Minnesota Journal of Law & Inequality
Inequality Inquiry
Fall 2025

Assessing the Role of State and Local Government Subsidization of Private Redevelopment Initiatives in Michigan

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The influence of private wealth on democratic processes has long been an issue of both public and legal scrutiny in the United States. Recently, much publicity was—rightfully—generated over incredible sums donated by the wealthiest families in the country in the last presidential election. Scrutiny over the influence of these donations captures public attention as the trend towards greater economic inequality continues. An emerging trend at the local government level that has received less national attention is the role of private investment in local government economic redevelopment efforts. In Detroit, Michigan, for example, hundreds of millions of dollars in redevelopment subsidies have been granted to fund redevelopment projects led by wealthy individuals. Similarly, in Baltimore, Maryland, over one hundred million dollars in tax increment financing was granted to fund the Baltimore Peninsula (formerly Port Covington) redevelopment initiative led by the billionaire founder of Under Armour, Kevin Plank. These redevelopment efforts raise questions about the influence of private wealth at the local government level, especially in cities like Detroit that have long struggled to address issues of poverty and inequality.

Focusing on how redevelopment is occurring in Detroit provides insight into the legal structure behind this development trend, and into the inequality related policy issues that may arise if it is undertaken more broadly throughout the country. In Michigan, state statutes govern the economic development activities of local government entities like the City of Detroit. One major form of economic development funding that the city provides private investors are tax subsidies authorized under Michigan's Brownfield Redevelopment Financing Act, which gives local governments authority to structure financial incentives for the redevelopment of blighted or otherwise obsolete property. Four of Rocket Mortgage founder and billionaire Dan Gilbert's redevelopment projects in downtown Detroit have received over 600 million dollars in transformational brownfield incentives through this program. Much redevelopment is also governed by the Recodified Tax Increment Financing Act, which authorizes the establishment of Downtown Development Authorities (DDAs) and their power to structure tax increment financing (TIF) for redevelopment purposes. TIFs are complex municipal financing schemes, but at a high level they allow a local authority to capture increases in a city's tax base resulting from increased property value, and use it to invest in economic redevelopment. Detroit's DDA is now capturing value four times greater than the initial assessed value of the downtown redevelopment area.

The amount of tax capture and the resulting subsidies for wealthy developers like Gilbert are a source of controversy and concern for a city that has long struggled with issues related to economic inequality. These economic incentives—TIFs in particular—have come under more scrutiny as questions about their efficacy arise. The idea behind these incentives is that increased development will bring jobs and raise the value of the downtown area and the rest of the city, but these are speculative endeavors and there is no guarantee that they will pay off in the manner that developers promise. Meanwhile, the portion of the tax base that is being diverted for development purposes is not going to public services such as libraries or school districts. Thus, these projects understandably become controversial for communities that have been disturbed by gentrification and concentrated poverty. The focus on private investment in redevelopment initiatives also raises concerns over the potentially outsized influence of wealthy individuals, and the fact that local authorities—and their economy—may become reliant on the actions of private actors. Still, even those wary of growing inequality and the risk of private influence recognize that such development initiatives have been an important source of the city's growth and resurgence in recent years.

Though it raises policy issues, the use of tax capture to subsidize private investment seems to remain uncontroversial under Michigan law. However, the state legislature may soon have to revisit its brownfield redevelopment and TIF statutes, and it is an opportune time to wrestle with redevelopment policy goals. It is worth recounting that Michigan has a storied history related to economic development, beginning with the infamous eminent domain case of Poletown Neighborhood Council v. City of Detroit, which allowed an eminent domain action displacing thousands of residents to build a new GM plant. *Poletown* was eventually overturned by *County of Wayne v. Hathcock*, which constrained the definitions of "public use" for eminent domain purposes under Michigan law. The Michigan Supreme Court has declined to constrain the public purpose of TIFs or other incentive programs in a similar manner. Moving forward, Detroit and cities like it will have to balance their need for investment and redevelopment with concerns about growing inequality and the influence of private actors. In achieving this balancing, perhaps state lawmakers should consider Michigan's controversial history of economic redevelopment to ensure that initiatives are appropriately constrained.