Community Development vs. Economic Development: Residential Segregation, Tax Credits, and the Lack of Economic Development in Baltimore's Black Neighborhoods

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“COMMUNITY DEVELOPMENT VS. ECONOMIC DEVELOPMENT: RESIDENTIAL SEGREGATION, TAX CREDITS, AND THE LACK OF ECONOMIC DEVELOPMENT IN BALTIMORE’S BLACK NEIGHBORHOODS”

Jennifer Nwachukwu

In 1967, the National Advisory Commission on Civil Disorders penned one of the most famous statements about race in America: “Our nation is moving toward two societies, one black, one white—separate and unequal.” For the city of Baltimore, MD, that statement rings true even in 2013. Outsiders think of Baltimore through the lens of HBO’s The Wire. Those who are from Baltimore or live in the city likely would say that driving through Baltimore is like driving through two different cities—nice areas with shops, restaurants, and beautiful architecture; and “not so nice” areas with blocks of dilapidated buildings and houses, liquor stores, and corner stores. Unfortunately, but by no mere coincidence, these areas and the people who reside in them mirror the two societies discussed in the Commission’s Kerner Report. This notion of two separate versions of Baltimore City again became the center of much debate as reports swirled about the use of the Enterprise Zone tax credit program in Harbor Point. Discussion points included the redrawing of the Enterprise Zone maps to include a predominantly African American public housing project that would have put the area in line with the poverty requirement for the Harbor East Development Corporation to receive the tax credit from the City of Baltimore. This paper discusses the issue of the lack of economic development in majority African American neighborhoods, positing

1. This paper was originally written in 2013, which may not reflect current statistics of Baltimore City, the publicity of the use of enterprise zones in Harbor East, and the City’s rezoning process.
that the lack of economic development is due to indirect racial bias in developers’ selection of where to invest and build businesses, and in the administration of the Enterprise Zone tax credit in Baltimore city.

The paper begins by explaining the history of residential segregation in Baltimore. Next, I will discuss the current state of Baltimore neighborhood characteristics with the use of the Vital Signs 11 community report, showing that the effects of residential segregation are still very much prevalent in the city. The third section of the paper will shed light on the purpose and implementation of the Baltimore City Enterprise Zone tax credit program, indicating that there is bias against African American neighborhoods based on the program’s zoning of the city and the locations that the most development occurs. The criteria that developers use generally in determining where to invest are neighborhood characteristics that ultimately serve as a proxy for race, and Baltimore is no different based on developers’ use of the tax credit program.

The History of Residential Segregation in Baltimore City

The best way to understand how the neighborhood characteristics of African American neighborhoods in Baltimore City negatively correlate with economic development is by learning how these neighborhoods were formed. Residential segregation in Baltimore has a very long history, and the tactics used here were introduced in other large cities across the country. Similarly, segregation tactics created in other cities were used in Baltimore to perpetuate racial intolerance. This tradition breaks down into three major time periods: (1) 1830-1910; (2) 1910-1917; and (3) 1917-1968.

Pre-Segregation Ordinances: 1830-1910

Baltimore’s housing was initially not segregated. Baltimore consisted of twenty wards, and African Americans lived in all of the wards. Blacks lived primarily in the City’s center, southern, and eastern sections of the city. They also resided in the northern part of the city, although in smaller numbers. Problems began to arise in the 1880’s when the City’s overall population was growing, and the number of African Americans moving into the city was growing very rapidly. Between 1880 and 1910, the City’s population grew to 558,485 people, with about 88,065 being black residents (roughly 16%). Baltimore’s population at that time also included whites and immigrants from various European countries and ethnic groups. However, slum living was very common for African Americans as they would pool

money and bodies together in small spaces. Around this time period, African Americans living in slums near Baltimore’s downtown harbor were evicted to create room for expanding railroads, displacing hundreds of families moving from rural Maryland to Baltimore City.\footnote{Id. at 12.} The Pigtown neighborhood in Southwest Baltimore was characterized by Garrett Power, a law professor at the University of Maryland as, “the first slum to reach maturity.”\footnote{Power, supra note 5, at 290.} Due to the substandard living conditions and the qualities of the people who lived in the area, both whites and wealthy blacks took flight from the neighborhood and moved further north.\footnote{Id.} The next major neighborhood for African Americans was the Biddle Alley neighborhood, which was divided by economic status: wealthier Blacks lived in the northern part of the area in residential neighborhoods; poorer Blacks lived in the southern part in slums known primarily for its concentration of diseases such as cholera, typhoid, and tuberculosis. Other black neighborhoods throughout the City had very similar conditions to Pigtown and Biddle Alley.

In response to these conditions, especially compared to the living conditions of the immigrant communities living in tenements, the Charity Organization Society created a report entitled \textit{Housing Conditions in Baltimore}.\footnote{Id. at 294.} This report revealed that both types of communities were living in unsafe and unsanitary conditions, but recommended for alley dwellers (blacks living in the slum communities) to condemn uninhabitable houses, ban sleeping in basements, and end the building of additional housing; for the immigrant tenement communities, the report recommended that landlords improve the conditions of the tenements and essentially created a building code for current and future tenements.\footnote{Id. at 296-97.} The City did not take any action based on the report, but the “Negro district” expanded as more blacks moved into the 14th and 17th Wards. African American housing patterns became marked by vacancies in neighborhoods where whites lived first, then non-whites would move in, and when the neighborhood became “broken,” African Americans would be able to move in.\footnote{Pietila, supra note 4, at 15.} This manner of real estate sales created three different markets: one for whites, another for non-whites, and a third for blacks.\footnote{Id.}

\textit{Baltimore’s Segregation Ordinances: 1910-1917}

By 1910, McCulloch Street became solidified as the color line in Baltimore City.\footnote{Id.} Druid Hill Avenue, which borders McCulloch Street
on its east side, was the closest that blacks lived to the color line. On
the other side of McCulloch Street, Eutaw Place was a coveted area
where only whites lived. The impetus for the creation of Baltimore’s
first segregation ordinance showed itself in 1910, when George
McMchen, an African American lawyer and Yale Law graduate, and
his family moved to 1834 McCulloch Street.15 This created uproar in
the city; as segregation in housing and other institutions had become
the doctrine of the times. The first segregation ordinance was enacted
on December 20, 1910, and said among other things, the following:
blacks cannot move onto blocks where more than half the residents
are white (and vice versa); existing conditions would stay the same,
but no part of the city is exempt from the ordinance; punishment was
a fine up to $100 and/or a 30 day to 1 year imprisonment; and that
blacks could not use residences on white blocks for social activities
(and vice versa).16 Baltimore City Solicitor, Edgar Allen Poe, justified
the constitutionality of the ordinance on the grounds that it was
within the police power of the city to separate by race because the
failure to do so “injuriously affects the good order and welfare of the
community.”17 Although many supported the ordinance, blacks and
some property owners opposed the ordinance, albeit for different rea-
sons; white property owners felt that they were at an economic disad-
vantange in terms of who to rent to and how much money would be lost
in vacant properties. The first ordinance did not last much longer
than a month; the Supreme Bench of Baltimore City invalidated the
ordinance without getting into the merits or morality of the law.18 The
Court determined that it was “inaccurately drawn” because the title of
the ordinance was not narrowly tailored enough to its actual purpose
of racial residential segregation.19

The second segregation ordinance was signed into law on April 7,
1911.20 It corrected the title issue, solidified that blocks with residents
of one particular race stayed that way, and allowed the composition of
mixed blocks to fluctuate based on the real estate market.21 This ver-
sion also did not last long, and was repealed and amended by the City
Council one month after its passage. The May 1911 segregation ordi-
inance basically contained the same language, but added that black
schools and churches could not exist on white blocks.22 This ordi-

15. Power, supra note 5, at 298.
16. Id. at 299-300.
17. Id. at 300 (quoting Memo from Edgar Allan Poe to Mayor J. Barry
Mahool, Balt. City Archives, Mahool Files, File 451 (Dec. 17, 1910)).
18. Id. at 303.
19. Id. at 303-04.
20. Power, supra note 5, at 304.
21. Id.
22. Id. at 305.
nance one week before the Maryland Court of Appeals was likely to strike down the ordinance.\footnote{Id. at 305-06.}

The fourth ordinance was an attempt to resolve the issue of constitutionality of the law, saying that the law is not meant to prevent anyone who legally acquired the property from exercising their property right to use and occupy the property.\footnote{Id. at 306.} This ordinance lasted from 1913 to 1917 when the United States Supreme Court decided \textit{Buchanan v. Warley}. The city of Louisville, Kentucky had a residential segregation ordinance very similar to that of Baltimore, and the challenge for the case came from the NAACP as a test case. In this case, the challenger Buchanan was a white property owner who had sold his property (which was located on a predominantly white block) to a black man, and sought specific performance of the contract that would allow the black man to reside on the property and fulfill the terms of the agreement.\footnote{Buchanan v. Warley, 245 U.S. 60, 70, 73 (1917).} The Court decided unanimously that Louisville’s ordinance violated Buchanan’s Fourteenth Amendment Due Process rights because he was not able to exercise his property right to alienate the property and transfer that same property right to whoever he saw fit to give it to.\footnote{Id. at 80-82. While this decision invalidated the use of residential segregation ordinances, it was done based on the property rights of the white property owner Buchanan without truly addressing or attacking the morality of residential segregation based on race or even the property rights of the black man who purchased the property.} Three months after the Supreme Court’s decision, the Maryland Court of Appeals, delivered a decision based on \textit{Buchanan in Jackson v. State}, and deemed the Baltimore ordinance unconstitutional based on its similarity to the Louisville ordinance.\footnote{Jackson v. State, 103 A. 910, 911 (Md. 1918).}

Ultimately, the segregation ordinances created more harm than good. Many Baltimore residents in the white middle class felt that the ordinances would be effective in curtailing the spread of contagious diseases and crime.\footnote{Power, supra note 5, at 306.} However, whites were still susceptible to diseases through their black maids and servants, and crime from the black ghettos spilled over into the nearby white neighborhoods.\footnote{Id. at 307-08.} The ordinances actually aided in the development of more ghettos and slums in Baltimore because most African Americans at that time could not find new and/or affordable housing and the African American population was growing constantly.\footnote{Id. at 307-08.}
Baltimore’s city government used and advocated for a number of tactics that would maintain residential segregation in the wake of the Buchanan decision. Those tactics include: slum clearance and containment, restrictive covenants, blockbusting, redlining, and the black tax. At the same time, Supreme Court decisions came down that reinforced the use of tactics that were not grounded in law (“de facto”).

Immediately after Buchanan, city officials instituted a two-fold plan of clearing out and shutting down the slums in the nicer areas of Baltimore City while restricting where African Americans could live. Black neighborhoods were cleared under the guise of projects such as expanding main roads in downtown Baltimore and improving the appearance of the center of the city. While blacks had more housing options after white residents left the city, the quality was uninhabitable both physically and for sanitary reasons—and these neighborhoods were cleared as well. Studies done reinforced the need to not only displace African Americans from their homes, but to refurbish these same areas for white residences or businesses. The issue with slum clearing aside from the displacement of black Baltimoreans is also that no additional housing was built during this time, whether in the form of more houses or even public housing. This created an even larger housing insecurity issue as the African American population continued to grow over time.

Containment initially began in the form of not selling homes to African Americans in white neighborhoods, but very rapidly became adopted by the real estate industry as its mantra and even codified in the National Association of Real Estate Brokers’ Principles of Real Estate Practice. Mortgage lenders would not provide loans or would provide very minimal loans to black residents, landlords would buy individual homes to turn them into tenements, and the City would deny funding from the Federal Housing Administration for “inharmonious racial groups.”

Restrictive covenants were also a very popular tool post-Buchanan since that case invalidated the use of ordinances to segregate by race. Individuals and communities alike would create covenants restricting the sale and use of real estate property in those areas, essentially only

31. Id. at 314, 316-17.
32. Id. at 316-18.
33. See Power, supra note 5, at 320-21. “The market described above made no allowance for increasing the number of black housing units. This gap was widened by actions of the city government. Between 1930 and 1960 programs of school building, slum clearance, urban renewal, and expressway construction displaced large numbers of households. Hence, the city exaggerated the shortage by demolishing many more houses than it created.”
34. Id. at 318; See also Pietila, supra note 4, at 72-73.
35. Power, supra note 5, at 319.
catering to white residents as African Americans and various ethnic and religious groups were not welcome in those neighborhoods. Cov-
enants were supported judicially as both the Supreme Court and Mary-
land Court of Appeals rendered decisions that allowed for the con-
tinuation of restrictive covenants, essentially saying that the Four-
teenth Amendment was designed to bar public/state action rather than the actions of private citizens. This very issue came up in the case of Shelley v. Kraemer, 334 U.S. 1 (1948), where Kraemer, a white resident in St. Louis, Missouri, petitioned the Supreme Court to enforce his neighborhood’s restrictive covenant in order to prevent the sale of real estate to the Shelley family (a black family). The Court determined that the restrictive covenant in Kraemer’s neighborhood violated the Fourteenth Amendment’s Equal Protection Clause because the Missouri Supreme Court’s order to enforce the restrictive covenant served as state action, and that in doing so, denied the Shelley’s equal protection under the law.

Blockbusting, the black tax, and redlining are all tactics that work hand in hand. Blockbusting prayed on the fear that white residents had towards African Americans and other ethnic/religious groups by encouraging white families to leave the neighborhoods and sell their property for much less than the market value. These real estate agents would then sell the same property to “unwanted” groups at rates that were usually well above market value and this practice was coined the “black tax.” The black tax worked hand in hand with redlining, which involved mapping areas for mortgage loans primarily based on the desirability of the neighborhood and what racial or ethnic group lived in that particular neighborhood. Since African American neighborhoods were typically marked as red for their undesirability, African Americans were often not eligible for homeowners’ loans and to finance their homes in other ways and at values higher than its actual value. These and other practices continued formally until 1968, when the Supreme Court in Jones v. Mayer, 392 U.S. 409, 412 (1968) held that the 1866 Civil Rights Act, “bars all racial discrimination, private as well as public, in the sale or rental of property, and that the statute, thus construed, is a valid exercise of the power of Congress to enforce the Thirteenth Amendment.” Additionally, Congress passed the Fair Housing Act (Title VIII of the Civil

36. Pietila, supra note 4, at 48-49; See Meade v. Dennistone, 173 Md. 295 (1938).
37. Shelley v. Kraemer, 334 U.S. 1, 21 (1948); See also Power, supra note 5, at 322. Just as with Buchanan, this case failed to address the heart of the issue and correct it—in this case, private actions of citizens (the covenants) that violate the Constitution. The ruling essentially places fault on the State of Missouri for enforcing the covenant, but does not attribute any fault on the private citizens who created the discriminatory covenants.
38. Pietila, supra note 4, at 97-101; See Power, supra note 5, at 321-22.
39. Pietila, supra note 4, at 171.
40. Power, supra note 5, at 319; See Pietila, supra note 4, at 70.
Rights Act) in 1968 as a way to prohibit discrimination in housing in its many forms. 41

Current State of Residential Segregation in Baltimore

Introduction: Vital Signs 11, Significance of Neighborhood Characteristics

While statutes and legal opinion removed the formal mechanisms that perpetuated racial residential segregation, the damage had been more than done. Baltimore is still very much segregated, which likely is due to engrained attitudes and assumptions about African Americans and their impact on “market-controlled” enterprises and public health, safety, and welfare. The Baltimore Neighborhood Indicators Alliance-Jacob France Institute developed a report entitled Vital Signs to measure, “progress towards the goals of: strong neighborhoods; good quality of life, and a thriving, vital city. The goal of this effort is for neighborhood residents, organizations, and others to use data and the Vital Signs report strategically and effectively to foster new ways of thinking about improving our City, neighborhoods and government over time."42 The report provides statistical information regarding: census and demographics, housing and community development, child and family health and well-being, crime and safety, workforce and economic development, education and youth, arts and culture, and sustainability. It also records the information based on community statistical areas (CSA), which categorizes neighborhoods together based on 2010 Census tract data and information from the 2007-2011 American Community Survey.

According to a report by the Federal Reserve Bank of St. Louis, neighborhood characteristics do matter for future business development, and the type of activity that occurs in the neighborhood is shaped in part by these same neighborhood characteristics.43 The following characteristics (based on zip codes) improve the prospect of business development in a particular area44:

- Less congested areas—low populations, low employment, and low business density
- Areas where there is a high level of demand for goods and services based on higher per capita income levels
- Education levels, particularly a bachelor’s degree and above
- High fraction of people between 25 and 44 years old

44. Id.
• Spending on and existence of public infrastructure and services
• Per capita property and sales tax revenue (related to per capita income)

The following neighborhood characteristics are negatively associated with business development and growth:\(^{45}\):
• High levels of crime and unemployment
• Expenditures for housing and community development

In analyzing the information from Vital Signs 11, it will be important to look at the racial component of the following sections: census and demographic, housing and community development, crime and safety, and workforce and economic development. With such a large number of CSAs, the information will be grouped as done in the actual report based on the top five CSAs and lowest five CSAs for each category. Additionally, the individual CSAs in each statistical category will not be listed but will be described proportionally in its top five or lowest five category. The CSAs in the next section will be categorized as “African American” or “white” based on whether a particular CSA is majority African American or majority white and the City’s demographics by race.\(^{46}\) The Vital Signs report provides information for hundreds of forms of categorical data and all cannot be included, so this analysis will include pertinent categories and subsets of information related to the possibility of business development.

**Vital Signs 11 Data**

a. Census and Demographic

The relevant census/demographic information are population density, race/ethnicity, age, and income and poverty.

In terms of population density, four of the top five and lowest five CSAs for population density are African American.\(^{47}\) The racial makeup of Baltimore City is 63.8% black/African American, 28.3% white, 2.3% Asian, 4.2% Hispanic, 1.7% 2 or more races, and 0.5% all other races.\(^{48}\) Racial diversity in each CSA is measured by degree, where the higher the degree of racial diversity, the more diverse the area and the lower the degree of diversity, the less diverse.\(^{49}\) The Vital Signs report provides information for hundreds of forms of categorical data and all cannot be included, so this analysis will include pertinent categories and subsets of information related to the possibility of business development.

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45. *Id.*
46. Included at the end of the paper is a list of all the CSAs based on their status as majority African American or majority white.
48. *Id.* at 1-2.
49. *Id.* at 2.
50. *Id.*
Comparing the target age stated from the report by the Federal Reserve Bank of St. Louis with the Vital Signs age bracket of 25-64 years of age, the CSAs with the highest percentage of the population being in the 25-64 age bracket are majority white CSAs. Three of the five lowest CSAs in that same category are black CSAs.\textsuperscript{51}

The CSA information on income and poverty is broken down into five major categories: (1) under $25,000; (2) between $25,000 and $40,000; (3) between $40,000 and $60,000; (4) between $60,000 and $75,000; and (5) above $75,000. The Vital Signs report also states that between 2007 and 2011, 17.7\% of households in Baltimore City were living below the poverty line.\textsuperscript{52} The three CSAs “with the greatest percentage of households in poverty” were all African American CSAs.\textsuperscript{53}

For the percentage of households earning less than $25,000, the five CSAs with the highest percentages were all African, while the five lowest CSAs had three white CSAs and two black CSAs\textsuperscript{54}; the two black CSAs both have a lower percentage of African Americans than the city average and a higher percentage of white residents above the city average.\textsuperscript{55}

The five CSAs with the highest percentage of households with incomes between $25,000 and $40,000 were all black, and the five CSAs with the lowest percentage in that income range were all white.\textsuperscript{56} For the $40,000-$60,000 range, four of the five highest were black (one of them being Lauraville), and three of the five lowest were black.\textsuperscript{57} In the $60,000 to $75,000 range, three of the five highest and three of the lowest CSAs were majority black.\textsuperscript{58} For the percentage of households earning more than $75,000 per year, the split was again on racial lines—the five highest were white and the five lowest were African American.\textsuperscript{59} Additionally, the median income in Baltimore is about $40,100, and the five CSAs with the highest median incomes were white CSAs; the five CSAs with the lowest median incomes were all black CSAs.\textsuperscript{60}

b. Housing and Community Development

The housing and community development section of the Vital Signs report includes measures about the general Baltimore City housing

\begin{enumerate}
\item Id. at 8.
\item Id.
\item Id. at 12.
\item Id. at 17 (showing the that the two CSAs are Lauraville and Hamilton).
\item Id. at 13.
\item Id. at 14.
\item Id.
\item Id. at 4, 11.
\end{enumerate}
market, housing affordability, housing tax credits, and housing permits and code enforcement.

In terms of the Baltimore housing market, one of the measures is the percent of homes in the CSA that were sold for cash. This is particularly because cash sales tend to indicate that the home will become rental property or sold again for a profit.61 Additionally, this information parallels historic trends for African Americans seeking to purchase a home because of redlining and banks/lending institutions, typically electing not to lend to African Americans or loaning small amounts. The statistical information breaks down on racial lines in the current study; the CSAs with the highest percentage of homes sold in cash deals are African American, and the CSAs with the lowest percentage of homes are white CSAs.62 Another interesting statistic is the percentage of addresses that do not receive mail, indicating that homes are unoccupied. The five CSAs with the highest percentages of addresses that do not receive mail are all African American areas.63

Housing affordability is another major factor to consider. The Vital Signs indicators for housing affordability are based on whether the payments are through a mortgage or rent, and housing affordability is determined by the percentage of households that spend more than 30% of their household income either on their mortgage or their rent.64 For homes financed with mortgages, four of the five CSAs with the highest percentages are African American CSAs; three of the five CSAs with the lowest percentages are African American as well.65 For those who pay rent, the breakdown was again on racial lines—the CSAs with the highest percentages of people spending 30% or more of their income in rent were African American, and the CSAs with the lowest percentages were white. Baltimore City has one of the highest property tax rates in the State of Maryland, which may contribute in part to the issue of housing affordability.66

c. Crime and Safety

The authors of the Vital Signs report begin this section of statistical information by stating that, “Safety, real or perceived, is one of the most important factors affecting quality of life for residents, businesses or visitors in Baltimore’s neighborhoods.”67 The crime and safety section provides information for three major categories: general crime and safety, juvenile crime, and specific crime incidents. It is important

62. Id.
63. Id. at 4.
64. Id. at 9.
65. Id.
66. See Vital Signs 11, supra note 42, at 1, 9.
to note that due to the tourist attractions and influx of visitors in the Downtown CSA, this particular CSA leads in many of the crime statistics.

Part I crimes include homicide, rape, aggravated assault, robbery, burglary, larceny, and auto theft that are reported to the Baltimore City Police Department.68 Four of the five CSAs with the highest incidents of these crimes are African American (Downtown CSA as the highest), whereas the CSAs with the lowest incidents are all white.69 The violent crimes of homicide, rape, aggravated assault, and robbery also break down in the same pattern.70 In terms of property crimes, three of the five CSAs with the highest rates of property crimes are white; however, these are all areas designed for tourism (Downtown CSA, Inner Harbor/Federal Hill CSA, and the Midtown CSA).71 Four of the five CSAs with the lowest property crime calls are white CSAs.72 For the rate of gun related homicides, four of the five CSAs with the highest rates are African American CSAs.73 Fourteen CSAs reported no gun-related homicides.

The specific crime incidents resulting in calls for service break down similarly under almost every category. In the categories of rate of domestic violence calls, rate of calls for shootings, rate of common assault calls, and the rate of narcotics-related calls, either three or four out of five CSAs with the highest rates were African American; for the lowest rates, three or four of the five CSAs were white.74

d. Workforce & Economic Development

This section begins with an emphasis on the City of Baltimore and its status in the state and in the region. The authors state, “Baltimore City is the regional center for the metropolitan area in terms of both population and economic activity. . .The City [is] also attracts many businesses and workers daily. However, the City is economically distressed in comparison to the State of Maryland.”75 The report covers a number of different measures, but the focus of this particular section of the paper will be related to labor force participation/employment, educational attainment, business size and age, and neighborhood businesses.

The Vital Signs report groups eligibility for employment for those between the ages of 16 and 64. Labor force participation and employ-

68. Id.
69. Id.
70. Id.
71. Id. at 2.
73. Id.
74. Id. at 5-6.
ment includes: (1) those who are employed; (2) those who are unemployed and looking for work; (3) those who are not working and not looking for work; and (4) those who are actively seeking work. Interestingly, each of these sub-categories breaks down on racial lines. The only category where white CSAs had the highest percentages was the category for those who were employed. The five lowest CSAs were all African American. In every other category, African American CSAs were the five highest: for those unemployed and looking for work, not working at all and not seeking work, and those who are actively seeking work. White CSAs were consistently the five lowest in each of these three categories.

Educational attainment is broken down by: (1) age 25-64 with less than a high school diploma; (2) age 25-64 with a high school diploma; (3) age 25-64 with some college education and above. For those with less than a high school diploma, three of the five CSAs with the highest percentages were African American; the five lowest CSAs were white. For those with a high school diploma, all five of the CSAs with the highest percentages were black, and all five of the CSAs with the lowest percentages were white. For those with some college education and above, the five highest CSAs were all white, and the five lowest CSAs were all black.

In terms of businesses generally, the five CSAs with the largest number of businesses are all white, and the five CSAs with the lowest number of businesses were all black. For the total number of employees working in businesses in a particular area, four of the CSAs with the highest number of employees were white; all of the CSAs with the lowest number of employees were African American. The five CSAs with the highest number of neighborhood businesses were all white, and the five CSAs with the lowest number of businesses were all black. The report also calculates the number of banks and bank branches to "measure the ability of businesses and residents to access credit and financial services." Four of the five CSAs with the highest number of

76. Id. at 1 (Economic Indicators).
77. Id.
78. Id. at 1-2.
79. Id. at 3.
80. Id.
82. Id. at 6.
83. Id.
84. Id. at 9.
85. Id. at 10.
banks are white CSAs. Nineteen CSAs have no banks or bank branches; of those nineteen, eighteen of them are black CSAs.

Significance of Vital Signs data and Racial Proxy Theory

The Vital Signs data included reveals a tremendous amount of information, particularly related to neighborhood characteristics of white and black neighborhoods. When it comes to business development and growth, these characteristics do matter. Generally speaking, some of the least dense neighborhoods were African American, and their communities had lower employment rates. In terms of employment, the communities with the highest number of people not working and seeking work, not working at all, and people actively seeking work were African American. Based on the Federal Reserve Bank study, these characteristics could attract businesses to the area. In terms of high level of demand for goods based on per capita income, black neighborhoods tend to have larger percentages of people in lower income levels compared to white neighborhoods. Also, with housing affordability being more difficult in black neighborhoods for mortgages and rental property, this does not leave much money for black residents to spend on other goods and services. On the subject of education, black communities had higher percentages of its residents with less than or an actual high school diploma. Black communities not having as many residents with a college education would certainly be a hindrance in attracting businesses because the workforce is not as educated in an economy based on one’s education level, and these individuals typically make more money and have more money to spend at the businesses and other establishments in their neighborhoods. White neighborhoods had the highest percentages of residents in the working age category, allowing for more people to potentially be employed in businesses in their area and to attract more businesses to that location because there are so many people at working age. In terms of infrastructure, the Vital Signs report does not give information about the amount of investment in public infrastructure on a neighborhood basis. What it does indicate—very generally—is that people in black neighborhoods take advantage of transit systems in place to get to work in higher numbers than their white counterparts, and travel for longer periods of time to get to work. As previously mentioned, Baltimore city has higher property taxes than other

86. Id. The fifth CSA Harbor East/Little Italy is a “black” CSA based the largest portion of residents who live in the area are black. This area sees a lot of tourists and visitors, which likely explains the large number of banks located there.


parts in the State, so that might be a hindrance generally to business development. However, based on historical information about residential segregation, it is likely that property values in black neighborhoods are lower than in white neighborhoods. What would be the biggest hindrance to economic development black communities is the high levels of various types of crimes, which the report indicates has a tremendous impact on the existence of businesses in the area.

Very broadly speaking, the statistics for black communities in Baltimore City are not positive statistics compared to white communities. However, these statistics and other relevant information are determining factors in where investors and other businesses in existence choose to place their businesses. This generally corresponds with the racial proxy theory, which states that,

"‘. . . racial preferences simply represent a desire to live in areas free of crime, deteriorating buildings, ineffective public schools and other social ills. Because of the concentration of many social problems in neighborhoods with relatively large black populations, selecting a “good” environment usually means choosing a predominantly white neighborhood.’"

This theory applies to “economic and other quality of life characteristics of the neighborhood.” Applying the tenets of the racial proxy theory to business development, developers and investors may be using negative neighborhood characters as a proxy for race and choosing not to develop there. This is not to say that developers are engaging in overt racial discrimination; rather, the characteristics developers use in determining where to locate their businesses has a disparate impact of black neighborhoods.

Enterprise Zone Tax Credit: Helpful or Harmful?

The state of Maryland has a statewide tax credit program entitled the Enterprise Zone tax credit, which is designed to promote business development within the City and attract new businesses to the City. Mayor William Donald Schaefer introduced this program as a new strategy for urban revitalization in 1982 as a way "to lure companies to poorer parts of Baltimore and elsewhere in Maryland. . . ." The pro-

89. See David R. Harris, "Property Values Drop When Blacks Move in, Because. . .": Racial and Socioeconomic Determinants of Neighborhood Desirability, Am. Sociological Review, Vol. 64 No. 3, 461-79 (June 1999).
91. Id.
gram offers a 10-year tax credit toward real property taxes in order for businesses to make improvements to its structure or to construct a new business altogether.\footnote{BALT. DEV. CORP. Real Property Tax Credits, http://www.baltimoredevelopment.com/for-business/assistance-programs—tax-credits/enterprise-zone/\}. Over time, the tax credit decreased from 80% in the first five years of the program to 30% by the end of the 10-year period.\footnote{Id.} The tax credit also provides an employment tax credit to businesses that hire new employees in the Enterprise Zone.\footnote{Id.}

Statutorily, the criteria for the creation of and change to an Enterprise Zone can be an arduous process and is based heavily on Census data or “any other reliable data that is acceptable to the Secretary.”\footnote{MD. CODE ANN., ECON. DEV. § 5-704(a)(3) (West 2010).} One of the four major criteria must be met:

1. The unemployment rate in the area for the most recent 18-month period is at least 150% of the average rate of unemployment in either the State of Maryland or the United States, whichever is higher during that period,
2. The population is a low income poverty area where the proportion of families with less poverty levels that is at least 1.25 times the national proportion,
3. At least 70% of the families in that area or an area in reasonable proximity have incomes less than 80% of the median family income in the political subdivision the area is located in, or
4. The population in that area or within reasonable proximity to the area has decreased by 10% between the most recent two censuses, and that there is chronic abandonment or demolition of property in the area, or that there are substantial property tax arrearages exist in the area.\footnote{Id. at §§ (a)(2) (i)-(iv).}

The status of an enterprise zone lasts for 10 years, and if the Secretary of the Department of Business and Economic Development (DBED) rejects an application for an enterprise zone, that political subdivision can reapply at any time.\footnote{Id. at §§ (b)(2), (d).} Focus areas are also permitted within a particular Enterprise Zone, and requests for the creation of a focus area may be approved by the DBED Secretary if at least three of the following criteria are met:

1. “The average unemployment rate in the area, or within a reasonable proximity to the area but in the same county, for the most recent 18-month period for which data are available is at least 150% of the greater of the average rate of unemployment in either the State or the United States during that same period;
2. The population in the area, or within a reasonable proximity to the area but in the same county has an incidence of poverty that is at least 150% of the national average;

3. The crime rate in the area, or within a reasonable proximity to the area but in the same county, is at least 150% of the crime rate in the political subdivision where the area is located;

4. The percentage of substandard housing in the area, or within a reasonable proximity to the area but in the same county, is at least 200% of housing units in the State that are substandard, according to the United States Bureau of the Census or other State or federal government data the Secretary considers appropriate; or

5. At least 20% of the square footage of commercial property in the area, or within a reasonable proximity to the area but within the same county, is vacant, according to data from the United States Bureau of the Census or other State or federal government data the Secretary considers appropriate.\textsuperscript{99}

At this time, all of Baltimore City is currently an Enterprise Zone; however, the City has more narrow Enterprise Zones that have decreased and changed over time.\textsuperscript{100} Additionally, Baltimore has only three Focus Area zones. Complaints are surfacing now about the recently approved Harbor Point project, alleging that the Enterprise Zone tax credit is being used in areas that are sufficiently developed and no longer need the tax credit. With the Harbor Point project in particular, it was initially rejected as part of the City’s Enterprise Zones, but ultimately restored to the list of Enterprise Zones.\textsuperscript{101} The approval did not come until after the Perkins Homes neighborhood—a predominantly black public housing project—was added to the Harbor Point area in order for the area to qualify for Enterprise Zone status.\textsuperscript{102}

The major issue with the current Enterprise Zone map is that it is based primarily on areas that are already in business districts and may have to do some “gerrymandering” in order to meet the criteria in the statute. The areas that have benefitted from Enterprise Zone tax credits include: Baltimore’s central business district; the Inner Harbor, Canton, Federal Hill, Fells Point, and areas in northern Baltimore City. These are areas with highly educated and working people, and business/economic development already exists. Many African American neighborhoods are not in areas where there are businesses already due to their designation as residential areas, but may qualify for Enterprise Zone designation based on US Census data, and even the

\textsuperscript{99} MD. CODE ANN., ECON. DEV. §§ 5-706(c)(1)-(5) (West 2008).

\textsuperscript{100} See Enterprise Zone map links in appendix.

\textsuperscript{101} See Simmons, supra note 3; See also Melody Simmons, Tax Breaks for Exelon Draw Fire at City Hall, THE DAILY RECORD, Feb. 9 2012, http://thedailyrecord.com/2012/02/09/tax-breaks-for-exelon-draw-fire-at-city-hall/.

\textsuperscript{102} Id.
raw data from the *Vital Signs* report. Residential projects and tax credits fall under a separate category altogether, and re-zoning would be difficult. This perpetuates a cycle where businesses are not in the neighborhoods currently, their characteristics prevent developers from being interested in investing in those areas and the tax credit is not eligible there, and no new businesses are created or have the ability to make improvements.

The first solution that the Baltimore Development Corporation and other entities responsible for the Enterprise Zone need to implement is to educate more citizens in these areas about the Enterprise Zone tax credit. If the entire City of Baltimore is an Enterprise Zone, there is no reason why the tax credit cannot be applied to businesses in black neighborhoods that are already in existence or to attract new business to these areas. Economic development in these areas may help to improve the overall quality of life for the residents in these predominantly black neighborhoods.

Another potential solution to the problem, without recreating the "gerrymandering” issue raised by critics of the Harbor Point project, would be to re-zone some of the black neighborhoods in Baltimore City as mixed use. As stated before, the current map is geared towards official business districts, but there are businesses in other parts of the city that are not necessarily zoned for business—despite all of Baltimore City being an Enterprise Zone. The City zoning ordinances are currently being re-written, and this may be a great opportunity for neighborhoods not immediately in Baltimore’s traditional business districts to meet the economic goals of the City on a much broader scale.

CONCLUSION

Baltimore has a long history of residential segregation to overcome, and the effects of this history have permeated into other aspects of life for black residents of Baltimore City. This has created a situation where business developers have implicitly indicated their unwillingness to invest in neighborhoods that are majority African American. At the same time, the Enterprise Zone tax credit program creates a possible incentive to attract new businesses to these areas and assist current businesses—the few that are in existence. However, individuals in control of the tax credit program have continued to use this program to develop the downtown area without much concern for the economic well-being of other communities in Baltimore. In order to improve the City of Baltimore as a whole, development of all kinds cannot just be in areas that are designed and known to attract business; it has to include neighborhoods and people that have been subject to marginalization for over the last 100 years.
APPENDIX

1. List of Black and White CSAs from Vital Signs Report
2. Map of Baltimore City Enterprise Zone
3. Map of Location of Enterprise Zone businesses
Vital Signs 11 CSAs by Race

CSAs where African Americans make up a majority of the population:

- Allendale/Irvington/S. Hilton*
- Beechfield/Ten Hills/West Hills*
- Belair Edison*
- Cedonia/Frankford*
- Cherry Hill*
- Chinquapin Park/Belvedere*
- Claremont/Armistead
- Clifton-Berea*
- Dickeyville/Franklintown*
- Dorchester/Ashburton*
- Edmonson Village*
- Forest Park/Walbrook*
- Glen-Falstaff
- Greater Govans*
- Greater Mondawmin*
- Greater Rosemont*
- Greenmount East*
- Hamilton
- Harbor East/Little Italy
- Harford/Echodale
- Howard Park/West Arlington
- Lauraville
- Loch Raven*
- Madison/East End*
- Midway/Coldstream*
- Northwood*
- Oldtown/Middle East*
- Patterson Park North & East
- Penn North/Reservoir Hill*
- Pimlico/Arlington/Hilltop*
- Poppleton/The Terraces/Hollins Market*
- Sandtown-Winchester/Harlem Park*
- Southern Park Heights*
- Southwest Baltimore*
- The Waverlies*
- Upton/Druid Heights*
- Washington Village/Pigtown
- Westport/Mt. Winans/Lakeland*

*CSAs where the percentage of African American residents is higher than the city average (63.8%)
CSAs where the majority of residents are white:

- Brooklyn/Curtis Bay/Hawkins Point**
- Canton**
- Cross-Country/Cheswolde**
- Downtown/Seton Hill**
- Fells Point**
- Greater Charles Village/Barclay**
- Greater Roland Park/Poplar Hill
- Highlandtown**
- Inner Harbor/Federal Hill
- Medfield/Hampden/Woodberry/Remington**
- Midtown**
- Morrell Park/Violetville**
- Mt. Washington/Coldspring**
- North Baltimore/Guilford/Homeland**
- Orangeville/East Highlandtown**
- South Baltimore**
- Southeastern**

**CSAs where the percentage of white residents is higher than the city average (28.3%)