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Place Management in Downtowns & Transit-Oriented Developments

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Efforts around the country to revitalize downtowns and create economically vital and aesthetically pleasing communities, often centered on transit hubs, have created a greater need for a private-public entity that can manage these areas to ensure their long-term sustainability. While most states have laws on the books to enable these special districts, some experts say they are still too difficult to establish and that some of the decades-old laws may need to evolve to reflect the expanding mission of these districts and the changing nature of the communities they serve.

Business Improvement Districts

Urban district management organizations come in a variety of different forms and go by a variety of different names. One of the most common is the business improvement district. A business improvement district, or BID, is an entity that allows business owners in an area to approve a tax or fee to fund increased services, promotion of the district and economic development services.¹

Most states adopted legislation allowing for the creation of BIDs or other special districts in the 1970s, 1980s or 1990s. Today there are more than 1,000 BIDs around the country. New York City has the largest number of any city at 72.² Among states, California leads the way with 232, according to a 2011 BID census by the Institute of Business District Management and others.³

BIDs can vary widely in size, scope and budget. Some have almost complete autonomy to finance, construct and manage special projects independent of local government. Others are created only to raise revenue for special projects and are dependent on local government. While many simply focus on providing services (maintenance, sanitation, landscaping) beyond what local government can offer, others extend their reach into economic and community development.⁴

The International Downtown Association, a Washington, D.C.-based group representing urban place management organizations, reports that the top 10 cities in the United States receive direct private sector investment of \$400 million a year through BID assessments. More than 439 BIDs or similar organizations exist in just those top 10 cities.⁵

The association's 2015 salary and staffing survey found that the median operating budget for an urban district management organization in the United States and Canada is \$1.2 million. Twenty-seven percent of these organizations have operating budgets of more than \$2.5 million, 35 percent have budgets less than \$750,000 and 39 percent have budgets somewhere in between.⁶

In New York City, BID budgets, which are tied directly to property values, range in size from \$49,740 to fund the 180th Street BID in Queens to the Alliance for Downtown New York's \$17.1 million in Manhattan's Financial District.⁷

The aforementioned 2011 BID census found that 56 percent of BIDs rely on the assessed value for real estate as the basis for calculating the assessments that make BID budgets possible. Others base their assessments on square footage (12 percent), linear front footage (4.5 percent), sales tax (2 percent) or "other" (26 percent).⁸

Evolution of BIDs

In many ways, the primary duty of many BIDs has become not business improvement or even providing an extension of city services, but place management.

"We're in the middle of this evolution of place management," said Christopher Leinberger, president of the real estate developer coalition LOCUS and a professor at George Washington University in Washington, D.C. "It's a missing level of governance in our society. ... [Transit-oriented developments] average in size anywhere from roughly three to four hundred acres... and they could be as low as a hundred, they could be as high as 600—but [those] acres must be 24-7 managed to really optimize what they are and generally speaking that takes the form of a business improvement district."

Leinberger said this evolution of place management has played out in the way individual BIDs tend to evolve.

"It tends to start with clean and safe—making the place cleaner and safer than it was on its own," he said. "Then it tends to move into managing festivals. ... It moves into economic development—creating an economic development strategy to attract certain product segments that you want to get in to the place. ... It gets into parking management. ... It involves building the streetscape up to a level that the city generally can't afford. That investment is done many times by the business improvement district. It also includes parks—taking over parks."

BIDs can also help shape transit options, Leinberger said, getting circulator bus systems up and running or building streetcar lines.

"There are all sorts of new things that place management is taking on," he said. "[A BID tends] to move from a cost center—where they have a budget to do a certain scope of work—to a profit center—where they make a buck by doing certain revenue-generating, profit-generating things—to investment centers. We're talking about a brave new world of how we manage our society. ... Build it and they will come; manage it and they will stay."⁹

BIDs Building Communities

Case in point is the BID serving Crystal City, Va., a close-in D.C. suburb near Reagan National Airport and the Pentagon once known for its urban sterility and “concrete canyon” appearance that has been transformed in recent years into a more active, innovative place.

The Crystal City BID hosts a 5K race for 1,500 runners every Friday in April. A local parking garage is the venue for weekly bicycle races in March, when the snowy remnants of winter can make biking the streets of the region a challenge. The BID has nurtured incubator spaces for business startups as well. Free yoga classes, volleyball and hockey leagues, movie nights, numerous festivals, a farmers market and a space for food trucks one day a week are all the work of the BID.

“Our budget is about \$2.5 million annually and that is based on an assessment of commercial property of 4.3 cents per \$100 of assessed value,” said Angela Fox, president and CEO of the Crystal City BID. “It is all private, commercial property owners that pay that tax through the county. The county takes a 1 percent fee and a 5 percent [penalty] for delinquency and the rest is what we use to program. Staff-wise there are only five of us at the Crystal City BID that do all the stuff that we do.”

Fox said all of those BID activities help when it comes to trying to make the case to new employers who may want to come to the area.

“People are an asset,” she said. “To attract people you have to think about what’s their livelihood, what’s their life like, what’s their commute like. ... That’s what I’m going to offer your employees. I will come to your company. I will talk to them about what they’re going to experience when they come to Crystal City and how interesting and exciting [it is] in addition to the great restaurants and ... all these other cool things we have going on.”

But Fox said the key is to have a BID with a 24-7 approach like hers to ensure the future of the district.

“You certainly need an organization that is thinking about Crystal City all the time and not from the perspective of a real estate developer,” she said. “They look at buildings and they see a building that [they] need to lease up. I look at a building or the space around it and see maybe that’s a place where I could host a festival. ... I’m actually looking at those assets in a very different way. If you have a community, you need [an entity] that is literally thinking about those spaces.”¹⁰

Changing BID Laws

Some believe BIDs in some cases have become an outdated tool that no longer adequately serves the communities our downtowns and transit-oriented hubs have become.

“If you look at the philosophy of business improvement districts when they really came around in the 70s and the 80s and the 90s, our downtowns were predominantly retail, commercial, parking lots, office buildings and they were really Monday through Friday, 9 to 5,” said Marco LiMandri, president of New City America, a California-based group that aids in the establishment of BIDs.

“Downtowns aren’t like that anymore. ... People are moving back to cities because of the density, because of the concentration of cultural activities, the concentration of transportation infrastructure.”

Downtowns are no longer about business improvement anymore, said LiMandri, but rather about community benefit.

But LiMandri said in many cases that expanded diversity in downtowns and transit-oriented developments is not reflected in who pays the tax or fee to fund BID services. Despite being able to take full advantage of neighborhood enhancements as others do, certain types of property owners in many states are exempted from paying the assessments based on their tax status.

“We say that any property owner, regardless of ownership, should pay into a district and that affects hospitals, universities, churches, cities, counties,” said LiMandri. “If you derive benefit, you pay. It doesn’t matter who you are.”

LiMandri gave the examples of New Bedford, Mass., where the city owns 25 percent of the downtown buildings and pays the BID assessment along with commercial and residential property owners, and Newark, N.J., where a BID convinced a hospital to contribute \$100,000 a year despite the fact that they don’t pay property taxes.

LiMandri said many BIDs in California currently limit exemptions from such assessments.

“In the state of California, cities have great leeway, unlike places in New York and New Jersey or Massachusetts, where in many ways the cities are simply appendages of the state,” he said.¹¹

Under the California Constitution, cities have the power to become charter cities, which have supreme authority or “home rule” over municipal affairs. Laws passed in a charter city concerning a municipal matter will trump a state law on the same topic. Of the 478 cities in California, 108 of them are charter cities. The rest are general-law cities and bound by state laws.¹²

“So you have a situation here where charter cities can go over and above what’s in the state legislative code,” LiMandri said. “I work in a number of charter cities and in 20 different charter cities starting with San Francisco, we created much better legislation. ... So in terms of the best model, I think the best models are actually in the charter cities of the state of California.”¹³

BIDs have helped the state fill a void since a 2011 California Supreme Court decision that resulted in the dissolution of 400 redevelopment agencies, which had given local governments the ability to capture a greater share of property taxes in order to fund efforts to combat urban blight.¹⁴

“It created a huge crisis in terms of the funding mechanism for improvements in downtowns,” said LiMandri. “A lot of redevelopment agencies used to fund operational activities in downtowns. That all went away with the court decision. ... We’ve got all these people. We’ve got all this density. We’ve got all this growth. But the city cannot keep up with it because it has a general obligation for dealing with pensions, dealing with infrastructure needs and dealing with the city as a whole. So the [easier] you create the legislative tools to fix these things and to accommodate these densities in these urban areas, the easier it’s going to be for the cities to allow them to grow and facilitate that growth.”

Massachusetts on the Horizon

LiMandri said another state could be poised to pick up where California left off. Proposed legislation in Massachusetts called the Community Benefit District Act of 2016 builds on the laws in California’s charter cities.¹⁵

As drafted, the Massachusetts legislation (S. 2065) allows for the creation of community benefit districts, or CBDs, and lays out the rights and powers of a CBD corporation. The expanded portfolio of these districts is long and diverse:

“Retaining or recruiting business; administering and managing central and neighborhood business districts; promoting economic development; managing parking; designing, engineering, constructing, maintaining, or operating buildings, facilities, urban streetscapes or infrastructures to further economic development and public purposes; conducting historic preservation activities; leasing, owning, acquiring, or optioning real property; owning and managing parks, public spaces and community facilities; supplementing maintenance, security, or sanitation; planning and designing services; formulating a fee structure; accumulating interest; incurring costs or indebtedness; entering into contracts; suing and being sued; employing legal and accounting services; undertaking planning, feasibility and market analyses; developing common marketing and promotional activities; engaging in placemaking, programming, and event management within the district; soliciting donations, sponsorships, and grants; operating transit services; and supporting public art and human and environmental services as related to the enhancement of the district or other supplemental services or programs.”¹⁶

In addition to laying out the scope of CBD activities, the legislation also would address two other important things LiMandri believes have held BIDs back.

“Massachusetts has had BID legislation for 20 years,” he said. “They have five districts in the entire state. Five. Which to me immediately told me there’s something wrong with [their] legislation, otherwise there would be a lot more. ... They should be easy to set up and easy to take apart. Under the current Massachusetts legislation, it’s highly difficult.”

LiMandri said New York state’s legislation makes district creation difficult as well because a petition to create one requires not only the signatures of 50 percent of the people by assessed property valuation but 50 percent of property owners numerically as well.

“In most states it’s just the assessed valuation,” he said. “But when you get a [parcel property] owner that pays \$1000 a year versus someone paying \$100,000 a year from the numerical standpoint, that person has as much weight as the person paying \$100,000 a year. ... Ultimately it’s the people who are paying the most in the district who [should] make the decision on whether the district is formed or not.”

An exception was made in the state law for New York City, which has allowed for the creation of 72 BIDs there but only 43 in the entire rest of the state.

“It says that all these rules—the assessed valuation, as well as the numerical—apply unless you’re a city of over a million people,” he said. “So they made that caveat for New York City. But it’s very difficult to form districts outside of New York City because of that requirement of dual support in the petition phase.”

Efforts to sustain communities long term require that another central tenet of many state BID laws be addressed, LiMandri said.

“[A district] should exist in perpetuity,” he said. “In many states they have five-year terms, seven-year terms, 10-year terms.”

According to the 2011 BID census, 68 percent of BIDs require periodic renewal by government and in 64 percent of BIDs, the organization’s fee or assessment expires after a certain period of time. Of the BIDs that require periodic renewal, 49 percent must be renewed every five years and 23 percent every 10 years.¹⁷

In New Jersey and New York, districts exist in perpetuity, according to LiMandri. The Community Benefit District Act of 2016, if passed, would allow districts in Massachusetts to exist in perpetuity as well.

From Business Improvement to Community Benefit

LiMandri believes the changes in downtowns and transit-centered hubs ultimately require a rethink in the positioning of these districts.

“If I’m a hospital or a university, I’m not a business,” he said. “So if you change the name of the vehicle and say, ‘Look, it’s a special benefits district that everybody pays into and everybody benefits from.’ ... it resonates so much better because it’s a much more user-friendly name and people get it much more. ... So that’s why we’re changing the name in Massachusetts and changing the whole orientation. And every district that I do now in the state of California, I do a community benefit district to acknowledge the fact that our downtowns are becoming far more cultural and residential and, in some senses, ecumenical.”

Developing community benefit districts can help communities take a more comprehensive approach and move beyond an emphasis on ‘clean and safe,’ LiMandri said.

“You can have the cleanest district in the country and the safest district but it doesn’t mean it’s going to be dynamic,” he said. “So the community benefit district says, ‘No, our downtowns are different animals than they were 20 years ago when this legislation was adopted nationwide ... and now we really need to make a 21st century business improvement district piece of legislation that accommodates our new land uses and our new functions and the densities in our downtowns.’”

Moreover, LiMandri contends, repositioning BIDs for modern needs should be a cause state legislators around the country should be able to get behind, regardless of where they live.

“Business improvement districts are antiquated forms of legislation that really don’t acknowledge what our downtowns are evolving into,” he said. “I think a CBD is a far more comprehensive approach to the financing of improvements in a downtown or an urban area. ... And I think that would resonate with every legislator because they know that their downtowns are becoming a focal point and what people remember about a state really in many ways are the cities. ... If we can create a financing mechanism that really enhances those urban core areas of downtowns that are over and above what the cities are providing, I think it’s something that people could embrace.”¹⁸

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Attachment

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