Disneyfication of Downtown Oakland

Business Improvement Districts and the Battle for Public Space

By Adrian Drummond-Cole and Darwin Bond-Graham

Oakland is far removed from Anaheim in look, feel and form. But as corporate real estate firms stake a claim to the maintenance and administration of public space in Downtown Oakland, the area is being reshaped in accordance with the model for a controlled and commodified space exemplified by the post-war suburban shopping mall and theme park par excellence: Disneyland.

While redevelopment agencies typically control the building phase of large-scale downtown projects, in the built environment, the “curb to property line” streetscape is often controlled by the Business Improvement District (BID), a lesser known but strategically relevant urban entity.

In early 2008, a small group of managers working for the largest real estate corporations in downtown Oakland partnered with New City America, Inc. (a San Diego-based consultancy that has established over 61 BIDs in the U.S.), to create the Downtown Oakland Association (DOA) and Lake Merritt Uptown District Association (LMUDA).

How BIDs Became Such Big Deals

BIDs have radically reshaped public space and the people’s right to their cities since 1994, when California passed a Property and Business Improvement District Law (PBID). The law was written expressly to facilitate the formation of BIDs by concentrated groups of large property owners, needing little help or approval from smaller property owners, and completely bypassing the non-property-owning residents of the area. It’s author, John Lambeth, is a land-use lawyer and developer who was then working for real estate corporations in an effort to “clean up” downtown Sacramento. Lambeth today runs Civitas Partners, a consulting firm that specializes in creating and managing BIDs, such as the Fruitvale and Temescal/Telegraph BIDs, and the Oakland Convention Center and Visitors Bureau.

Marketed as a strategy for downtown retail districts to remain competitive with suburban malls, the BIDs initially followed the mall paradigm in collecting fees for facility maintenance and security. Today, there are over 1,200 BIDs in the U.S.—and many more in Europe, Canada and South Africa—employing thousands of lawyers, consultants, developers, and planners who work with cities and real estate companies to operate districts.

Proponents credit BIDs with facilitating a “business renaissance” in many blighted urban areas and generating retail tax revenues. These accolades, however, belie the anti-democratic nature of BIDs, which have state-like powers in policing, sanitation, redevelopment, and taxation matters, but are run like private nonprofit organizations governed on the basis of votes apportioned to members according to their gross property ownership. BIDs are nearly always the creation of a few large corporate real estate firms and though they often unite small businesses seeking to increase sales through street improvements and public relations campaigns, their economic benefits are actually long-term and accrue to a narrow slice of the business elite. The real benefits are in the militarization and privatization of public space in a process that ultimately leads to greatly increased rent revenues for major real estate owners.

Ostensibly non-political organizations, BIDs actively lobby elected officials and civil servants, influence how city general funds are spent, shape police policy and practices, and pressure elected officials on a variety of controversial issues. Through lobbying, BIDs greatly increase the political power of those who own land and...
buildings at the expense of the non-property owning majority. Oakland’s two largest BIDs are a case in point.

**BIDs Facilitate Taxation for Benefit of Corporations**

Under Proposition 13—the single most destructive cause of California’s chronic fiscal crisis—property taxes can only be raised with a two-thirds majority of voters or the Legislature. Passed in 1978, the law has especially harmed cities with large non-white and working class majorities, such as Oakland, which have experienced capital flight and consequently, have a relatively small retail tax base.

By demanding an affirmative vote of only those corporations and individuals who account for 50 percent of proposed assessments in a district, the PBID law allows for two unique, anti-democratic modes of governance of city space and services: (i) a small alliance of property owners can effectively circumvent Prop 13; and (ii) a handful of large property owners, if they are organized and in agreement, can raise taxes on all other property owners in a district.

Under PBID law, taxes can be raised by a tiny minority who own a majority of a district’s real estate because the taxes are technically classified as “special assessments,” which may only be spent on improvements or activities that directly benefit those paying the assessments. The legal mechanism used to raise these “special assessments” cannot be used by a city, school district, or other state agency to improve under-funded public services, which disproportionately affect communities of color. Rather, the law, by design, only allows for raising taxes in ways that are favorable to the same parties who have benefitted the most from Prop 13—large commercial real estate holders. Under current law, they pay only 1 percent of a property’s valuation at its last sale and have managed via special loopholes for corporations to transfer property without triggering a re-assessment.

Marco Li Mandri, CEO of New City America explained it very well in a 2008 address to Oakland’s business leaders: “Experience has shown that once the assessment district management corporation is formed, the private property owners in the district can normally leverage a greater amount of general benefit city services than before the establishment of the district. This is due to the fact that those property owners are now organized and can request things, such as additional trees, trash cans, lighting, and sidewalk repairs, and the CBD assessment revenues can maintain these additional capital improvements.”

In other words, BIDs greatly increase the political power of real estate corporations in city budget politics, allowing property owners to demand greater shares of the shrinking general budget to be spent in areas that benefit them at the expense of others. Not surprising, therefore, that a few large real estate corporations hired New City America to establish and operate two BIDs in downtown Oakland, both of which have been aggressive political organizations on behalf of Oakland’s owning class ever since.

It only took a small number of property owners to establish each district—nine for the DOA and 12 for the LMUDA—even though each district spans many city blocks and is composed of hundreds of individual parcels owned by several hundred persons or companies, most of whom have no meaningful voice in the BID’s governance. Control of both BIDs is reflected very straightforwardly in their boards of directors. The DOA’s board has included executives of the largest property holding corporations in the district. (Figure 1 illustrates which companies control the DOA by right of their assessments and proportional votes.) Within the LMUDA, the holdings of a few companies dwarf all others, giving those companies a controlling interest in the district’s affairs.

**From Disneyfication to Militarization of Downtowns**

After a visit to Disneyland in 1965, architect Charles Moore articulated a position that has become the “mantra” for BIDs today: “You have to pay for the public life.”

For Moore, Disneyland exemplified an ideal form of public space, “much more real” in its austere, organized, and instrumental nature. However, even he admitted that such spaces do not allow for the full range of public experience, noting that political experience is wholly absent.

BIDs attempt to create a cityscape conducive to commerce, and by claiming “curb to property line” space, attempt to instill an atmosphere of publicly accessible private space, not unlike museums, hotels and enclosed shopping malls. In an apparent emulation of Disneyland,
friendly-looking, smartly dressed “ambassadors” in navy blue or bright orange uniforms patrol the sidewalks, ready to direct tourists and enforce district rules. The point, as is exceedingly clear in downtown Oakland, is to create a Disneyfied space safe for consumer citizens to shop and eat at trendy stores and restaurants, and for corporate employees to zip through from BART stations to their office towers. The entire process hinges on an intensive gentrification effort in which undesirable categories of persons and activities associated with them are removed.

Numerous scholars have commented about the increasing “militarization” of public space—the armoring of cityscapes and city politics against the poor.8 Militarized cities are legal-political constructs designed to withdraw a resident’s right to space in favor of capital’s right to increase its control and profit from the cityscape. They are achieved through a simple logic of inclusion/exclusion and the control of access.

Both the DOA and LMUDA have focused their efforts on driving youth of color, activists, the poor, houseless persons, and other targeted populations out of district boundaries. They have executed these gentrifying policies by: (a) environmental design practices; (b) using private security for order maintenance; (c) influencing the Oakland Police Department’s (OPD) deployment of force; and (d) lobbying public officials to eradicate unwanted persons, events or businesses from the districts.

Occupy Oakland Challenges the Militarized City

Until October, 2011, there had been surprisingly few criticisms of the practice of driving out “undesirable” persons from the boundaries of Oakland’s BIDs. But all that changed when police were ordered to crack down on Occupy Oakland and specifically, to remove the encampment from Frank Ogawa Plaza, which many in the city have since re-named Oscar Grant Plaza.

After the initial violent raid and several more episodes of police violence against peaceful protestors, evidence surfaced that Oakland’s BIDs had pressured City Hall to remove the encampment. In a letter addressed to Mayor Jean Quan, the BID directors—essentially Oakland’s largest corporate real estate owners—demanded that the city remove any and all signs of protest from the downtown area, saying: “The protest has been allowed to run its course. Now it’s time to focus on jobs and the economic restoration of our city.” Ironically, the BIDs identi-

Whose Business is a BID?

*By Western Regional Advocacy Project*

A Business Improvement District (BID) is a special, legal subdivision of the city. The city collects taxes from businesses within the district (some remain exempt) and distributes that money to the BID, which uses the funds to run private services that serve only businesses within the district. Activities of BIDs are outlined in state and city law.

Downtown businesses claim that their BID is necessary because it provides additional private services that address issues, such as “crime, presence of transients, litter, and other drawbacks,” which prevent people from living and shopping downtown.

In the 1970s and 1980s, many cities experienced an economic slowdown. Reasons for the slowdown varied, but it was generally attributable to the movement of the city’s more affluent residents to the suburbs. Simultaneously, federal funding also decreased significantly, which compelled cities to cut local services—such as police, street cleaning, and court systems—despite increased demand.

Soon, downtown businesses complained that they could not compete with the suburbs because downtown areas did not seem as “clean and safe” to shoppers or potential new businesses. Assuming that cities would not be able to meet their demands for a “clean and safe” downtown owing to the funding short-ages, businesses began to lobby state governments for legislation that would enable them to petition city governments to implement BIDs. Most were successful and there now exist about 1,500 BIDs in the U.S.
“Clean and Safe” Bad for Downtown?

A BID’s services are geared towards benefiting shoppers and businesses. Homeowners and homeless people who live in the area are not a part of the equation and are only visible on the radar if their property is considered “blighted” and in need of fixing or their persons are considered undesirable and subject to removal.

Critics of this approach argue that this perspective misses a vital point—that systemic issues are not being addressed. While there is no doubt that pinched city budgets have resulted in an increase in so-called nuisance activities—such as homelessness and low level crimes—and more visible blight, merely targeting the signs and symptoms, does not address the real problem. The BID approach fails to take care of the underlying causes, hence is unlikely to bring about a real reduction in homelessness, low level crimes, and blight, say critics. Moreover, they argue, BIDs present serious issues in regards to matters of governance and accountability because:

- There is no mechanism in place to oversee the BIDs and especially their private security patrols of public spaces.
- Area homeowners are greatly disadvantaged by not being able to participate in decisions that directly affect their property and lifestyle.
- Smaller businesses, unless they have consensus and represent a 50 percent or greater voting bloc, have no say in the setting up of BIDs. ■

Western Regional Advocacy Project (WRAP) is a coalition of homeless organizations.

Endnotes
1. The California Streets and Highways Code, Section 36621(a) reads: “upon submission of a written petition, signed by the property or business owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district,” by voting on a resolution.
5. LMUDA’s board has included executives from the Swig Company, Metrovian, Kaiser, CIC Group, Brandywine, The Leamington, Beacon Properties, Metropolitan Estates, Signature Properties, Portfolio Property, Oakland Properties, and others.
6. LMUDA, Interim Board of Directors Meeting, September 22, 2009. According to the minutes of the meeting, LMUDA Executive Director elaborated on a note from City Councilperson Nancy Nadel that state some small property owners are upset by Bylaws implying that the Bylaws somehow exclude small property owners from Board participation...”

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