

EAST SIDE STORY – THE EAST BALTIMORE DEVELOPMENT INITIATIVE

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I – Introduction / A History of Distrust

“[It’s the] worst crime area in the United States... You could call in the National Guard and declare martial law.”

-William Brody, President, Johns Hopkins University¹

"They say that Johns Hopkins is taking over everything. It's just like the slavery days. They take your land and you got to go."

-Rita Berry, Resident of East Baltimore for 34 Years²

East Baltimore, Maryland is a study of remarkable contrasts. The area is home to the Johns Hopkins University medical campus, which contains some of most distinguished academic and health institutions in the entire world. The centerpiece of the sprawling complex is the striking Johns Hopkins Hospital, consistently rated America’s best hospital every year since 1992 and sustaining an annual operating budget over \$4 billion.³ Yet right outside its iron wrought gates lies the Middle East neighborhood, one of the most impoverished and crime-ridden communities in the City of Baltimore. Middle East has been devastated by the loss of manufacturing jobs, terrorized by the scourge of crack cocaine and overwhelmed by the painful decline of urban decay. Over

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¹ Patrice Hutton, *Relocated Residents Speak Out*, JOHNS HOPKINS NEWS-LETTER, Nov. 4, 2005, available at <http://media.www.jhunewsletter.com/media/storage/paper932/news/2005/11/04/News/Relocated.Residents.Speak.Out-2242560.shtml>.

² *Id.*

³ JOHNS HOPKINS MEDICINE, POCKET GUIDE 2007 (2007), available at http://www.hopkinsmedicine.org/about/Hopkins_Pocket_Guide_2007.pdf.

half of the homes in the area are vacant⁴ and property values have dropped from \$57,581 to \$45,231 between 2000 and 2005 and continue to fall precipitously.⁵

Unsurprisingly, there is a long history of unease and mistrust between these East Baltimore neighbors. Strains became evident when Johns Hopkins University began to spread beyond its original confines in the first half of the 20th century.⁶ The institution engendered more ill-will and a heap of city housing code violations in the 1970s and 1980s when it acquired numerous decrepit properties in the area only to leave them untouched when certain expansion plans sputtered.⁷ Residents who lived in the shadows of the massive complex dubbed it “the compound” and cast its leaders as “vampires.”⁸ Yet in a spate of violence in 1992 where a medical student was raped, a doctor was kidnapped and a medical school professor was attacked in her own office on a Saturday afternoon, the Johns Hopkins University realized it could no longer choose to be indifferent to its environs.⁹

The university attempted to improve its image by revising its mission statement to include a commitment to improving the surrounding community, spearheading the creation of neighborhood action organizations and participating in efforts to revitalize Middle East.¹⁰ However, when these well-intentioned yet measured efforts failed to produce any noticeable results, the skepticism of residents continued to fester. Realizing a decisive and progressive plan was necessary to revitalize the area, the Johns Hopkins

⁴ Ezra Fieser, *Baltimore Buys Rowhouses From Nonprofit in Revitalization Effort*, THE DAILY RECORD (Baltimore), Oct. 2, 2003.

⁵ Will Morton, *Going Either Way*, THE BALT. SUN, July 17, 2005, at 1L.

⁶ See Marisela B. Gomez & Carles Muntaner, *Urban Redevelopment and Neighborhood Health in East Baltimore, Maryland: The Role of Communitarian and Institutional Social Capital*, 15 CRITICAL PUBLIC HEALTH 83, 91 (June 2006).

⁷ Alec Klein, *Homeowners Angered by Hopkins Bids*, THE BALT. SUN, Apr. 26, 1998, at 1B.

⁸ Alec Klein, *A Neighborhood Hospital*, THE BALT. SUN, Apr. 8, 1998, at 3C.

⁹ *Id.*

¹⁰ *Id.*

University collaborated with both public and private entities to create a new vision for East Baltimore that would transform eighty acres of urban blight into a revitalized community of research space, housing, retail and parks.

This paper attempts to shed some light upon this ambitious and controversial urban renewal project, which is still in its early stages. First, an overview of federal, state and local eminent domain power is presented along with the constitutional and statutory responsibilities of the condemning authorities that exercise it. Next, a brief examination of the East Baltimore Development Initiative, a glimpse into why previous renewal efforts failed and a close look at the relocation assistance framework are offered. Finally, the article ends with an attempt to determine the winners and losers of the massive EBDI plan.

II –Eminent Domain Law in the State of Maryland and the City of Baltimore Relevant to Urban Renewal Projects

“Without the availability of eminent domain, we would not have the opportunity here in East Baltimore to take what is an extremely physically deteriorated and economically challenged community and have the tools needed to transform that to create a better quality of life.”

-Jack Shannon, President and Chief Executive Officer, East Baltimore Development, Incorporated¹¹

A- The Sovereign’s Power of Eminent Domain and Constitutional Limitations

Eminent domain is defined as “[t]he inherent power of a governmental entity to take privately owned property, especially land, and convert it to public use, subject to reasonable compensation for the taking.”¹² This authority derives from the sovereign and

¹¹ Lorraine Mirabella, *High Court Upholds Eminent Domain; Acquisitions Fueled a Rebirth*, THE BALTIMORE SUN, June 24, 2005, at 1A.

¹² *Mayor and City Council of Baltimore City v. Valsamaki*, 397 Md. 222, 241 (2007), citing Black’s Law Dictionary 562 (8th ed.2004).

“requires no constitutional authority for its existence.”¹³ The government’s right to take private land for public use has been responsible for such celebrated urban projects in Baltimore as the famed Inner Harbor, which includes Harborplace, the National Aquarium, the Maryland Science Center, the American Visionary Arts Museum and the Baltimore World Trade Center, and Charles Center, a large office and commercial complex in the heart of the city’s central business district.¹⁴ Thus the power of eminent domain can allow condemning authorities to stimulate widespread economic development where private market forces fail, remove deleterious conditions that interfere with the public health, safety, morals and welfare of citizens, provide individuals with employment opportunities and increase the tax base of a locality.

This potent ability to condemn land through eminent domain is restrained by both the United States Constitution and the Constitution of Maryland. The Takings Clause of the Fifth Amendment of the United States Constitution states that “...nor shall private property be taken for public use, without just compensation.”¹⁵ This constitutional guarantee is made applicable to the states through the Due Process Clause of the Fourteenth Amendment.¹⁶ Maryland’s state constitution mandates a similar limitation on the sovereign’s inherent power of eminent domain: “[T]he General Assembly shall enact no Law authorizing private property, to be taken for public use, without just compensation...”¹⁷ These constitutional checks ensure that the governmental authority cannot exercise its condemnation powers to take private property from one person and

¹³ *Lore v. Board of Public Works*, 277 Md. 356, 358 (1976), citing *Riden v. Phila., B & W.R.R. Co.*, 182 Md. 336, 339 (1943).

¹⁴ *See* Brief of Amicus Curiae of the Mayor and City Council of Baltimore in Support of Respondents, *Kelo v. City of New London*, 125 S.Ct. 2655 (2005), 2005 WL 166940; Lorraine Mirabella, *High Court Upholds Eminent Domain – Acquisitions Fueled a Rebirth*, THE BALT. SUN, June 24, 2005, at 1A.

¹⁵ U.S. CONST. amend. V.

¹⁶ *See Chicago, B. & Q.R. Co. v. Chicago*, 166 U.S. 226, 239 (1897).

¹⁷ Md. CONST. art. III, § 40.

give it to another person for purely private purposes, even if the original owner is provided with just compensation because it would not further any legitimate government interest.¹⁸

Yet the Supreme Court and the Maryland Court of Appeals have determined that the judiciary has a very narrow role in determining whether the public use requirement has been satisfied.¹⁹ Beginning with a line of modern cases that stretch from *Berman v. Parker* in 1954 to *Kelo v. City of New London* almost fifty years later, the United States' highest court has shown great deference to localities when considering whether a condemning authority has fulfilled this constitutional condition.²⁰ Quite simply, the Supreme Court has held that the range of the government's eminent domain authority is equal to its police power²¹ and an understanding of the term "public use" is by no means restricted to its literal meaning.²² Housing redevelopment plans,²³ land redistribution schemes²⁴ and economic revitalization projects²⁵ were all found by the Supreme Court to be rationally related to achieving a legitimate conception of a public use.

In fact, the Maryland Court of Appeals ruled two decades before the controversial *Kelo* decision that any government plan that conceivably improves the public's condition,

¹⁸ See *Calder v. Bull*, 3 Dall. 386, 388-89 (1798); *Hawaii Housing Authority v. Midkiff*, 467 U.S. 229, 241-45 (1984) (same); *Kelo v. City of New London*, 545 U.S. 469, 477-78 (2005) (same); *Prince George's County v. Collington Crossroads, Inc.*, 275 Md. 171, 188 (1975) (same).

¹⁹ See *Berman v. Parker*, 348 U.S. 26, 32 (1954) ("The role of the judiciary in determining whether that power is being exercised for a public purpose is an extremely narrow one"); *City of Baltimore v. Chertkof*, 293 Md. 32, 42 (1982) ("...condemnation ... for urban renewal purposes ... embodies a broad concept of public use, not limited to actual use by the public, but rather to use benefiting the public").

²⁰ See *Berman*, 348 U.S. at 32.

²¹ *Midkiff*, 467 U.S. at 240 ("The "public use" requirement is thus coterminous with the scope of a sovereign's police powers").

²² See *id.* at 244, citing *Rindge Co. v. Los Angeles* 262 U.S. 700, 707 (1923); *Green v. High Ridge Ass'n*, 346 Md. 65, 73 (1997), citing *Collington Crossroads*, 275 Md. at 182; *Herzinger v. City of Baltimore*, 203 Md. 49, 60-61 (1953).

²³ See *Berman*, 348 U.S. at 32-33.

²⁴ See *Midkiff*, 467 U.S. at 241-42.

²⁵ See *Kelo*, 545 U.S. at 483-84.

including economic development projects, must be deemed to achieve a public use.²⁶

Under current eminent domain law, as long as the government employs its condemnation abilities in a way that can plausibly promote the public health, safety, morals and welfare, it is in harmony with both the United States and Maryland constitutions.

The condemning authority is also required to provide just compensation to the property owner. According to the Supreme Court, the Fifth Amendment ensures the government will pay “the full and perfect equivalent in money of property taken,”²⁷ which would put the property owner in the same “pecuniary position” as if it had not been acquired.²⁸ Courts have long used the notion of fair market value to embody this principle.²⁹ The Court of Appeals has followed the Supreme Court’s reading of the just compensation obligation imposed by Art. III, § 40 of the Constitution of Maryland³⁰ and have equated it with “fair market value of the land.”³¹

In Maryland, the state legislature has created a statutory framework for measuring fair market value and providing just compensation. Maryland Real Property Code Ann. § 12-105(b) defines the constitutional required payment as:

the price as of the valuation date for the highest and best use of the property which a vendor, willing but not obligated to sell, would accept for the property, and which a purchaser, willing but not obligated to buy, would pay, excluding any increment in value proximately caused by the public project for which the property condemned is needed.³²

²⁶ *Collington Crossroads*, 275 Md. At 191 (“[P]rojects reasonably designed to benefit the general public, by significantly enhancing the economic growth of the State or its subdivisions, are public uses at least where the exercise of condemnation provides the impetus which private enterprise cannot provide”).

²⁷ *United States v. Miller*, 317 U.S. 369, 373 (1943), citing *Monongahela Navigation Co. v. United States*, 148 U.S. 312, 326 (1893).

²⁸ *Id.*, citing *Seaboard Air Line Ry. v. United States*, 261 U.S. 299, 304 (1923) and *United States v. New River Collieries Co.*, 262 U.S. 341, 343 (1923).

²⁹ *Id.* at 373-74.

³⁰ *King v. State Roads Commn.*, 298 Md. 80, 83-84 (1983) (“[D]ecisions of the Supreme Court interpreting the Fifth Amendment’s just compensation clause are therefore practically direct authority for our interpretation of the identical provision in Art. III, § 40 of the Constitution of Maryland”).

³¹ *Dodson v. Anne Arundel County*, 294 Md. 490, 494 (1982).

³² MD. CODE ANN., REAL PROPERTY § 12-105(b).

Just compensation could also include any diminution in value occurring between the effective date of any legislative action necessary to acquire the property and the date of the taking, if such reduction was proximately caused by the public plan, or by any announcements or other behavior by the condemning authority concerning the public plan and beyond the control of the property owner.³³

Maryland law does prohibit a jury from considering certain factors when determining the amount of money due to a property owner. The statutory language explicitly states that fair market value does not include any increase in value stimulated by the public project when such property is part of the plan.³⁴ Property owners are also limited to those damages specifically sanctioned by “legislative grace”³⁵ of the Maryland General Assembly.³⁶ These authorizations do not cover “consequential” damage to personal property³⁷ or loss of business profits.³⁸

B – Baltimore City’s Powers of Eminent Domain

Article XI-B, § 1 of the Maryland Constitution explicitly grants the City of Baltimore condemnation authority.³⁹ Under this constitutional provision, Baltimore City can acquire any property within city limits through eminent domain for development, redevelopment, renovation or rehabilitation purposes⁴⁰ and then transfer it to any private,

³³ *Id.*

³⁴ This is known as the “scope of the project” rule. See *King v. Mayor of Rockville*, 249 Md. 243, 251 (1968) and *Baylin v. State Roads Com’n*, 300 Md. 1, 12 (1984).

³⁵ See e.g., *King*, 298 Md. at 84-85, *Dodson*, 294 Md. at 498, *Mayor and City Council of Baltimore v. Kelso*, 294 Md. 267, 275 (1982).

³⁶ See MD. CODE ANN., REAL PROPERTY § 12-104 and *Acting Director v. Walker*, 39 Md.App. 298, 304 (1978) (“An owner who has suffered additional damage is entitled to be compensated only if and to the extent authorized by the Legislature”).

³⁷ See *Ridings v. State Roads Commission*, 249 Md. 395, 399-400 (1964)

³⁸ See *State Road Commission v. Novosel*, 203 Md. 619, 623 (1954); *Mercantile-Safe Deposit & Trust Co. v. Baltimore*, 308 Md. 627, 643 (1987).

³⁹ *Valsamaki*, 397 Md. at 244.

⁴⁰ Md. CONST. art. XI-B, §1(a).

quasi-public or public legal entity, including corporations, partnerships and individuals.⁴¹ The Department of Housing and Community Development, the Baltimore Development Corporation, a non-profit corporation that formulates development and revitalization strategies⁴² and the East Baltimore Development, Incorporated, the entity in charge of the renewal project in Middle East (hereinafter “EBDI”), are all entities who often work in concert with Baltimore City on its urban renewal efforts. While Article XI-B, § 1 reinforces the constitutional requirement of just compensation, it states that any land acquired under its authority is deemed to be for a public use.⁴³ However, the Court of Appeals has maintained that this language does nothing to diminish the protections provided by the United States Constitution.⁴⁴

Other sections of the Maryland Constitution authorize the General Assembly the ability to bestow immediate taking (hereinafter “quick take”) powers to the Mayor and City Council of Baltimore.⁴⁵ This extraordinary capacity has been used to acquire a significant number of properties related to the East Baltimore Development Initiative.⁴⁶ Quick-take allows the condemning authority to acquire immediate possession of property after it pays to the owner or deposits with a court an estimated value of just compensation

⁴¹ Md. CONST. art. XI-B, §1(b).

⁴² *City of Baltimore Development Corporation v. Carmel Realty Associates*, 395 Md. 299, 317 n. 13 (2006).

⁴³ Md. CONST. art. XI-B, §1(b).

⁴⁴ *Valsamaki*, 397 Md. at 244 n. 14.

⁴⁵ *Id.* at 244, citing *Bern-Shaw*, 377 Md. at 281-82 n. 1; *J.L. Matthews, Inc. v. Maryland-National Capital Park Planning Comm’n*, 368 Md. 71, 90 (2002); *King*, 298 Md. at 86.

⁴⁶ Eric Siegel, *City Acquiring 70 Houses in Step Toward Biotech Park*, THE BALTIMORE SUN, Dec. 26, 2002, at 1B.

until the actual amount can be determined at a later time.⁴⁷ Under Article III, § 40A of the Maryland Constitution:

...[W]here such property is situated in Baltimore City and is desired by this State or by the Mayor and City Council of Baltimore, the General Assembly may provide that such property may be taken immediately upon payment therefore to the owner or owners thereof by the State or by the Mayor and City Council of Baltimore, or into court, such amount as the State or the Mayor and City Council of Baltimore, as the case may be, shall estimate to be the fair value of said property, provided such legislation also requires the payment of any further sum that may subsequently be added by a jury...⁴⁸

The Maryland state legislature's granting of this immediate taking power currently exists in § 21-16 of the Code of Public Local Laws of Baltimore City.

When the Mayor and City Council of Baltimore desires to acquire private property for a public purpose through quick take condemnation, it must file a petition under oath stating that it is necessary for the city to have immediate possession, the reasons why and an estimate of the fair value substantiated by the affidavits of two qualified appraisers.⁴⁹ In the context of urban renewal, the Baltimore City Code requires that such projects be carried out pursuant to a renewal plan⁵⁰ prepared by the Department of Housing and Community Development⁵¹ and enacted by ordinance of the City Council.⁵² The Court of Appeals has found that urban renewal plans fulfill the public use requirement.⁵³

⁴⁷ *Valsamaki*, 397 Md. at 226 n. 1, citing Black's Law Dictionary 310 (8th ed.2004); *King*, 298 Md. at 80 ("Quick-take condemnation occurs where 'the condemning authority takes possession of the property prior to trial upon payment into court of its estimate of the value of the property taken'").

⁴⁸ Md. CONST. art. III, §40A

⁴⁹ Code of Public Local Laws of Baltimore City, § 21-16(a).

⁵⁰ Baltimore City Code, Art. 13, §2-5.

⁵¹ *Id.* at §2-6(a).

⁵² *Id.* at §2-6(b)(1).

⁵³ *See Master Royalties v. Baltimore City*, 235 Md. 74, 88 (1964) ("...[A] taking in furtherance of a genuine urban renewal plan...is a taking for a public purpose").

Once a quick-take petition is filed, the court has the discretion to hold a hearing on the petition within a week of its filing; if not, it has seven days to pass an order on the petition *ex parte*.⁵⁴ If the property owner does not file an answer challenging the city's right or power to condemn within ten days after personal service, title vests in the Mayor and City Council of Baltimore.⁵⁵ If an individual does respond to the Petition for Immediate Possession, the trial court must hold a hearing within fifteen days that is statutorily limited to contesting the city's right or power to take title to the property.⁵⁶ The court must render a decision another fifteen days from the end of the hearing and either party has an immediate right to appeal to the Maryland Court of Appeals.⁵⁷

The Court of Appeals has shown a great deal of discomfort recently with this extremely accelerated process, especially considering the important constitutional rights at stake.⁵⁸ Because a hearing must take place within twenty-five days of a property owner being served with a Petition for Immediate Possession, he or she has a particularly short amount of time to prepare for a trial. Additionally, since a party has thirty days to respond for requests for interrogatories, depositions, production of documents and property under the Maryland rules, Baltimore City does not have to react to any calls for discovery.⁵⁹

⁵⁴ Code of Public Local Laws of Baltimore City, § 21-16(b),(d).

⁵⁵ *Id.* at § 21-16(c).

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Sapero v. Mayor and City Council of Baltimore*, 398 Md. 317, 347 (2007) (“These quick-take condemnations deal with the fundamental right to property, and any resulting deprivation of process – that which is normally provided under regular condemnation proceedings – should not occur unless warranted by extreme circumstances”).

⁵⁹ *Valsamaki*, 397 Md. at 231 n. 8.

According to the Court, § 21-16 “severely and prohibitively restricts a party’s ability to prepare for the hearing to challenge the quick-take condemnation.”⁶⁰ As a result, the City of Baltimore must demonstrate a sufficient impression of necessity in order to receive immediate possession under quick take condemnation.⁶¹ Such examples include serious threats to the public health, safety and welfare⁶² and hold-outs who are preventing an urban renewal project from proceeding.⁶³ Yet despite the “morass of procedural due process concerns” created by quick take condemnation, the Court of Appeals has refused to find the powerful revitalization tool unconstitutional.⁶⁴

C – Responsibilities of the Condemning Authority under Federal and Maryland Law

Pursuant to the constitutions of the United States and Maryland, just compensation is defined as the fair market value of the property taken by the condemning authority. Yet this measurement does not even begin to cover the tangible costs of moving expenses and business losses as well as the intangible burdens of leaving a home with great intrinsic value and the possibility of displacement from a community in which one has deep roots.⁶⁵ In view of the failure of just compensation to provide adequate reimbursement for the cost of relocation and the considerable social cost of displacement, both the federal and Maryland governments passed legislation to ensure that such

⁶⁰ *Sapero*, 398 Md. at 346. See also *Valsamaki*, 397 Md. at 231. In both the *Valsamaki* and *Sapero* cases, the City did not respond to any requests for discovery. *Sapero*, 398 Md. at 345-46.

⁶¹ *Valsamaki*, 397 Md. at 255.

⁶² *Id.* at 254 citing *Free State Co. Inc. v. City of Baltimore*, 279 Md. 550, 552 (1977).

⁶³ *Id.* citing *Segall v. City of Baltimore*, 273 Md. 647, 648 (1975).

⁶⁴ *Sapero*, 398 Md. at 348.

⁶⁵ See generally James J. Kelly, Jr., “We Shall Not Be Moved”: Urban Communities, Eminent Domain and the Socioeconomics of Just Compensation, 80 ST. JOHN’S L. REV. 923 (2006); Jeffrey T. Powell, The Psychological Cost of Eminent Domain Takings and Just Compensation, 30 LAW & PSYCHOL. REV. 215, 219-33 (2006); John Fee, Eminent Domain and the Sanctity of the Home, 81 NOTRE DAME L. REV. 783, 783-96 (2006); Ernest Norton Tooby, The Interest in Rootedness: Family Relocation and an Approach to Full Indemnity, 21 STAN. L. REV. 801, 801-818 (1969);

individuals receive additional payments and services beyond those guaranteed by the constitutional.

The 1970 Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs (hereinafter the Uniform Relocation Act) and §104(d) of the Housing and Community Development Act of 1974 (hereinafter § 104(d)) in the federal government and Md. Real Property Code Ann. § 12-201 *et seq.* all address the inadequacy of the constitutional right of just compensation by providing displaced persons with both money and relocation assistance advisory programs to facilitate a transition that is as smooth as reasonably possible.

1. – *Federal Legislation*

The Uniform Relocation Act instituted a standardized policy that entitled individuals displaced by federally financed projects to monetary payments and relocation services.⁶⁶ Congress believed that such action was necessary to diminish the disorienting impact of displacement was crucial to “maintaining the economic and social well-being of communities,” that relocation usually precipitates the closure of businesses and that government had the responsibility to insure that displaced individuals did not suffer disproportionately from such projects.⁶⁷ Noncompliance with the Uniform Relocation Act could result in the withholding of any federal financial assistance.⁶⁸

All displaced individuals were entitled to moving and related expenses under the Uniform Relocation Act.⁶⁹ This included reasonable expenses related to the moving of

⁶⁶ 42 U.S.C. §§ 4601-4655.

⁶⁷ *Id.* at § 4621(a)(4); 4621(a)(3); 4621(b).

⁶⁸ *Id.* at § 4601(c)(1).

⁶⁹ *Id.* at § 4622.

an individual, his family, business, farm or other personal property,⁷⁰ the direct losses of tangible personal property as a result of moving or discontinuing the business,⁷¹ the search for a replacement business⁷² and the reestablishment of a displaced nonprofit organization or business up to \$10,000.⁷³ However, relocated persons can elect to receive an expense and dislocation allowance in lieu of the payments authorized by the Uniform Relocation Act.⁷⁴

Displaced homeowners who have occupied their dwelling for at least 180 days prior to negotiations for acquisition are also provided a payment up to \$22,500.⁷⁵ This amount, when added to the acquisition price of the dwelling, should reflect any increased interest and debt service costs for financing a comparable replacement home and other closing costs including evidence of title and recording fees⁷⁶ and allow the relocated homeowner to secure comparable replacement housing.⁷⁷ In order for a homeowner to receive this payment, he or she must occupy the new home within a year, but this deadline can be extended for good cause.⁷⁸ Tenants who have leased their dwelling for at least 90 days prior to negotiations for acquisition or when displacement is not a direct result of acquisition are entitled to a payment up to \$5,250 for renting a comparable home

⁷⁰ *Id.* at § 4622(a)(1).

⁷¹ *Id.* at § 4622(a)(2). This payment could not exceed that amount that it would have required to move such property. *Id.*

⁷² 42 U.S.C. § 4622(a)(3).

⁷³ *Id.* at 4622(a)(4).

⁷⁴ *Id.* at § 4622(b); 42 U.S.C. 4622(c).

⁷⁵ *Id.* at § 4623(a)(1).

⁷⁶ *Id.* at § 4623(a)(1)(A)-(C).

⁷⁷ *Id.* at § 4623(a)(1)(A).

⁷⁸ 42 U.S.C. § 4623(a)(2)

for forty-two months.⁷⁹ Such monies can be paid in a lump sum or in periodic installments⁸⁰ and can be used to purchase a home as well.⁸¹

Before any displacements occur, any program or project that receives federal backing should prepare a plan that “provides for the resolution” of the issues related to the relocation of individuals, families, businesses and farm operations.⁸² Such preparations must ensure that advisory services are available to all displaced persons and must address their needs for relocation assistance, inform them on the availability and prices of comparable replacement dwellings and appropriate locations for business, notify them of other relevant federal and state programs and offer any other help “in order to minimize hardships to such persons in adjusting to relocation.”⁸³ Additionally, no federal funds should be allocated for any project unless the required payments can be made for moving expenses and replacement housing and that relocation assistance programs will be provided.⁸⁴

Section 104(d) of the Housing and Community Development Act of 1974⁸⁵ targets displaced low-income residents and applies whenever federal funds are used to further a particular project or plan. It requires that when the development authority demolishes any low and moderate income dwelling units, it replaces them with comparable units on a one-on-one basis “within the same community”.⁸⁶ EBDI has interpreted this mandate to be satisfied by providing such housing anywhere within

⁷⁹ 42 U.S.C. § 4624(a).

⁸⁰ *Id.* If periodic installments are chosen, the displaced individual’s income shall be taken into account when computing the amount of such payments. *Id.*

⁸¹ *Id.* at § 4624(b).

⁸² *Id.* at § 4625(a).

⁸³ *Id.* at § 4625(c)(1)-(6).

⁸⁴ *Id.* at § 4630(1)-(3).

⁸⁵ Codified at 42 U.S.C. 5304(d).

⁸⁶ 42 U.S.C. 5304(d)(A)(i).

Baltimore City as opposed to just in the East Baltimore neighborhood.⁸⁷ These replacement dwellings must remain affordable to low and moderate income individuals for ten years.⁸⁸

Additionally, all low and moderate income persons are entitled to reimbursement for moving expenses, security deposits, credit checks and other moving related expenses, including any “interim living costs.”⁸⁹ Displaced persons of low and moderate income receive compensation for sixty months, as opposed to forty-two under the Uniform Relocation Act, sufficient to cover any shelter costs that exceed 30% of their income.⁹⁰ Those individuals eligible for §104(d) benefits have the option to elect to receive payments and services under the Uniform Relocation Act if they choose to do so.

2. – *Maryland Legislation*

For state projects not under the purview of the Uniform Relocation Act and §104(d), Md. Real Property Code Ann. §12-202 requires the displacing agency to tender payments to an individual who both owned and lived in his dwelling 180 days prior to the initiation of negotiations for the purchase of the property in addition to the acquisition cost.⁹¹ This money is intended to allow the property owner to find a comparable replacement dwelling,⁹² pay any increased interests costs and other debt service costs if the dwelling acquired by the condemning authority was encumbered by a mortgage that was a valid lean on the dwelling for not less than 180 days before the initiation of

⁸⁷ East Baltimore Development Inc., East Baltimore Relocation Plan 7-8 (Nov. 2004), available at <http://www.ebdi.org/docs/npdf/OverviewofRelo.pdf>

⁸⁸ 42 U.S.C. § 5304(d)(A)(ii).

⁸⁹ *Id.* at § 5304(d)(A)(iii).

⁹⁰ *Id.* at § 5304(d)(A)(iii)(I). These funds can also be given in a lump sum payment. *Id.* at 5304(d)(A)(iii)(II).

⁹¹ MD. CODE ANN., REAL PROPERTY § 12-202.

⁹² *Id.* at § 12-202(b)(1).

negotiations for the acquisition of the property⁹³ and for reasonable expenses related to closing costs for the purchase of the new home.⁹⁴

Any payments allowed by Md. Real Property Code Ann. § 12-202 are not to exceed \$22,500, but exceptions can be made on an individual basis if comparable housing cannot be purchased within the statutory limit.⁹⁵ This is an important distinction from the federal legislation. In order to be eligible for this money, a displaced person must purchase and occupy a replacement dwelling no later than one year from when he or she receives final payment of all costs of the acquired dwelling.⁹⁶

Other additional compensation schemes exist for those who do not own their own home. Any displaced lawful tenant who has occupied a dwelling for not less than 90 days before acquisition discussions can be entitled to payments up to \$5,250 to enable him or her to lease or rent a similar dwelling for a period not to exceed 42 months.⁹⁷ This money can also be used for purchasing a replacement dwelling.⁹⁸ However, one's income is considered when determining any compensation calculation⁹⁹ and greater disbursements than the statutory limit can be allocated on a case-by-case basis.¹⁰⁰ Once again, no such exception exists in the federal legislation.

⁹³ *Id.* at § 12-202(b)(2).

⁹⁴ *Id.* at § 12-202(b)(3). This includes “evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.” *Id.*

⁹⁵ *Id.* at § 12-202(a)(2)(i). Additionally, “the displacing agency may use any other measures necessary to remedy the unavailability of comparable housing.” *Id.* at § 12-202(a)(2)(ii).

⁹⁶ *Id.* at § 12-203. There are some exceptions to this deadline. First, the date from which a displaced person must have purchased and be occupying a new dwelling can be pushed back in exigent circumstances [national emergency, major disaster declared by the government, any other emergency that is a substantial danger to the health or safety of a person. *Id.* at § 12-203(2), citing *id.* at § 12-206(b)(3)(i)-(iii)]. The displacing agency can also extend “such a period for good cause.” *Id.*

⁹⁷ MD. CODE ANN., REAL PROPERTY § 12-204(a) and § 12-204(b)(1)(i). Those lawful tenants who were displaced “not as a direct result of acquisition, such other activity as the lead agency shall prescribe” are also eligible for additional compensation. MD. CODE ANN., REAL PROPERTY § 12-204(a).

⁹⁸ *Id.* at § 12-204(c)(1).

⁹⁹ *Id.* at § 12-204(b)(1)(iii).

¹⁰⁰ *Id.* at § 12-204(b)(2).

All displaced individuals are eligible for monetary assistance regardless of whether they are a property owner or tenant. The condemning authority is required to pay for reasonable moving expenses¹⁰¹ and any personal property left behind in the move itself.¹⁰² There is no statutory limit on the amount of moving expenses a displaced person can receive and reimbursements in Maryland have exceeded one million dollars.¹⁰³ If a business must be relocated as a result of agency action, the owner is entitled to reasonable expenses for searching for a replacement business¹⁰⁴ and due to recent legislation, up to \$60,000 for reestablishing a displaced farm, nonprofit organization or small business at a new site.¹⁰⁵ An individual also receives any incidental expenses related to transferring the taken property to the condemning authority, including recording fees, transfer taxes, penalty costs for prepayment of preexisting mortgage.¹⁰⁶

Similar to the Uniform Relocation Act, condemning authorities are required by Maryland law to offer a relocation assistance advisory program for those displaced by eminent domain and those immediately adjacent to the property acquired who suffer significant economic harm due to an acquisition.¹⁰⁷ The displacing agencies must present these property owners with information regarding the existence and availability of comparable housing opportunities,¹⁰⁸ reassure individuals that they have a reasonable period of time to relocate to equivalent housing before they must leave their homes,¹⁰⁹

¹⁰¹ *Id.* at § 12-205(a)(1).

¹⁰² *Id.* at § 12-205(a)(2).

¹⁰³ John C. Murphy, Relocation Assistance 154 (on file with author).

¹⁰⁴ MD. CODE ANN., REAL PROPERTY § 12-205(a)(3).

¹⁰⁵ Laura Smitherman, *Eminent Domain Bill Passed in Md. Senate*, THE BALT. SUN, Apr. 3, 2007, at 5B.

¹⁰⁶ MD. CODE ANN., REAL PROPERTY § 12-209.

¹⁰⁷ *Id.* at § 12-206.

¹⁰⁸ *Id.* at § 12-206(b)(2).

¹⁰⁹ *Id.* at § 12-206(b)(3).

educate them of relevant federal and State assistance programs¹¹⁰ and take other necessary steps to “minimize hardships” all the while proceeding with “program or project advancement and completion.”¹¹¹ For those who own a business or farm, the governmental entities must aid these individuals with finding and restarting at a proper and appropriate replacement site.¹¹²

3. *Recent Maryland Efforts to Limit Condemnation Powers for Urban Renewal Projects*

Increased relocation assistance¹¹³ was the only surviving provision of a failed comprehensive attempt to overhaul the condemnation process for economic revitalization projects. In the 2006 session of the Maryland General Assembly, State Senator James E. DeGrange Sr. of Anne Arundel County sponsored Senate Bill 3.¹¹⁴ The bill, which was crossfiled with House Bill 1137, was intended to prevent condemning viable businesses for urban renewal or economic redevelopment if other alternatives are “reasonably practicable” and ensure that every “reasonable effort” was made to incorporate existing businesses in economic revitalization projects.¹¹⁵

Senate Bill 3 would prevent any government entity from condemning private property to or for the benefit of a private party for purposes of economic development unless the taking authority could find, among other things, that the project had “substantial and direct public uses and benefits,” that acquiring the property was “necessary to carry out the comprehensive development plan” and the displaced party has

¹¹⁰ *Id.* at § 12-206(b)(5)

¹¹¹ *Id.* at § 12-206(b)(6).

¹¹² MD. CODE ANN., REAL PROPERTY § 12-206(b)(4).

¹¹³ Chapter 305, Maryland Laws 2007.

¹¹⁴ Bill Information – 2006 Regular Session. <http://mlis.state.md.us/2006rs/billfile/sb0003.htm>.

¹¹⁵ 2006 Regular Session - Senate Bill 3, 3-4. <http://mlis.state.md.us/2006rs/bills/sb/sb0003f.pdf>.

been given an “opportunity to be included” in the project.¹¹⁶ Furthermore, owners of displaced businesses would be entitled to “the loss of goodwill” compensation above and beyond the fair market value of the property.¹¹⁷ Any government authorization for condemnation would expire after three years and would require it to reauthorize acquisition.¹¹⁸ Many of these policies reflected the recommendations of the State Task Force on Business Owner Compensation in Condemnation Proceedings, which was created by law in 2004¹¹⁹ to respond to the situation of business owners displaced by eminent domain.¹²⁰

Both Senate Bill 3 and House Bill 1137 did not fare well during the 2006 session. The Senate Bill was returned from the Senate Judicial Proceedings but did not receive a floor vote before the close of the session and the House Bill received an unfavorable committee report.¹²¹ They were reintroduced in the 2007 regular session as Senate Bill 3 by Senator DeGrange in response to the Supreme Court’s *Kelo* decision¹²², this time with the title of the “Property Protection Act of 2007.”¹²³ This bill reflected the same legislative intent, required the government authority to make the same findings before condemnation, provided the loss of goodwill proven by the business owner beyond fair

¹¹⁶ *Id.*

¹¹⁷ *Id.* According to Senate Bill 3, “goodwill” means “the amount by which the fair market value of the total assets of a business or farm operation exceeds the fair market value of any interest or interests in land used by the owner in the operation of the business or farm operation for which the owner is entitled to compensation in the condemnation proceeding” and includes “benefits that accrue to a business or farm operation as a result of its location, reputation for dependability, skill, or quality, and any other circumstances resulting in probable retention of old patronage or acquisition of new patronage.” *Id.*

¹¹⁸ *Id.*

¹¹⁹ Chapter 446, Maryland Laws 2004.

¹²⁰ Kurt J. Fischer and Melissa L. Mackiewicz, *Eminent Domain Reform’s Failure in Maryland*, 39 MD B.J. 14, 24 (2006).

¹²¹ Kurt J. Fischer and Melissa L. Mackiewicz, *Eminent Domain Reform’s Failure in Maryland*, 39 MD B.J. 14, 16 (2006).

¹²² James E. DeGrange, Sr, Letter to the Editor, *Bill Would Curtail Property Seizures*, BALT. SUN, Feb. 11, 2007, at 4G.

¹²³ Chapter 305, Maryland Laws 2007.

market value and limited the life of condemnation authorizations as the 2006 version.¹²⁴ Additionally, the bill included proposals for augmenting the relocation compensation caps for homeowners (§12-202(a)(1)) to \$45,000, tenants (§12-204(b)(1)(i)) to \$10,500, and business and farm owners (§12-205(a)(4)) to \$60,000 displaced as a result of eminent domain.¹²⁵ In the end, only the expiration date for acquisition authorizations and increased compensation levels for parties displaced by eminent domain survived the enacted version of Senate Bill 3.¹²⁶ The scaled-down bill passed the Senate (46-0) and the House (139-0) unanimously and was signed by Governor Martin O'Malley on May 8th, 2007.¹²⁷

III – The East Baltimore Development Initiative and the Future of Middle East

A – Overview of the East Baltimore Development Project

The East Baltimore Development urban renewal project will cover an approximately eighty acre section of East Baltimore bounded by Patterson Park Avenue on the east, Broadway on the west, the Amtrak / MARC Penn Line railroad tracks on the north and Madison Street on the South.¹²⁸ This piano-shaped area, largely comprised of the Middle East neighborhood, is only a few blocks north of the world renowned Johns Hopkins Medical Institute, which includes schools of medicine, public health and nursing, a department of biomedical engineering and a hospital.

Figure 2 – Orientation of the EBDI Project

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.* Even the bill's title of "Property Protection Act of 2007" failed to make the cut. *Id.*

¹²⁷ Bill Information – 2007 Regular Session. <http://mlis.state.md.us/2007rs/billfile/sb0003.htm>.

¹²⁸ EBDI – East Baltimore Development Activities, <http://www.ebdi.org/DevelopmentAct/DevAct.asp> (last visited May 3, 2007).



Within anywhere between ten and fifteen years, the redevelopment project is expected to add two million square feet of biotech research space, between 4,000 and 8,000 new jobs and 1,200 units of new and rehabilitated mixed income housing.¹²⁹ It is estimated that the entire project will cost around \$1 billion.¹³⁰

EBDI is a non-profit organization in charge of coordinating, managing and directing the entire plan. EBDI's Board of Directors, which is composed of government, business, academic and community leaders, is led by CEO Jack Shannon. Mr. Shannon has considerable experience in large scale urban renewal projects, ranging from revitalizing Camden, New Jersey's waterfront to leading economic development plans for

¹²⁹ Edward Gunts, *Redevelopment Project Garners National Award*, THE BALT. SUN, Jan. 13, 2003, at 1C.

¹³⁰ Eric Siegel, *Residents Must Make Way for East-Side Biotech Park; Razing and Restoration Planned for Project's 2nd Phase*, THE BALT. SUN, Sept. 28, 2006, at 1A.

the University of Pennsylvania in West Philadelphia.¹³¹ EBDI works with a long list of partners, including the City of Baltimore, Johns Hopkins University, the State of Maryland Departments of Business and Economic Development and Housing and Community Development, the Greater Baltimore Committee and the Annie E. Casey Foundation.¹³²

Under the Baltimore City Code, both administrative and legislative action was necessary before any work could begin on the East Baltimore Development Initiative. The City Planning Commission, “astonished at how good this plan is,” unanimously approved the East Baltimore revitalization plan.¹³³ Just under six months later, the Mayor and City Council of Baltimore passed an urban renewal ordinance authorizing the acquisition of over 3,000 properties in the project area.¹³⁴ The legislation also included mandates for bolstering relocation assistance, employment training and business mentorship.¹³⁵ The ordinance signed by then Mayor Martin O’Malley amended five previous urban renewal ordinances for the area.¹³⁶

The East Baltimore Development Initiative is comprised of three phases. Phase I, which is currently underway, is centered on a thirty acre parcel bounded by Broadway on the west, Madison Street on the south, Washington Street on the east and Chase Street on

¹³¹ Eric Siegel, *East Baltimore Job is a Balancing Act, CEO: The Man in Charge of the Renewal is Praised for Getting Things Done*, THE BALT. SUN, July 6, 2004, at 1B.

¹³² EBDI Partners, <http://www.ebdi.org/AboutEBDI/Partners.asp> (last visited May 3, 2007).

¹³³ Eric Siegel, *City Would Buy up to 3,300 Properties Near Hopkins to Create Biotech Park; Residents Voice a Few Concerns*, THE BALT. SUN, June 14, 2002, at 3B.

¹³⁴ Laura Vozzella, *City Council Approves Measure for East-Side Urban Renewal Plan*, THE BALT. SUN, Dec. 7, 2002, at 2B.

¹³⁵ *Id.*

¹³⁶ Eric Siegel, *City Acquiring 70 Houses in Step Toward Biotech Park*, THE BALT. SUN, Dec. 26, 2002, at 1B.

the north.¹³⁷ This part of the project calls for the construction of five life science buildings, 900 units of housing, 40,000 square feet of retail and multiple acres of new parks.¹³⁸ The first building to break ground was the seven-story, 270,000 square foot John G. Rangos Sr. Building at 855 North Wolfe Street.¹³⁹ The urban renewal ordinance passed gave City the authority to acquire 831 properties for the first segment of the East Baltimore Development Initiative, which included 563 vacant buildings and lots along with thirteen businesses.¹⁴⁰ As of mid-April 2007, which is when the Rangos building was halfway complete, 501 buildings were razed, 185 vacant lots cleared and 396 households relocated to make way for Phase I.¹⁴¹

¹³⁷ Phase 1 Schedule, <http://www.ebdi.org/DevelopmentAct/Phase1Schedule.asp> (last visited on May 3, 2007).

¹³⁸ Rona Marech, *Biotech Park to Get Under Way; Developers Break Ground Today on \$120 Million East Baltimore Life Science Center*, THE BALTIMORE SUN, Apr. 17, 2006, at 1B.

¹³⁹ Eric Siegel, *Hopkins Project Marks Milestone – Life Sciences Center is Halfway Built*, THE BALTIMORE SUN, Apr. 28, 2007, at 1B.

¹⁴⁰ Eric Siegel, *Relocation: Relief and Regret - East Baltimore: Letters Make Official what Thousands Knew: The City will Buy up Property Around Hopkins Hospital*, THE BALTIMORE SUN, Feb. 17, 2004, at 1A.

¹⁴¹ Eric Siegel, *Hopkins Project Marks Milestone – Life Sciences Center is Halfway Built*, THE BALTIMORE SUN, Apr. 28, 2007, at 1B.

Figure 2 - Phase I Project Map¹⁴²



Phases II and III, largely still unplanned, comprises the remaining fifty acres of the East Baltimore Development Initiative. Phase II is spread out over 1,000 parcels.¹⁴³ One-third of these properties of these are in the possession of the City of Baltimore and 70% of the properties are either vacant buildings or empty lots.¹⁴⁴ The City has determined it must condemn two hundred and twenty five properties for the second stage of the project by 2009 - nineteen of which are businesses.¹⁴⁵ Eighty-one parcels are occupied by homeowners and 125 are rental properties, some of which contain more than

¹⁴² Master Plan + Buildings, http://www.forestcityscience.net/hopkins/sciencepark_plan.shtml (last visited May 3, 2007).

¹⁴³ Eric Siegel, *Residents Must Make Way for East-Side Biotech Park*, THE BALTIMORE SUN, Sept. 28, 2006, at 1A.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

one household.¹⁴⁶ Due to funding concerns, the remaining project schedule is still being finalized by EBDI.¹⁴⁷

B – The Failure of Spot Rehabilitation

“The vision for East Baltimore then was to try and stem the tide of abandonment and deterioration through house-by-house, block-by-block renovations -- a process that proved as effective as trying to halt beach erosion at Ocean City with a pail and shovel.”

- Eric Siegel, Reporter for the Baltimore Sun¹⁴⁸

The East Baltimore Development Initiative represents a fundamental departure from previous approaches to renewal and revitalization efforts in the Middle East neighborhood. The current plan calls for a wide scale development scheme that includes aggressive use of condemnation powers, numerous demolitions to remove blighted shells of homes and the creation a vibrant mixed-use community composed of medical research facilities, new units of housing, retail space and green space. Quite simply, in the words of former Mayor Martin O’Malley, the East Baltimore Development Initiative is an opportunity to “rebuild a neighborhood from the ground up.”¹⁴⁹

The last attempt to turn around the challenged Middle East community, which utilized selective demolition and individual home rehabilitations, has been regarded as a failure. In 1994, the Department of Housing and Urban Development designated certain areas of Baltimore City, including East Baltimore, as “empowerment zones” and allocated \$100 million in funds and \$250 million in tax credits to catalyze reinvestment in

¹⁴⁶ *Id.*

¹⁴⁷ East Baltimore Development Incorporated, Phase II Relocation Information – Letter to Community Residents, available at <http://www.ebdi.org/docs/npdf/May%205%2007%20Community%20Letter.pdf>.

¹⁴⁸ Eric Siegel, *Coordinating Vision With Cash*, THE BALT. SUN, May 31, 2001, at 2B.

¹⁴⁹ Eric Siegel, *Biotech Park 'Too Important not to Succeed'; E. Baltimore Project Holds Promise of Jobs, Rebirth*, THE BALT. SUN, Apr. 16, 2002, at 1A.

these decaying neighborhoods.¹⁵⁰ The responsibility to coordinate and implement the federal program in the eastern part of the city fell to the Historic East Baltimore Community Action Coalition (hereinafter HEBCAC), whose charge included 14,000 properties spread out over 218 square blocks.¹⁵¹ HEBCAC, which was founded in 1994 as a joint effort between the Johns Hopkins Medical Institutions, the Kennedy Krieger Institute, local businesses, churches, government and other community leaders, received \$34.1 million from the federal government's empowerment zone program to turn East Baltimore around.¹⁵²

HEBCAC initially adopted a measured policy of strategically rehabilitating blighted homes in targeted areas in Middle East and throughout East Baltimore.¹⁵³ Some properties were purchased by Johns Hopkins University and sold to HEBCAC for \$1.¹⁵⁴ Once these properties were renovated, they were sold to residents in exchange for their current ones.¹⁵⁵ Most of these dwellings were then demolished as part of the urban renewal effort.¹⁵⁶ The relocated residents would receive title to their new homes as long as they occupied them for a decade.¹⁵⁷ Other efforts focused on providing family services and job training, bolstering community leadership and improving public safety.¹⁵⁸ It was believed this plan would stabilize population loss, eradicate urban decay

¹⁵⁰ Rachel Mansour, *Has Federal Program Helped Revive Depressed Areas?*, THE DAILY RECORD (Baltimore), Nov. 16, 2001.

¹⁵¹ Molly Rath, *Testing Ground - A New Strategy for Saving City Neighborhoods Takes Root In Patterson Park*, THE CITY PAPER (Baltimore), May 31, 2000, available at <http://www.citypaper.com/news/story.asp?id=3594>.

¹⁵² *Id.*

¹⁵³ Eric Siegel, *Uprooted Once, Maybe Twice; Residents: Relocated Once Before, Many of Those Living in One East-Side Block are Reluctant to Make Way For a Biotech Park Envisioned Next to Hopkins Hospital*, THE BALT. SUN, Oct. 15, 2002, at 1B.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ About HEBCAC, <http://www.hebcac.org/about.html> (last visited May 4, 2007).

and stimulate additional private commercial and residential development throughout the target area.

However, due to its limited revitalization vision, HEBCAC failed to make any significant impact on the Middle East community. By late 2000, it was clear that HEBCAC's labors did not produce results. Only forty-seven homes have been rehabilitated in five years, which was less than ten percent of its goal.¹⁵⁹ Rather than declining, the number of vacant properties nearly doubled during this period to 4,000.¹⁶⁰ Such startling figures caused Michael Seipp, then the Executive Director of HEBCAC to remark that "the old plan was not realistic in hindsight...we miscalculated the rate of disinvestment in the community."¹⁶¹

A study of the properties sold to HEBCAC by Johns Hopkins University accurately represents the severe shortcomings of the original renewal plan. HEBCAC renovated these ten properties at an average cost of \$94,000, almost \$20,000 more than originally envisioned.¹⁶² Most of these cost overruns were a result of the dilapidated condition of the properties: \$16,000 had to be spent on repairing termite damage in each home alone.¹⁶³ Additionally, the total amount devoted to the restoration was almost seven times the value of an un-renovated home on the same block.¹⁶⁴ Another obstacle was the exorbitant debt owed on many of the properties in the area.¹⁶⁵ With individual renovations and preexisting financial liabilities requiring such considerable investment,

¹⁵⁹ Eric Siegel, *East Side Loses Ground in Effort to Stem Blight; Switch to Demolition Rather than Renovation Proposed to Catch Up*, The Baltimore Sun, Oct. 15, 2000, at 1A.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ Eric Siegel, *East Side Loses Ground in Effort to Stem Blight; Switch to Demolition Rather than Renovation Proposed to Catch Up*, The Baltimore Sun, Oct. 15, 2000, at 1A.

even the most ardent supporters of spot renovation could see that HEBCAC's approach was insufficient when compared to the demanding situation in Middle East.

While even HEBCAC's detractors realized that it was going to take a lot more than \$34.1 million and half a decade to turn around a neighborhood suffering from long neglect and riddled with debilitating drug-related crime, extreme mismanagement prevented even the most modest gains from being realized. HEBCAC only spent \$9 million of the \$34.1 million at its disposal.¹⁶⁶ It spent \$600,000 on a contract with a private company to do an analysis of the properties in HEBCAC's area only to realize that none were worth purchasing for renovation due to severe disrepair or considerable outstanding debt.¹⁶⁷ Additionally, the organization failed to provide the city with the required monthly progress reports, resulting in an audit by the City Comptroller.¹⁶⁸ Mr. Seipp resigned from his post and HEBCAC would struggle without an executive director for the next eighteen months.¹⁶⁹ In the end, HEBCAC was only able to renovate "over fifty" homes and hand out twenty rehabilitation grants.¹⁷⁰

It was this experience that inspired the realization that a more comprehensive and aggressive urban renewal strategy was necessary to improve the Middle East neighborhood. Then Mayor Martin O'Malley's frustration with the lack of progress in East Baltimore stirred a desire to embrace a biotech park project that would provide economic stimulation and take advantage of the nearby Johns Hopkins medical campus. Numerous acquisitions allow "wholesale renovations" and new opportunity to achieve

¹⁶⁶ *Id.*

¹⁶⁷ Ivan Penn and Jim Haner, *City Studies Rehab Agency; City Investigating Coalition's Spending, Slow Progress; Lax Reporting Acknowledged; Group is Working on Redevelopment in East Baltimore*, THE BALT. SUN, Dec. 10, 1998, at 1B.

¹⁶⁸ *Id.*

¹⁶⁹ Eric Siegel, *HEBCAC Chief Feels Out of Loop*, THE BALT. SUN, Apr. 18 2002, at 2B.

¹⁷⁰ Historic East Baltimore Community Action Coalition, Inc., About HEBCAC, <http://www.hebcac.org/about.html> (last visited Oct. 5, 2007).

true progress.¹⁷¹ Jeff Thompson, then director of HEBCAC described the East Baltimore plan as “a very different approach...instead of being an individual neighborhood, scattered-site approach, the emphasis is very focused on the neighborhood revitalization of a core area and then the peripheral neighborhoods.”¹⁷² In the end, HEBCAC was not even reserved a board position on EBDI¹⁷³ and some of the homes it rehabilitated are slated for demolition as part of the new project.¹⁷⁴ Thus, the eighty acre East Baltimore Development Initiative is a rejection of HEBCAC’s measured approach of strategic rehabilitation and a realization that extensive acquisition, demolition and reconstruction was necessary to improve a truly challenged neighborhood.

C –Is the Glass Half Empty or Half Full? EBDI and Relocation Assistance

1. – A Framework for Assistance

A common symbol of the government’s use of eminent domain is the initial detached and brusque letter of displacement sent to residents. Hundreds of such letters were sent to the residents of the neighborhoods of Middle East, Broadway East, Johnston Square, Gay Street and Oliver. However, focusing on this single aspect only reveals a very small portion of what is a complex and multifaceted process.

The relocation assistance plan for the residents displaced by the East Baltimore development plan provides a diversity of aid throughout the timeline of the project from pre-acquisition to post-displacement. Federal legislation, including the Uniform

¹⁷¹ Ezra Fieser, *Baltimore Buys Rowhouses from Nonprofit in Revitalization Effort*, THE DAILY RECORD (Baltimore), Oct. 2, 2003.

¹⁷² Ezra Fieser, *Baltimore Buys Rowhouses From Nonprofit in Revitalization Effort*, THE DAILY RECORD (Baltimore), Oct. 2, 2003.

¹⁷³ Eric Siegel, *HEBCAC Chief Feels Out of Loop*, THE BALT. SUN, Apr. 18 2002, at 2B.

¹⁷⁴ See Eric Siegel, *Uprooted Once, Maybe Twice; Residents: Relocated Once Before, Many of Those Living in One East-Side Block are Reluctant to Make Way for a Biotech Park Envisioned Next to Hopkins Hospital*, THE BALT. SUN, Oct 15, 2002, at 1B; Will Morton, *Going Either Way*, THE BALT. SUN, July 17, 2005, at 1L.

Relocation Act and the Housing and Community Development Act, along with supplemental assistance unique to the East Baltimore project ensures monetary compensation along with many legal and social support services for those impacted. While no one can possibly underestimate the human stresses of such large-scale urban renewal projects, the EBDI relocation assistance program has the potential to allow the residents of East Baltimore to improve their social and economic situation and secure the possibility to be included in the revitalized community.

The East Baltimore relocation assistance plan includes substantial support mandated by the federal government. The Uniform Relocation Act and §104(d) of the Housing and Community Development Act require that displaced residents receive a certain minimum standard of monetary compensation and other crucial guidance during the relocation process. While all residents displaced by a urban renewal project that is supported by federal funding, including the East Baltimore Development Initiative, are entitled to certain assistance under the Uniform Relocation Act, the amount of that assistance depends on a variety of factors, including whether one rents or owns his or her property, whether the parcel is commercial or residential, how long he or she has occupied the property and the amount of his or her income.¹⁷⁵

Homeowners who want to buy a comparable dwelling are eligible for a replacement housing payment in addition to the fair market value paid by the condemning authority¹⁷⁶ and tenants who want to lease a comparable dwelling can receive up to three and a half years rent.¹⁷⁷ Provisions also exist for homeowners who

¹⁷⁵ East Baltimore Development Inc., East Baltimore Relocation Plan 10 (Nov. 2004), *available at* <http://www.ebdi.org/docs/npdf/OverviewofRelo.pdf>.

¹⁷⁶ *Id.* at 19.

¹⁷⁷ *Id.* at 20. These funds can also be used by tenants to purchase a home. *Id.*

wish to lease a dwelling and for business owners who want to relocate.¹⁷⁸ All displaced individuals are reimbursed for reasonable moving expenses¹⁷⁹ and receive advisory services including explanations and referrals.¹⁸⁰ Section 104(d) support is targeted specifically towards low income individuals.¹⁸¹ A \$21 million loan from the Department of Housing and Urban Development's Community Development Block Program has been devoted to the project. This federal money essentially replaces the unspent portion of the \$34.1 million empowerment zone loan.

Unique to the East Baltimore Development Initiative is the supplemental benefits residents can receive in addition to the federal mandates. The Annie E. Casey Foundation and Johns Hopkins University have both contributed \$5 million a piece to assist those displaced by Phase I on the project.¹⁸² These private monies have been allocated to provide extra social services support for every household well after the moving process is completed, fund eighteen months more months of rental assistance, augment the federal assistance of homeowners up to a total of \$70,000 and educate affected individuals of diverse relocation opportunities throughout Baltimore City. In total, EBDI has provided homeowners impacted by Phase I of the revitalization project an average of \$150,000 in total financial benefits and renters close to \$40,000.¹⁸³

2. – *Implementing the Relocation Assistance Plan*

¹⁷⁸ *Id.* at 21-23.

¹⁷⁹ *Id.* at 19.

¹⁸⁰ *Id.* at 16.

¹⁸¹ East Baltimore Development Inc., East Baltimore Relocation Plan 17 (Nov. 2004), available at <http://www.ebdi.org/docs/npdf/OverviewofRelo.pdf>. For a comparison between Uniform Relocation Act and §104(d) benefits, see Table 4 at *id.*

¹⁸² Kate Shatzkin, *Foundation Stakes Reputation on East-Side Project; Commits \$5 Million to Aid 800 Displaced Households in Redevelopment of Area*, THE BALT. SUN, Dec. 2, 2002, at 1A.

¹⁸³ Rona Marech, *Biotech Park to Get Under Way; Developers Break Ground Today on \$120 Million East Baltimore Life Science Center*, THE BALT. SUN, Apr. 17, 2006, at 1B.

EBDI's relocation process has been designed "to minimize resident fears and concerns about their future, and to maximize positive outcomes for individuals, families with children and affected communities."¹⁸⁴ The goal of EBDI is to ensure that all individuals affected by the project understand their rights and are familiar with available services throughout all the stages of displacement. From the first General Information Notice to meetings with family advocates well after the moving process has been completed, EBDI has fashioned a rather progressive displacement plan that tries to provide substantive support during a very unsettling and disruptive time in the lives of many East Baltimoreans.

The first step in the long and complicated EBDI relocation process begins with the General Information Notice. This letter is sent before any properties have been acquired by the condemning authority, informs the resident of the East Baltimore Development Initiative and alerts them possibility of displacement.¹⁸⁵ Most importantly, the General Information Notice includes the name of the Family Advocate who initiates the first meeting with the resident.¹⁸⁶ EBDI has contracted with the Coalition to End Childhood Lead Poisoning and the East Baltimore Community Corporation to provide expert and experienced individuals who will be closely involved with individuals for a minimum of three years.¹⁸⁷

The Family Advocate will create a customized Household Support Plan with the resident, inform him or her of the available relocation assistance services ranging from

¹⁸⁴ East Baltimore Development Inc., East Baltimore Relocation Plan 10 (Nov. 2004), *available at* <http://www.ebdi.org/docs/npdf/OverviewofRelo.pdf>.

¹⁸⁵ *Id.* at 28.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.* at 43.

employment training, job placement to securing daycare for children¹⁸⁸ and help address any financial challenges, including credit, deed and probate issues.¹⁸⁹ There is also a family advocate attorney that can handle some legal issues in house, including tenant services, estate planning and counsel for predatory lending.¹⁹⁰ Property owners included in Phase I received their General Information Notice in February 2004¹⁹¹ and those included in Phase II were notified in late 2006.¹⁹²

The City soon notifies the property owner of its intention to acquire the property. The City seeks two appraisals to evaluate the fair market value, conducts a title search and determines the existence of any liens and debts on the parcel.¹⁹³ If the liens on the home exceed the fair market value, the City will proceed with condemnation.¹⁹⁴ If not, the City will present an offer to purchase the home and initiate negotiations. If the owner is the occupant of the property, provisions exist for a third appraisal paid for by the Annie E. Casey Foundation. However, the appraiser must be chosen from a list of City-approved appraisers.¹⁹⁵

The resident then meets with a Relocation Counselor to learn of available relocation benefits, commence a search for comparable replacement dwellings and discuss their legal rights.¹⁹⁶ Once such a home is found, the property owner is informed

¹⁸⁸ *Id.*

¹⁸⁹ East Baltimore Development, Incorporated, FACT SHEET: Family Services, available at <http://ebdi.org/docs/npdf/Family%20Services%20Fact%20Sheet.pdf>.

¹⁹⁰ East Baltimore Development, Incorporated, FACT SHEET: Legal Services, available at <http://ebdi.org/docs/npdf/Legal%20Services%20Fact%20Sheet.pdf>.

¹⁹¹ East Baltimore Development Inc., East Baltimore Relocation Plan 26 (Nov. 2004), available at <http://www.ebdi.org/docs/npdf/OverviewofRelo.pdf>.

¹⁹² Eric Siegel, *Residents Must Make Way for East-Side Biotech Park; Razing and Restoration Planned for Project's 2nd Phase*, THE BALT. SUN, Sep. 28, 2006, at 1A.

¹⁹³ East Baltimore Development Inc., East Baltimore Relocation Plan 26 (Nov. 2004), available at <http://www.ebdi.org/docs/npdf/OverviewofRelo.pdf>.

¹⁹⁴ *Id.* at 27.

¹⁹⁵ *Id.* at 26.

¹⁹⁶ *Id.* at 29.

through a Notice of Eligibility for Relocation Assistance which informs him or her the level of assistance provided by the Uniform Relocation Act, §104(d) of the Housing and Community Development Act and any supplemental support.¹⁹⁷ Residents are told of the approximate value of such benefits before the search for replacement housing begins.¹⁹⁸

Next, the property owner works with both the Relocation Counselor and a Relocation Contractor to start the hunt for housing. Available options will depend on the individual's income. EBDI has taken an approach that attempts to introduce displaced residents to racially and economically diverse neighborhoods.¹⁹⁹ In order to fulfill this aim, EBDI arranges tours, works with landlords throughout Baltimore and provides counseling to those hesitant to consider new areas of the social, educational and employment opportunities available in other neighborhoods.²⁰⁰ EBDI has also worked with local community organizations and leaders to compile a list of realtors, lenders, home inspectors and moving companies that are familiar and sensitive to the needs of the residents displaced by the East Baltimore Development project.²⁰¹

If the City and the property owner agree to a contract for sale of the parcel, the resident will soon receive a 90 Day Notice to Vacate. If negotiation fails, the City will proceed with a quick-take condemnation and the property owner may challenge the right to take or the just compensation as mentioned in a previous section. Once the move is complete, displaced individuals continue to meet with their Family Advocate to make the acclimation process as seamless as possible. This includes home-ownership and financial

¹⁹⁷ *Id.* at 28.

¹⁹⁸ *Id.* at 29.

¹⁹⁹ East Baltimore Development Inc., East Baltimore Relocation Plan 38 (Nov. 2004), *available at* <http://www.ebdi.org/docs/npdf/OverviewofRelo.pdf>.

²⁰⁰ *Id.* at 38-39.

²⁰¹ *Id.* at 57.

literacy counseling, coordinating senior, youth and family services and offering opportunities continuing education.²⁰²

3. – *Listening to East Baltimoreans?*

While much attention has been devoted to the economic benefits of the East Baltimore revitalization project, EBDI has both a legal and moral obligation to ensure the displaced residents are not overlooked in the excitement of renewal.²⁰³ All of the players involved with the EBDI plan realize that an important role must be preserved for the displaced residents in the new East Baltimore that stayed in the neighborhood during the most difficult times. EBDI has stated that the most fundamental goal of its renewal plan is to provide the necessary opportunities for East Baltimoreans to improve their quality of life and allow them to return to revived communities.

EBDI's development plan calls for one-third of the new mixed-income dwellings to be priced for lower-income individuals, another third for those are "medium income" and the final third offered at "market price."²⁰⁴ Low-income has been defined by EBDI as 60% of area median income or less and moderate income as 60% of area median income up to market value (workforce housing). Different ownership and rental

²⁰² *Id.* at 44.

²⁰³ For a discussion on the burden borne by the urban poor for economic revitalization projects, see J. Peter Byrne, *Condemnation of Low Income Residential Communities Under the Takings Clause*, 23 *UCLA J. ENVTL. L. & POL'Y* 131, 150-69 (2005); Wendell E. Pritchett, *The "Public Menace" of Blight: Urban Renewal and the Private Uses of Eminent Domain*, 21 *YALE L. & POL'Y REV.* 1 (2003); Adam P. Hellegers, *Eminent Domain as an Economic Development Tool: A Proposal to Reform HUD Displacement Policy*, *L. REV.* 2001 *M.S.U.-D.C.L* 901, 934-41 (2001); James Geoffrey Durham & Dean E. Sheldon III, *Mitigating the Effects of Private Revitalization on Housing for the Poor*, 70 *MARQ. L. REV.* 1 (1986).

²⁰⁴ Charles Cohen, *Moved and Shaken - As the East Side Biotech Park Comes In, Area Residents Come to Terms With Getting Out*, *THE CITY PAPER* (Baltimore), Feb. 2, 2006, available at <http://www.citypaper.com/news/story.asp?id=11505>.

opportunities are planned as well.²⁰⁵ Despite these intended guidelines, the “appropriate mix” of housing units available both below and at market value is subject to change.²⁰⁶

In furtherance of its goal to include original residents as beneficiaries of the East Baltimore Development Initiative, displaced residents will have the first opportunity to secure new housing in the project area.²⁰⁷ Relocation Counselors are required to inquire at least twice to those individuals impacted by Phase I whether they want to return to new housing.²⁰⁸ All displaced residents will be notified of availability of new housing opportunities even if they did not indicate a preference to come back.²⁰⁹ This resident preference will be offered at least four to six months in advance of the completion date and must be exercised at least two months before this time.²¹⁰

EBDI has also offered relocated individuals moving assistance equal to their initial move, closing costs for homebuyers up to \$5,000 and security deposits for renters up to \$2,500.²¹¹ Even with these preferences and assistance, all of those residents wishing to return to their neighborhood are not guaranteed a place in the new East Baltimore. While they might receive any financial subsidies connected with the new housing units, displaced individuals must meet any eligibility requirements associated with new housing and EBDI does not plan to allocate any additional benefits.²¹²

²⁰⁵ East Baltimore Development Inc., East Baltimore Relocation Plan 53 (Nov. 2004), available at <http://www.ebdi.org/docs/npdf/OverviewofRelo.pdf>

²⁰⁶ Eric Siegel, *Search for Biotech Park Developer Begins; Move Called 'Milestone' in East Baltimore Project*, THE BALTIMORE SUN, Feb. 25, 2004, at 3B.

²⁰⁷ East Baltimore Development Inc., East Baltimore Relocation Plan 53 (Nov. 2004), available at <http://www.ebdi.org/docs/npdf/OverviewofRelo.pdf>

²⁰⁸ East Baltimore Development Inc., East Baltimore Relocation Plan 53 (Nov. 2004), available at <http://www.ebdi.org/docs/npdf/OverviewofRelo.pdf>

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ *Id.* at 54.

²¹² *Id.* at 54.

EBDI has displayed an ability to incorporate community desires and concerns into its development master plan. While the holding of numerous public hearings and meetings can serve as a powerful symbol, true inclusion can only be achieved if the ideas, suggestions and concerns of the residents are genuinely considered by EBDI and integrated into the relocation and redevelopment scheme. Even though critics of the development team have averred that “EBDI was kicking and screaming when they had to get pulled to the table,”²¹³ results have been achieved.

In its original relocation plan, displaced residents would receive up to \$70,000 in supplemental benefits if they stayed in East Baltimore, \$50,000 if they moved to another part city neighborhood and none for those who moved outside Baltimore.²¹⁴ This approach was poorly received by community groups. Marisela Gomez, a representative of the Save Middle East Action Committee (SMEAC) believed such a policy was tinged with racism: “You can't tell black people in East Baltimore that the only way they can get \$70,000 is if they move into another black community...It's an insult.”²¹⁵ The plan was later changed to offer full supplemental benefits to those who only stayed within Baltimore City. However, this was also criticized because of rising housing costs within city confines. Eventually, the EBDI dropped all geographical barriers on supplemental benefits by extending them to anywhere eligible under the Uniform Relocation Act in late 2004.²¹⁶

²¹³ Charles Cohen, *Moved and Shaken - As the East Side Biotech Park Comes In, Area Residents Come to Terms With Getting Out*, THE CITY PAPER (Baltimore), Feb. 2, 2006, available at <http://www.citypaper.com/news/story.asp?id=11505>

²¹⁴ Eric Siegel, *Biotech Park Moves Ahead*, THE BALT. SUN, Apr. 23, 2002, at 1A.

²¹⁵ Eric Siegel, *Board OKs Bill for East-Side Renewal*, THE BALT. SUN, June 14, 2002, at 3B.

²¹⁶ EBDI Policy Guidance Memo # 6 - Removal of Geographic Boundaries on Supplemental Benefits, <http://www.ebdi.org/docs/npdf/EBDI%20Guidance%20Memo%206%20-%20No%20Geographic%20Limits%20on%20Supp%20Benefits%20Amended.pdf> (last visited May 6, 2007).

Another community-inspired revision to the relocation plan involved increased property tax assessments for relocated residents at their new homes. EBDI has estimated that there could be an increase of anywhere between \$500 and \$1500 in property tax bills.²¹⁷ As a result, EBDI adopted a policy where they would pay 100% of the difference between the new property tax level and the old for the first year of relocation and pay 50% of the difference for the second.²¹⁸ EBDI believes this plan will help 130 homeowners deal with the additional tax burden. New homeowners who were renters before are not eligible for this assistance.²¹⁹

Strides have been made in other areas as well. After significant concerns were raised about the large amounts of dust, lead, asbestos and other harmful pollutants produced by the numerous demolitions of the older rowhomes,²²⁰ EBDI agreed to halt demolition until residents were relocated.²²¹ Additionally, a provision has been added to the EBDI's relocation plan that allows residents who are in negotiation with the City of Baltimore the opportunity to have the Annie E. Casey Foundation pay up to \$300 for an additional appraisal to determine fair market value.²²² Such a move could add legitimacy to the negotiation process and reduce timely and costly litigation in the courts.

²¹⁷ EBDI Policy Guidance Memo # 5 -Property Tax Subsidy, <http://www.ebdi.org/docs/npdf/EBDI%20Guidance%20Memo%205%20%20Tax%20Assistance%20to%20Homeowners.pdf> (last visited May 6, 2007).

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ See Charles Cohen, *Dust Up Morgan State University Professors Join Forces With East Baltimore Neighborhood Group to Stop Demolition of Houses in Area Slated for Biotech Development*, THE CITY PAPER (Baltimore), June 2, 2004, available at <http://www.citypaper.com/news/story.asp?id=7524>; Brent Jones, *Group Managing Razing of Homes for East Baltimore Technology Park uses Hopkins Research to Minimize Release of Hazardous Substances*, THE BALT. SUN, Aug. 21, 2006, at 1A.

²²¹ Eric Sigel, *Biotech Park Building Due to Start This Month; Groundbreaking Awaited in E. Baltimore*, THE BALT. SUN, Jan. 3, 2006, at 3B.

²²² EBDI Policy Guidance Memo # 2 Revised - Third Appraisal for Homeowner Residents, <http://www.ebdi.org/docs/npdf/EBDI%20Guidance%20Memo%202%20%20Third%20Appraisal%20Revised.pdf> (last visited May 6, 2007).

It is impossible for the EBDI to incorporate every resident concern into the redevelopment plan. Yet EBDI has shown a true ability to genuinely listen to the residents of East Baltimore who are most affected by the urban renewal project and display a flexibility to amend its policies to craft a fairer process. By creating preferences for displaced residents in order to facilitate their return to the new East Baltimore, supporting increased property tax burdens, delaying the demolition schedule and allowing for additional appraisals, EBDI and its partners have shown a real willingness to do their best to ensure a central role for relocated residents to return to their neighborhoods.

IV – Conclusion / Winners and Losers of the East Baltimore Project

The East Baltimore Development Initiative is one of the largest and most ambitious urban renewal projects in the history of the city. Many diverse parties have significant interests at stake, including the residents of East Baltimore, the various community organizations that work on their behalf and the Johns Hopkins medical institutions. Even though construction on Phase I of the multi-part project is still ongoing, some groups have benefited while others have seen their positions weakened.

The Johns Hopkins University has emerged as one winner from the ongoing East Baltimore development project. It is undoubtedly in the best interest of this institution to be located in a safe, healthy and vibrant environment. Representatives of the university have long called for an extensive redevelopment vision and the failure of the HEBCAC approach strengthened the university's position for the realization of such a plan. Much of the most deleterious blight has been or will be removed from the surrounding area, the

state of the art biotech park will allow Johns Hopkins to attract cutting-edge medical researchers and the celebrated institutions can continue to thrive and expand.

Additionally, it has shown a willingness to address community concerns by amending its development plan, which could help improve its low popularity amongst residents.

Other beneficiaries of the East Baltimore Development Initiative are the individuals associated with minority and women-owned business enterprises. The project did not receive the full support of the city government and elected officials until key agreements were reached concerning minority and female economic inclusion, which requires developers to meet or exceed certain participation levels calculated in terms of overall contracting dollars.²²³ EBDI partners have stated that one of the most fundamental aims of the East Baltimore revitalization is to “encourage the maximum practical participation of minority, female and local business enterprises in all aspects of the project.”²²⁴

The developer chosen to oversee Phase I of the renewal effort is Forest City Enterprises and Presidential Partners LLC, a consortium of minority owned firms.²²⁵ As of February 2007, all of the contracts for EBDI demolition and site preparation have gone to either minority or women owned business enterprises. Contracts for the construction of the total project, the Rangos Building and shelter development along with design contracts for shelter development have all exceeded target goals for minority business

²²³ East Baltimore Development Incorporated, EBDI’s Economic Inclusion Program Goals, <http://www.ebdi.org/docs/npdf/EBDIEIPGoals.pdf>.

²²⁴ East Baltimore Development Incorporated, EBDI’s Economic Inclusion Program Goals, <http://www.ebdi.org/docs/npdf/EBDIEIPGoals.pdf>.

²²⁵ East Baltimore Development Incorporated – About the Developer, <http://www.ebdi.org/DevelopmentAct/AboutDeveloper.asp> (last visited May 7, 2007).

enterprises.²²⁶ Contracts for the design of shelter development have exceeded the target goals for women-owned firms.²²⁷ Project goals for employment hours for skilled and unskilled minorities and women workers and laborers have also been greatly surpassed.²²⁸ Through December 2007, minority inclusion targets for design, construction and employment hours continue to be met, and in most cases, exceeded.²²⁹ Thus many of the lucrative contracts and employment positions related to the EBDI project have been awarded to deserving minority and women-owned business enterprises.

HEBCAC and those who supported a policy of small-scale strategic rehabilitation were clear losers in the East Baltimore development plan. Backers of this approach believed Middle East and other communities could be improved without many property acquisitions and relocation of residents. However, this model unequivocally failed during the 1990s. Government officials, business interests, Johns Hopkins and even community activists recognized that spot rehabilitation was severely inadequate to address the considerable challenges of East Baltimore. With the adoption of the East Baltimore Development Initiative, an aggressive strategy of large-scale condemnation and demolition was chosen. The unspent federal empowerment zone money that was once under the control of HEBCAC was reallocated to fund a framework contrary to its original vision. HEBCAC did not receive a position on the EBDI board even though it was promised one. While this slight might be a result of HEBCAC's bungling leadership, it still represents a blow to the cause it once championed.

²²⁶ East Baltimore Development Incorporated, Monitoring & Compliance Team Report and Update 2-9 (Feb 2007), available at <http://www.ebdi.org/docs/npdf/Economic%20Inclusion/EI%20Inclusion%2003-19-07.pdf>.

²²⁷ *Id.*

²²⁸ *Id.* at 10-17.

²²⁹ EBDI – EBDI Economic Inclusion Monitoring and Compliance Team, <http://ebdi.org/docs/npdf/Economic%20Inclusion/EC%20Incl%20Presentation%20January%202008.pdf> (Dec 2007).

It is still too early to determine whether those with the most at stake, the residents of Middle East and the surrounding communities will come out as beneficiaries. While displacement from a familiar home and community is often disorienting, stressful and painful, EBDI has crafted a progressive relocation assistance program for those forced to leave. EBDI's plan, which incorporates both federal mandates and supplemental benefits funded by Johns Hopkins and the Casey Foundation, offers significant monetary assistance and provides considerable guidance to displaced individuals from the beginning of the process until well after the required relocation.

The powerbrokers of the East Baltimore development project have listened to the many concerns of the residents and have responded by amending their plan multiple times. A survey commissioned by the Casey Foundation revealed that relocated residents rated their overall experience an 8.1 out of 10 and 55% of respondents stated that they were "much better off" after relocation.²³⁰ The relocation assistance program, which is the product of considerable community involvement and ample financial assistance from EBDI partners, is truly extraordinary.

Whether these displaced residents will be able to return and benefit from the new East Baltimore is noticeably more uncertain. EBDI has stated that relocated residents will have the first opportunity to purchase or rent the new housing units associated with the renewal project and that one third of these dwellings will be priced for low-income individuals. The total amount of affordable housing however is subject to change and community activist groups have stated a concern that most of the homes offered at the lower prices are rentals. While EBDI will cover moving expenses, closing costs and

²³⁰ Charles Cohen, *Moved and Shaken - As the East Side Biotech Park Comes In, Area Residents Come to Terms With Getting Out*, THE CITY PAPER (Baltimore), Feb. 2, 2006, available at <http://www.citypaper.com/news/story.asp?id=11505>.

security deposits for the new housing, it does not plan on providing additional benefits for those displaced residents wanting to move back to their original neighborhood. Thus, the resident preference cited by EBDI is only meaningful if relocated individuals have a realistic chance to come back to East Baltimore.

Even if some residents are able to return to Middle East and the surrounding neighborhoods, their inclusion in the “economic engine” created by the biotech park is not guaranteed. Much attention has been devoted to the plethora of employment opportunities catalyzed by the revitalization efforts. EBDI claims that a considerable number of jobs will be available local residents who have at least a high-school degree. The University of Maryland – Baltimore’s BioPark, which proffered similar promises, has only four employees who live within walking distance of the westside complex.²³¹ Yet, there are critical differences between the two projects. EBDI has invested significantly more in job-training programs than UMB.²³² As of late 2006, sixty have graduated from these development courses and twenty have secured employment in positions associated with the EBDI project.²³³ Unfortunately, economic projections are highly speculative and it is impossible to conclude with any certainty how many employment positions will be within reach of those residents who are not fortunate enough to hold advanced degrees.

The East Baltimore Development Initiative holds much promise for the communities of the area. It is possible the rising tide taking place in East Baltimore will raise the ships of all the residents impacted by the ambitious urban renewal project. A

²³¹ See Tricia Bishop, *Biotech Park’s Hiring Slow for Local Residents; East, West Baltimore Projects Far Apart in Funding; Entry-Level Training Required*, THE BALT. SUN, Dec. 6, 2006, at 1D.

²³² *Id.*

²³³ *Id.*

strong future is secure for those interests associated with the Johns Hopkins medical institutes. However, true success will depend on whether the residents of Middle East and other East Baltimore communities, whose lives have been affected most by the EBDI plan, will reap the many potential benefits as well.