Urban Redevelopment and Economic Development

- Federal Programs – block grants, empowerment zones
- State Programs
  - TIFs
    - *Castel Properties, Ltd. v. City of Marion*
    - Susan Mead article & Texas statutes
- Dislocation and the Public Use Requirement
  - *Poletown v. Detroit*
  - *County of Wayne v. Hathcock*

Essential Elements of Government-Sponsored Redevelopment

- Use of eminent domain for site assemblage
- Property tax increment financing
- Tax-exempt bonds for the local jurisdiction’s share of project cost
- Land “write-downs” of cost to private developers
- Requirement that the project area suffer from “blight”
Federal Programs for Economic Development

• The Housing Act of 1949 – grants for slum removal and “Negro removal”

• Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

• Community Development Block Grant (1974) – for locally developed priorities in traditional cities as well as suburbs and smaller cities

Federal Programs for Economic Development Cont’d

• Urban Development Act Grant (1977) – primarily to central business districts

• Enterprise Zones (mid 1980s) – tax cut in geographic zone to attract investment

• Empowerment Zones (1993) – direct subsidies and tax incentives

Taxpayer Relief Act of 1997

- Empowerment Zones
  - Wage credits
  - Increased depreciation deductions
  - Tax-exempt facilities bonds
  - EZ/EC Social Service Block Grants

Taxpayer Relief Act of 1997 Cont’d

- Empowerment Communities
  - Tax-exempt facilities bonds
  - EZ/EC Social Service Block Grants
  - Bias toward creation of small-scale traditional line black businesses
    - Businesses would have been created anyway
  - Does little to reduce unemployment

Tax-Increment Financing (TIF)
• Redevelopment authorized by statute
• Typically ties approval of project to identification of blight and a redevelopment plan designed to remove such blight
• Temptation to use TIF as subsidy for developer or to advance a pet project rather than to remove blight in economically depressed area

Cont’d

Tax-Increment Financing (TIF)
• “But for”
• Blight Factors
Tax Increment Financing Act
Texas Tax Code Ann., § 311.003 (a)

The governing body of a municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future.

Project and Financing Plans
Texas Tax Code Ann., § 311.011 (f)

In a zone designated under Section 311.005(a)(5) that is located in a county with a population of 3.3 million or more, the project plan must provide that at least one-third of the tax increment of the zone be used to provide affordable housing during the term of the zone.
Public Improvement Assessment District Act,
Tex. Local Gov’t Code Ann. § 372.003(a)
If the governing body of a municipality or county finds that it promotes the interests of the municipality or county, the governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or county or the municipality’s extraterritorial jurisdiction. A project may be undertaken in the municipality or county or the municipality's extraterritorial jurisdiction.

Public Improvement Assessment District Act,
Tex. Local Gov’t Code Ann. § 372.003(b)
A public improvement project may include:
1. landscaping;
2. erection of fountains, distinctive lighting, and signs;
3. acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way;
4. construction or improvement of pedestrian malls;
Public Improvement Assessment
District Act Cont’d

5. acquisition and installation of pieces of art;

6. acquisition, construction, or improvement of libraries;

7. acquisition, construction, or improvement of off-street parking facilities;

8. acquisition, construction, improvement, or rerouting of mass transportation facilities;

9. acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements;

10. the establishment or improvement of parks.
Economic Development Programs,  
Tex. Local Gov’t Code Ann. § 380.001(a)

The governing body of a municipality may establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality.

Poletown Neighborhood Council v. City of Detroit,  

Eminent Domain

• Public use or private use?
• Heightened scrutiny
• Legislative deference
• Public benefit must be “clear and significant”
• Public interest is predominant interest advanced

Poletown Overruled

- 1,300-acre business and technology park intended to reinvigorate the struggling economy of southeastern Michigan
- Two poles
  - Transfer to private entity for public use
  - Transfer to private entity for private use

County of Wayne v. Hathcock Cont’d

Public Use

- May include a transfer to private entity if—
  - for enterprises generating public benefits whose very existence depends on the assembled land
  - the private entity remains accountable to the public in its use of the property
  - the land to be condemned itself is based on public concern