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Why a Conference on Redevelopment, and Why Now

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FOREWORD: WHY A CONFERENCE ON REDEVELOPMENT, AND WHY NOW

Colin Crawford*

When the Center for the Comparative Study of Metropolitan Growth proposed the conference that produced the volume of essays you have in your hand, it was our idea to bring together a diverse group of professionals – environmental and land use lawyers, land use planners and city officials, politicians and engineers to discuss the legal and policy issues concerning “redevelopment.” That is, we were concerned, living as we do in the rapidly changing and growing metropolitan area of Atlanta, to focus on the frequently exciting but also often tense and controversial area of redeveloping urban and suburban landscapes in ways that are “smarter” than before – whether smart growth means more dense residential and commercial patterns, or more decentralized government, or a greater effort, conversely, to strive for regional and other uniform solutions to metropolitan growth. Furthermore, our interest was spurred by the fact that these trends face not only North Americans, but people throughout the world. As the United Nations Development Program reports, by 2030, 60% of the world’s population will live in cities.¹

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1. HUMAN POPULATION: FUNDAMENTALS OF GROWTH PATTERNS OF WORLD URBANIZATION, UNITED NATIONS DEVELOPMENT PROGRAM POPULATION REFERENCE BUREAU, http://www.prb.org/Content/NavigationMenu/PRB/Educators/Human_Population/Urbanization2/Patterns_of_World_Urbanization1.htm (last visited June 20, 2006).

This simple fact drives much of what we do as citizens – it affects the nature of the communities we choose to join and live in, it drives our political choices and the kinds of commerce we engage in and determines how we allocate resources. In short, the idea of “redevelopment” is deeply linked to the kind of society we want to become. As lawyers, this was made dramatically evident in the 2005 United States Supreme Court term in the case of *Kelo v. City of New London*.² The decision of the City of New London, Connecticut, to redevelop a portion of its harbor it deemed blighted and underused also meant that others – including the case’s plaintiff, Susette Kelo – would be dispossessed from homes in which they had lived for years, and sometimes for generations. Thus, as is by now well known, the case not only speaks to the way in which we view property and the rights that attach to privately-held land, but also the relative economic and social interests at play in our society.

As this conference volume attests, however, in this country alone, a million *Kelo* controversies are playing themselves out every day, reflecting differences in attitudes and approach to the tangled goal of redevelopment. By this I do not mean that governments everywhere are seeking to assert their eminent domain power in service of redevelopment (although in the wake of *Kelo*, this may soon be the case). I do mean to suggest, however, that concerns about the relative roles of private and public interests in redevelopment constitute an important feature of our social dialogue at present. Professor Vicki Been of New York University School of Law, for example, presented an empirical study about the property values that may be reflected in and created by community gardens. Less quantitatively but equally provocative was the contribution of Professor Audrey McFarlane, of the University of Baltimore School of Law, who dissected the underlying racial politics and social attitudes embedded in urban resign projects. Other speakers addressed the practical and economic

2. *Kelo v. City of New London*, 125 S.Ct. 2655 (2005). The case is the subject of the contributions to this volume by Professors Dan Cole and Wendell Pritchett. See Daniel H. Cole, *Why Kelo is Not Good News for Local Planners and Developers*, 22 GA. ST. U. L. REV. 803 (2006); Wendell E. Pritchett, *Beyond Kelo: Thinking About Urban Development in the 21st Century*, 22 GA. ST. U. L. REV. 895 (2006).

challenges of planning in a world where there is increased pressure not just to expand out but to redevelop underused or abandoned areas – as in Professor Jim Nicholas’ talk on funding infill and Dr. Catherine Ross’s passionate and detailed apology for the role of transportation in effecting sensible reuse and development. And two speakers – Professor Dan Cole of Indiana University, Indianapolis, and Professor Wendell Pritchett, of the University of Pennsylvania, looked at the implications of *Kelo* itself.

As all of these talks and others attested, however, the issues are complicated and ever-changing, and fraught with controversy. This fact was reflected, in fact, in our own initial planning. The Center and Law Review had originally agreed to a symposium on a question put to us by Professor Pritchett. The essential question we seemed to want to address, Professor Pritchett correctly wrote me, is an answer to the question “What kind of cities do we want?” This seemed fair enough, until, when we put it to some of our sponsors, they pointed out that they were not necessarily committed to redeveloping cities. For some of them, less urban development is better; for others, different kinds of regional or decentralized government should be the goal. In other words, the initial discussions for this conference reflected exactly the problematic but compelling nature of the questions analyzed and debated in this symposium volume.

From the start, it was essential to the planners of this conference – particularly in light of its co-sponsorship by a Center devoted to the study of comparative environmental and land use law topics – that the symposium have an international dimension. To that end, the day began with a panel that looked at the experience of planners, developers and lawyers throughout the world as they seek imaginative ways to reuse and reinvigorate global cities – whether in the readaptation and innovative redesign of abandoned industrial properties in Germany, as described by Professor James Kushner of Southwestern University School of Law, or in the erratic but dynamic growth of China’s mega-“satellite” cities – the subject of the University of Denver’s Professor Ed Ziegler. Professor Fernando Walcacer, of the Pontifical Catholic University School of Law, Rio de Janeiro, described the social and economic pressures facing

environmental protection in his own country's mega-cities, and Canadian Professor Raymond Young limned the possibilities of innovative land use controls to help assure livable urban environments, using the example of British Columbia.

In addition, as a large urban research university, we wanted the symposium not only to serve as a forum for academics and students, but also to draw upon the vital role of the community in which we exist. To this end, we were privileged to attract the two former Governors perhaps most recognized for their leadership and vision in the politics of smart and environmentally responsible growth, namely Georgia's Roy Barnes and Maryland's Parris Glendening. Their hour-long interchange in their joint luncheon keynote was proof of the essential role political leaders must play in metropolitan growth and redevelopment. In an afternoon panel a group of prominent lawyers and developers picked up where the Governors left off, exploring the practical and legal limitations on redevelopment projects from a variety of perspectives – environmental, financial, political.

The result was an exceptionally stimulating day. As is usually the case with such events, however, the day raised more questions than it answered. But if our Center and the Law Review did nothing more than help focus some of the questions, we would, I think, feel satisfied that we have made an important contribution to a rich debate.

In closing, I would be remiss if I did not specifically acknowledge the hard work of three people – the Law Review's Symposium Editor, Jodi Dixon, the Center's Assistant, Karen Butler, and the College of Law's superb event planner, Vickie Dye. Without their unselfish work, the day would not have gone as smoothly as it did.

I urge you to review all of the essays in this volume, and to keep in touch with our Center as, in future years, we continue to explore this and related subjects.