

PRIVATE COMMUNITIES AND INFRASTRUCTURE

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Options and Strategies for Sustainable Financing

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INTRODUCTION

Discussions of infrastructure shortfalls bring concerns, wish lists -- often large budget proposals.

But are existing institutions and procedures up to the challenge?

In 1987, Ronald Reagan vetoed (overridden) an appropriations bill with 152 earmarks; in 2005 there were over 7,000++ such earmarks.

Over \$100 billion of federal funds have been spent on the Katrina impacted areas with disappointing results.

CONTD.

Is it a question of how, rather than how much?

Can we have less politics and more market discipline?

Conventional public-private distinctions are not useful.

Market participants are also planners.

BACKGROUND

Conventional ideas of *public goods* as “market failure” have been challenged in two ways.

- A. Most *local* public goods have a spatial ambit with benefits capitalized (priced) in land markets. These market signals get the attention of private developers, who may use them to provide local public goods and facilities.
- B. Public authorities and private capital market participants each have an interest in “public” facilities.

CONSIDER 4 POSSIBLE ARRANGEMENTS

INFRASTRUCTURE

Publicly Owned
And Operated

Privately Owned
And Operated

Conventional
Governance
And Planning

I

III

LOCAL COMMUNITIES

Private
Governance
And Planning

II

IV

QUADRANTS I AND II

Quadrant I is the traditional setting – always available as backup.

Quadrant II notes the rise of private communities: 295,700 private association-governed communities in 2007, including 23.8 million housing units, home to 58.8 million people.

Over half of HOAs involved planned communities –20% of the value of all U.S. residential real estate.

HOAs are essentially private local governments, delivering a variety of common services, providing common facilities and common areas and selected local infrastructure, managed by private governments which have contractual power to assess fees that amount to private taxation.

CONTD.

Competing developers offer trade-offs of *rights surrendered for protections gained* -- in light of market demand.

Homeowners are keen to protect the major asset in their portfolio.

Neighborhood quality and neighborhood transition are collective goods.

The popularity of HOAs is easy to understand. More flexibility and responsiveness than conventional municipal government.

R. Nelson has suggested that established neighborhoods be given the *option* of privatizing. "Privatizing the inner city."

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Developers of planned communities fund local infrastructure in return achieve land design flexibilities and savings.

Local governments, in return, benefit from cost savings whenever infrastructure is privatized.

But developers are also subject to exactions and impact fees when local governments also provide new infrastructure services.

The involved governments can be the local city or county or special district or state. These are actually *transactions*, sanctioned -- via odd legalese like "nexus of development."

QUADRANT III

Introduces private infrastructure ownership and management outside the community.

For the case of highways, modern tolling technology makes it simple to transact highway access. PBI.

Fees can be based on the market value of the service. PBI.

Competitive bidding whereby private contractors are awarded exclusive franchises is an old idea.

QUADRANT III, CONTD.

Wolfram traced the history of this approach for the case of the early U.S. airmail routes.

Competitive bidding is an alternative to regulation of a private (natural) monopolist.

Auctions force firms to reveal information about their costs that often eludes regulators.

QUADRANT IV

Combines the two privatization innovations.

Private infrastructure providers would negotiate with private governments (HOAs), or developers -- or consortia thereof.

HOAs can create higher-level associations to coordinate and to offer services where there are scale economies – just as small cities routinely form joint-powers arrangements on an as-needed basis.

QUADRANT IV, CONTD.

The value of included properties would be linked to the reliability of the services and give them a stake in the performance of highways that serve their communities.

What makes this case different is that negotiation could be between private property owners on both sides of the table.

Voluntary contracts are positive-sum.

Negotiations would occur unless pre-empted by law -- or unless positive-sum gains were absent.

NEXT STEPS

Which of the four quadrants is “best”?

No one knows. One size never fits all.

Trial and error learning first – must be tolerated.

The answers will not be known until pre-emption is withdrawn.

Novel contractual norms and arrangements are more likely to emerge in this setting.

Almost a half-century ago, Jane Jacobs saw that city and neighborhood success depend on openness to spontaneous innovation.

NEXT STEPS CONTD.

Allowing neighborhoods a simpler secession option is the reverse of calls for “regional government”.

While many debate the best top-down formula for allocating the Federal Highway Trust Fund, what can we do bottom-up?

Competition beats cartelization.