Landmarks for the Poor

Mitigating Displacement from Historic Preservation

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Planners and neighborhood groups are justified in exercising caution when they consider historic preservation proposals for their communities. Evidence shows that the effects of historic preservation reinvestment are mixed. Historic preservation projects are responsible for converting many decrepit, yet architecturally significant buildings into appealing landmark structures. In many cases, these transformed buildings have inspired a revitalization of blighted areas. Saving an historic structure, however, can also have an adverse effect; namely, the displacement of low-income residents from their homes and businesses.

In this article, author Daniel Ellison, director of Mordecai Square Historical Society in Raleigh, North Carolina, proposes a variety of legal and financial means of mitigating the adverse impacts of historic preservation. If implemented, the benefits and the costs of historic preservation may be brought into better balance.

displacement

Planners and historic preservationists must attend to the needs of a diverse constituency. In their effort to *reclaim* the architectural beauty and cultural integrity of the nation's cities, American planners and preservationists have ignored the *disclaiming* influence which their policies have had on less advantaged households that actively use the unimproved structures. This "disclaiming" effect involves the involuntary displacement of property owners and tenants from their residential or commercial property. Displacement involves substantial emotional, economic and social costs. For preservation to achieve a broad base of support, its proponents must be sensitive and responsive to the full range of community needs. The cultural benefits of historic preservation cannot be blindly advocated. Planners and preservationists must consider the economic, political and social effects of their policies on all classes of society.

In the following article, historic preservation policies are described in terms of their displacement impact. Tools and strategies for the mitigation of these effects are presented thereafter. The discussion is divided into four sections: 1) Definitions and general observations; 2) Historic preservation impacts on displacement; 3) Legal considerations; and 4) Methods of mitigating historic preservation displacement.

DEFINITIONS AND GENERAL OBSERVATIONS

Displacement refers to "the involuntary movement of a household from its immediate residence or place of work." Displacement is not restricted to acts of physical force, e.g., bodily eviction or the disconnection of essential services and utilities. It involves economic pressures which deplete the income and savings of households to a point where the quality of housing services no longer justifies their cost. For purposes of this article, *residential displacement* will be the focus of discussion. Businesses can also be displaced, but the ramifications and effects of commercial displacement are unique enough to warrant their separate consideration.

Displacement is a topic which has received significant attention from students of social welfare and social justice planning. Unfortunately, the literature is deficient in its full and credible analysis of the causes and implications of neighborhood displacement. The transience of displaced households complicate their study. Displaced households are elusive and, even when found, often provide justification for their moves which are poorly correlated by traditional survey research methods. The *1981 Update Report to Congress on Residential Displacement* is an often quoted study by HUD; its usefulness for behavioral analysis, however, is marginal. In this report, HUD estimates that one percent, or approximately two million people, were displaced in 1979 as a result of private property investment. The report suggests that displacement disproportionately affects low-income, minority, female headed households and renters. This is hardly surprising given the limited housing choices available to the poor and politically powerless.

The HUD findings were compiled from all private development activity. Inner-city reinvestment is a subset of that; historic preservation is only a sub-subset. Even though historic preservation accounts for a small fraction of that one percent of displacement, in some areas, preservation activities have been a catalyst for gentrification and neighborhood change. Dennis Gale studied the Capitol Hill area of Washington, D.C. He found clear evidence of the effect of historic preservation on demographic change. In the period 1970 to 1977, the neighborhood's socio-economic profile shifted from 60% black and 27% college educated to 94% white and 97% college educated. The effects of displacement have inspired new caution and concern for further preservation and revitalization activity. Planners and community groups now demand greater compensation for the displaced households. These are reasonable demands if historic preservation is to serve a broader social purpose than merely to resurrect architectural monuments for the benefit of an elite, educated, but self-serving society.

HISTORIC PRESERVATION IMPACTS ON DISPLACEMENT

How does historic preservation affect displacement? Historic preservation affects displacement by altering the traditional structure of inner city neighborhoods to a point where housing costs for the original property owners exceed their ability to pay; and/or the social character of the neighborhood has changed to the degree that indigents are no longer welcome.

There are essentially two types of property reinvestment: incumbent upgrading, which is reinvestment from *within* the neighborhood; and gentrification, which is reinvestment from *outside* the neighborhood. Expectedly, "inside reinvestment" involves less displacement than "outside reinvestment." One of the principal factors to make an area a target of reinvestment is the neighborhood's proximity to the city's historic districts. Since the end of World War II, these inner-city areas have been increasingly relegated to low-income persons. These neighborhoods are often comprised of the city's original housing stock. The simple, strong structures are architecturally appealing. In addition, inner-city housing offers a proximity to city services and employment centers unrivaled by the suburbs or outer-fringe neighborhoods. With increasing competition for affordable housing, inner-city neighborhoods have become areas of active reinvestment. If a municipality has established an historic district within the inner-city, the risks and opportunities for reinvestment are substantially improved. Preservationists, of course, tend to applaud historic district designations as a foundation for preservation activity. Such designations, however, effect an immediate

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change in the value of properties within a district. The change in value creates a change in tax liabilities and, more importantly, establishes new regulations regarding the use and modification of such properties. Residents with fixed or low-incomes suffer the brunt of these new property costs and use regulations. In most cases, the costs are substantial enough to force a move from the area.

LEGAL CONSIDERATIONS

Zoning is perhaps the most important tool of preservation. The power to zone derives from the state's police power to regulate private property for the benefit of the public health and safety. In the case of historic district zoning, however, this state power has ignored the interests and welfare of a community's least advantaged citizens. The disproportionate burden of this zoning practice, thereby, deserves review and reconsideration.

social impacts

Akin to this argument is the New Jersey Supreme Court decision: *NAACP* v. *the Township of Mt. Laurel*, 336 A.2d 713 (N.J.), *cert. denied*, 423 U.S. 808 (1975). The case stands for the proposition that a community has the responsibility to meet its fair share of the regional needs for low and moderate income housing. The court held that a municipality may not, through its zoning regulations, make it economically impossible for low income families to live in the municipality. Taking this one step further, if a municipality, through its zoning, *diminishes* its available low income housing stock to the point where it no longer meets its fair share, that zoning ordinance may arguably be struck down.

SPECIFIC MEANS OF MITIGATING HISTORIC PRESERVATION DISPLACEMENT

Historic preservation effects displacement through two ways: 1) increased rents for low-income tenants, and 2) increased property taxes for low-income homeowners. Consistent with the definition of displacement as the "involuntary departure from a home or place of business," the valuation issues associated with historic preservation investment demand consideration. Specifically, public policies and legislation must be reviewed and adjusted in order to ameliorate the destructive impact of this form of real estate development. In the following section, legal and financial tools are described in terms of their potential use in historic preservation investment. In some communities, these tools have been welcomed as important means of offsetting the costs and benefits of urban revitalization. They are viewed as equitable policies which both encourage new development and protect current residents. Their applicability to any single community will be a function of the political, economic and social conditions therein. With the tools provided below, it is hoped that administrators and planners will pursue their use in local historic preservation programs.

Property Tax Abatement

public policy changes

The property tax is a fundamental component of municipal finance. Any alteration of the tax rate or the tax base must be assessed in terms of its impact on local government revenues and tax expenditure policies. Tax abatement involves a reduction or deferral of property tax obligations on property owners. It is often granted to property owners and/or developers who provide amenities, new housing, new employment, etc., to a declining area of the city. The policy can also affect residents of gentrified areas who, through no action of their own, are forced from their neighborhoods to accommodate the reinvestment. The costs of a property tax abatement program, therefore, must be balanced with the expected benefits of the reinvestment. Most notably, the costs of an abatement program could effect a reduction in municipal revenues, and thereby, cause a reduction in social welfare programs which serve a less advantaged segment of the community.

Tax abatement is a form of tax expenditure: the municipality foregoes income in order to encourage policies which it deems essential to the public good. Economists argue that such policies are less efficient than direct property subsidies or low-income housing credits. The efficiency issue must be evaluated in terms of a particular city's short-term and future revenue needs.

At best, tax abatement is a reasonable short-term policy for historic preservation and redevelopment activity. It allows communities to spark the revitalization process. As a *long-term policy*, however, tax abatement is an inefficient and impractical means of mitigating the displacement effects of historic preservation. With this word of caution, the more useful tax abatement policies for short-term equity adjustment are presented hereafter.

Property Tax Freeze

This method involves "freezing" the property tax for a particular homeowner to an amount established for a "base year." Such a tax provision could be applied to particular households in neighborhoods undergoing revitalization. The "base year" for an historic district, for example, might be set at the year in which the neighborhood was designated. Adjustments for low-income residents would be made through the use of "circuit breakers." The principal "circuit breakers," special provisions for low-income taxpayers, are discussed below.

Property Tax Deferral

This method enables a taxpayer who meets eligiblity requirements to postpone property tax payments to some point in the future. A "deferral ordinance" is usually prepared to effect this sort of program. The municipality secures the tax obligation with a lien on the property. The lien may or may not include provisions for interest charges. Payment is typically made when the property is sold or the taxpayer dies.

North Carolina uses a variation of the tax deferral policy in historic preservation cases. A property designated as an historic site or structure by local ordinance will, upon application by the owner, be taxed at *half* the effective tax rate of comparable properties. The deferred taxes will create a lien on the property payable to the city when the property forfeits its historic designation (through neglect or substantial modification).

Another variation of the property tax deferral involves provisions for interest charges. Interest charges can offset some of the present value costs of a deferred tax payment. A tax deferral could also be coupled with a "minimum property tax" and thus create a *partial deferral* for the municipality and the property owner. These two adjustments to a deferral plan could substantially improve the economic value of these policies for the municipality while, at the same time, protect low-income residents from oppressive tax obligations during their period of continued residency.

Circuit Breakers

A circuit breaker is a form of tax abatement based on the income constraints of redevelopment area households. The lower the income level, the greater the tax relief afforded by a circuit breaker allowance. Circuit breakers are usually coupled with other methods of property tax abatement. It is a means of adjusting the tax relief to the particular needs of redeveloping neighborhood households.

Renter's Credits

This method involves amendments to the state and/or federal tax codes which enable households to deduct a portion of their rent from their income tax. Under the current provisions of the Federal Internal Revenue Code, real property taxes are deductible for property *owners*. A renter's credit provides a means of offsetting the rent increase which is attributable to the increased property valuation. Traditional theories of tax incidence assign tax increases to the *users* of property rather than the owners. In this case, renters bear the incidence of the tax through increased rents. A credit program is a means of reducing the tax burden which low-income tenants incur from their rent.

Renters' credits provide direct relief to low-income households. The other methods of tax abatement, unless specifically tied to circuit breaker provisions or rent control legislation, merely create a mechanism whereby a landlord *could* pass along savings to the tenant. There is little assurance that such savings would be provided.

Condominium Conversion

Condominium conversion can cause displacement of low and moderate-income households. The effects and extent of the displacement can be mitigated, however, through the passage of a condominium conversion ordinance. By 1980, fifty-four localities had enacted condominium conversion ordinances. Such legislation generally provides purchase preferences, e.g., right of first refusal or percentage discounts on the purchase price to the tenants of the building. Sometimes, specific provisions are made to afford special protection to low-income elderly. In Washington, D.C., for example, rent controlled life-tenancies are provided for residents 62 years old or older with incomes of $30,000 or less. Other municipalities grant elderly residents the right to remain as renters for a specified period after the conversion. Some ordinances require a minimum of one to three years advance notice to tenants who may be subject to a conversion.

Antispeculation Ordinance

Ordinances can be written to make speculation unprofitable for investors who seek exorbitant profits at the expense of the current residents. For example, the Washington, D.C. code includes a tax on real estate transfers: a tax on the sale of real property which is assigned to the buyer. The rate varies

according to the length of the holding period and the amount of gain from sale. The tax on the gain ranges from 97% for properties held six months or less and earning 300%, to a low of zero percent for properties held for a minimum of seven months with a 15% gain. The shorter the holding period and the larger the gain, the greater the effective tax rate.

Rent Control

Rent control laws can provide a means of direct relief to low and moderate income households. The controls usually place a ceiling on rent levels and/or rent increases. Because rent controls often inspire condominium conversion, as property owners divest themselves of rental properties, many housing planners argue that rent controls should be tied to condominium conversion ordinances: this would insure the availablity of rental units during the rent control adjustment period.

mitigation options

Rehousing Banks

A rehousing bank buys houses to either manage or resell. Funds used to purchase houses in reinvestment areas and historic districts are usually raised through the sale of municipal bonds. A city either manages these properties or sells them with restrictive covenants to guarantee their use as low-income housing.

Relocation Assessment

This proposal involves a special tax assessment assigned to individuals who purchase property in historic districts or in designated reinvestment areas. The monies collected under the program are deposited in a special "relocation fund" for use by displaced households. Under such a program, property owners can be exempted from the special tax on the condition that they provide low-income housing or that they are, themselves, low-income households.

Amend the Uniform Relocation Act

The Uniform Relocation Act currently provides relocation assistance in the form of cash payments to persons displaced as a result of the acquisition of property under federal and/or federally assisted programs. The Act could be expanded to include protection for residents who are displaced as a result of historic preservation activities in an historic district listed in the National Register of Historic Places.

Amend the Federal Tax Code

IRC 46 which allows for a tax credit for the rehabilitation of a certified historic structure could provide for an additional credit for rehabilitating historic structures for use as low-income housing. Given the recent "flat tax" proposals developed by the Reagan administration, however, an additional tax expenditure program for historic preservation activities or new low-income housing production is unlikely to receive favorable attention.

PRIVATE SECTOR PROGRAMS WHICH MINIMIZE DISPLACEMENT IMPACTS

an equitable strategy

The private sector has developed two programs to encourage inner-city reinvestment which attempt to minimize residential displacement. These programs include the Neighborhood Housing Services and the Inner-City Ventures Fund:

Neighborhood Housing Services (NHS)

NHS programs began in the early 1970s under the umbrella organization, Neighborhood Reinvestment Corporation. These programs operate as local, non-profit corporations, which act as liaisons between community residents, lending institutions and local governments. In large part, they provide rehabilitation and financial counseling services. In addition, NHS corporations maintain revolving loan funds which provide low-interest rehabilitation loans to neighborhood residents unable to afford loans from commercial lenders. Currently, 140 NHS programs operate in 100 cities in the United States. Many of these organizations serve neighborhoods that are historic districts.

Inner-City Ventures Fund (ICVF)

The Inner-City Ventures Fund (ICVF) is a program of the National Trust for Historic Preservation. The program helps community organizations initiate neighborhood revitalization programs. It provides a mix of grants and low-interest loans to qualifying applicant community organizations. To be eligible for funding, the community organization's project must aid low and moderate income residents in areas where displacement is a threat. To date, the ICVF has allocated $885,000 to such projects. Their investment has been matched with approximately $18.5 million worth of additional development. The ICVF has contributed to the development of more than fifteen major projects in eleven states.

CONCLUSION

Inner-city revitalization and historic preservation cannot ignore social equity concerns. As described herein, a variety of tools and methods are available for mitigating the displacement effects of historic preservation reinvestment. It is the task of city planners and community activists to choose the most suitable and equitable course for revitalization in their communities. These choices most involve a careful assessment of the political, economic and social attributes and constraints of the community. Ideally, the process of preservation and redevelopment should offer opportunities for both investors and community residents. Planners and preservationists can assist this process by identifying, articulating and implementing programs and policies which explicity attend to the needs of low-income residents. Planners, furthermore, must attempt to involve low-income residents in the rehabilitation decision-making process. If historic preservation is to move beyond elite notions of architectural preservation, then planners and preservationists must work together to insure cultural preservation and cultural integration of our nation's urban neighborhoods. ☐