

Business Improvement Districts: Issues in Alternative Local Public Service Provision

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Introduction

Throughout the country and in cities such as New York, San Francisco, Cleveland and Philadelphia, Business Improvement Districts (BIDs) have been able to maintain cleaner and safer streets, decrease storefront vacancy rates, and address social welfare issues. BIDs levy assessments on real property for specific improvements beyond which local governments can reasonably provide. They have been effective in reversing decline and promoting commercial development in urban areas.

In general, BIDs are formed following a proposal by a group of property owners in a geographically defined area to fund supplemental governmental services (e.g. cleaning and maintenance), non-governmental services (e.g. landscaping, marketing and promotion), and capital investments (e.g. sidewalk widening). The municipality in which a BID is located collects the BID's supplemental property tax assessments through its general taxation powers and distributes them to the BID. A board of directors composed of property owners, merchants, residents and public sector representatives is then given authority by the government to undertake projects and programs within the district.

While the ability of BIDs to achieve their goals is rarely questioned, concerns have been raised over whether the success of BIDs has come at a cost. This website profiles the issues raised by both proponents and critics in a number of areas and provides case studies focussed on material from New York State to illustrate these points.

Economic Development

IDs are quasi-public entities established to provide services and promote economic development within a designated district. City government officials, business and property owners, and economic development experts have realized the provision or expansion of existing infrastructure is only a part of what attracts and retains businesses. The creation of locally-based organizational structures that are responsive to district interests and satisfy community needs are essential to promote downtown areas as viable sites for ongoing reinvestment.

Proponents

A. BIDs have the ability to revitalize deteriorating urban areas.

In response to the challenges of decentralization and fiscal federalism, local governments have employed a wide range of alternatives including transferring the production of many traditional public goods and services to the

private sector (privatization). BIDs represent an innovative approach to service delivery in that local collective action, outside of the government, results in the provision and payment for supplemental goods/services demanded by those within a district. Given the limited funding municipal governments have to initiate programs for urban regeneration, BIDs present another option to reverse urban decline.

Currently, there are over 1,200 BIDs in operation in the United States and Canada with the phenomenon quickly spreading abroad. The Alliance for Downtown New York, Inc., manages the Downtown-Lower Manhattan BIDs and reports on the economic development initiatives of the city and various BIDs. These include incentives such as affordable pre-wired space to high tech startups, energy incentives and real estate tax abatements. (Search 'economic development' in the Downtown Alliance homepage.)

[\[http://www.downtownny.com/\]](http://www.downtownny.com/)

See: [Grand Central Partnership](#), [Times Square BID](#)

B. Under the proper environmental conditions and organizational structures, BIDs are useful tools in attracting new business and investment.

Though not all BIDs are equally successful, findings from the Center for Urban Research and Policy at Columbia University indicate that implementing a BID with an organizational form that matches the goals of the stakeholders is a key element in BID effectiveness. In New York State there are three organizational forms that BIDs take: corporate BIDs that contain large amounts of office and retail space and operate in wealthier parts of the city; main street BIDs that operate in areas of the city that have lost commercial and retail business to the suburbs; and community BIDs that cover small neighborhoods and offer limited services.

[\[http://sipa.columbia.edu/CURP/resources/metro/v01n0402.html\]](http://sipa.columbia.edu/CURP/resources/metro/v01n0402.html)

Critics

C. BID programs for economic development do not address urban blight - they displace undesirable groups and business activities to neighboring districts.

While BIDs have the ability to promote economic development within the district of operation through enhanced service provision and capital investment projects, these results may be accomplished by displacing urban ills outside of the district's boundary. BID activities may result in pockets of poverty within a city and lead to further deterioration of the areas immediately outside of the BID.

See: [Grand Central Partnership](#)

Targeting Public Investment

Once a BID is formed, mandatory assessments fund capital investments and additional services to fill the gap between the level of services provided by the city and those demanded by business and property owners in the district. Though investment targets the interests of business and property owners of the district, the additional services provided benefit the broader consuming public as well. These inequalities in local public service provision that BIDs effect may be justified by their contribution to greater community well being.

Proponents

A. The additional services provided are justified because BIDs pay directly for these services.

The declining capability of municipal governments to provide public services to business districts has resulted in the decline of older downtown areas and the flight of retail and commercial business to the suburbs and industrial parks. BIDs are established as a response to this trend, levying assessments for specific improvements and additional services beyond which local governments can reasonably provide. BIDs therefore utilize collective action to raise the funds to fulfill the unmet demand for public services, ensuring that locally raised taxes are spent locally and that downtown areas remain competitive places to locate business.

See: [State of California Proposition 218](#)

B. BIDs may be effective in reducing the unequal distribution of public services.

Proponents of BIDs argue that inequality in local public service provision is acceptable to a degree because business districts require more services to accommodate the influx of consumers and workers. The clean, safe public spaces that BIDs have been successful in creating benefit city residents as well as business and property owners within the district and have positive spillover effects outside of the district. By engaging in these activities, BIDs reduce the inequality of public service provision between the city and suburbs, making downtown areas more competitive. BIDs also have the ability to increase a municipality's tax base, allowing local governments to improve public services to property owners and tenants citywide.

See: [Baltimore Downtown Partnership](#), [Pitkin Avenue BID](#)

Critics

C. BIDs may exacerbate the uneven distribution of public services.

BIDs are created because municipal services are perceived to be inadequate. As a result, BIDs by definition provide a higher level of public services than their surroundings, encouraging a model of public service provision where services are provided based on an area's ability to pay. The creation of BIDs may then create cycles of inequality in which areas with better services attract more business and profits while under served areas continue to deteriorate. The improved service provision within a district may also decrease support by business and property owners for city-wide provision of services.

See: [Grand Central Partnership](#), [Baltimore Downtown Partnership](#)

D. The ability of BIDs to borrow may crowd out investment in other areas of a city.

The assessment fees paid by property owners within a district are collected by the government and transferred to the BID's board of directors to fund additional services and capital investments. If a BID decides to fund additional services in excess of its total receipts from assessments, money borrowed counts against the city's limit and may constrain investment in other areas of the city.

See: [Grand Central Partnership](#)

Management of Public Space

The process of creating a BID involves defining the geographic area in which the BID will operate. While BIDs have the authority to initiate programs for specific improvements, the public spaces within BID districts remain under the jurisdiction of the municipality. Though BIDs have the potential to increase public voice by helping downtown areas remain competitive with suburban shopping malls, conflicts between civil liberties (e.g. free speech and demonstration) and the commercial interests of the BID management board may lead to concerns over the privatization of public space.

Proponents

A. BIDs may increase democratic voice by enhancing the vitality and sustainability of public space.

BIDs were initially created to help downtown businesses compete with suburban shopping centers and strip malls. In most states, suburban shopping malls are considered private property and, as such, reserve the right to stop activities of groups using the malls' common areas for political activities such as pamphleting, protesting, and signature gathering. By contrast, the public spaces within BIDs remain under the jurisdiction of the municipality and must maintain the democratic ideals of free speech and demonstration.

See: [Ithaca Downtown Partnership](#)

Critics

B. BIDs privatize public space by excluding those that detract from the commercial goals of the BID members.

BIDs may limit citizen voice by privatizing public space within a district. Public streets, parks and plazas serve the dual role of attracting shoppers and providing a 'living room' in which the daily activities of the city's public life are carried out. The 'clean and safe' programs that BIDs initiate to attract consumers can limit citizen voice and dislocate less desirable citizens through the privatization of public space. In some instances, allegations have been made that these programs involve the removal of the homeless and unauthorized vendors.

See: [Grand Central Partnership](#)

Democratic Accountability

Though successful in achieving their economic goals, concerns have been voiced about the public accountability of BIDs. Dissent focuses on concerns over the nature of BID governance, which varies from state to state, district to district and within the same city. BIDs pose a problem of limited accountability to the groups their actions affect: district residents, municipal governments, consumers, the non-consuming public and the BID's own business and property owner constituents.

Proponents

A. A BID's approval process can be structured to ensure accountability.

To establish a BID, property owners within a proposed district are required to develop a District Management Plan and give notice to all residents and business and property owners of their intent. The District Management Plan must be approved by the City Council based on recommendations provided by an advisory committee. Assessment

fees are then determined through the advisory board that supervises the BID's operations and submits yearly service plans.

The BID structure may also include weighted voting systems where the costs of district projects are assessed against land in accordance with the benefits accruing to each particular property. The State of California and other Western states have also mandated 'sunset requirements' that require BIDs to have their charters reviewed and re-approved every 3-10 years. The approval process is normally via a vote of property owners and a five year time period is preferable as it enables BIDs time to produce results and introduces incentives for accountability.

See: [State of New York Enabling Legislation for BIDs](#), [State of California Proposition 218](#)

B. Monitoring policies can be formed to ensure accountability.

Though municipal governments are involved in the creation of BIDs, participation often decreases dramatically once the district is established. Some BIDs have yielded to concerns over democratic accountability and have installed residents, business owners and other non-property-holding stakeholders (e.g. local officials) to the BID's board. Annual reports, outside audits, and conflict of interest rules also aid in making the actions of BIDs more transparent.

See: [Ithaca Downtown Partnership](#)

Critics

C. A BID's influence within a district may co-opt local government authority.

In establishing a BID, New York State law requires approval of the borough president, city planning commission, city council and state comptroller. Once a BID is formed, however, no review of BID activities is required nor is approval needed to initiate any specific programs or improvements. Further, since property owners are guaranteed the majority, municipal governments may be unable to exert control over BID activities.

See: [Grand Central Partnership](#)

D. BIDs are sometimes realized due to lack of informed opposition rather than majority approval.

The burden of responsibility for preventing the formation of a BID falls on the objectors rather than its supporters. In order to prevent the formation of a BID, 51 percent of property owners must file an objection with the city clerk. Dissent is further constrained by limiting judicial review to thirty days. Furthermore, once a BID has been established, non-consenting property owners are mandated to pay assessments.

See: [Madison Avenue BID](#)

E. A BID's voting structure may violate the constitutional principle of one-person, one-vote by favoring property owners over residents.

BIDs employ a plurality system of voting that creates a system where property owners are represented and tenants are not. These systems work against organizing around new themes, contingencies, and the needs of non-property-owners that live, work or operate businesses within the district. Because BIDs constitute districts that are 'specialized in purpose, narrow in scope and limited in effect,' BIDs have generally been exempt from the one person, one vote doctrine of the Equal Protection Clause. However, because property owners control BIDs,

supplemental services reflect the needs and choices of business and property owners. Where the needs of residents and property owners differ, the needs of residents may not be met.

See: [Kessler v. Grand Central](#), [NOHO BID](#)

Best Practices

Though BIDs can and have revitalized downtown areas, issues of concern have been raised over the loss of accountability and oversight in the pursuit of economic development. The following presents a list of recommendations of how to limit the negative affects of BIDs without constraining their ability to promote economic development. Best practices in governance, equity and economic development aim to further successful public-private partnerships between BIDs and their respective municipalities.

A. BID dissolution and the implementation of sunset clauses.

Once a BID has been formed, it has the potential to exist forever. Due to legislation preventing BIDs with outstanding debt from being dissolved, a BID management board may secure continuation by issuing bonded debt or incurring further debt through ongoing activities. Furthermore, once a BID has been established there is generally little or no monitoring of the level of satisfaction property owners have with the BID.

Sunset clauses have been implemented in many states and require that BID charters be renewed after a period of 3-10 years. Term limits ensure a degree of accountability to the BID property owner constituents - if activities sponsored by the board do not reflect the needs of the stakeholders, the BID can be dissolved.

B. Restructuring the complaint resolution process.

The lack of a formal complaint resolution process allows BIDs to resolve disputes informally without official documentation or the compilation of a complaint log. Consequently, it is impossible to assess the number of complaints that have been made or the nature/severity of these complaints. Implications of the lack of a formal complaint resolution process can best be seen in the allegations made against the Grand Central Partnership (GCP).

Requiring a formal complaint resolution process and the compilation of official complaints has the potential to serve as an early warning system for larger institutional problems. In the case of the GCP several complaints were made but recorded prior to both lawsuits. A formal log of all complaints, including the date and time of occurrence, should be presented to both board members and municipal government officials to correct any managerial deficiencies.

See: [Grand Central Partnership](#)

C. Installing performance measurement standards.

Due to the lack of formal performance indicators for BID activities, informal, visual methods are often utilized to assess BID performance. This is most problematic in the case of monitoring economic development that BID activity is designed to stimulate. The lack of adequate assessment of how much improvement occurs in a district makes it difficult to understand how well a BID is fulfilling its mandate.

See: [Pitkin Avenue BID](#), [Times Square BID](#)

Case Studies

Baltimore Downtown Partnership. Baltimore, MD.

The Baltimore Downtown Partnership (BDP) works throughout six downtown neighborhoods and represents 500 businesses. The BDP is engaged in activities that promote living, working, and recreating in downtown Baltimore. To accomplish these goals, the BDP undertakes programs in the areas of sanitation, security, parking, housing, beautification, marketing, and general economic development.

Downtown Baltimore was widely known for its high crime rate. To change negative perceptions developed among area employees, consumers and visitors, the BDP hired 'Safety Guides' to discourage crime by curtailing the presence of the homeless. The Downtown Partnership has been working with the Baltimore Gas and Electricity Company and the city to install surveillance cameras along the commercial streets of the BID. While this public-private partnership has been touted as a successful tool in fighting crime, it also raises concern over the delegation of police power to less accountable, private entities such as BIDs.

[\[www.godowntownbaltimore.com\]](http://www.godowntownbaltimore.com)

Grand Central Partnership. New York, NY.

Centered on Grand Central Station, a New York City landmark and daily point of entry for thousands of commuters and visitors, the Grand Central district is home to the nation's largest and wealthiest BID. The Grand Central Partnership (GCP) was established in 1988 and covers 76 million square feet of commercial space within a 68-block area of mid-town Manhattan. It's irregular boundaries reach north to south from East 35th Street to East 54th, and east to west from 2nd Avenue to 5th.

The Homeless

Established by district property owners in 1988, the Grand Central Partnership (GCP) was primarily a response to the physical and economic deterioration of an area recognized as one of the city's largest homeless encampments. To address the homeless condition, the GCP commenced a 'clean and safe' program aimed at moving the homeless off the streets and into shelters.

To achieve this goal, formerly homeless men were hired to persuade the homeless to take advantage of a GCP social service program held at a local church, which included shelter, meals, and job placement services. The GCP estimates that 150 homeless individuals were placed in full-time jobs. They also claim a 50% reduction in crime.

The GCP clean and safe program came under scrutiny when a small scandal erupted over allegations that 'goon squads' were using force to remove homeless individuals that would not willingly leave (1995). Whether or not violent tactics were used, the GCP was exposed for exercising poor judgment in the use of untrained formerly homeless men as social service workers. Further scandals emerged over the \$1.15 hourly rate paid to social service workers, which was justified as having been established as an outreach program.

The Department of Housing and Urban Development (HUD) and the City's Department of Homeless Services both conducted investigations into these allegations. Ultimately, HUD rescinded its \$547,000 grant, and Chase Manhattan Bank cancelled its \$450,000 contract with the GCP. Soon afterwards the city comptroller issued a critical audit of the Grand Central BID and in the summer of 1998, citing 'persistent noncompliance with municipal directives' the city of New York declined to renew the Grand Central District Management Agency's (GCDMA) contract to manage the BID.

The finance committee's own review found that two independent incidents (1990, 1992) had been reported in which Grand Central Partnership Social Services Corporation (GCSSC) workers were alleged to have used excessive force in removing homeless individuals. Both cases resulted in \$5 million lawsuits against the GCSSC and in neither case were the allegations formally detailed, documented or reported to the board of directors. Furthermore, the GCSSC was unable to prevent further incidents/allegations because the documentation process was inadequate to provide a reasonable level of accountability for staff members. The failure to implement an adequate complaint resolution process limits understanding of how many complaints have been made against the BID or the nature of those complaints.

Kessler Vs Grand Central

The Grand Central District management Agency (GCDMA) was taken to court by district residents over complaints alleging that the structure and activity of the Grand Central Partnership (GCP) denied equal voting power and representation on the GCDMA board. District courts ruled in favor of the GCDMA on the grounds that the GCDMA is a special, limited purpose entity that disproportionately affects one class of the BID's constituents, property owners. On appeal, the plaintiffs argued that the management of the BID exercised general governmental power sufficient to require that the board's elections comply with the one person, one vote requirement. The court ruled that the mere designation of an elected body to perform a large number of functions does not trigger the one-person, one-vote requirement.

Finance

The ability of the Grand Central Partnership (GCP) to borrow money was counted against the city's ability to borrow. In addition to real property assessments, the Grand Central District Management Agency (GCDMA) raised funds through the issuance of bonds totaling \$32 million. These bonds counted against the city's constitutional debt limit, effectively limiting the amount of money the city could raise in future bond issues and possibly crowding out investment in other areas. Since then, the city of New York, under Mayor Giuliani, discontinued the ability of BIDs to issue bonds in order to protect its own ability to borrow and minimize the risk of legal repercussions should the BID default on its financial obligations.

[\[http://tenant.net/Oversight/bid97/bid97.html#grandcentral\]](http://tenant.net/Oversight/bid97/bid97.html#grandcentral)
[\[www.grandcentralpartnership.org\]](http://www.grandcentralpartnership.org)

Ithaca Downtown Partnership. Ithaca, NY

The Ithaca Downtown Partnership (IDP) was formed in 1994 as a 'main street' BID to reverse the declining course of the city's downtown shopping district. The IDP has been primarily engaged in business attraction and marketing activities though it has become increasingly involved in environmental programs (streetscape beautification and events programming). As a result, there is little trash on the mall, the planters are full of flowers and free concerts are offered in the summer. Since the IDP's inception, downtown vacancy rates have declined and property values have started to rise.

A first attempt at establishing the BID garnered a 56 percent approval among property owners. Originally, the area under consideration extended from 'The Commons,' a public outdoor pedestrian mall, to Route 13, an arterial highway serving the City's primary center for economic activity. The city acknowledged the conflicting interests within such a broad district and did not establish the BID. Instead, the City scaled back the district, leaving The Commons as its focus, to gain 75 percent approval.

The IDP board is notable for its more public-private structure, comprised of ten property owners, four commercial tenants, one residential tenant, and four public sector representatives (one Alderperson, the Mayor, the Director of Economic Development, and one member of the County Board of Representatives). In addition, the BID does

not have jurisdiction over the policies that govern The Commons. Rather, the city has established a twelve-member Commons Advisory Board, on which the IDP director has an appointed position. The Commons Advisory Board is responsible for allocating permits for activities in the public space and as a result, the Commons maintains more of its public goods nature. For example, a political demonstration during, but unrelated to, Cornell University's Parents' Weekend in the fall of 2001 resulted in complaints to the IDP by its merchant members. Merchants alleged that the protesters would scare away customers during one of the busiest shopping weekends of the year. Despite the concern voiced by merchants, the Commons Advisory Board gave the protesters a permit illustrating the fact that the IDP does not have direct control over the public space in which it operates.

The multifaceted nature of The Commons has at times created tensions between property owners/merchants and the public. The Commons is a favorite place for teenagers who are viewed as loiterers that detract from the district. The IDP has worked with district businesses and the city to utilize passive techniques to discourage loitering.

[\[www.downtownithaca.com\]](http://www.downtownithaca.com)

Madison Avenue Business Improvement District. New York, NY.

The Madison Avenue BID in New York City is an example of a BID that was realized due to lack of informed opposition rather than majority approval. A one-week intensive survey conducted on the district's 765 property owners excluded 497 owners for their residential status. In that one-week period, the survey garnered a response from 50 of 268 commercial property owners, and of the 50 only 12 were actually registered commercial property owners. The balance of property owners, not reached by the survey, first became aware of the BID and its operations when they received their first assessment bill from the Department of Finance. A major blunder for the BID came in 1997, when Mayor Giuliani found it necessary to advise the Madison Avenue BID's security department to rescind the distribution of a flier advising the BID's businesses to close and secure valuable merchandise on the day of the Puerto-Rican Day Parade.

[\[http://tenant.net/Oversight/bid97/bid97.html#madison\]](http://tenant.net/Oversight/bid97/bid97.html#madison)

NOHO Business Improvement District. New York, NY.

The NOHO BID, New York City's 38th BID, was formed in 1995 to offer marketing support and community assistance, including sanitation and security services to the area within which it operates. The NOHO New York BID has been criticized for being mainly comprised of residential property owners and tenants, and not-for-profit groups as opposed to commercial property owners and tenants. At the BID's inception, 80 percent of the BID's budget was being raised from property owners while 20 percent was coming from the NYC Capital Funds. In essence, commercial property owners in New York City's NOHO BID were subsidizing 80 percent of the BID's budget despite their limited involvement and participation within the BID and its board of directors.

[\[http://tenant.net/Oversight/bid97/bid97.html#noho\]](http://tenant.net/Oversight/bid97/bid97.html#noho)

Pitkin Avenue Business Improvement District. Brooklyn, NY.

The Pitkin Avenue BID includes 200 retail businesses and encompasses 14 blocks in the Brownsville neighborhood of Brooklyn. At its inception, The Pitkin Avenue BID faced a high crime rate that deterred shoppers from coming into the area. After instituting a Security Network Program through collaboration with the New York Police Department (NYPD), incidents have declined significantly.

The Pitkin Avenue BID is cited even by critics of BIDs for its innovative security provision that has tracked crime across the district to ensure that policies work to reduce crime rates rather than displace them to neighboring

locations. Monthly statistics were compiled to record criminal activity on a block by block basis and the times at which these incidents occurred. All radio calls and personnel visits made to local merchants were also accounted for. Additionally, the BID monitored the number of NYPD officers patrolling the area, providing an accurate assessment of the level of service received from the city.

The fact that the Pitkin Avenue BID was able to achieve such a level of sophistication in the area of security and program monitoring with a relatively limited budget (\$113, 903 annually, 1995) indicates that other BIDs could do more to quantify performance. The implementation of performance standards allows BIDs such as Pitkin Avenue to assess how well services are being provided and indicate when changes in service provision must be made.

[\[http://www.nymtc.org/downloadablepgs/tep/nyc/nyc33.pdf\]](http://www.nymtc.org/downloadablepgs/tep/nyc/nyc33.pdf)

Times Square Business Improvement District. New York, NY.

The Times Square BID was established in 1992 to transform the neighborhood around 42nd Street from a neighborhood associated with squalor, pornography and vice to a clean, safe and friendly area. The Times Square district, stretching from 40th to 53rd Streets and between Sixth and Ninth Avenues, contains over 1500 businesses, 27 hotels and 268 restaurants. With an operating budget of \$5.9 million (unchanged since 1998) much of the BID's activities have been directed towards attracting jobs and investment to the district, carrying out market analysis and structuring public/private partnerships for redevelopment projects.

The Times Square BID involves itself in issues of economic development, public safety, sanitation, events programming and the maintenance of the Times Square Visitors Center. To assess the contribution the BID has made to the economic development of the district, the Times Square BID tracks fluctuations in commercial and retail rents and leasing availability. The Times Square Annual Report (October, 2000) estimates the total retail potential in the Times Square district to be \$1.646 billion, an 88% increase from the 1992 valuation (\$877.5 million) at the time of the BID's inception. The dramatic increase in retail potential within the district can be attributed to both the increase in total retail space (approximately 10% of new leasing in Manhattan between July 1, 1999 and June 30 2000 occurred in Times Square) and the appreciation of property values. Availability rates have decreased 67.6% between 1991 and 1999 (65.7% in all of midtown Manhattan during the same period) and average asking rents have also increase steadily. In addition to monitoring rents and leasing availability, the Times Square BID also monitors the number of new jobs created in the district. Total employment in the Times Square area (zip codes 10019 and 10036) has increased from 229,107 to 261,114 in 1999 (13.9%) and 27% from 1991.

The Times Square BID also engages itself in several other activities that contribute to the revitalization of the district. Outdoor advertising campaigns serve as engines for economic development within the district adding \$76 million to taxable property values alone. Rents for the most visible signs run from \$400,000 to \$3 million per year (a total of \$125 million per year), the signs themselves advertise the district and are testimony to the traffic that comes through the area. Signage in Times Square has increased threefold in the last three years.

Declining crime rates have also contributed to increased use of the district by shoppers and tourists (An assessment of the impact of BID activities on the tourism industry in can be found on the Times Square homepage under annual reports, 2000). Police officers operating from two precincts in the Times Square area are supplemented by 45 BID public safety officers (patrolling from 9:30am till midnight) and two BID vehicles. Together the NYPD and BID security personnel have worked to reduce crime in the area 60.6% since 1993.

[\[www.timessquarebid.org\]](http://www.timessquarebid.org)

State Enabling Legislation

State of New York Legislation Enabling the Formation of Business Improvement Districts. [NYS Consolidated Law Article 19A]

In 1980, the New York State Legislature passed enabling legislation allowing cities to independently establish Business Improvement Districts. According to this legislation, the establishment of a BID must follow an approval process detailed below.

The approval process begins when a sponsoring organization (e.g. Local Development Corporation (LDC), chamber of commerce, area property owners) decides to form a BID. The sponsoring organization must then engage in extensive local outreach, typically lasting over a year, and intended to make all property owners, commercial tenants and local government officials within a proposed district aware of the intent to form and provide opportunity to participate in the planning process. Activities in this stage of the approval process include the formation of an outreach plan listing planned activities and a timeline for their accomplishment. Additionally, sponsoring organizations must demonstrate that all tenants and property owners have been given opportunity to discuss the budget, assessment and services of the proposed BID, provide documentation (in the form of signature gathering, creation of a database of properties and property owners/merchants within the district) of outreach activities, and present signed letters of support from property owners.

As part of the outreach process, a district plan is created detailing the boundaries, services to be provided, budget, assessment formula (taking into account square footage, frontage, or assessed valuation), funding sources and management information. The following, under §980-a NYS Consolidated Law (Article 19A), must be included in a district plan:

S 980-a. Contents of the district plan. The district plan shall contain the following:

(a) a map of the district;

(b) the written report or reports of the legislative body containing:

- a description of the boundaries of the district proposed for establishment or extension in a manner sufficient to identify the lands included
- a description of the present and proposed uses of these lands;
- the improvements proposed and the maximum cost thereof;
- the total annual amount proposed to be expended for improvements, maintenance and operation;
- the proposed source or sources of financing;
- the proposed time for implementation and completion of the district plan;
- any proposed rules and regulations to be applicable to the district;
- a list of the properties to be benefited, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property, in proportion to the benefit received by such property, to defray the cost thereof, including operation and maintenance. Notwithstanding any inconsistent provision of section nine hundred eighty-f of this article, the plan may provide that all or any class or category of real property which is exempt by law from real property taxation and which would not benefit from the establishment or extension of the district may nevertheless be included within the boundaries of the district but such property shall not be subject to any district charge;
- a statement identifying the district management association for the district; and
- any other item or matter required to be incorporated therein by the legislative body.

After the district plan has been submitted to the legislative body of the municipality, has been made available to in the municipal clerk's office for public inspection and is printed in the official paper or newspaper of that

municipality, owners of real property within the district opposed to the plan have 30 days to file objections at the municipal clerk's office. If either the owners of 51% of the assessed valuation of all benefited real property or at least 51% of the owners of real property within the district file objections, the district will not be established.

If there is not sufficient objection and the legislative body finds that notice of all required hearings was published and mailed as required by law, that all property owners assessed will benefit from the establishment of the district and that all real property benefited is included within the proposed limits, it is determined that the establishment of the district is in the public interest. Upon review by the state comptroller and adoption of local law approving the establishment of the district the BID is formed.

For the complete documentation of New York State enabling legislation for BIDs under Article 19A of New York State Consolidated Law including tax and debt limitations, details of the district management association and amendments to the district plan, see:

[\[http://www.centralbid.com/Article19A.htm\]](http://www.centralbid.com/Article19A.htm)

State of California, Proposition 218, a.k.a. "The Taxpayer's Right to Vote Act."

The Constitution of the State of California requires that assessment of additional taxes be based upon the proportionate special benefit received by any one parcel. Therefore, associations that desire to form a BID must consider the degree to which a property owner will benefit from the extra services provided when allocating the tax rates. Communities in California have often complied with this law by creating zones that reflect the level of service directly received by each parcel.

Cal Const, Art XIII D § 4 (2001), § 4. Procedures and requirements for assessments.

(a) ".Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel."

(e) ".the agency shall consider all protests against the proposed assessment.the ballots shall be weighted according to the proportional financial obligation of the affected property."

Proposition 218, passed by voter initiative in 1996, limits the ability of local governments to raise taxes, assessments or fees to fund government services. In general, it mandates property taxes to require a two-thirds vote of the electorate if the fee is imposed for property related services. Also, the fee may not exceed the amount necessary to conduct a regulatory program or to provide the service for which the fee is imposed.

[\[http://www.phi.org/talc/Prop218_fact.htm\]](http://www.phi.org/talc/Prop218_fact.htm)

In the City of Long Beach, California, the Downtown Long Beach Associates (DLBA) have created an assessment based on additional services received. The parcels within the district were divided into five zones according to the level of service provision. Each property owner then pays an amount determined by the value assigned to that zone multiplied by the store frontage and the lot square footage. This type of assessment allows for a more equitable method of payment in direct relation to services rendered.

[\[http://www.silcom.com/~taxabo/prop218.htm\]](http://www.silcom.com/~taxabo/prop218.htm)

[\[www.mainstreetgrp.com/bidcasestudy.html\]](http://www.mainstreetgrp.com/bidcasestudy.html)

Bibliography

Anonymous. 1998. "Homeless Workers: BIDs Failed to Pay Minimum Wage," CityLaw, Center for New York City Law.

Examines the case involving 40 employees of the Grand Central Partnership who sued because they were paid sub-minimum wages. US District Court Judge Sonia Sotomayor ruled in their favor citing the Federal Labor Standards Act (FLSA).

Briffault, Richard, 1999. "A Government for Our Time? Business Improvement Districts and Urban Governance." Columbia Law Review 99.

Discusses the implications of New York City Mayor's decision to bar the BID issuance of bonded debt. Also discussed is the one person, one vote principle and its potential to address issues of democratic accountability.

Davies, Mark S., 1997. "Business Improvement Districts," Washington University Journal of Urban and Contemporary Law 52.

Addresses the possibilities for preserving public interests in an era marked with an increasing reliance on the local public sector.

Friedelbaum, Stanley H. 1999. "Private Property, Public Property, Shopping Centers and Expressive Freedom in the States," Albany Law Review. Albany: SUNY Albany.

Discusses the implications of the movement of primary shopping areas from downtown to suburban shopping malls given the fact that malls are widely considered private property.

Gillette, Clayton P., 1996. "Public Service: Opting Out of Public Provision," Denver University Law Review 73.

Describes the general case for 'opting out' and then moves to examine cases of specific goods/services that provide the potential to opt out at little or no cost.

Garodnick, Daniel R., 2000. "What's the BID Deal? Can the Grand Central Business Improvement District Serve a Special Limited Purpose?" University of Pennsylvania Law Review, 148.

Discusses the formation and operation of BIDs, with particular focus on the one person, one vote principle and in the context of the Grand Central Partnership (GCP) case study.

Kennedy, David J., 1996/1997. "Restraining the Power of Business Improvement Districts: The Case of the Grand Central Partnership," Yale Law & Policy Review 15.

Using the Grand Central Partnership as a case study, Kennedy examines the non-profit nature of BIDs concluding that their primary purpose is to increase profit for their stakeholders.

Rybczynski, Witold. 1995. City Life. New York: Touchstone. Chapter 9.

Rybczynski discusses how urban spaces have been shaped by the lifestyles of the Western world. In chapter 9, Rybczynski discusses the many uses of public space and offers an argument for the shopping mall and its regulations.

Toy, Vivian S. "Further Restraint Is Sought For Improvement Districts" New York Times November 12, 1997.

Addresses the initiative by the New York City Council to restrain the growing influence of business improvement districts in New York City. Also details the package of proposals from the Council that would make the BID approval process more difficult and monitoring/oversight more rigorous.

Traub, James. 1996. "Can Associations of Businesses Be True Community Builders?" *The Responsive Community*, 6(2): 29.

Discusses the case for community building in a time that an increasing amount of authority over the public domain is being delegated to private business entities.

Web References

American Federation of State and County Municipal Employees (AFSCME)

Website gives an overview of the purpose of creating BIDs, their function and potential problems. Concern is focussed on the potential of BIDs to displace AFSCME employees or undercut wages. Also addressed is the potential of BID workers to organize/unionize. www.afscme.org/wrkplace/cbr398_1.htm

Baltimore Downtown Partnership

Official website of the Baltimore Downtown Partnership includes but is not limited to an assessment of the economy of the district, programs that the partnership is involved with, an annual report and upcoming events listing. <http://www.godowntownbaltimore.com/news/Summer2001final.pdf>

"Cities within Cities - Business Improvement Districts and the Emergence of the Micropolis." New York City Council Staff Report to the Finance Committee, November 8, 1995.

Report takes stock of the extent to which BIDs have proliferated in New York City since the introduction of Special Assessment Districts in the late 1970s. Gives an outline of the complaints that have been made against various BIDs and offers recommendations for how to mitigate future problems. <http://www.tenant.net/Oversight/BID/bidtitle.html>

Democratic Leadership Council ,Economic Development Committee Fact Sheet

Discusses the impact BIDs have had in New York City. Provides links to various websites on BID governance structure and to the websites of NYC BIDs. www.dl21c.org/bidfact.htm

Jackson, Mississippi BID

Information on the BID in Jackson, Mississippi includes the BID sunset clause (5 years), goals of the district (economic goals include housing improvement, construction projects; other activities include events programming, street beautification etc.), and a vision statement from the chairman. www.capitalcenterinc.com/history.html

"BIDs Harass Street Artists?" Robert Lederman, President of A.R.T.I.S.T. (Artists' Response To Illegal State Tactics)

Lederman provides background information on the debate over the extent to which BIDs privatize public space. Also included is an account of the federal lawsuit filed by A.R.T.I.S.T. accusing Mayor Giuliani of violating their right to freedom of expression (1994). <http://hellskitchen.net/issues/bids/artist.html>

Grand Central Partnership (GCP) website.

Offers history of the GCP, a map of the district and a listing of events. Also provides listing of board members and contact information. <http://www.grandcentralpartnership.org/>

Department of City and Regional Planning , Univesity of North Carolina BID website.

Addresses the history, function and future of BIDs. Also provides a number of links to BIDs and organizations involved in BID oversight by state. www.unc.edu/depts/dcrpweb/courses/261/actman/bidweb1.html

Mark Davies 1997. "Business Improvement Districts," Journal of Urban and Contemporary Law 57: 119-223

Discusses the theoretical issues of concern centered around inequalities in local public services. Davies' goals are to assess proposed BID reform and guide the creation of new districts. <http://law.wustl.edu/Journal/52/223.pdf>

Moshe Adler

Response to the President of the Downtown Alliance (NYC) concerning the governance structure of BIDs and the wage BID employees are paid. www.columbia.edu/~ma820/

Pitkin Avenue BID, Brownsville, Brooklyn, New York

Proposal for specific improvements (e.g. sidewalk lengthening, special pavement and increased lighting) due to environmental changes in the area and an assessment of the benefits to be derived from the improvements. <http://www.nymtc.org/downloadablepgs/tep/nyc/nyc33.pdf>

"To Bid or Not to Bid? Economic Development in New York City" Edward T. Rogowsky and Jill Simone Gross, City University of New York.

Addresses the three types of BIDs (community, main street and corporate) and the situational influences that give rise to each type. Also discussed are the potential problems that arise when utilizing BIDs for economic development. <http://sipa.columbia.edu/CURP/resources/metro/v01n0402.html>

U.S. 2nd Circuit Court of Appeals "Kessler vs. Grand Central," Dissenting Judge.

Review of the Kessler vs. Grand Central case focussing on the one person, one vote principle and the quasi-public nature of BIDs. <http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=2nd&navby=docket&no=977503dis>

This review of Business Improvement Districts was prepared as part of Professor Warner's course, 'Privatization and Devolution: Challenges for Urban Public Management' in Fall 2001. Students working on this project included James Quazi, Brooks More, Ezra Cattan, Scott Bellen and Kerim Odekon.