (arguing for vouchers).

69. ARTHUR J. NAPARSTEK ET AL., COMMUNITY BUILDING IN PUBLIC HOUSING: TIES THAT BIND PEOPLE AND THEIR COMMUNITIES 14 (1997) (prepared for HUD).

70. 24 C.F.R. § 964.11 (2001).

71. *Id.*

72. *Id.* § 964.100-.115.

73. *See generally id.* §§ 964.120, .150.

74. *Id.* § 971.1.

Funds are allocated in a competitive process in which one of the requirements is a showing of consultation with tenants regarding the plan.[75]

Second, some HUD programs promote home ownership by low income people in various ways, including the sale of PHA housing to tenants. The first Bush Administration entertained the idea of converting most of the PHA stock into ownership, but such plans now seem unrealistic given the limited financial capacities of low income people to finance such purchases and maintain the buildings. Nevertheless, some ownership programs continue to operate.[76] The ownership interests created by such programs typically manifest, at least temporarily, the equity limitations characteristic of CED property rights. Moreover, they are most commonly collective ownership interests in which the residents exercise their rights through cooperative corporations or homebuyers associations.[77]

Third, many HUD programs now combine housing with services or financial assistance designed to assist residents in achieving economic self-sufficiency. These programs often have a community focus. HOPE VI, a major revitalization program, requires that ten percent of its grants be used for services such as job training and placement, day care, and substance abuse counseling.[78] Residents often have responsibility for developing and occasionally, for administering these plans.[79] HUD's Tenant Opportunity Program provides funding and technical assistance for business activities of residents.[80] Section 3 of the Housing and Urban Development Act of 1968 requires that PHA construction projects accord an employment preference to project residents and a procurement preference for resident-owned businesses.[81]

Perhaps the most significant aspect of recent housing policy for the CED Movement is the increased importance of nonprofit, typically Community Development Corporation, entrepreneurialism. Since the 1980s, direct federal support for new construction under PHA and "project-based" private programs has dwindled. Directly-supported production is now barely sufficient to replace units being demolished. Net additions to the affordable stock depend on the efforts of private producers.

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75. *Id.* § 971.9.

76. 42 U.S.C. §§ 1437aaa-1 to -8 (1994).

77. *Id.*; 24 C.F.R. §§ 92.2, 92.254(a), 572.130 (2000 & 2001).

78. BENNETT L. HECHT, DEVELOPING AFFORDABLE HOUSING: A PRACTICAL GUIDE FOR NONPROFIT ORGANIZATIONS 262 (2d ed. 1999).

79. *Id.* at 262-63.

80. 24 C.F.R. § 964.200.

81. 12 U.S.C. § 1701u (2000).

The current major sources of support for private affordable housing development specially provide for nonprofit producers. The 1992 HOME program makes grants available to state and local governments, and the grants can be put to a broad range of uses, such as increasing home ownership and creating affordable housing options for low income people. The program is budgeted for fiscal 2001 at $1.65 billion and is expected to result in the production of 92,064 units of housing.[82] At least fifteen percent of HOME allocations within each jurisdiction must be set aside for "Community Housing Development Organizations,"[83] which are defined as nonprofit organizations engaged in affordable housing development that maintain accountability "through significant representation on [their] organization's governing board[s] and otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries" of its activities.[84] HOME funds can also be used to provide operating support for such organizations.[85]

Other HUD programs also focus support on nonprofit developers. A program enacted in 1990 to preserve privately-owned housing constructed with "project-based" assistance on which use restrictions are expiring makes available funds for the purchase of the housing by applicants who will commit to long term restrictions.[86] The statute designates nonprofits, along with government agencies and resident councils, as "priority purchasers" who have an exclusive right to bid for an initial period after the project is offered for sale.[87] Under a 1992 provision, residents' councils in PHA projects can apply to HUD to have management transferred from the PHA; if private, the alternative managers must be nonprofits, or joint ventures with nonprofit participation.[88]

The Low Income Housing Tax Credit, which since 1986 has been the single biggest source of subsidy for affordable housing, also makes special provision for nonprofit corporations. This program involves a tax expenditure, amounting to $3.2 billion and supports production of

82. OFFICE OF THE PRESIDENT OF THE U.S., BUDGET OF THE UNITED STATES GOVERNMENT: FISCAL YEAR 2001, at 496 (2001) [hereinafter 2001 BUDGET].

83. 42 U.S.C. § 12771(a) (1994).

84. *Id.* § 12704(6).

85. *Id.* § 12771(a).

86. 12 U.S.C. § 4110 (2000).

87. *Id.* § 4110(b). Congress mandated priority for nonprofit housing developers in the disposition of real estate assets of distressed banks.

88. 42 U.S.C. § 1437w(c), (f), (m) (2000).

80,000 to 100,000 new units of affordable housing per year.[89] Developers sell the credits to corporate investors, who become limited partners, in return for capital contributions to the projects. Thus, even though nonprofits have no tax liability of their own to offset with the credits, they can make use of them in the same manner as for-profit developers. Although the credits offset federal taxes, the federal government allows the states to allocate them. State agencies allot them through a competitive application process in which both private and nonprofit developers are eligible. Seeking to enlarge the role of nonprofit developers, Congress mandated that each state must allocate at least ten percent of its credits to projects with nonprofit developers.[90] In fact, nonprofit developers have received considerably larger portions of the credits in most areas. In California, for example, nearly half of tax credits were allocated to projects of nonprofit developers in the mid-1990s.[91]

An elaborate structure of intermediaries has grown up in recent years to support community-based nonprofit housing developers. Some of these institutions are government-sponsored entities (GSEs), corporations specially chartered by a legislature with boards wholly or partly publicly-appointed. There is, for example, the Federal Neighborhood Reinvestment Corporation[92] and, typical of many state examples, the Massachusetts Housing Finance Corporation.[93] Other such institutions are nonprofits operating across many communities. The Enterprise Foundation and the Local Initiative Support Corporation are especially notable examples.[94] Such institutions channel public funds or private charitable donations to provide financial and technical assistance to community-based developers. Sometimes they participate as equity partners; sometimes they make loans or grants for specific projects. They often make loans or grants for general organizational support. Sometimes they act as financial intermediaries in pooling and/or reselling securities issued in connection with affordable housing development.

89. U.S. DEP'T OF HOUS. & URBAN DEV., 1997 CONSOLIDATED REPORT 56, http://www.hud.gov:80/conrept1997.cfm (last visited Mar. 31, 2001); 2001 BUDGET, *supra* note 82, at 216.

90. 26 U.S.C. § 42(h)(6) (1994).

91. CAL. TAX CREDIT ALLOCATION COMM., 1993 ANNUAL REPORT: REPORT ON THE ALLOCATION OF FEDERAL AND STATE LOW INCOME HOUSING TAX CREDITS IN CALIFORNIA 8 (1994) (43% of federal credits and 50% of credits under affiliated state funded program awarded to nonprofit sponsors in 1993).

92. 42 U.S.C. § 8102 (1994).

93. MASS. ANN. LAWS ch. S7, § 1-17. (Law. Co-op. 1992).

94. For an extensive list, with descriptions, see HECHT, *supra* note 78, at 121-203, 212-19.

The net effect of these initiatives is that community-based organizations now play a critical role—in some areas, the dominant role—in affordable housing development. For example, in New York City, PHAs account for about 3,000 units per year; conventional for-profit developers account for another 1,500 to 2,000, while 6,000 to 10,000 units are produced by "an infrastructure of nonprofit development groups, intermediaries, community development lending institutions, small private developers, homebuilders, and contractors—all of whom share a neighborhood focus, work on a small scale, and utilize a blend of public and private resources."[95]

C. Banking & Credit

The limited access to credit of poor people might be viewed as an unremarkable consequence of their poverty. Since the 1960s, however, credit insufficiency has come to be viewed in urban policy as in part a cause, rather than solely a consequence, of poverty. The availability of credit in low income areas seems mediated by three distinct problems.

The first is race discrimination. Banks and government agencies prior to the Fair Housing Act of 1968 openly practiced "Redlining"—categorically restricting or precluding residential lending in minority neighborhoods. Despite that statute and the subsequent Equal Credit Opportunity Act of 1975, studies continue to find that people of color, or people who reside in predominantly minority neighborhoods, are less likely to have success in applying for credit than white people, or people in white neighborhoods, in otherwise comparable economic circumstances.[96] The findings are controversial because it is difficult to control for comparable economic circumstances, but most within the CED Movement are convinced. The studies are amplified by a massive body of anecdotal evidence from people of color who have had bad experiences with the credit system.

There have been few major enforcement actions against lenders under the civil rights statutes. Enforcement is limited by problems of proof. The same difficulty of separating economic from racial influences that troubles researchers, constrains the courts. Moreover, the conventional prima facie case of credit discrimination involves a showing that minority applicants have been denied while economically similar nonminority applicants have been approved. Thus, lenders that

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95. Kathryn Wylde, *The Contribution of Public-Private Partnerships to New York's Assisted Housing Industry*, *in* HOUSING AND COMMUNITY DEVELOPMENT IN NEW YORK CITY: FACING THE FUTURE 73, 78 (Michael H. Schill ed., 1999).

96. DOUGLAS S. MASSEY & NANCY A. DENTON, AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS 50-57, 105-09 (1993).

simply discourage minority applications, for example, by locating their branches far from minority communities or maintaining hours inconvenient for low income working people, are hard to reach.[97]

The second problem is coordination. Because real estate investments support each other through local externalities, each lender has a material incentive to lend where others are lending and to avoid areas shunned by others. (The coordination problem only explains why some neighborhoods are shunned, not why they tend to be minority neighborhoods. Thus, if we credit the disparity studies, coordination seems more a complementary than an alternative explanation to racism.) We have seen that the Redevelopment process is designed to induce investment by eliciting complementary commitments, but this process is expensive and exceptional. Where there is no mechanism for insuring complementary investments, poor impressions of a neighborhood can become self-reinforcing.

The third explanation concerns information. People with capital to lend tend to be socially distant from low and moderate income people and the neighborhoods they live in. This distance may make it harder for the lenders to assess the creditworthiness of these applicants and the value of their collateral.[98] Of course, lenders can hire people to make such judgments for them, but the same social distance that impedes their assessment of credit applicants may make it difficult for them to find such agents. Through research and experimentation, a lender can acquire the knowledge of a socially distant community that he or she needs to make reliable judgments of creditworthiness. The lender may be reluctant, however, to invest in such research and experimentation for fear that the lender will not recover its costs. If others can observe the results of the lender's efforts, and hence get the benefit of them without contributing to the cost, they can compete away the gains.

These three perspectives suggest that an effective response to credit scarcity in poor communities should not depend on difficult matters of proof, but rather should encourage coordination and focusing of multiple

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97. There have been suggestions that branching decisions that discourage minority credit applications may trigger Equal Credit Opportunity Act liability, but they are controversial. See the discussion of the *Chevy Chase* decree in JONATHAN R. MACEY & GEOFFREY P. MILLER, BANKING LAW AND REGULATION 207-10 (2d ed. 1997).

98. There is also a coordination problem with respect to information. To be useful, collateral has to be valued. With real estate collateral, one of the most important sorts of information about the value of a particular property is the value of surrounding properties. Thus, real estate appraisals generate positive externalities just like real estate investments. The more appraisals we have of neighboring properties, the more reliably we can value the property we are interested in. This is another reason why banks like to lend where others are lending. Michael Klausner, *Market Failure and Community Investment: A Market-Oriented Alternative to the Community Reinvestment Act*, 143 U. PA. L. REV. 1561, 1569-70 (1995).

investments, and should address the exceptionally severe asymmetries of information that impede the assessment of creditworthiness in such communities. The two most important recent initiatives in this area take important steps toward these goals. These are the Community Reinvestment Act (CRA), enacted by Congress in 1977 and strengthened by new implementing regulations in 1995,[99] and the Community Development Banking and Financial Institutions Act (CDFI) of 1994, one of the most touted elements of the Clinton Administration's domestic program.[100] Each of these measures has supported the trends and institutions of the CED Movement.

While the support of the Community Development Financial Institutions Act is direct and explicit,[101] the Community Reinvestment Act is more circuitous and opaque. The CRA ascribes to any bank that receives federal deposit insurance a "continuing and affirmative obligation to help meet the credit needs of the local communities in which [it is] chartered."[102] The obligation applies to the "entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution."[103] The statute, however, does not further specify the obligation, simply directing the regulators to "assess" each institution's compliance.[104]

The regulations provide some structure to the assessment. Banks must define an "assessment area" that includes their major activities and does not gerrymander out minority or low income communities.[105] Ratings are based on lending, investment, and service activities within the area,[106] with lending activities weighed twice as much as the other two. Among the factors considered in assessing lending are the ratio of loans made within the assessment area to deposits (the "loan-to-deposit ratio"), the percentage of loans in the assessment area (the "concentration ratio"), the percentage of census tracts within the assessment area in which loans were made (the "penetration ratio"), the percentage of loans made to low and moderate income borrowers and to borrowers within census tracts with low or moderate average incomes.[107] The "investment test" measures the bank's support, through either grants or equity investments in institutions focused on the needs of low and moderate income residents of its assessment area, such as credit

99. 12 U.S.C. §§ 2901 et seq.
100. *Id.* §§ 4701 et seq.
101. *Id.*
102. *Id.* § 2901(a)(3).
103. *Id.* § 2903(a)(1).
104. *Id.* §§ 2901(a)(3), 2903(a)(1) (2000).
105. 12 C.F.R. § 25.41 (2002).
106. *Id.* § 25.21.
107. *Id.* § 25.21-.25.

unions, small business loan funds, and affordable housing developers.[108] The "service test" looks at such factors as the accessibility of branches and ATMs in low and moderate income neighborhoods and the provision of specialized services, such as credit counseling or homebuyer education, to low and moderate income customers.[109] All these factors are summed into an overall numerical score, which is then translated into one of five ratings ranging from "outstanding" to "substantial noncompliance."[110]

Notwithstanding the quantitative scores, the rating process depends largely on debatable qualitative judgments, and the regulators are often accused of inconsistency, arbitrariness, and favoritism. Uncertainty is further increased by the statute's failure to specify a definite sanction for poor CRA performance. The statute provides only an invitation to the regulators to consider CRA performance in deciding on a bank's application to open or relocate a branch, to merge with or acquire another bank, or to establish a bank holding company.[111] With pervasive restructuring in the industry, such regulatory approvals have often been sought in recent years. Few applications have been denied on CRA grounds.[112] However, the stakes in such proceedings are often so large, that even a tiny probability of denial, or even delay, has proved enough to motivate many banks to strive for a respectable CRA rating. The motivation was intensified by the 1995 regulations, which appeared to signal an intention by the regulators to enforce more vigorously. By one estimate, the CRA induced $35 billion in lending and investment in traditionally under-served communities between its enactment in 1977 and 1993.[113]

For our purposes, two aspects of the CRA structure are most notable. First, the CRA creates an explicit duty to "local communities" and "neighborhoods," understood in precisely the CED sense to mean primarily the residents of small, geographically-bounded areas. Second, the vague and indirect enforcement structure of the Act creates a vital role for community-based organizations. Community groups organized around economic development issues are, other than the banks, the major source of information for and pressure on the regulators in the

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108. *Id.* § 25.23.

109. *Id.* § 25.24.

110. *Id.* § 25.21(c). *See generally* KENNETH H. THOMAS, THE CRA HANDBOOK 379-419 (1998).

111. 12 U.S.C. §§ 2902(3), 2903(a)(2).

112. Of 105,000 applications between 1977 and 1993, only 31, or .03%, were denied on CRA grounds, though the rate rises to about 1% if only contested applications are considered. THOMAS, *supra* note 110, at 87-92.

113. S. REP. No. 103-169, at 7 (1993), *reprinted in* 1994 U.S.C.C.A.N. 1881, 1891.

ratings process. These groups can and do intervene in regulatory application proceedings to raise CRA issues. They also use low CRA ratings to generate bad public relations for local banks. Kenneth Thomas describes the CRA process as a regulatory "triangle" consisting of regulators, banks, and community groups.[114]

The CRA prompts many banks to engage in a variety of routine, ongoing negotiations and collaborations with community-based organizations, but its most visible consequences can be seen in settlements connected to regulatory applications for mergers or acquisitions in which consortia of groups agree not to oppose the application in return for community development commitments. Such settlements can involve promises to lend specific amounts or to make loans on specified terms in low and moderate income neighborhoods, to open or refrain from closing branches or ATMs, to make investments or contributions to economic development projects, or to provide support to community-based organizations. An extreme example is the set of commitments made by Washington Mutual in its contested acquisition of Great Western Bank in 1997. In apparent response to the efforts of two consortia of community-based organizations, the Greenlining Coalition and the California Reinvestment Committee, Washington Mutual promised to lend at least $70 billion over ten years on specified conditions within low and moderate incomc neighborhoods in its post-merger assessment areas, to make charitable contributions amounting to at least two percent of its pretax income, to close branches in low- and moderate-income areas only under specified conditions, to meet regularly with leaders of community-based organizations over CRA issues, and to introduce in one area a new checking account without fees or minimum balances.[115]

Thus, a critical by-product of the CRA's effort to enhance credit in low income neighborhoods is the empowermcnt of community-based organizations. From the community's perspective, since CRA benefits correlate with the strength of community-based organization, the Act creates a strong inducement to form and support such organizations. From the organization's point of view, the Act makes it possible to extract resources from the banks that support the organization directly (when the resources go to it and its projects) and indirectly (when it gets local credit for bringing resources to the community).

The second of the two recent major federal initiatives is the Community Development Financial Institutions Fund. The Fund's main activity is providing grants, loans, equity capital, and technical

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114. THOMAS, *supra* note 110, at ix.

115. *Id.* at 118-20.

assistance to "community development financial institutions."[116] Such institutions are defined as nongovernmental entities committed to community development that serve an investment area or targeted population and "maintain[], through representation on [a] governing board or otherwise, accountability to residents of its investment area or target population."[117] Among the factors to be weighed favorably in considering applications is the extent to which the applicant is "community-owned or community-governed."[118]

In enacting the bill, Congress mentioned the following types of institutions as embraced by its CDFI definition: community development banks, community development credit unions, and community development loan funds.[119] Community development banks are insured depositary institutions with lending strategies oriented to community development goals.[120] The best known bank of this kind is South Shore Bank in Chicago, a widely-admired institution credited with turning around a declining working class neighborhood.[121]

Credit unions are financial cooperatives. A community development credit union is one in which the majority of the members are low-income people.[122] Congress estimated there were about 150 such institutions when it passed the act.[123]

Community development loan funds are nonprofit organizations funded by donations or capital provided on favorable terms by "socially-conscious" lenders or investors to make loans for affordable housing, job, or business development in distressed communities.[124]

Micro-enterprise funds are another type of nonprofit fund specializing in modest loans to very small businesses. As we have seen, this is a broad term embracing institutions engaged in planning, entrepreneurial, or management activities involving CED. Congress specifically mentioned "Multi-Bank Community Development Corporations" in which banks pool funds to make CRA loans and investments, some of which they may be prohibited from making directly.[125]

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116. 12 U.S.C. § 4701(b) (2000).

117. *Id.* § 4702(5)(A)(iv).

118. *Id.* §§ 4702(5)(A), 4706(a)(11).

119. S. REP. NO. 103-69, at 10-12. *See generally* Rochelle E. Lento, *Community Development Banking Strategy for Revitalizing Our Communities*, 27 U. MICH. J.L. REFORM 773 (1994).

120. S. REP. No. 103-69, at 10.

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.* at 11.

125. *Id.* at 12.

The basic premises of the CDFI program are similar to those of the CED Movement. CDFIs are defined in terms of a focus on a "community" and accountability to its members.[126] The core CED conception of a community defined in terms of residence and geographical proximity is plainly included in the definition of CDFI, though the definition ranges somewhat more broadly to include communities defined in terms of a "targeted population" with shared social or economic characteristics, as well as in terms of a geographical "area."[127] It is also possible that a community focused on a particular "area" might include nonresidents—for example, employees and business owners. Both for-profit and nonprofit organizations are eligible to become CDFIs. In practice, most beneficiaries of the program have been organizations with a geographical focus or providing assistance primarily to organizations with a geographical focus, often defined primarily in terms of residence.[128] The majority have been nonprofits.[129]

A less prominent but still important federal player in this field is the Small Business Administration, which administers a range of programs providing credit, technical assistance, and procurement preferences in federal contracting or federally-subsidized state contracting. (Procurement preferences take various forms. They can allow the relevant agency to award a contract to a preferred bidder even though her bid is not the lowest, or require a general contractor to award a specified percentage of the project to preferred subcontractors, or provide a financial reward for awards to preferred bidders.) Eligibility for some of these programs is defined principally in terms of business size; others require an additional showing of "economic and social disadvantage."[130] Although these criteria are not specifically framed in CED terms, they do include some CED activities. "Community development corporations" are specifically designated as eligible intermediaries for support in the SBA Microloan Demonstration Program,[131] and more significantly, they benefit from an exception in the federal procurement preference program for "socially and economically disadvantaged" people.[132] A CDC is defined for this purpose in part as

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126. 12 U.S.C. § 4702.

127. *Id.* § 4702(5)(A), (20).

128. See the CDFI Fund's web site, *at* http://www.cdfifund.gov (last visited Mar. 1, 2002).

129. *Id.*

130. 13 C.F.R. § 124.105 (2002).

131. *Id.* § 120.701(e)(1).

132. *Id.* §§ 124.3, .105-.106, .111.

a nonprofit organization "responsible to the residents of the area it serves."[133]

At the state level, there are several agencies analogous to the federal CDFI, including for example, the Illinois Community Development Finance Corporation,[134] the Massachusetts Community Development Finance Agency,[135] and the Urban and Community Development Program of the New York State Urban Development Corporation.[136] A broad range of private nonprofit organizations provide similar support.

D. Job Training & Placement

Job training and placement efforts for low income people became salient in the 1990s, as federal welfare reform sought to eliminate long-term eligibility for employable applicants and shunt them into employment.

American job training and placement programs have not performed well in the past. The most salient criticism is a failure to coordinate these efforts with demand in the job market.[137] The programs have been poorly informed about private sector job opportunities. They have tended to teach skills for jobs that are not the ones in demand or skills too abstract or too narrow to fit usefully with employer needs.

The main responsibility for delivering training has been given to local public institutions: high schools and community colleges. Such institutions have had trouble coordinating their programs with private employers. This may reflect an ambivalence within these institutions about the commitment to vocational education, as opposed to preparing students for four-year liberal arts colleges. It may reflect a suspicion on the part of private employers of government.

The need to induce more private sector participation prompted Congress in 1982 to mandate "Private Industry Councils" representing local employers in the design and implementation of federally-supported job-training programs.[138] But private industry participation has proven neither as easy to get nor as invariably productive as was once expected.

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133. *Id.* § 124.3. In addition, the CDC must have received assistance under the Community Services Program of 42 U.S.C. § 9805, which is available only to organizations addressing the problems of low income neighborhoods. 42 U.S.C. § 9805 (1994).

134. 315 ILL. COMP. STAT. ANN. 15/2 (West 1993).

135. MASS. ANN. LAWS ch. 40F, § 2 (Law. Co-op. 1993).

136. N.Y. UNCONSOL. LAW §§ 6254, 6255 (McKinney 2000).

137. *See* PAUL OSTERMAN, EMPLOYMENT FUTURES: REORGANIZATION, DISLOCATION, AND PUBLIC POLICY 92-107 (1988).

138. 29 U.S.C. § 1512 (1994) (repealed 1998).

Opening up the program to employer participation does not guarantee that the employers who participate will be those with the most attractive jobs or the ones whose training needs provide the most benefits to trainees. Some types of training are more beneficial to employers than employees. This is notably true of training in skills narrowly relevant to only a single job or firm, as opposed to more general skills relevant to a broad range of jobs. Some employers may prefer to steer programs to narrower skills because that is what they need, even though workers would benefit more from more general training. Moreover, there is the danger that employers will use the program not to increase training resources, but to substitute for training they would otherwise have to do, and pay for, themselves.[139]

Another limitation of traditional institutions arises from the fact, emphasized in the social science literature of recent years, that formal training and certification play a far less important role in the allocation of many jobs than informal referral and vouching by incumbent workers. These workers are in a good position to know of openings and to vouch credibly for the reliability of the relatives and acquaintances they refer to the employer. This process typically rests on kin or ethnic networks that some groups, especially African-Americans, are systemically excluded from. A public program aspiring to introduce previously-excluded groups into such jobs would need to develop fairly thick knowledge and relationships with both its beneficiaries and the employers to which it referred. It seems doubtful that the community colleges have either the aptitude or flexibility to do so.[140]

Community-based nonprofits supported by public funds have achieved the most noted job training successes of recent years, usually in alliance with community colleges or other public agencies and private employers. The nonprofits typically play a coordinating role with respect to government and for-profit participants and provide or design a kind of training more tailored to both the needs of individual trainees and the shifting demands of the job market than public institutions have been able to offer.[141] Perhaps the most highly regarded example is the Center for Employment Training (CET) in San Jose, California, which has developed a training model that has been replicated with federal support in several other places and adduced as a model in the Clinton

139. Bennett Harrison & Sandra Kanter, *The Political Economy of States' Job-Creation Business Incentives*, 44 J. AM. INST. PLANNERS 424, 429 (1978).

140. For a discussion of the problem of isolation from job-allocation networks and of a moderately successfully attempt by a CDC to remedy it, see Philip Kasinitz & Jan Rosenberg, *Missing the Connection: Social Isolation and Employment on the Brooklyn Waterfront*, 43 SOC. PROBS. 180 (1996).

141. BENNETT HARRISON ET AL., BUILDING BRIDGES: COMMUNITY DEVELOPMENT CORPORATIONS AND THE WORLD OF EMPLOYMENT TRAINING (1995).

Administration's welfare reform initiative. The basic idea is an individually customized program that combines simultaneous general education, in-class skills training, and sheltered work experience.[142]

However, the CET has not played the additional role that the labor economist Paul Osterman has suggested community-based organizations might play in the labor market: bringing political pressure to bear on local employers to improve wages and working conditions.[143] Osterman suggests that market conditions leave some employers with a range of options as to how to use and compensate workers and that local political pressure can sometimes influence them to adopt the strategies more beneficial to workers, those that involve higher compensation and more training and responsibility.[144] He thinks that CET cannot play this role because its community base is too weak.[145] By contrast, he points to Project QUEST, an employment program in San Antonio, Texas, affiliated with Communities Organized for Public Service (COPS), a network of community organizations that has achieved city-wide political clout.[146] QUEST has successfully negotiated with local employers for commitments, not only to employ graduates of its programs, but also to improve the compensation of the jobs involved.[147]

Recent federal legislation acknowledges and encourages the role of community-based organizations by mandating that state plans under federally-supported training programs reflect their participation.[148]

E. Welfare Reform

For decades, the welfare system was charged with inducing a kind of addictive dependence, sapping the ambition and initiative of its beneficiaries. The claim, always prominent in popular discussion, received support from the academic literature in the 1970s and 1980s, though the experts remained divided.[149] Popular opinion became overwhelmingly committed to this portrayal and led to the dramatic cutbacks and restructuring of the welfare system in 1996.

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142. *See* OSTERMAN, *supra* note 137, at 137-38.

143. PAUL OSTERMAN, SECURING PROSPERITY: THE AMERICAN LABOR MARKET: HOW IT HAS CHANGED AND WHAT TO DO ABOUT IT 136-38 (1999).

144. *Id.* at 138.

145. *Id.* at 166.

146. *Id.* at 165-66.

147. *Id.* at 136-39, 156-66.

148. 29 U.S.C. § 2832(a), (b)(2)(A)(iv) (Supp. V 2000) (requiring that states establish "local workforce investment boards" to oversee various federally-supported training programs with representation from, inter alia, "community-based organizations").

149. My own view is that the claims are largely implausible for reasons set out in JOEL F. HANDLER, THE POVERTY OF WELFARE REFORM (1995).

One interesting aspect of the growing discontent with welfare is that it was partially embraced by some prominent leaders of minority and poor communities. Few supported the cutbacks, but many expressed sympathy for the dependency critique and spoke with sympathy about the importance of cultivating a "work ethic" among inner city young people. Moreover, the attacks on welfare throughout the 1970s and 1980s emphasized how vulnerable political reliance on welfare made poor communities. Thus, discontent with welfare was associated with increased interest in efforts to expand work and business opportunities.[150]

The most important of the 1996 reforms turned the major cash assistance program, Aid to Families with Dependent Children (AFDC), from an entitlement program committed to funding benefits at a specified level for anyone meeting the eligibility standards to a fixed "block grant" program ostensibly giving states more discretion with respect to implementation but subjecting them to heightened requirements for moving recipients into work.[151]

From the perspective of the CED Movement, the reform was significant in two respects. First, it channeled administrative effort and resources away from providing cash assistance toward job training and development, and even business development. Second, it enlarged state discretion to conduct support of the poor through community-based organizations. The reform legislation provided that all services and benefits, under the successor program to AFDC, could be provided either directly or "through contracts with charitable, religious, or private organizations."[152] The explicit legitimation of contracting with religious organizations was the most controversial aspect of this provision. Whatever one thinks of its merits, the block grant program reinforces the trends associated with CED, since religious organizations are usually strongly community-based.[153] In legislation revising the Community Services Block Grant program to complement welfare reform, Congress

150. For example, Floyd Flake, former Congressman and pastor of the Allen African Methodist Episcopal Church in Queens, a major CED player, told his congregation, "[T]here was a time when we lived without [welfare], and if they take it away, we can live without it again!" James Traub, *Floyd Flake's Middle America*, N.Y. TIMES MAG., Oct. 19, 1997, at 64. Flake argued that the self-esteem that comes with a "good work ethic" is one of the best defenses against the psychological pressures of racism. *Id.*

151. Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Pub. L. No. 104-193, 110 Stat. 2105 (codified as amended at 42 U.S.C. §§ 601 et seq. (Supp. V 2000)).

152. 42 U.S.C. § 604(a)(1) (Supp. V 2000).

153. On the religious organization provision, see generally Paul W. Ambrosius, *The End of Welfare as We Know It and the Establishment Clause*, 28 COLUM. HUM. RTS. L. REV. 135 (1996).

explicitly emphasized the centrality of "community action agencies and other neighborhood-based organizations" as providers and mandated "maximum participation of residents" of the communities served.[154]

As with housing, however, there is another current in the welfare reform debate that flows away from CED themes. This current includes proposals for employment subsidies that supplement wages, such as the present Earned Income Tax Credit, and "individual development accounts" that match savings, or relatively unconditional "stakeholder" grants.[155] These programs typically contemplate relatively centralized government administration, and they are not designed to strengthen the recipients' ties to a local community. Anne Alstott associates them with "mobility policies" intended to enhance recipients' ease of exit from their present communities into new ones.[156]

F. Community Health Care

A variety of public and private programs support delivery of health care through community-based organizations in low income communities.[157] Among the rationales for this approach to health care delivery, two are especially pertinent. First, patients in low income

154. 42 U.S.C. § 9901.

155. Wage supplements reward work by paying benefits in proportion to wages earned within a specified, usually low income, range. *See generally* EDMUND S. PHELPS, REWARDING WORK: HOW TO RESTORE PARTICIPATION AND SELF-SUPPORT TO FREE ENTERPRISE (1997).

"Individual development accounts" reward savings by matching amounts put aside by the beneficiary. 42 U.S.C. § 604(h)(2) (Supp. V 2000). Typically the accounts must be intended and used for housing, business investment, or post-secondary education. *Id.* A variety of small-scale experiments are underway to test the utility of these accounts. See the web site of the Corporation for Enterprise Development, *at* http://www.Cfed.org (last visited Mar. 16, 2002). In connection with welfare reform, Congress authorized the states to use federal welfare grants to support such programs run by either public agencies or nonprofits. 42 U.S.C. § 604(h)(3).

"Stakeholder" grants contemplate a one-time transfer of a large sum to the beneficiary at the outset of adulthood. Their use is less restricted or supervised than that of individual development accounts, and they are not conditioned on work or savings. Bruce Ackerman and Anne Alstott, their most ambitious proponents, would have the state provide every citizen $80,000 at age eighteen so long as they have graduated from high school and do not have a serious criminal record. *See generally* BRUCE ACKERMAN & ANNE ALSTOTT, THE STAKEHOLDER SOCIETY (1999).

156. Anne L. Alstott, *Work vs. Freedom: A Liberal Challenge to Employment Subsidies*, 108 YALE L.J. 967, 1007 (1999). Although these general reform proposals imply centralized administration, there is a potential role for community-based nonprofits in demonstration projects, such as those authorized by Congress in 1998. 42 U.S.C. § 604(h). Many community-based nonprofits are experimenting with them.

157. *See generally* Lewis D. Solomon & Tricia Asaro, *Community-Based Health Care: A Legal and Policy Analysis*, 24 FORDHAM URB. L.J. 235 (1997).

areas seem especially vulnerable to neglect and abuse by for-profit providers. Such communities have difficulty attracting able physicians, and their members' relatively low levels of education and limited experience with health care impair their ability to negotiate with and monitor their doctors individually. Nonprofits sometimes have an advantage in attracting doctors motivated to give good care and have greater incentives to monitor certain aspects of quality.

Second, limited education and perhaps non-mainstream cultural backgrounds often lead poor people to seek preventive care less often than would be desirable. They tend to rely on emergency care in ways that are both more expensive and less conducive to good health than certain patterns of preventive care. Thus, outreach and education are an exceptionally important part of the health care needs of poor communities. This requires various types of local knowledge in order to identify health needs, design programs that are accessible to clients, and coordinate with institutions such as schools and workplaces. These tasks may be especially difficult for large, mainstream institutions to the extent that local residents are culturally distant from the mainstream. Community-based organizations have long specialized in developing such knowledge.

The most salient of the various community health programs is the federal government's Community Health Center program, which provides grants and loan guarantees to nonprofit institutions that provide outpatient care to the residents of "medically underserved" geographical areas. To qualify as a statutory Health Center, the organization must have a governing board that is "representative" of its service area and in which a majority are patients.[158]

Unlike the situation in the other policy areas discussed above, interest in community-based practice in health care has not grown dramatically in recent years. Nevertheless, the older programs continue, and some predict that disillusion with the current for-profit, managed care models will lead to a revival of interest in health care provision by nonprofit community organizations.

Support for community health sometimes plays a significant role in CED. For example, the "Stop & Shop" supermarket developed by the Jamaica Plain Neighborhood Development Corporation shares its building with the Martha Eliot Health Center, which is supported by a Boston hospital and various federal and state programs. The inclusion of the health center made the project more attractive to various supporters, including the City of Boston, which donated the land, and

158. 42 U.S.C. § 254b(a), (b), (j)(3)(H) (Supp. V 2000).

the Center drew on its own sources of support to share in the development and construction costs.[159]

II. THREE LOGICS OF COMMUNITY ACTION

CED institutions have three salient functional characteristics. The first is relational density and synergy. CED efforts are designed to multiply the contexts and roles in which people confront each other. As the political process links political activity to residence, so CED links economic development to residence. By striving to internalize control over economic processes within the community, CED increases the number of linked roles that residents potentially play. People who might otherwise encounter each other only as neighbors now meet as employers and employees, sellers and consumers, property owners and property occupiers, planners and citizens, administrators and service recipients.

The second is geographic focus. At the most mundane level, the physical community is a focal point, a convenient space to bring people together for multiple, varied encounters. More ambitiously, a residential community can give physical expression to a sense of distinctive common culture. The new social policy now emphasizes the call of modern urbanism with space for "detail, identity, and a sense of place," as opposed to, for example, "the anonymity of much public housing that is divorced from its surroundings."[160]

The third characteristic is face-to-face encounters. CED efforts tend to replace remote impersonal relations, for example, between absentee owners and tenants or customers, or distant bureaucrats and their charges, with face-to-face relations. In doing so, they extend to economic development generally a basic principle of land use planning—the physical structure of the urban environment should be configured so that there will be more face-to-face interactions among neighbors.[161] For example, Jane Jacobs's four principles of land use planning—mixed use, short blocks, buildings of varying age, and density—are all

159. The Brownsville Community Development Corporation of Brooklyn likewise used novel economic development practices, including an unprecedented use of state bond finance, in the course of establishing itself as a major community health center. *See* Brian Glick & Matthew J. Rossman, *Neighborhood Legal Services as House Counsel to Community-Based Efforts to Achieve Economic Justice: The East Brooklyn Experience*, 23 N.Y.U. REV. L. & SOC. CHANGE 105, 123-33 (1996-97).

160. U.S. DEP'T OF HOUS. & URBAN DEV. & U.S. DEP'T OF AGRIC., BUILDING COMMUNITIES: TOGETHER: GUIDEBOOK FOR COMMUNITY-BASED STRATEGIC PLANNING FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES (1994).

161. *Id.*

designed to increase the number and variety of face-to-face encounters.[162]

There is no single dominant theory of CED. Rather, these programs rest on a variety of convergent rationales. They can be grouped in three clusters: economic, social, and political.

A. Economic

CED programs arise in part from dissatisfaction with bureaucracy. The principal economic complaint about bureaucracy is that bureaucrats have poor incentives and poor information. Because they do not have strong personal stakes in their decisions, their motivation to perform well is weak. Because power tends to reside at the top, while critical information is dispersed at the bottom, the key decision-makers tend to be poorly informed.

The economist's stock alternative to bureaucracy is the market. But economists acknowledge that markets have incentive and information problems too, and they are more likely than bureaucratic organizations to be thwarted by difficulties that can be called coordination problems.[163] Market limitations with respect to incentives, information, and coordination seem especially important in the principal areas of CED activity—housing, job training, and job and business development in low income communities. So the turn to CED also reflects a sense of the limits of conventionally understood markets.

1. INCENTIVES: EXTERNALITIES AND COMPLEMENTARITIES

The market's ability to provide efficient incentives does not apply to externalities—costs and benefits of activities that are not reflected in the prices faced by those who engage in them. Externalities are unusually important in housing. According to some people, they are the whole ball game. Real estate agents insist that the three most important

162. JANE JACOBS, THE DEATH AND LIFE OF GREAT AMERICAN CITIES 143-222 (1961). Short blocks are valued because they disperse foot traffic through areas that would otherwise be empty. *Id.* at 178. Old buildings are valued because they increase the range of economically viable uses, and hence the diversity of people attracted to them. *Id.* at 187.

163. On market failure in employment and business, see generally PAUL KRUGMAN, GEOGRAPHY AND TRADE 35-67 (1991); PAUL MILGROM & JOHN ROBERTS, ECONOMICS, ORGANIZATION AND MANAGEMENT (1992). On market failure in housing, see ROLF GOETZE, UNDERSTANDING NEIGHBORHOOD CHANGE: THE ROLE OF EXPECTATIONS IN URBAN REVITALIZATION (1979); Duncan Kennedy, *The Effect of the Warranty of Habitability on Low Income Housing: "Milking" and Class Violence*, 15 FLA. ST. U. L. REV. 485 (1989).

determinants of the value of a residence are "location, location, and location," which implies that the value of your house depends more on what your neighbors do with their property, how they behave, and who they are, than on any decision you make about your property.

The unpriced consequences of property maintenance and investment decisions include both conduct and physical conditions. For example, the "broken windows" approach to crime control asserts that even minor visible physical deterioration may have a psychological effect that encourages deviant behavior (which in turn feeds back to further reduce maintenance and investment).[164]

"Factor externalities" are another category. They involve activities that affect the costs of labor or supplies to businesses. When a community college or a private employer trains workers in generally useful skills, they potentially lower the costs of other employers by enhancing the supply of qualified workers. Businesses often benefit from the local presence of workers with needed skills or from other businesses that supply needed services or products. They also benefit from the presence of other businesses in the same field, to the extent that the businesses collectively can attract a better labor pool or a larger field of suppliers to the locality. The larger number of workers and suppliers may mean lower costs because of greater supply or economies of scale. It also creates possibilities of "technological spillovers" through knowledge shared either through cooperation or as workers move from firm to firm. Industrial districts such as Silicon Valley and the auto manufacturing areas of Detroit illustrate these phenomena. To a limited extent, such externalities seem susceptible to influence by public goods and land use policy.

A notion related to, but distinct from, externality is complementarity. Individual investments are complementary when the productivity of each is greater when they are made simultaneously. An individual's efforts to get rid of cockroaches in an urban apartment or weeds on a suburban lawn will be more effective to the extent that neighbors make similar efforts. An investment in software that will improve the operation of a particular machine may increase the returns to investment in the machine.

Like externalities, complementarities involve benefits or costs to people other than the primary actor, but they differ in requiring that the beneficiary make investments of her own in order to capture the benefits, and increasing her incentives to make such investments. Externalities and complementarities may overlap, and it may be hard to distinguish the two phenomena. If your neighbors paint their houses,

164. James Q. Wilson & George L. Kelling, *Making Neighborhoods Safe*, ATLANTIC, Feb. 1989, at 48.

you will benefit simply because the neighborhood is more attractive (an externality effect); it may also be true that the benefit from painting your house will now be greater than if they had not painted theirs (a complementarity effect). This might be true because people value a house's consistency with the esthetic norms of the neighborhood. An investment with complementarities has a potential leveraging effect by inducing complementary investments.

2. INFORMATION

There is evidence in Part I that there are creditworthy people in low income neighborhoods who cannot get mortgage loans. Probably the same is true about business loans. There are also able workers who cannot get available jobs. These facts may reflect discrimination, but they may also reflect the difficulty lenders and employers have in distinguishing these people from superficially similar applicants who are not creditworthy or able. Lenders and employers have this problem with all credit and employment applicants, but it may be exceptionally difficult with low income and minority applicants for two reasons.

First, these applicants have few assets. To the extent that an applicant can post assets as security for loan commitments, the lender has less need to rely on assessments of her reliability. Assets perform an informational role as well. An applicant who puts her own assets at risk by investing in a house or business or in training that fits her for particular jobs "signals" to others the seriousness of her belief that the investment is a sound one and her intention to act to make it work. Poor people are less able to substantiate their commitments in this way.

Second, lenders and employers may have more difficulty evaluating the applications of poor people because they are more socially distant. Their credit and employment histories look different, and superficially similar events may have different meanings for poor applicants than more mainstream ones.

3. COORDINATION

Externalities and complementarities mean that the values of local investments are interdependent, and this means that protecting them often requires coordination. Painting my house will do little to improve its value if my neighbors all allow theirs to peel. In prosperous neighborhoods, informal coordination or shared optimism may be sufficient to induce optimal behavior. In poor neighborhoods, anxiety and pessimism often inhibit spontaneous coordination.

Indeed, poor neighborhoods are sometimes vulnerable to a kind of negative coordination—panics or downward spirals of disinvestment. People lose confidence and start to withdraw their capital or leave simply for fear that others will do the same.

> Studies [have shown] that property owners are extremely sensitive to small signs of physical deterioration . . . . With every additional property owner who decides not to invest, it becomes increasingly likely that others will reach similar decisions, even if they are otherwise disposed to maintain their buildings. At some point, a threshold is crossed, beyond which the pattern becomes self-reinforcing and irreversible.[165]

Although everyone would prefer that all remain and continue to invest in the neighborhood, in the absence of some mechanism to insure each that the others will do so, people exit for fear of being the last one left.

The mirror image of the downward spiral of disinvestment is the speculative bubble on which prices spiral upward, as investors buy in the hope of a quick resale to other investors. Prices are driven not by "fundamental" assessment of the value of the property to a user or occupier, but by expectations about what other speculators will be willing to pay. Bubbles can be temporarily self-sustaining in the manner of Ponzi schemes, but like Ponzi schemes, they must collapse at some point. The process does not cause physical deterioration directly, but some believe it deters tangible improvement and even maintenance. It may do so by bringing in purchasers with a short-term mentality who are interested in gain through financial transactions rather than tangible investment. In addition, the economic instability induced by bubbles makes it difficult to calculate the profitability of investments; so people may be inclined to defer projects until conditions settle down. Bubbles involve large transaction costs, and they can cause displacement of tenants.

Not all, or even most, housing price inflation has the quality of a speculative bubble. Bubbles seem most likely to be operating when sharp increases are followed by sharp declines. Many observers of the Boston housing market have interpreted developments at various times in recent decades as at least partly bubbles.[166]

Bubbles are a kind of coordination problem. On average, people would be better off if everyone declined to participate. However, from

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165. MASSEY & DENTON, *supra* note 96, at 131-32.

166. MEDOFF & SKLAR, *supra* note 1, at 11-14. On bubbles generally, see GOETZE, *supra* note 163, at 11-26; Karl E. Case, *The Market for Single-Family Homes in the Boston Area*, NEW ENG. ECON. REV., May/June 1986, at 41-44.

any individual's point of view, if the others are going to participate, it may be hard to pass up an apparent opportunity to profit by selling before the burst. Moreover, if the neighborhood is likely to be worse off after the burst, the bubble might cause a stampede effect like a downward spiral. At the same time outsiders are rushing to buy before things go up further, insiders, who may be more risk averse and less affluent, rush to sell before the crash.

There is a well known coordination problem with respect to education. Employers may be reluctant to train workers for fear that the workers will leave before the costs of training have been recaptured. Workers may be reluctant to pay for training for fear they will not find a job or will not keep one long enough to recover their costs.

4. AN EXAMPLE: SOUTH SHORE BANK

CED programs do not respond to these difficulties by abandoning markets or reverting to conventional bureaucracies. They create structures that combine and rearrange a variety of organizational attributes. However, at the center are usually community-based organizations characterized by multistranded relations, geographical focus, and face-to-face relations. These characteristics have some capacity to mitigate the problems of incentives, information, and coordination. They do so by facilitating informal negotiation and collective action. The geographical focus means that the membership will include people with tangible stakes in each other's activities and investments. Multistranded relations create economies of scope in the development of information; information generated through one strand can often be used in another strand. Face-to-face dealings enhance possibilities for both gaining information and for negotiating coordination.

As an example of a CED institution that seems especially responsive to these economic problems, consider the South Shore Bank, founded in 1972 in what was then a seriously distressed neighborhood of Chicago.[167] A group of social activists was able to raise $3.2 million in philanthropic support to buy an existing commercial bank. They then proceeded to re-orient the bank's practices to support a CED strategy.

The South Shore Bank is owned by a nonprofit holding company that controls several for-profit subsidiaries and nonprofit affiliates: The City Lands Corporation is a for-profit that develops residential real estate projects; the Neighborhood Institute is a nonprofit that operates

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167. Ronald Grzywinski, *The New Old-Fashioned Banking*, HARV. BUS. REV., May-June 1991, at 87-98.

training and social services programs.[168] The Institute has a subsidiary of its own—TNI Development Corporation—which also conducts affordable housing development.[169] The Neighborhood Fund, a for-profit, is a minority-enterprise small business investment corporation licensed and supported by the Small Business Administration.[170] Shorebank Advisory Services, a for-profit, provides consulting on development banking issues.[171]

The bank's lending strategy has four especially interesting features. First, in "concentrated lending," the bank focuses its commercial real estate lending on a specific community, and within the community on specific areas targeted for development.[172] Second, in "leverage," the bank tries to focus commercial lending in a way that complements its affiliates' subsidized housing development.[173] It makes commercial loans to private, preferably small and local developers to build or rehabilitate housing near the subsidized projects its affiliates are developing.[174] Development activities occur in mutually reinforcing "concentric rings" of private and NGO-led effort.[175]

Third, in addition to being geographically targeted, some of the bank's private lending is conditional. The bank initially limited its purchase-money lending for rental properties to borrowers planning to live on the premises.[176] It eventually relaxed this requirement, but it has continued to insist that the borrower commit to rehabilitate the property.[177] It will not lend to landlords who simply want to hold the property for speculative purposes or to "milk" it to maximize short-term return while permitting it to deteriorate.[178]

Finally, the bank's affiliates provide technical assistance to its local landlord borrowers on such matters as construction, maintenance, regulatory compliance, and accounting. Many of these borrowers are new landlords entering their first business venture. Experience in the training programs has developed face-to-face, mutually supportive

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168. Grzywinski, *supra* note 167, at 94.
169. *Id.*
170. *Id.*
171. *Id.*
172. *See id.* at 94.
173. *Id.* at 95.
174. *Id.*
175. *See id.* at 95.
176. *Id.* at 94.
177. *Id.*
178. New York City's "Neighborhood Entrepreneurs" program, which sells property acquired by the city through tax foreclosure to small private landlords, requires that the buyers be "based in one of [the low and moderate income] neighborhoods targeted by" the program. David Reiss, *Neighborhood Entrepreneurs Program in New York City*, 5 J. AFFORDABLE HOUSING, 325, 330-31 (1996).

relations among them. Two ethnically-based networks of small landlords—one African-American, the other recent Croatian immigrants—have developed; they maintain and continue to invest in small-scale, moderate-rental property.[179] The bank's founder insists that these people could not have been identified through conventional business methods: "[H]ad we conducted a market survey in 1973 to get a sense of how many potential entrepreneurs we had in the community . . . the answer would have been 'none' . . . . [These people were] invisible, and now they're an industry—the core of the South Shore's recovery."[180]

Here we have an institutional structure designed to facilitate coordination among private investments with public investments, and of real estate investment with training opportunities. It also strives to canalize for-profit activity in ways most likely to produce positive externalities. Moreover, it generates the kind of multistranded relations that create economies of scope in information.

B. Social

The sociologist's complaint about bureaucracy and markets is that they engender alienation—a sense of disconnection and ineffectuality. The remedy for alienation is "empowerment," a pervasive term in CED rhetoric. The ideal of "community" associated with "empowerment" is significantly different from the Romantic conception that influenced the 1960s left. The Romantic conception connotes intimate, indiscriminate altruism. But the "community" of the CED Movement has more sober and restrained connotations. The most important of these connotations are captured in the sociological themes of Social Capital and the Protestant Ethic.

1. SOCIAL CAPITAL

Robert Putnam popularized the term "social capital" in a study vindicating de Tocqueville's claim about the democratic importance of associational life.[181] Comparing the performances of Italy's regional governments, he found that the large variation in quality correlated strongly with the scope and density of a region's associational activity.

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179. *Id.* at 96.

180. *Id.*

181. ROBERT D. PUTNAM ET AL., MAKING DEMOCRACY WORK: CIVIC TRADITIONS IN MODERN ITALY (1993); *see* ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 485-88 (J.P. Mayer & Max Lerner eds., George Lawrence trans., Harper & Row 1966) (1835).

Regions with many broadly participatory civic institutions were able to induce a high level of governmental performance; those without them, were not.

CED strategies are responsive to this notion. Multistranded relations induce people to encounter each other repeatedly in different but related capacities—as citizens, employers and employees, landowners and residents, business owners and customers. Each encounter is an opportunity to develop collaborative capacities, and there is a synergy among the relations. People's self-confidence, knowledge of their neighbors, and capacities for negotiation and deliberation spill over from one sector to another and hence develop cumulatively with collaboration across different areas. Moreover, CED strategies tend to increase the expectation of consistent repeat dealings among people whose encounters would otherwise be sporadic. This encourages collaborative effort by increasing the likelihood that particular acts of collaboration can be reciprocated, or particular acts of trespass sanctioned, by the beneficiary or victim in the future.

We have noted that the geographic focus of CED strategies creates a focal point for collaborative effort and gives physical expression to a sense of common interest and identity. The face-to-face theme in CED is sometimes associated with a Romantic celebration of the intrinsic superiority of personal over impersonal relations. More often, we see face-to-face relations valued as conducive to social capital. Part of the idea is that one is likely to be more understanding of and respectful toward the interests of people of whom one is personally aware. Another part is the suggestion that the sense of being observed creates a potentially healthy pressure to conform to local norms. This is the basis of Jane Jacobs' notion of "eyes on the street," the primary goal of her planning precepts. Safe and attractive neighborhoods are neighborhoods in which people are actually or potentially watching each other. The sense of safety comes in part from the probability that others will give assistance in the event of crisis. But it also rests on the belief that the experience of being watched itself inhibits deviance.

CED strategies apply this principle to economic relations. They assume that one will be more scrupulous in fulfilling duties that are associated with face-to-face relations and they try to induce such relations. Consider the "peer lending" feature of the famous Grameen Bank, the widely replicated Bangladesh microcredit program that has a ninety-eight percent repayment rate on loans to a huge class of rural women who had been written off as uncreditworthy by mainstream lenders. To apply for a loan from Grameen, an applicant has to assemble a group of five to ten comparably situated (though not necessarily previously acquainted) people. Loans are made to group members one at a time; all group members guarantee repayment of each loan, and no member can receive a loan until all prior ones are repaid. This structure works by converting an impersonal duty into a personal one.[182]

2. THE NEW PROTESTANT ETHIC

Putnam speaks of social capital in the liberal rhetoric of solidarity and respect, and this rhetoric has influenced the CED Movement. However, much CED rhetoric has a more hortatory tone. This rhetoric calls to mind, less Putnam's bland liberalism, and more Max Weber's description of the Protestant ethic, in which an ethic of self-restraint links an exigent religious faith to economic acquisitiveness and initiative.[183]

Weber's successors have demonstrated that the Protestant Ethic is neither pervasive in Protestantism nor unique to it.[184] But the idea that the spiritual orientation he identified can support capitalist economic activity seems powerfully illustrated in contemporary CED. It is no accident that "faith-based" organizations are among the most prominent CED activists. They are associated with Islamic, Catholic, and Protestant institutions. Moral themes associated with the Protestant Ethic have influenced secular CED practitioners as well. These themes are discipline, surveillance, personal formality, and the valorization of wealth.

Weber emphasized that capitalist development required deferral of gratification and resistance to impulses. In a well-known elaboration, Clifford Geertz pointed out that this meant a constraint, not only of selfish impulses, but of altruistic ones as well.[185] In a study of two

182. Lewis D. Solomon, *Microenterprise: Human Reconstruction in America's Inner Cities*, 15 HARV. J.L. & PUB. POL'Y 191, 195-202 (1992) (describing Grameen Bank); Grameen Bank, *Microfinance-Credit Lending Models*, http://www.grameen-info.org/mcredit/cmodel.html (last visited Mar. 5, 2001). For examples of American microenterprise programs using peer lending models, see the descriptions of the Womens' Self-Employment Project in Chicago in Solomon, *supra*, at 202-06. For an example of the network of local programs in the Northeast supported by Working Capital, see LISA J. SERVON, BOOTSTRAP CAPITAL: MICROENTERPRISE AND THE AMERICAN POOR 67-73, 102-13 (1999).

183. MAX WEBER, THE PROTESTANT ETHIC AND THE SPIRIT OF CAPITALISM (Talcott Parsons trans., Charles Scribners Sons 1958) (1904-05).

184. MAXIME RODINSON, ISLAM AND CAPITALISM (Brian Pearce trans., Allen Lane 1974) (1966); KURT SAMUELSSON, RELIGION AND ECONOMIC ACTION: THE PROTESTANT ETHIC, THE RISE OF CAPITALISM, AND THE ABUSES OF SCHOLARSHIP (Univ. of Toronto Press ed. 1993) (1957).

185. *See generally* CLIFFORD GEERTZ, PEDDLERS AND PRINCES: SOCIAL CHANGE AND ECONOMIC MODERNIZATION IN TWO INDONESIAN TOWNS (1963).

Indonesian towns, he found economic development inhibited in one by the short-sighted aggressiveness of its merchants and, in the other, by the strong sense of duty to share income on the part of the elite, which precluded capital accumulation.[186] Both these perspectives were represented in the "culture of poverty" literature on the American inner city. In the view that became popular among conservatives, the key problem was impulsive selfishness.[187] In an alternative view, the problem was a disposition to share, coupled with the pervasiveness of economic misfortune, which meant that some friend or relative always had a compelling claim on one's resources.[188] Either perspective lent itself to the conclusion that these communities might benefit from something like the norms of the Protestant Ethic.

The "culture of poverty" debate and indeed virtually all critical discussion of culture and norms among the poor became anathema to liberals in the 1960s. It came to seem unacceptably paternalistic and imperialistic to make prescriptions for the poverty-stricken. However, this liberal posture was undermined, first, by the coming to prominence of conservative social policy elites who felt no such inhibitions, and second, by the embrace of critical moralism by some of the most effective leaders of poor communities.

Many of these leaders have been pastors. The Weberian rhetoric of discipline is prominent in their pronouncements. Summarizing an interview with Eugene Rivers of the Azusa Christian Community in Dorchester, Massachusetts—Rivers is famous for his work with indigent young people—George Packer writes, "[f]or Rivers, discipline is everything, and it depends on faith."[189]

This theme is equally prominent in many secular projects. The first of the "four principles" of the Grameen Bank is discipline.[190] The principles are elaborated in subsidiary precepts, the "Sixteen Decisions," that make clear that discipline means a deferral of selfish gratification, by saving and educating children for example, but also a willingness to hold one's peers accountable.[191] Members of peer

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186. *Id.* at 125.

187. *E.g.*, EDWARD C. BANFIELD, THE UNHEAVENLY CITY: THE NATURE AND FUTURE OF OUR URBAN CRISIS (1970).

188. ELLIOT LIEBOW, TALLY'S CORNER: A STUDY OF NEGRO STREETCORNER MEN 65-66 n.22 (1967); CAROL B. STACK, ALL OUR KIN: STRATEGIES FOR SURVIVAL IN A BLACK COMMUNITY (1974).

189. George Packer, *A Tale of Two Movements: A Cross-Country Search for Inspiration*, NATION, Dec. 14, 1998, at 19, 22; *see also* Robert Worth, *Amazing Grace: Can Churches Save the Inner City?*, WASH. MONTHLY, Jan./Feb. 1998, at 28.

190. Solomon, *supra* note 182, at 218 n.160. The other three are unity, courage, and hard work. *Id.*

191. *Id.*

borrower groups in Grameen-style micro-enterprise programs are made guarantors of each other's loans precisely so they will have to hold each other's feet to the fire.

HUD's manual, *Community Building in Public Housing*, insists on the importance of enforcing community standards and gives speedy eviction of derelict tenants as an example.[192] The 1996 amendments to the federal public housing statutes encourage PHAs to institute an eviction policy called "One Strike and You're Out," under which tenants who engage in criminal activity are promptly evicted; the measures also included tough screening procedures to eliminate people with recent criminal convictions at the application stage.[193] They also mandate that PHAs require residents to perform six hours a month of uncompensated "community service."[194]

"Discipline" is one of the principal themes of the job-readiness training provided by the widely replicated STRIVE program for disadvantaged youth. During the first half of the program, "[t]he clear message [is] 'stick to the rules or leave.' Some infractions [are] punished by small fines, but those who present . . . continuing problems [are] terminated ('fired' in the parlance of STRIVE) to maintain a sense of responsibility."[195]

Cooperative Home Care Associates, the worker-owned health care provider most of whose members are former welfare recipients, has disciplinary rules that rival in severity those of the strictest capitalist employers:

> [Members] are warned once for allowing unknown visitors into a patient's home, then fired for a second infraction. They get one warning for failing to show up for work at a patient's home; missing a second appointment is cause for dismissal. In cases where less than standard care is noticed by supervisors, or called to their attention by patients, the firm has a four-step discipline procedure. One breach prompts informal supervisory encouragement to improve. If the problem happens a second time, members are warned in writing. If the same problem happens a third time, the paraprofessional is dismissed, subject to an appeal . . . . [Members] are fired

192. NAPARSTEK ET AL., *supra* note 69, at 53-54.

193. *See* Housing Opportunity Program Expansion Act of 1996, Pub. L. No. 104-120, § 9, 110 Stat. 834, 836-38 (1996).

194. 42 U.S.C. § 1437j(c)(I)(A) (1994 & Supp. V 2000).

195. Robert Burakoff, Harvard Bus. Sch., STRIVE (Case No. 9-399-054, Nov. 24, 1998), at 5.

> immediately for theft, substance abuse, or falsifying a time sheet.[196]

Related to the theme of discipline is that of surveillance. CED institutions extend the experience of being observed by one's neighbors and colleagues. This is quite explicit in Jane Jacobs's "eyes on the street" principle for physical structure design,[197] but it's equally apparent in the design of institutions like the Grameen Bank or Cooperative Home Care that repeatedly bring people into personal contact with each other.

The rhetoric of surveillance occasionally arouses discomfort. "Eyes on the street," which to Jacobs connotes safety, has some kinship to Foucault's "panopticism," which connotes repression.[198] The pervasive face-to-face relations and their pressures for cooperation may remind some of the stifling, repressive quality of small town life portrayed by writers like Sinclair Lewis and Sherwood Anderson.

Jacobs, however, insisted that the sort of community that typifies vital urban neighborhoods is quite different from the small town or suburban varieties.[199] She argued that multistranded relations with the local knowledge and trust needed for collective activity do not necessarily entail intrusiveness or repressiveness. Such relations are denser by definition than impersonal, single-stranded relations, but in city contexts, there is a natural limit to their density:

> A good city street neighborhood achieves a marvel of balance between its people's determination to have essential privacy and their simultaneous wishes for differing degrees of contact, enjoyment or help from the people around.[200]

Ideally, the city street, which for Jacobs is both a locus of social practice and a school in which people acquire social skills, brings people into contact with a range of others with whom they cannot expect to

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196. FRANK ADAMS ET AL., COOPERATIVE HOME CARE ASSOCIATES: FROM WORKING POOR TO WORKING CLASS THROUGH JOB OWNERSHIP 8 (1995).

197. JACOBS, *supra* note 162, at 35-36.

198. MICHEL FOUCAULT, DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON 195-228 (Alan Sheridan trans., Pantheon Books 1977) (1975).

199. JACOBS, *supra* note 162, at 58-68. Actually, Jacobs avoided the word community, probably precisely because of its connotations of intimacy and pervasiveness. Nevertheless, her theory links urban vitality to multi-stranded social relations, and consequent trust and local knowledge, of the sort for which CED practitioners generally use the term community.

200. *Id.* at 59.

become personally intimate.[201] Iris Young emphasized this when she defined a conception of community close to Jacobs's as "the being together of strangers."[202] Repeated contact encourages various forms of social interaction and collaboration. People watch out for each other's children and property, give directions, help with parcels, and hold their keys. But both the large number of people and cultural norms preclude routine intimacy. The needed number of collaborations couldn't be sustained if each entailed a high degree of intimacy. Jacobs contrasts city neighborhoods to suburbs, where because of the absence of casual street contact and cultural norms of impersonal collaboration, people are ambivalent about collaboration. There, the prospect that any particular act of assistance will involve you deeply in the beneficiary's life makes it seem more demanding and risky.

Jacobs's is a more cosmopolitan view of community than that of many CED proponents. It is quite hostile to the inclination toward neighborhood autarchy one occasionally finds in the literature. Urban communities differ from small towns in being part of a large closely-connected fabric, and that means that the routine presence of outsiders in one's own community, and the routine experience of being an outsider in other people's communities, is an important defining quality. To the extent that the CED Movement adopts Jacobs's view, it seems a powerful response to concerns about privacy and regimentation.

As the CED Movement imports ideals of equality and participation from the political to the economic sphere, it also brings from the business to the political sphere norms of orderly, goal-oriented behavior. Thus, personal formality is another dimension of the New Protestant Ethic. In terms of organizational structure, CED institutions are informal. But at the level of face-to-face interaction, they are often moderately formal. Formality is valued because it facilitates orderly collaboration, because it protects individuals from enforced intimacy, and because it is associated with norms of respect accorded actors in mainstream institutions. CED is serious business, its practitioners emphasize. They spend a good deal of time teaching members and others to read balance sheets and conduct meetings in accordance with Robert's Rules of Order.

Romantic communitarians are troubled by the fact that local currency systems monetize at least some exchanges that would have occurred informally without the system. But Edgar Cahn, a local currency proponent, defended this formality as not only necessary to

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201. *Id.* at 61-62.

202. IRIS YOUNG, JUSTICE AND THE POLITICS OF DIFFERENCE 237 (1990). For an elaboration, see Jerry Frug, *The Geography of Community*, 48 STAN. L. REV. 1047, 1049-55 (1996).

increase the level of exchange but as a good in itself. By associating labor exchanges with mainstream economic transactions, he insists, local currency enhances the sense of dignity and worth of these transactions.[203]

The insistence on personal formality reaches an extreme in the practice of Saul Alinsky's Industrial Areas Foundation, which has played an important role in community organizing since the 1940s. Alinsky's ostentatious toughness often seemed out-of-synch in the 1960s, when a more sentimental style was in vogue, but it fits well with the trends of later decades. Alinsky organizers make a point of repudiating "friends and neighbors politics" in favor of a "self-consciously businesslike" approach:

> Organizers encourage members to deal with one another in a professional manner. A visitor notices an air of brisk efficiency about the organization's office. Members typically address one another, as well as their opponents, by surname; and tend not to socialize with one another. These organizations are definitely not conceived of as fellowships bound by all-inclusive loyalties against a hostile environment.[204]

Many CED practitioners regard the Alinsky style as unattractive, but hardly any would embrace the opposite extreme, which equates community with pervasive intimacy and spontaneity. All would agree that the repertory of CED skills includes tactics for maintaining social distance and imposing structure on relations. Between the extremes a broad range of styles is possible.

A final theme in the New Protestant ethic is the valorization of wealth. In Weber's portrayal, early Protestantism exalted wealth as a sign of God's favor. It gave an altruistic, communal dimension to acquisitive success. Success was a form of tribute to God, as well as to the entrepreneur. It also benefited the community, both because the wealthy would have charitable obligations to their fellows and because God's favor would be likely to spill over to the larger community.

There is a contemporary analogue to this view in the recent policy literature that urges support for efforts to increase private wealth among minorities, especially African-Americans.[205] The communitarian

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203. MICHAEL H. SHUMAN, GOING LOCAL: CREATING SELF-RELIANT COMMUNITIES IN A GLOBAL AGE 142 (1998).

204. PETER SKERRY, MEXICAN AMERICANS: THE AMBIVALENT MINORITY 151 (1993).

205. MELVIN L. OLIVER & THOMAS M. SHAPIRO, BLACK WEALTH/WHITE

rhetoric of the 1960s was suspicious of wealth and contemptuous of ambitions for it. The more recent literature rejects these attitudes and criticizes traditional social policy for focusing on income support and employment training to the exclusion of savings, investment, and entrepreneurialism among low income groups. It urges wealth creation in minority communities as an important social goal. Although wealth sometimes means public or collective assets, these writers also suggest that private, individual wealth has social benefits. Wealthy individuals are a potential philanthropic base for their communities. They are "role models" that give hope to others in the community. They serve as positive images to counter negative stereotypes held by outsiders about group members. While the Old Protestant Ethic valued wealth as a sign of God's favor, the new one values it as a sign of mainstream society's favor.[206]

The social perspective typified by the Protestant Ethic, and its Catholic, Islamic, and secular analogues, is strongly congruent with the functional themes of CED. By insisting on the link between spiritual orientation and economic activity, these accounts are on their face theories of multistranded relations. Economic relations are also spiritual relations, they insist, and it is unlikely that one dimension of such relations can be transformed without change in the other. Geographic focus is less inherent in these ideas; it is only one potential focus for the establishment of multistranded relations, but it is a prominent one. Since political life and much of religious life is organized on a geographical basis, it offers a relatively thick structure on which to build.

Finally, the face-to-face encounter seems an important premise of those who focus on spiritual and moral change as an aspect of economic change. For example, the "Aschcroft provisions" of the 1996 welfare reform bill authorizing states to sub-contract for the provision of assistance through religious as well as secular nonprofits was inspired by "historian Marvin Olasky's book *The Tragedy of American Compassion,* which argues that government-run charity lacks the personal dimension

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WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY 175-77 (1995); MICHAEL SHERRADEN, ASSETS AND THE POOR: A NEW AMERICAN WELFARE POLICY 139 (1990). *See generally* THE REVEREND JESSE L. JACKSON, SR. & JESSE L. JACKSON, JR., IT'S ABOUT THE MONEY!: THE FOURTH MOVEMENT OF THE FREEDOM SYMPHONY: HOW TO BUILD WEALTH, GET ACCESS TO CAPITAL, AND ACHIEVE YOUR FINANCIAL DREAMS (1999).

206. The IRS has upheld the charitable character of some programs that provide business assistance to beneficiaries in low income neighborhoods who are neither poor nor victims of discrimination in strikingly Calvinist rhetoric: "The recipients of [benefits] in such cases are merely the instruments by which the charitable purposes are sought to be accomplished." Rev. Rul. 74-587, 1974-2 C.B. 162-63.

of religious charity and thus is inevitably powerless to change the behavior of the poor."[207]

C. *Political*

The political intuitions that underpin the CED Movement can be distinguished in terms of an interest group perspective and a republican perspective.

1. THE INTEREST GROUP PERSPECTIVE

From the interest group perspective, CED looks like a strategy by poor communities to increase the resources they extract from outside institutions. The importance of multistranded relations, geographic focus, and face-to-face encounters is that they facilitate more cohesive and assertive organizations that can subsequently exert greater pressure, especially against municipal government. This is the view of Saul Alinksy and the Industrial Areas Foundation,[208] and though most CDCs have a more collaborative orientation, they would recognize his view of political bargaining as part of what they do.

However, the idea that CED is a potentially powerful strategy of poor people's politics contradicts a critique that was previously quite influential and remains of interest. The political discourse of the 1960s tended to be suspicious of poor people's organizations. Conservatives suspected them of demagoguery; radicals suspected them of co-optation. Both portrayed them as likely to generate leaders who would sell out their constituents. They might do so by accepting personal favors from outside officials or businesses in return for inducing their followers to accept or support projects of little, or even negative, value to the community. Or they might scare away potentially beneficial projects by inciting their followers to make impossible demands. Or they might trade off the interests of the community as a whole in order to favor the interests of a sub-group of friends and supporters. No one doubts that such activities occurred in the past and continue to occur today, but at one time their likelihood in poor neighborhoods was widely thought so great as to make almost any effort to encourage local organizing dubious.

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207. Ambrosius, *supra* note 153, at 135, 145 (footnotes omitted).

208. *See* SKERRY, *supra* note 204, at 144-61; SAUL D. ALINSKY, REVEILLE FOR RADICALS 106-09 (1946).

One of the most influential expressions of this view from the left came in two books by Richard Cloward and Frances Fox Piven.[209] They argued that the key political resource of the poor is their capacity to disrupt.[210] Disruption might take the form of electoral rebellion, or excessive welfare claims, or strikes, or simply rioting. In their view, fear of disruption was the principal motivation of elites in yielding benefits to the poor.[211] In order to sustain this fear, it was important that disruption occur with some severity and frequency. In this situation, organizing is inherently cooptive because, by its very nature, it tends to dampen disruption. The process of organizing itself might be disruptive, but once an organization stabilized, the leaders, even if well-meaning, would consider it their business to channel the behavior of their constituents along orderly paths. In doing so, they would undermine their principal resource; the elites, no longer anxious about disruption, would concede less. Moreover, once organizations began to stabilize, the "iron law of oligarchy" would kick in, and leaders would feather their own nests at the expense of the rank-and-file.

Of several objections to this argument, one is of particular interest. The argument involves a *non-sequitur*. Organizing is considered inherently bad because it mitigates disruption, but according to the argument, it is not disruption itself that induces the elites to provide benefits, but the *fear* of disruption. Moreover, the inducement must involve, not just the fear of disruption, but the expectation that concessions will reduce disruption that would otherwise occur. And since disruption has a cost to both the poor and the elites, it is in their interest to disrupt only when the benefits from elite anxiety exceed these costs. It is thus not in the interest of the poor to maximize disruption. But without organization, why should they be able to discern or approach the optimal level of disruption? Without organization, they cannot collectively deliberate on the matter. They cannot credibly promise the elites to limit disruption in return for benefits. And in many circumstances, the threat of disruption may be less credible from a

209. *See generally* FRANCES FOX PIVEN & RICHARD A. CLOWARD, POOR PEOPLE'S MOVEMENTS: WHY THEY SUCCEED, HOW THEY FAIL (1977) [hereinafter PIVEN & CLOWARD, POOR PEOPLE'S MOVEMENTS]; FRANCES FOX PIVEN & RICHARD A. CLOWARD, REGULATING THE POOR: THE FUNCTIONS OF PUBLIC WELFARE (1971) [hereinafter PIVEN & CLOWARD, REGULATING THE POOR]. The intense fear of co-optation from organization also appears in Alinsky's work. While Alinsky was more sympathetic than Piven and Cloward to poor people's organization, he encouraged suspicion that any form of collaboration with government would lead to co-optation. Thus, he vehemently opposed the Community Action Program. *See* Saul D. Alinsky, *The War on Poverty—Political Pornography*, 21 J. SOC. ISSUES 41 (1965).

210. *E.g.*, PIVEN & CLOWARD, POOR PEOPLE'S MOVEMENTS, *supra* note 209, at 3.

211. *E.g.*, PIVEN & CLOWARD, REGULATING THE POOR, *supra* note 209, at 3-4.

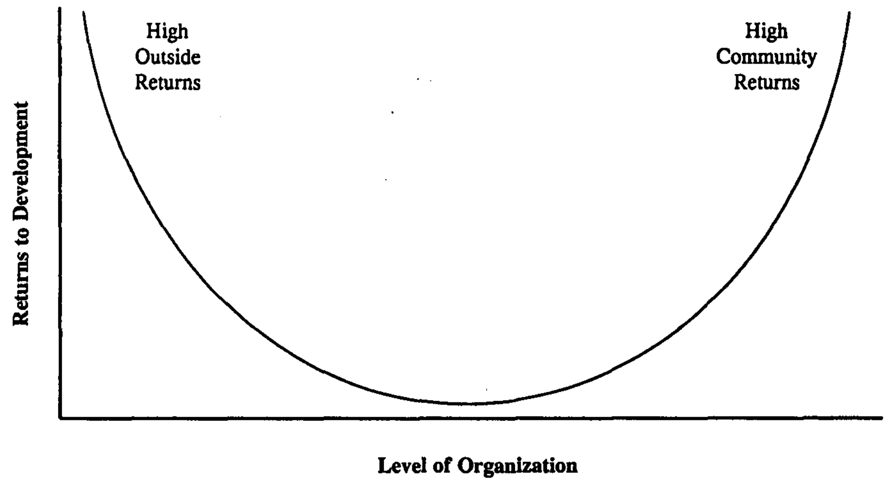
diffuse mass than an organized group. Piven and Cloward portrayed the poor as engaged in a kind of bargaining with the elites, but they focused exclusively on the costs of organized bargaining and largely ignored the costs of disorganized bargaining.[212] Even under Piven and Cloward's dark assumptions—a zero sum negotiation, selfish elites, weak leadership or organizational capacity among the poor—there remains an important, potentially valuable function for organization in cutting deals exchanging acquiescence for resources. If we relax the dark assumptions, we can see additional functions, such as those emphasized by the economic rationales—mobilizing voluntary effort, aggregating information about community needs, and coordinating projects.

We can't say more than that these are *potential* benefits. It is surely true that people sometimes do worse with organization than without. Even in such cases, however, the problem might be better understood as a matter of too little organization, rather than too much. A promising hypothesis holds that the returns to outside investment in a community will be highest when the level and density of organization in the community is either relatively low or relatively high. Returns *to the outside investor* are high when organization is slight because the investor encounters little opposition and can design his project to maximize his own interests. Returns *to the community* are high when organization is great. At high levels of organization, the community has the capacity, not only to prevent disruption that impairs the investment, but to facilitate support for investment and to bargain for a share of the returns. An organized community can promise credibly that the property won't be vandalized, or that neighboring parks will be maintained, or that job training will be configured to complement investment in a new business. While returns are thus likely highest at the poles of the organizational spectrum, the distribution of those returns will vary from pole to pole. At the low-organization end, the outside investor captures most of the returns. At the high-organization end, the returns are divided between investor and community.

212. Piven and Cloward attempted to show historically that the poor did better in times of disorganized disruption than in times of organized bargaining. Their thesis was being contradicted empirically, however, as they wrote. As they later acknowledged, under the Nixon Administration, well after the subsiding of the disruptive protest of the 1960s on which they had pinned their hopes, social welfare benefits underwent their greatest expansion since the New Deal. *See* Frances Fox Piven & Richard A. Cloward, *The Historical Sources of the Contemporary Relief Debate*, *in* BLOCK ET. AL, THE MEAN SEASON: THE ATTACK ON THE WELFARE STATE 3, 3-39 (1987).

At intermediate levels of organization, however, the hypothesis predicts that investor returns, and hence, investment, will be lowest. We might visualize the situation as a U-curve:[213]

Figure 1



Returns are lowest at intermediate magnitudes of organization because here organizations are strong enough to raise large costs but not strong enough to provide large benefits. Moderate levels of organization are sufficient to bring a lawsuit, or pack a meeting of the zoning authority, or mount a couple of demonstrations, or encourage vandalism. However, they are not strong enough to bind the community in ways that would assure a prospective investor that he will not face disruption or will receive support. The disorganized community cannot credibly promise that there will be no demonstrations, lawsuits, or vandalism. It cannot assure police protection or job training or complementary investments.

Moreover, at intermediate levels of organization, the danger that an organization will pursue narrow group interests at the expense of the larger community may be highest. As an organization expands to include more community interests, this becomes harder to do. The closer the organization comes to including the entire community, the less

213. I have taken the U-curve and the accompanying intuition from an analysis by Joel Rogers regarding labor relations. Joel Rogers, *Divide and Conquer: Further "Reflections on the Distinctive Character of American Labor Laws"*, 1990 WIS. L. REV. 1, 32-37.

potential there is that the organization will see its own interests as different from those of the community. The problem of the "iron law of oligarchy" can be mitigated as the organization's internal processes strengthen. Thus, when we see organizations selling out the community or their own members, the most plausible diagnosis will sometimes be too little, rather than too much, organization.

Piven and Cloward's diagnosis seemed to reflect a common assumption of 1960s radicalism that the best that the poor could hope for from the capitalist state was a decent welfare system. The favorable response they anticipated to unorganized disruption was increased welfare benefits. Of course, this strategy no longer seems politically viable, and it is not attractive to many of the people it was supposed to benefit. To the extent that poor communities are looking for investment, many forms of disruptive protest seem transparently counter-productive. Disorder in lower-class neighborhoods leads quickly to private *disinvestment*, and even a public sector that feels the kind of pressure to placate the poor, on which Piven and Cloward relied, would not respond by putting resources into long-term projects that could pay off only with local collaboration.

2. THE REPUBLICAN PERSPECTIVE

Republican political thought offers another perspective on the CED Movement. Republicanism has its origins in antiquity; it received its canonical modern formulations in the Renaissance and the seventeenth century, and was strongly influential in eighteenth and nineteenth century American thought. Some of the most distinctive themes of the thought of Jefferson and Lincoln and of the Knights of Labor and the People's Party are best understood in the light of Republicanism.[214] The CED Movement has arisen during a period that has also seen a "Republican Revival" in political theory, and the rhetoric and practices of CED resonate with Republican themes.

Republicanism is an exceptionally strong form of democracy, one with a preference for small, geographically-based political units. It exalts qualities of civic virtue and deliberation that have some resemblance to the sociological notion of social capital. Like economics, it also has an interest in material incentives, though it is primarily concerned with incentives for political rather than economic activity. The most distinctive political contribution of Republicanism is

214. *See generally* BRUCE LAURIE, ARTISANS INTO WORKERS: LABOR IN NINETEENTH-CENTURY AMERICA (1989); J.G.A. POCOCK, THE MACHIAVELLIAN MOMENT: FLORENTINE POLITICAL THOUGHT AND THE ATLANTIC REPUBLICAN TRADITION (1975).

its insistence that democracy entails powerful constraints on property arrangements.[215] Property is important to Republicans because it confers power. The Republicans deny any strong distinction between the kind of power property confers and political power. It follows for them that the egalitarian values that all democrats apply to the political realm must also be applied in the economic realm.

One implication of this view is a preference for economic self-sufficiency and a concern about nonresident, "absentee" ownership. Integration into broad-based markets subjects the community to forces beyond the reach of self-government. And since property confers power, outside ownership of property undermines the political autonomy of the community. In nineteenth century American republican thought, the railroad was a paradigmatic nemesis of self-government. The railroad was controlled by outsiders, but it had enormous power over local affairs. Its monopolistic decisions over rates and scheduling could spell life or death for small agricultural communities. At the same time, the railroad, by fusing once isolated local economies into far-flung markets, subjected them to volatile product price swings that undermined stability and independence. Republicanism thus favored both institutions that afforded local communities some autonomy from outside economic pressures and, at the regional and national planes, institutions that would subject these broader pressures to democratic control.

The Republican political ideal also had implications for property arrangements within the community. As it calls for economic autonomy at the community level, Republicanism calls for "propertied independence" at the individual level. On this view, self-government requires that the citizen have a stake in the polity that links her fate to that of her fellows. The stake makes it likely that the individual will share in the successes and failures of collective decision; it is both an inducement to participation and a bond against recklessness. In former times, the paradigmatic Republican stake was landed property. The immobility of land holds people in place and binds them to their neighbors. Landowners, the French Republican Anne Robert Jacques Turgot wrote, "are attached to the land by their property; they cannot cease to take an interest in the district where it is placed . . . . It is the possession of land . . . which, linking the possessor to the State,

215. *See* GREGORY S. ALEXANDER, COMMODITY & PROPRIETY: COMPETING VISIONS OF PROPERTY IN AMERICAN LEGAL THOUGHT 1776-1970, at 21-88, 211-40, 248-76 (1997); William H. Simon, *Social-Republican Property*, 38 UCLA L. REV. 1335 (1991).

constitutes true citizenship . . . ."[216] By contrast, proprietors of liquid, mobile capital "belong to no place."[217] Thus, politics takes a geographical form; geographically contiguous property constitutes people as a collective with a common identity.

As the space for yeoman farmers in the American economy shrank in the nineteenth century, Republicans recognized that they had to adapt their vision to accommodate a more integrated system with larger production units. They responded with two sorts of proposals. At the local level, they favored the organization of production in terms of cooperatives, a form of egalitarian worker ownership. Above the national level, they favored programs supporting small business and shielding it from big business. Shielding took the form of antitrust and related laws. Support took the form of government programs providing credit and technical assistance and facilitating collaboration among small businesses to attain economies of scale in the purchase of inputs, research and development, and the marketing of their products. A panoply of New Deal programs in the agricultural sphere represent the most fully elaborated, ambitiously implemented example of the modernized Republican vision.[218] The Republican vision continues to be reflected in public policies that favor home ownership, in part because that the economic independence it fosters makes for better citizens. The income tax exemption for interest on home mortgages, the largest housing subsidy, is sometimes justified in Republican terms. HUD Secretary Jack Kemp argued for a shift from rental to ownership subsidies on the ground that owners "vote more regularly and become more engaged in the democratic process."[219]

In nineteenth-century America, the Republican commitment to propertied independence had both reactionary and radical implications. On the one hand, an exclusionary interpretation concluded that self-government required the disfranchisement of those who lacked property. On the other, an inclusionary interpretation held that self-government required the redistribution of some minimal amount of property to all

216. WILLIAM SEWELL, WORK AND REVOLUTION IN FRANCE: THE LANGUAGE OF LABOR FROM THE OLD REGIME TO 1848, at 127 (1980).

217. *Id.* (footnote omitted)

218. *See generally* GRANT MCCONNELL, THE DECLINE OF AGRARIAN DEMOCRACY (1953).

219. U.S. DEP'T OF HOUS. & URBAN DEV., HOME OWNERSHIP AND AFFORDABLE HOUSING: THE OPPORTUNITIES (1991). Survey research shows a significant correlation (controlling for income, age, education level, and the length of time a person has been or expects to remain in the community) of home ownership with membership in nonprofessional organizations, knowledge of local political leaders, voting, and self-reported local political activity. Denise DiPasquale & Edward L. Glaeser, *Incentives and Social Capital: Are Homeowners Better Citizens?*, 45 J. URB. ECON. 354 (1999).

citizens. Senator Calhoun's insistence that property-less laborers were unqualified for political participation was solidly grounded in Republican premises; so was General Sherman's insistence that meaningful emancipation would entail giving each former slave "40 acres and a mule."

There is a modern version of this dialectic. As political participation rates decline, scholars are again interested in what motivates people to participate, and are again considering the role of property. Robert Ellickson has emphasized an important limitation on the incentives on nonowner residents, tenants, to participate in local political processes.[220] Many collective improvements to the community, such as better schools, parks, or policing, increase private property values by an amount proportionate to the general valuation of the improvements. Public benefits are thus privately appropriated through real estate appreciation. Ellickson pointed out that this limits the incentives for tenants to participate in local politics, because property value increases tend to be passed on to them in the form of higher rents.[221] To the extent that public achievements translate into rent increases, tenants cannot benefit from participation.[222]

The prescriptions Ellickson drew from this observation are in the tradition of Calhoun—disfranchisement of nonowners. (This is constitutionally impossible in general elections, but Ellickson favored the remission of governmental functions to private associations or special-purpose districts constituted exclusively of owners.) For its part, the CED Movement would respond in the tradition of Sherman, proposing to create and extend a set of ownership interests that depart from conventional private property in some respects but that are adequate for the Republican purpose of grounding and motivating responsible participation.

From a more general perspective, Republicanism gives a political cast to the three defining themes of CED. By insisting on linking political and economic roles, Republicanism prescribes a form of relational density as a vindication of democracy. By taking ownership of real property as the critical economic underpinning of local democracy, Republicanism also adopts a geographical focus. And by insisting on the importance of direct participation, it gives priority in political terms to face-to-face relations.

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220. Robert C. Ellickson, *Cities and Homeowners' Associations*, 130 U. PA. L. REV. 1519, 1547-54 (1982).

221. *Id.* at 1548.

222. *Id.*; *see also* Robert C. Ellickson, *New Institutions for Old Neighborhoods*, 48 DUKE L.J. 75, 92-95 (1998). Ellickson's analysis is based in part on the assumption that local governments have little capacity to redistribute wealth.

Specific CED practices also resonate with the Republican program. CED is an effort to subject economic forces to democratic control. Economic self-sufficiency is an important background value in much CED discourse. Its emphasis on security of tenure and, sometimes, home ownership, can be seen as a form of propertied "independence." Its characteristic business programs provide credit and technical support to small, locally-controlled businesses in the manner of late nineteenth-century Republicanism. The Republican's favorite business form, the cooperative, makes a frequent appearance on the CED landscape. Moreover, the charitable corporation, especially in the form of the CDC, manifests many Republican themes.

The Republican prescription of local economic self-sufficiency seems naïve and anachronistic in many respects. It would be implausible to deny that the most important responses to poverty and racial injustice require national policies and political coalitions. But we have noted that there are economic rationales for local development initiatives, and the Republican perspective seems responsive to at least two current practical political contingencies.

The first is the political lesson of two decades of welfare cutbacks culminating in a reckless dismantling of the core public assistance programs led by a liberal democratic administration. The lesson many inner city leaders have drawn from this experience—that reliance on welfare involves dangerous political vulnerability—resonates with Republican principles. These principles condemn dependence on economic favors of the state as incompatible with political independence.[223] This seems to approximate the prevalent view among many inner-city leaders. Dependence on welfare now seems too fragile a basis for stable community life, since shifting political coalitions can wipe out these programs. Like traditional Republicans, these leaders see a potentially more stable basis in private wealth and economic activity. To be sure, private property is no less a creature of state and national government policy than welfare benefits. There is no natural definition of private property rights. We depend on the government to delineate their boundaries. And the value of these rights depends substantially on the capacity of the state to enforce them against violators. However, legal and cultural norms give private property higher normative priority than welfare property, and institutional arrangements protect it more strongly.

223. Compare, for example, the eighteenth-century English Republican attack on the dependence of Whig "placemen" on wealth accumulated in connection with government bonds, POCOCK, *supra* note 213, at 425-26, 477-86, with Saul Alinsky's attack on welfare dependence in poor communities, Alinsky, *supra* note 208.

The second political reality with which the Republican view resonates is that some poor communities have greater political, rather than economic, power. By definition, poor people tend to have little or no capital, income, or marketable skills, and only stake the most uncertain claims on society to improve their condition through redistribution. On the other hand, basic constitutional norms require that political power be apportioned with formal equality. Formally equal political power is not always worth anything, but sometimes it is. To the extent that it enables poor communities to influence elections in broader jurisdictions, they may be able to trade it for resources. To the extent that it gives them direct power over their use that outside owners make of property within the communities, they can use their power to generate economic benefits they could not attain through market processes. Much of CED can be seen as an effort to translate political into economic power, and in circumstances where disadvantaged groups have more of the former than the latter, this may be a plausible strategy.

III. CONCLUSION: THE MURAL TEST

A mural that covers the side of a building on Dudley Street depicts some of the major figures in the Dudley Street Neighborhood Initiative's remarkable efforts to revitalize that community. The impressive new construction in the neighborhood sits amid many older, still deteriorated buildings that have a good deal of graffiti on them. Although the mural sits on one of the old, unrenovated buildings, DSNI staff emphasize to visitors that there has not been a mark of graffiti on it in the several years since it was painted.

Here is a vivid illustration of all three logics of collective action. The mural's pristine condition reflects at once informal coordination that enhances the value of an economic investment, social capital, and collective discipline that enhances bargaining power with outsiders. A community group that can credibly promise this type of support can thereby induce significant investments both by its own members and outsiders.