GOVERNING? GENTRIFYING? SECEDING? REAL-TIME ANSWERS TO QUESTIONS ABOUT BUSINESS IMPROVEMENT DISTRICTS

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I. INTRODUCTION

Business improvement districts (BIDs) have become a ubiquitous feature of the urban development toolkit. An important—perhaps *the most* important—instantiation of the trend in urban governance toward the devolution of local authority to new "sublocal,"[1] quasi-governmental institutions, BIDs play an important role in urban redevelopment efforts, especially efforts to revitalize downtowns and satellite center-city business districts. It would be difficult to disentangle the remarkable resurgence of Center City, Philadelphia, for example, from the rise of the Center City District, a BID that spends millions of dollars each year on a wide range of public services, including sanitation, street beautification, capital improvements, business promotion, supplementary security, and even the operation of a community court.[2] Despite (or perhaps because of) the apparent successes of high-profile BIDs like the Center City District,[3] BIDs remain controversial, with some commentators praising them as an ingenious way to overcome the collective action problems that pre-

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1. *See generally* Richard Briffault, *The Rise of Sublocal Structures in Urban Governance*, 82 MINN. L. REV. 503 (1997) (describing the emergence and characteristics of various sublocal government structures).

2. *See* Göktuğ Morçöl, *Center City District: A Case of Comprehensive Downtown BIDs*, 3 DREXEL L. REV. 271, 279, 284 (2010) (detailing the variety of services provided by the Center City District).

3. Here, I part company somewhat from Richard Schragger's assumption that we cannot know, with any degree of certainty, whether BIDs like the Center City District have contributed to the urban resurgence. *See* Richard G. Schragger, *Rethinking the Theory and Practice of Economic Development*, 77 U. CHI. L. REV. 311, 323–31 (2010). As I have argued elsewhere, it seems self-evident that quality-of-life efforts such as those undertaken by the Center City District can, and do, affect residential and business-location decisions. *See generally* NICOLE STELLE GARNETT, ORDERING THE CITY: LAND USE, POLICING, AND THE RESTORATION OF URBAN AMERICA (2010).

vent neighbors from voluntarily organizing to address community problems[4] and others condemning them as dangerously anti-democratic and privatizing.[5] Both the controversy surrounding and the ubiquity of BIDs result from empirical assumptions about the way BIDs work, especially the assumptions discussed in this Article—first, that BIDs are sublocal governments that exercise regulatory authority; second, that BIDs generate or exacerbate an insider-outsider problem present whenever urban development efforts threaten to promote gentrification; and third, that BIDs enable wealthier neighborhoods to effectively secede from the urban polity by purchasing their own city services. But empirics without data is bad empirics. Thus, efforts which carefully chronicle how BIDs actually work—like the case studies taking center stage in the Symposium—provide an important opportunity to test common wisdom against real-world experience. My comments on these interesting and important case studies are structured around these three points of controversy deriving from empirical assumptions about BIDs. I read the included case studies with these questions in mind in an effort to proof-test academic and popular assumptions about BIDs against real-world experience.

Before I turn to my discussion of these three questions, however, it is worth noting that the most illuminating aspect of the case studies featured in the Symposium does not concern any of these three points of controversy. Instead, the most illuminating thing is the remarkable institutional diversity that the case studies reveal about the city's BIDs. Philadelphia's BIDs have dramatically different governance structures, resources, and functions. For example, the Center City District and the Old City Special Services District are wealthy and successful, while the Germantown Special Services District struggles to collect enough revenue to provide even minimal services. This vast diversity among the BIDs studied for the Symposium makes generalities about their functions and consequences a near impossibility. Therefore, my reflections on the case studies are offered simply as reflections on Philadelphia's BIDs, and readers should exercise caution before extrapolating prescriptions for im-

4. Heather MacDonald, *BIDs Really Work*, CITY J., Spring 1996. *See, e.g.*, Robert C. Ellickson, *New Institutions for Old Neighborhoods*, 48 DUKE L.J. 75, 89 (1998) (discussing how smaller organizations could produce more effective results).

5. *See generally* Bernard E. Harcourt, *Policing L.A.'s Skid Row: Crime and Real Estate Redevelopment in Downtown Los Angeles [An Experiment in Real Time]*, 2005 U. CHI. LEGAL F. 325 (2005) (discussing how government officials "play a backseat role" to commercial developers).

proving BIDs or urban development practice more generally from them.

This Article proceeds as follows. Part II discusses what insights the case studies provide about the first point of controversy highlighted above, namely whether BIDs are actually "sublocal" governments[6] rather than quasi-private providers of supplemental services.[7] This is an intriguing question for two different reasons. First, and most importantly, the question has constitutional implications. For a variety of reasons, some of which are discussed below, BID governance structures generally privilege property ownership.[8] Therefore, BID governance structures may be challenged on federal equal protection grounds as running afoul of the "one-person, one-vote" principle.[9] Although this issue has not been widely litigated, in a significant case, the U.S. Court of Appeals for the Second Circuit rejected the claim that BIDs violate the Equal Protection Clause. The court was able to do so by analogizing BIDs to the quasi-private special purpose districts that the Supreme Court has exempted from the one-person, one-vote requirement.[10] If, however, BIDs are actually *governing*—that is, exercising independent local government authority—then the case for exempting them from the one-person, one-vote requirement is much weaker. Second, as I have argued in detail elsewhere, vesting some sublocal government structures, including BIDs, with limited regulatory power over land uses makes sense in large cities featuring diverse neighborhoods.[11] I therefore was curious to learn whether Philadelphia's BIDs had in fact entered into the land use regulatory arena and, if so, to what extent sublocal land use policies reflected neighborhood needs and tastes.

Part III of this Article explores the second point of controversy—namely, whether BIDs' focus on economic development either generates or exacerbates an insider/outsider problem within urban neighborhoods. There is little question that BIDs prioritize economic development—as their name suggests, business improvement districts are created to promote business in urban neighborhoods. The question that interests me is whether this focus on economic devel-

6. *See generally* Briffault, *supra* note 1 (discussing the emergence of BIDs).

7. *See* Richard Briffault, *A Government for Our Time? Business Improvement Districts and Urban Governance*, 99 COLUM. L. REV. 365, 431–46 (1999).

8. *See infra* text accompanying notes 15–21.

9. *See* Briffault, *supra* note 7, at 431–36.

10. *Id.* at 431–33 (citing Kessler v. Grand Cent. Dist. Mgmt. Ass'n, 158 F.3d 92, 108 (2d Cir. 1998)).

11. *See* GARNETT, *supra* note 3, at 201–08.

opment causes leaders of the BID to disregard other community concerns. This development-focus might result in gentrification, the preference of new over old businesses, the discounting of residents' concerns, and a disregard (or even disdain) for existing local community character.

Lastly, Part IV examines the concern that BIDs lead to what Robert Reich has called the "Secession of the Successful," exacerbating the pre-existing inequalities between urban neighborhoods.[12] BIDs might generate or exacerbate this "secession" for one of two reasons: First, if local government services are poor quality, then BIDs might enable wealthier communities to buy their way up to an acceptable, even elite, level of services.[13] Second, if BIDs begin to supplant, rather than supplement, local government services, they may enable local governments to reduce the baseline level of services in the city as a whole.[14] If so, obviously, residents and businesses located outside of a BID's boundaries will suffer. In either of these cases, the gulf between wealthier and poorer neighborhoods might widen.[15]

II. DO BIDS GOVERN?

The first, and perhaps most important, question that the case studies might help answer is whether Philadelphia's BIDs are governing, in general, and regulating, in particular. As mentioned previously, this question has constitutional implications because BID governance structures frequently privilege property ownership. As Richard Briffault observed, "BIDs are a new local form that include a very old local tradition[—]a tradition in sharp tension with contemporary democratic values—of property owner voting."[16] In the BID context, property owners enjoy privileged status for both practical and theoretical reasons. As a practical matter, BIDs' revenues usually are generated by special assessments to real property.[17] Special assessments are revenue-generating devices that have played a role in urban development since at least the early nineteenth cen-

12. *See* Robert B. Reich, *Secession of the Successful*, N.Y. TIMES, Jan. 20, 1991, § 6 (Magazine), at 16.

13. *See* Briffault, *supra* note 7, at 462–68.

14. *Id.* at 462.

15. *See, e.g.*, *id.* at 462–70.

16. *Id.* at 444.

17. *Id.* at 414–20.

tury[18] and combine features of the property tax and user fee. Like a tax, a special assessment is compulsory; unlike a tax, however, a landowner—at least in theory—may not be assessed more than the value of the benefit that results from the improvement financed by a special assessment.[19] Many states require a supermajority of property owners to approve special assessments; as a result, this practice has been imported into BID formation statutes.[20] The requirement, whether explicit or implicit, of supermajority property-owner approval makes practical political sense—both because property owners will finance BID activities and because BID assessment practices depart from the historical practice of "one-shot" investment in physical improvements that have specific, identifiable benefits for the assessed properties.[21]

As a theoretical matter, property-owner voting in the BID context usually is justified by the divergent economic interests of owners and tenants. As Robert Ellickson argued, "Both theory and evidence indicate that most of the benefits of a localized public good redound to the owners of real estate located within the benefitted territory."[22] If the value of BID improvements is capitalized in property values, then property owners logically should be best positioned to make wise decisions about how to invest BID resources. Tenants, who typically are invested in an area for a short time period and who will not enjoy the capitalized effects of BID investments, would be expected to favor lower levels of investment in efforts with short-term benefits. By way of example, Ellickson suggests that tenants might prefer a "lavish Fourth of July block party" over capital improvements in neighborhood infrastructure.[23]

To make a long constitutional story short, the closer that BIDs come—in structure and function—to general purpose local govern-

18. *See* Stephen Diamond, *The Death and Transfiguration of Benefit Taxation: Special Assessments in Nineteenth-Century America*, 12 J. LEGAL STUD. 201, 204–06 (1983); *cf.* ROBERT C. ELLICKSON & VICKI L. BEEN, LAND USE CONTROLS 630 (3d ed. 2005) ("Special assessments appeared as early as 1250, when an English statute apportioned by acreage the costs of repairing a seawall around Romney Marsh.").

19. Briffault, *supra* note 7, at 414–16. BID expenditures have been challenged as running afoul of this requirement. *See, e.g.*, 2nd Roc-Jersey Assocs. v. Town of Morristown, 731 A.2d 1, 13 (N.J. 1999) (rejecting claim that special assessments to fund the Morristown, New Jersey Special Improvement District violated New Jersey law).

20. Briffault, *supra* note 7, at 383–84.

21. *See* RICHARD BRIFFAULT & LAURIE REYNOLDS, CASES AND MATERIALS ON STATE AND LOCAL GOVERNMENT LAW 717 (7th ed. 2009).

22. Ellickson, *supra* note 4, at 92.

23. *Id.* at 93–94.

ments, the more vulnerable they are to equal protection challenges. For example, in rejecting an equal protection challenge to New York City's Grand Central BID, the Second Circuit analogized the BID to the special purpose local governments that the Supreme Court has ruled may be exempt from the "one-person, one-vote" requirement.[24] The Grand Central BID, the court opined, lacked sovereign authority to govern, operated under the close control and oversight of the City of New York, and provided limited, supplementary services.[25] Regardless of whether this characterization was an accurate one—it was, in fact, sharply challenged by the dissent[26]—the clear import is that the more governmental authority a BID exercises, the more likely it will be subject to the "one-person, one-vote" requirement.

And what of Philadelphia's BIDs? Do they exercise sovereign authority? Do they govern or regulate? Before turning to that question, it is worth noting that some of the case studies suggest that some of Philadelphia's BIDs do not raise equal protection concerns for a very different reason: they do not, in fact, privilege property ownership.[27] For example, in East Passyunk, some property owners have lobbied, without success, to implement a system of assessment-weighted voting or representation.[28] And, all area residents voted on both the formation and representation of the Sports Complex Special Service District.[29] Some of the BIDs studied for this Symposium—for example, the University City District—are not BIDs at all, but rather cooperative nonprofit ventures between private institutions.[30] In other cases, the line between the BID and the local community development corporation—an institution that decidedly does not privilege

24. Kessler v. Grand Cent. Dist. Mgmt. Ass'n, 158 F.3d 92, 100–04 (2d Cir. 1998); *see also* Salyer Land Co. v. Tulare Lake Basin Water Storage Dist., 410 U.S. 719, 728–31 (1973) (upholding California law that limits to landowners the right to vote in elections for governing members of water storage districts); Ball v. James, 451 U.S. 355, 371 (1981) (upholding similar Arizona law).

25. *Kessler*, 158 F.3d at 104–07.

26. *Id.* at 109–34 (Weinstein, J., dissenting).

27. *See, e.g.*, Juliet F. Gainsborough, *The Sports Complex Special Services District: Thirty Million Dollars for Your Trouble*, 3 DREXEL L. REV. 155, 169 (2010); Jonathan Justice, *Moving On: The East Passyunk Avenue Business Improvement District*, 3 DREXEL L. REV. 227, 236–37 (2010); Thomas J. Vicino, *New Boundaries of Urban Governance: An Analysis of Philadelphia's University City Improvement District*, 3 DREXEL L. REV. 339, 345 (2010).

28. *See* Justice, *supra* note 27, at 236–37.

29. Gainsborough, *supra* note 27, at 160.

30. For example, the University City District was not formed pursuant to the BID statute, it lacks any compulsory assessment authority, and the City of Philadelphia does not oversee its operations. *See* Vicino, *supra* note 27, at 344–45.

property ownership—is virtually indistinguishable.[31] Moreover, the coercive power of many BIDs clearly is less coercive than what the average local-government law scholar assumes. Many of Philadelphia's BIDs appear to be fairly anemic institutions that have difficulty collecting assessments at all.[32] In contrast to the practice in many other states, Philadelphia's BIDs must collect assessments themselves, rather than relying on the tax assessors to include special assessments on compulsory property tax bills.[33] During discussions at the Symposium, it became clear that some BID leaders simply did not think it feasible, wise, or worth it to go to the trouble of attempting to collect assessments against delinquent property owners.

Despite all of this, many of the BIDs in Philadelphia do privilege property ownership, and many successfully exercise the coercive power to collect assessments.[34] Furthermore, the case studies reveal at least three realities that make some of Philadelphia's BIDs look very governmental. The first is the intriguing cases of the cross-jurisdictional BIDs—that is, BIDs that span municipal boundaries. For example, the Greater Cheltenham Avenue BID is "a partnership between Cheltenham Township and Philadelphia . . . ."[35] The Second Circuit, in approving the ownership-weighted governmental structure of the Grand Central BID, placed significant weight on the City's oversight and control of BID activities.[36] But, that oversight must, by definition, be diminished or nonexistent in the case of multi-jurisdictional BIDs. That is, if BIDs cross city lines, as a result of the collaborative or independent decisions of two different cities,

31. For example, the Germantown Special Services District was an outgrowth of the Central Germantown Council, a community development corporation founded in order to improve the community socially and physically through economic development, and the leadership of the two operations substantially overlaps. *See* Robert Stokes, *The Challenges of Using BIDs in Lower-Income Areas: The Case of Germantown, Pennsylvania*, 3 DREXEL L. REV. 325, 331–32 (2010). Similarly, the Roxborough Neighborhood Improvement District emerged largely due to the efforts of the Roxborough Development Corporation. *See* Fayth Ruffin, *Roxborough on the Rise: A Case of Generating Sustainable Buy-In*, 3 DREXEL L. REV. 309, 313 (2010).

32. *See, e.g.*, Justice, *supra* note 27, at 238; Stokes, *supra* note 31, at 332, 334–35; Whitney Kummerow, *Finding Opportunity While Meeting Needs: The Frankford Special Services District*, 3 DREXEL L. REV. 243, 245 (2010).

33. 53 PA. CONS. STAT. § 5406 (2010).

34. *See* Richard M. Flanagan, *Manayunk Development Corporation: The Search for Sustainable Gentrification and a Parking Space*, 3 DREXEL L. REV. 139, 140 (2010); Craig M. Wheeland, *The Greater Cheltenham Avenue Business Improvement District: Fostering Business and Creating Community Across City and Suburb*, 3 DREXEL L. REV. 357, 358 (2010).

35. Wheeland, *supra* note 34, at 357.

36. Kessler v. Grand Cent. Dist. Mgmt. Ass'n, 158 F.3d 92, 104–07 (2d Cir. 1998).

it is at least plausible to assume that the cross-jurisdictional BIDs are exercising authority independent of either of the two municipalities that acted to create them.

The second is that Philadelphia's larger, better-resourced BIDs are, in fact, doing "governmental" things: they are policing the streets with real policemen (albeit as the result of a contractual arrangement with off-duty officers),[37] engaging in land-use planning (although without any ultimate regulatory authority),[38] and, in the case of the Center City District, running a court.[39]

The third is that some of Philadelphia's BIDs are not *business* improvement districts at all, but rather *residential* improvement districts.[40] As a general matter, in my view, this is a good thing. As Ellickson has argued, an extension of the BID model to primarily residential areas makes sense because residential communities face the same collective-action problems as commercial ones and, as I have previously asserted, the case for investing BIDs with regulatory authority over land uses flows naturally from such an extension.[41] It is worth noting, however, that the best example of a residential improvement district in Philadelphia, the Roxborough Neighborhood Improvement District (RNID), is not exercising regulatory authority. Although the RNID has developed a master plan delineating both "pedestrian districts" and "street garden districts" that require land-use changes, the final authority for implementing the necessary regulatory changes continues to rest with the City of Philadelphia.[42] The RNID has also, in collaboration with the Roxborough Development Corporation, promulgated architectural design guidelines for the neighborhood. However, compliance with the guidelines remains voluntary—although any BID-funded façade-improvement project must comply with the guidelines.[43] Similarly, even the larger, better-resourced BIDs arguably do not govern in the formal sense of the term. Yes, they hire off-duty police officers—but so do night clubs. And, yes, they engage in land-use planning—sometimes

37. *See* Dorothy Ives-Dewey, *Clean, Safe, and Pretty: The Emerging Planning Role of the Old City District*, 3 DREXEL L. REV. 209, 213–14 (2010); Morçöl, *supra* note 2, at 281, 284.

38. *See* Morçöl, *supra* note 2, at 279.

39. *See id.* at 271

40. *See generally* Ruffin, *supra* note 31.

41. *See* Ellickson, *supra* note 4, at 97–100; *see also* GARNETT, *supra* note 3, at 201–03.

42. *See* Ruffin, *supra* note 31, at 319–20.

43. *See* ROXBOROUGH DEV. CORP., RIDGE AVENUE DESIGN GUIDELINES 23, http://www.roxborough.us/DesignGuidelines.pdf (stating that "owners of property along the commercial corridor have the primary responsibility for enforcing these guidelines").

extensive planning involving major infrastructure improvements—but, ultimately, the City of Philadelphia has the final say about which plans get implemented. BIDs may influence the outcome, but, arguably, the influence exerted is no different than that exerted by other local interests in the regulatory process.[44]

Moreover, the case studies provide evidence that large, well-resourced BIDs that engage in even quasi-governmental functions are an exception to the rule. Most of the functions that BIDs provide are on the "safe" side of the equal protection border: they sweep streets, pick up trash, maintain flowerboxes, and host street fairs. Indeed, it is worth noting that the case studies revealed very little sublocal specialization that would actually pose an equal protection issue. Most BIDs, except the largest and wealthiest ones, primarily focus on two things: security and sanitation.

Thus, the return to the original question: BIDs, at least those in Philadelphia, are more akin to quasi-private providers of supplemental services than to local governments, although this reality may be more a reflection of limited resources than institutional ambition. Their focus on security and sanitation undoubtedly also reflects both the reality that many city neighborhoods face the same problems (disorder and crime) and the ubiquity of dissatisfaction with the level of policing and sanitation services provided by a large city like Philadelphia. However, it may well be that the BIDs studied in the Symposium would like to engage in more "governmental" activities, but are unable to do so because they lack resources or the political clout.

III. BIDS, GENTRIFICATION, AND THE INSIDER/OUTSIDER PROBLEM

This Part explores the second point of controversy described above—namely, whether BIDs generate, within their geographic boundaries, an insider/outsider problem. For example, an excessive focus on development may cause BID leaders to favor newer, upscale, "outside" businesses over older, established, more proletariat, "local" businesses or to discount concerns about gentrification. This concern about what has been called the "Disneyfication" of our cities has been expressed perhaps most sharply in New York City, especially in Harlem, where the 125th Street BID has taken an active

44. *See generally* Carol M. Rose, *Planning and Dealing: Piecemeal Land Controls as a Problem of Local Legitimacy*, 71 CALIF. L. REV. 837, 867–82 (1983) (discussing jurisprudence of local land-planning decisions).

role in promoting renewal and development.[45] For example, when Mayor Rudolph Giuliani acted to clear vendors from busy city streets during the 1990s, the 125th Street BID actively sided with business and development interests against street vendors (most of whom were poor immigrants) along 125th Street. As a spokeswoman for the 125th Street BID observed, "The businesses in the area have come to the conclusion that store owners and the vendors do not mix well with one another."[46]

And what of Philadelphia's BIDs? Is a similar concern about BID-driven gentrification or "Disneyfication" warranted in the City of Brotherly Love? The evidence from the case studies appears mixed. It is worth noting that each case study, by design and explicit instruction of the Symposium organizers, focused on the "developmental moment" for each BID. Presumptively, this focus assumes that BIDs exist for purposes of development and their efforts are oriented towards that goal. A focus on development is not a bad thing and is, in fact, a reality for BIDs. Indeed, this Article leaves to one side the important first-order questions about whether, and under what circumstances, gentrification is, in fact, a cause for concern. As Peter Byrne has argued, there is a case to be made that, most of the time, gentrification is better than the alternative—that is, *not* gentrification—since existing residents benefit in many ways from neighborhood improvement.[47]

Interestingly, a number of Philadelphia's BIDs are demographically diverse, whether measured by race, income, or educational attainment. The case studies suggest that, in most instances, diversity is not a particular source of controversy. Indeed, complaints about the development focus of BIDs, and more generally about the insider/outsider dilemma, seem to be sharpest in the least diverse BIDs. For example, during the formation of the Germantown BID, tensions in the poor, predominantly African American community surfaced between different kinds of businesses—that is, between local shops and chains and between African American and Asian-owned businesses. In East Passyunk, a poor and predominantly white community, BID activities have prompted division between

45. *See, e.g.*, MONIQUE M. TAYLOR, HARLEM BETWEEN HEAVEN AND HELL (2002); Sharon Zukin et al., *New Retail Capital and Neighborhood Change: Boutiques and Gentrification in New York City*, 8 CITY & CMTY. 47 (2010).

46. *See* GARNETT, *supra* note 3, at 61–63. For more information on the 125th Street BID, see 125TH STREET BID BUSINESS IMPROVEMENT, http://www.125thstreetbid.com (last visited Nov. 8, 2010).

47. *See* Peter Byrne, *Two Cheers for Gentrification*, 46 HOW. L.J. 405, 426 (2003).

long-standing property owners/businesses and newcomers who express a greater degree of support for collective improvement efforts. In Manayunk—which is also predominantly white, but wealthier than Passyunk—residents expressed a concern that development efforts led to gentrification and displaced established local businesses that long-time residents depended upon for their daily lives.[48]

IV. BIDS AND THE "SECESSION OF THE SUCCESSFUL"

Lastly, this Part examines the question of whether BIDs create or exacerbate a different "insider/outsider" problem: namely what Robert Reich has called the "Secession of the Successful." As Reich argued, "Most of America's large urban centers have splintered into two separate cities . . . . People with high incomes live, shop and work within areas of cities that, if not beautiful, are at least esthetically tolerable and reasonably safe; precincts not meeting these minimum standards of charm and security have been left to the less fortunate."[49] Reich specifically indicted BIDs when he claimed that "[c]arrying the principle one step further, several cities have begun authorizing affluent property owners to assess a surtax on local residents and businesses," which are then used for supplemental amenities and services that the City would not otherwise provide.[50]

BIDs might generate or exacerbate the "Secession of the Successful" in one of two ways. First, as Reich suggests, BIDs might empower wealthier city residents to purchase a more acceptable level of city services rather than improving existing services. Alternatively, if BID services come to supplant rather than supplement local government services, then BIDs could enable local governments to further reduce what might be an already subpar baseline of services. In either case, residents of BIDs who possess greater resources would effectively "secede" from the municipal norm.

It is difficult to discern whether either version of the "secession" story has occurred in Philadelphia because the case studies say little about the pre-BID baseline level of municipal services. The case studies clearly suggest that many, if not all, of Philadelphia's BIDs were formed as a result of frustration with local government responsiveness to community concerns and dissatisfaction with basic

48. The gentrification in Passyunk, however, could not be the BID's "fault," since the gentrification predated its formation.

49. Reich, *supra* note 12, at 44.

50. *Id.*

city services—especially public safety and sanitation services. The case studies also illuminate vast disparities among the level of services provided by Philadelphia's BIDs, which map neatly onto BID resource levels. Poorer BIDs struggle to provide *any* services at all. In fact, at least one BID was defunct because it was not, apparently, doing anything at all,[51] and another is virtually unknown to residents and businesses because it does so little.[52]

In contrast, large, well-resourced BIDs perform services that dramatically improve the quality of life, the prospects of development, and clearly push the line between supplementing and supplanting city services.[53] For example, the Center City District runs a court and operates its own public transportation services, and the Old City BID contracts with the Philadelphia Police Department to provide "supplemental" security protection—a practice that is similar to a smaller, local government's decision to contract with a larger neighboring jurisdiction to secure city services.

Finally, the case studies do not shed much light on Philadelphia's response to BID activities, particularly the issue of whether the City has reduced services. Perhaps the most illuminating moment of the Symposium, for me, came when the director of the Germantown Special Services District (Germantown SSD), Reverend LeRoi Simmons, sought to explain pictures of trash accumulating in a Germantown park. An exasperated Simmons exclaimed, "We spoiled the city!" He explained that the Germantown SSD had a practice of picking up trash in the park, despite the fact that responsibility for refuse removal actually belonged to the city's parks department, not the BIDs. He described that the trash in the park was the result of an experiment. For one week, Simmons decided to "test" the parks department by refusing to allow the Germantown SSD to pick up trash in the park and instead calling every day to complain that the City was not removing it. After a week, and without a response from the parks department, the trash accumulated beyond an acceptable level. Once again, the Germantown SSD assumed the parks department's responsibility for removing the trash. Such anecdotal accounts are troubling and point to the need for a more complete understanding of both the preexisting baseline of services and the City's response to its BIDs' provision of services.

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51. *See* Kummerow, *supra* note 32, at 246.

52. *See* Stokes, *supra* note 31, at 333.

53. *See, e.g.*, Ives-Dewey, *supra* note 37, at 217; Morçöl, *supra* note 2, at 279–81; Vicino, *supra* note 27, at 351.

V. CONCLUSION

In recent years, the local government toolkit has expanded dramatically to include new institutional arrangements designed to promote development in our urban cores. Despite a virtual explosion in institutional innovation, not enough is known about how the new institutions work in practice, including BIDs. This Symposium represents an important step towards answering this and other critical questions about the way that new local government structures are shaping our cities.