

# The Private Lives of Quasi-Public Agencies

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Art of the Deal, 1931-style: New York Governor Franklin D. Roosevelt with Robert Moses, then Long Island State Park Commissioner. Quasi-public agencies were originally promoted as alternatives to the corrupt machine-style development organizations of the era. (AP Photo)

Nonprofit urban development corporations are fixtures of American cities—but they can lack public accountability and transparency.

In this age of “the deal,” in which a president/real-estate tycoon pledges to run the nation’s affairs [more like he has run his businesses](#), it’s a good time to rethink quasi-public development corporations. These are municipal agencies that are supposed to act more like private businesses; they can act as parking authorities, manage public markets, or build stadiums and airports. Such entities sometimes have awesome power—they can issue bonds and licenses, collect fees, and even have eminent domain. And they can do these things largely outside of public scrutiny.

Not surprisingly, suspicion about these types of agencies often prevails—especially toward urban development corporations, or UDCs, which defy classification as a city department but are usually also not entirely private. Critics of UDCs often suspect these organizations are in cahoots with private developers and exist to circumnavigate [open meeting laws and other regulations](#). But those critics might be surprised to learn that UDCs were, in fact, created as

a response to government obfuscation and shady dealing.

The roots of these quasi-public organizations are in the progressive movement: They were born from the era's belief that governance should be rational and not driven by machine politics. Before and after the New Deal, planners needed a way to work around often-corrupt local government. The granddaddy of them all, the Port Authority of New York City, was created in 1921. On the national scale, the best-known corporation was FDR's Tennessee Valley Authority, which was tasked with swiftly implementing vast infrastructure projects to combat the Great Depression.

Enabled by state laws in the 1930s, local development corporations proliferated, initially focusing on housing and so-called slum clearance. Redevelopment corporations boasted condemnation powers that were soon extended to commercial districts in the name of "highest and best use." The influence of municipal planning departments eroded as the power of privately controlled development corporations grew, and the UDC redevelopment model got a further boost under Lyndon Johnson's Great Society poverty-fighting campaign.

Originally top-down Robert Moses-style entities, development corporations evolved into model structures for public-private partnerships (another term [enjoying a renaissance lately](#)) during the Carter Administration. In 1979, President Carter [created the federal Urban Development Action Grant Program](#) to aid distressed communities, giving cities the ability to wheel-and-deal directly with private developers on eye level, mostly outside of public scrutiny.

UDCs are among the few organizations that have the power to condemn private property for public interest. This is astounding if one considers their lack of oversight.

In whatever period they were created, a duality of purpose was inherent in UDCs: They were supposed to be outside of government, yet beholden to it. They could act like private business, but with the power of government in the name of public interest. They were supposed to be efficient and nimble—but had access to public money. Most of all, they lacked public oversight and accountability.

Sometimes agencies erred more on the one side (to be more like government), sometimes on the other (to be more like a private corporation). But only rarely did government forego control by appointing board members or CEOs of the UDCs. One example is Cincinnati's [3CDC](#) corporation, which collaborates with the city but is fully controlled and funded by the corporate sector. The distance between City Hall and the quasi-governmental 3CDC was seen as a necessity for successful redevelopment. But the bipolar nature of development corporations also invites the opposite view. In a 2008 study titled "[Who Rules Cincinnati](#)," labor scholar Dan La Botz concluded that such corporations were a private power grab that "usurped democratic control from the city council, from city agencies and from the public."

*Creation of the "strong mayor," abolition of the planning department, and handing over public planning functions to private organizations have all worked to the detriment of public discussion, debate and democratic control.*

*Corporate control of Cincinnati's economic and political life has preserved and sometimes deepened patterns of racial segregation, discrimination and outright racism.*

Concerns are not limited to control and oversight, they also extend to financial accountability. A recent [study](#) by the Legislative Research Commission of Kentucky dealt with that aspect.

*Some entities are created because it is believed that debt may be more accepted in the capital markets because of the perceived greater efficiency of a separate corporate-style structure.... Many*

*public authorities have a legal, financial, or administrative autonomy that departments and agencies may not have within a government's organizational framework. Legal autonomy derives from corporate powers, including the ability to buy, sell, lease, and mortgage property in its own name, and the power to sue and be sued without recourse to the government itself.*

The contrary views regarding quasi-governmental agencies in general and development corporations in particular come from the many different purposes they serve—and various amounts of power they exert. In a country with strong emphasis on private property rights, they are among the select few organizations that have the power to condemn private property for public interest. This is even more astounding if one considers their lack of oversight and control.

The broad way in which “public interest” was stretched to include “slum and blight removal” and “economic development” has been the subject of many high-profile court cases. A quasi-governmental development agency condemning private property to immediately give it back to another private entity with the sole purpose of (private) redevelopment resulted in the landmark 2005 Supreme Court ruling of [Kelo v. New London](#), in which those condemnation practices were confirmed as legal. In spite of the 4-5 ruling, this case dampened the eagerness of cities to use eminent domain for private redevelopment, as the matter became politically unpopular and lacked positive results. As author and law professor Ilya Somin wrote in the [Washington Post in 2015](#), the rental property that was the subject of the Kelo case “still lies empty, though city officials now plan to build a memorial park honoring the victims of eminent domain.”

Today, the kind of urban renewal built around involuntary displacement and large-scale site clearing has fallen out of favor. But we learn slowly: Cities and small towns continue to create nonprofit development corporations to push through just that kind of redevelopment. A recent case was in the Western Maryland city of Cumberland, which is still reeling from the decline of coal and trying to get a foothold in tourism. In 2015, Cumberland's mayor and city council agreed to create the Cumberland Economic Development Corporation. “The CEDC will be the lead economic development entity within the city of Cumberland,” Mayor Brian Grim [told the Cumberland News-Times](#). “We give up a little control but in the process we have significant buy-in from the business community.”

Is it possible to combine the advantages of quasi-governmental agencies—their nimbleness and sense of purpose—with the oversight and accountability expected of regular government agencies?

With five of the seven board seats occupied by the private sector, a special feature of Cumberland's CEDC is that members have to pay \$5,000 to be on the board, essentially buying their own seat. The group's first order of business: good old urban renewal through demolition and displacement. Cumberland's Maryland Avenue Redevelopment Project calls for the [removal of 67 homes and a church](#) to create a commercial zone. A few holdouts who won't sell and a lack of condemnation rights forced the CEDC to place the land into the hands of a private real-estate company, making the purpose of the exercise even more obscure.

Over in Baltimore, where I live, the most powerful tool to build high-profile downtown projects has long been the nonprofit Baltimore Development Corporation (BDC), the descendent of a slew of quasi-public entities that steered downtown redevelopment projects during the 1960s and '70s. As in most U.S. cities, those projects boast a mixed record of success and failure: The city's Inner Harbor marketplace and Camden Yards stadium are recognized as international models, but Baltimore also engaged in urban renewal that brought investment along racial lines and destroyed communities in the name of slum elimination. Currently, in one of the largest new urban redevelopment projects in North America—[Under Armour's new Port Covington project](#), a \$5.5 billion waterfront city-within-a-city that the sportswear titan plans to build—the BDC has been mostly a bystander. Without influencing the project in a meaningful way, the agency approved a [gigantic \\$660 million tax increment financing \(TIF\) deal for the developer](#). The transition team of Baltimore's new mayor, Catherine Pugh, has now recommended a [restructuring of the BDC](#), turning it into a small-business support agency promoting economic development, a sort of chamber of commerce—a far cry from the enormous powers it once wielded.

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For city leaders, the pertinent question is whether it is possible to combine the advantages of quasi-governmental agencies—their nimbleness and sense of purpose—with the oversight, transparency and accountability expected of regular government agencies. Not all municipal agencies must be inefficient. And where they are, the inefficiency is usually not caused by open meeting laws, reporting requirements, political oversight, and accountability but by a lack of purpose, bad management practices, and the absence of measurable metrics of progress. All these ailments can also afflict quasi-governmental agencies, especially after they have been in place for decades and begin acting just like a government agency. An ineffective quasi-governmental corporation that lacks oversight combines two disadvantages and should be abolished.

On the other hand, cities do need nimble bodies that can tackle large problems and implement solutions. One way to maintain effectiveness could be to require that quasi-public bodies be established for a specific purpose, such as building a stadium, and then disband. Equip the enabling laws with a sunset date. Longer-term quasi-governmental agencies should have a leadership that's accountable to the public, either by a public vote on their position (as on school boards, judges, sheriffs and the like) or by being under the full oversight of an elected official and the full system of checks and balances, including the city council.

The idea of running cities more like private companies may have been progress during the corrupt boss system of the early 20th century, but governance in the public interest is far different from managing a business. [What is good for General Motors](#) isn't always good for America, as the [ever-growing divisions](#) between communities by income, race, health, and education prove. It is time to rethink the purpose, structure and operations of quasi-governmental agencies, so that the deals they get done can begin to address the huge inequality in our cities.

*Note: A different version of this article originally appeared on the author's blog, [Community Architect](#).*