

An Environmental History of Fairfield /Wagner Point (1998)

by Philip Diamond

based upon the collective research of the faculty and students in
the Fall 1997 Building Baltimore Seminar, University of
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Fairfield/Wagner's Point

The neighboring communities of Old Fairfield and Wagner's Point, located at the end of a 1300-acre peninsula jutting into the Patapsco River in southernmost Baltimore, are two unique urban communities--one African American, consisting of 7 blocks of mostly detached wooden frame houses and large gardens, and one white, consisting of 3 blocks of archetypical Baltimore brick rowhouses, but both tiny enclaves of late 19th-century company towns that had lost their companies long ago. Both are neighborhoods of poor people living in almost rural conditions, yet just minutes' drive from downtown Baltimore and immediately surrounded by the city's almost-century-old industrial infrastructure of now-abandoned shipyards, petroleum-product tank farms and asphalt storage sites, railroad tracks, multinational chemical company facilities, an auto terminal, and a municipal-and-county waste water treatment plant. [check on what the industries are] Literally, the houses are tucked in among gas tanks and smokestacks, bordered by brownfields and illegal dump sites on every side, which in turn are encircled by the polluted Patapsco River. Many of the streets are unpaved--all need improved grading, curbs, and storm drains. There's no supermarket or post office within several miles. Stenches from the industries and sewer plant are omnipresent and often unbearable. Explosions and fires, sometimes near-catastrophic in size, occur a few times a decade. [A few small medical studies] and anecdotal evidence from the residents indicates that the

rates of birth defects and cancer are horrifically high.

Why do people continue to live there? Above all, the residents point to the seclusion and security of the neighborhoods, where everyone knows everyone else and the communities are too isolated from more populous areas (and too poor) to be the targets of outside crime. In addition, the rent and the property taxes are low, and the rate of home ownership is high. The populations have dwindled, yet for a hundred years the communities have survived with amazing resilience and stability in the face of official municipal indifference and indecisiveness. From its first zoning ordinance to the present, the City has steadfastly maintained the entire peninsula as M-3, the heaviest industrial district. At the same time, the City has intermittently provided a pittance of basic services. Much of African American Old Fairfield was not linked to the neighboring sewer plant until 1976--more than 30 years after the plant went into operation and served Old Fairfield's white neighbors in the wartime workers' housing of Fairfield Homes and in Wagner's Point. Yet Wagner's Point has not received a bounty of City services either; for example, until 1977, when the community staged a sit-in, the only road leading into and out of the community was unpaved--despite the voluminous truck traffic to and from the surrounding industries. Within the last two years, Fairfield Homes, which in the 1950s made a transition from all-white wartime housing to all-black public housing and as late as the 1970s housed 300 families, has been demolished. Despite

receiving the assistance of 1970's activists who charged the City with racial discrimination in the provision of municipal services, Old Fairfield's population has drastically declined in the last two decades (today there are about 17 people compared with 288 in 1970).

Wagner's Point still retains almost the same population as it did nearly three decades ago (about 260 today compared with 286 in 1970). But there are strong indications that this community also will disappear. Baltimore City has received federal assistance for the area both to redevelop its brownfields and to revitalize it as an empowerment zone. The City hopes to restore the peninsula as an important industrial area by turning it into an "Ecological Industrial Park," one of the few in the world, where one industry will use another's waste in a cycle of green technology. Despite official protestations that the people will not be forced out, there would seem to be little room for a community of elderly and mostly unemployed or marginally employed young people in the midst of a hoped-for economic miracle of 21st-century technology. Given the palpable unhealthiness of the air, ground, and water, many would say there is an imperative reason to move the people out regardless of whether the Ecological Industrial Park gets off the ground or not. And today, after decades of refusing to move out, most of the residents in Wagner's Point have expressed some interest in relocation. But the problem is, as with Old Fairfield's residents before them, their choices may be dismal: instead of a

near-rural, secluded, safe, and small neighborhood where everyone knows his or her neighbor, their new home may have to be a crowded, crime- and drug-ridden neighborhood in the inner city or adjacent Baltimore County. The market value of their homes is practically nil (perhaps 8,000 to 12,000 dollars), so the City's exercise of eminent domain would not serve them well. Again as in the case of Old Fairfield in the 1970s, outside activists (most recently Lois Gibbs of the Love Canal movement) have come to the neighborhood's aid, this time charging environmental injustice (on class grounds) rather than racial discrimination. Only time will tell whether these activists and the community's leaders will be more successful in keeping the community in place or in acquiring a sustainable relocation package than was the movement to save Old Fairfield.

Isolation and proximity to downtown Baltimore and its inner harbor have been the determining characteristics of the peninsula communities. In their case, geography has been destiny, at once ensuring that the pristine farmland and orchards of the mid-19th century would rapidly turn into factories and workers' housing during the first half of the 20th century, and that developers' dreams of a borough of middle-class bedroom communities would fade as the always small and poor neighborhoods would be ever more engulfed by industries and their wastes. Even before Old Fairfield and Wagner's Point began in the late 1800's, the peninsula had been a mixed-use area: on the one hand, the land was filled with farms and orchards, a favorite spot for

Baltimoreans to travel to by boat on Sunday for a picnic; on the other hand, the City established a pest hospital and later housed the City's only leper there. Finally, before the City annexed the peninsula in 1918, the peninsula and the land below it were known for their crowds of Sunday revellers who avoided Baltimore's blue laws as they drank and watched semi-pro baseball at Wagner's Point or enjoyed the delights of the dancing damsels at Jack Flood's Beer Garden and Dance Hall and other adult amusement parks just below the peninsula.

In this paper I trace the history of the peninsula from the beginning of the European settlement to the present, observing the ambitions and dreams of developers and industrial entrepreneurs, the significant contribution the area made to our nation's wartime production in World War II, the rise and fall of the tight-knit workers' communities, the struggles of outside activists and community leaders to better the living conditions of these neighborhoods, and the environmental devastation of the area followed by the present attempt to redevelop the area with "green" industry. A central strand in this complex and contradictory story will be the City's century-and-a-half use of the area as a dumping ground of various sorts, a perhaps indispensable wasteland making possible the amenities enjoyed by other Baltimoreans and their county neighbors, while at the same time two neighborhoods grew up and for a time even flourished in the midst of a district zoned for heavy industry.

The Fairfield/Wagner's Point story yields no easy moral--

though the story involves racial and class discrimination, it does not fit into the environmental justice paradigm of toxic waste dumps being targeted for siting in poor minority communities (e.g., Wagner's Point is white, as Fairfield appears to have been at least in part at its inception, and from the beginning, the communities sprang up to house workers from the nearby factories and shipyard that, years later, became brownfields). The problem of whether, and where, to relocate people who are rooted in their safe, secluded, albeit unhealthy communities is perhaps an intractable one. Allowing residents to remain without the provision of services even most inner-city dwellers take for granted appears unconscionable; but providing residential conveniences and services so that people could continue to live in such an environmentally hazardous area seems equally, if not more, unconscionable. Finally, even though the people now appear to have reached something close to a consensus that they should relocate with City assistance, providing what the people think is fair value for their homes and achieving a relocation that would maintain neighborhood cohesiveness may be impossible.

I. Settlement and Suits (Cromwells and Crisps, 7th-mid19thc.)

Among the 17th-century adventurers in land speculation who aided the British Crown in promoting the transformation of the American wilderness into agriculturally productive land were the first and second Lord Baltimores, George and Cecilius Calvert. After a few failed attempts at New World settlement by the first

Lord Baltimore, his son Cecilius succeeded in 1632 in receiving a charter from King Charles I that made him "monarch of all he surveyed" north of the prior Virginia settlement. To make his dynasty profitable, Cecilius Calvert encouraged the immigration of settlers who would work the land. Originally, Calvert offered gentlemen 1000 acres for each five yeomen of working age they would import to the colony. By 1652, the offer had been reduced to 50 acres per yeoman. By this time also, a secondary market had developed in which these "headright" land allotments were pooled, allowing, for example, the creation of a 300-acre parcel.¹ Speculation in the lands of Lord Baltimore's dynasty was to prove profitable (albeit risky) for a small number of large landholders in the second half of the 17th century.

An additional secondary market was created in survey warrants. To establish title with the Lord Baltimore's Land Office, a gentleman had first to procure a warrant for a survey of the vacant land he desired. Then he would take the survey to the Land Office and receive a patent (or original deed) to the land. At first no payment was exacted for the acquisition of land, but the gentleman would have to pay a quit-rent of 4 shillings per 100 acres. To avoid payment of the quit-rents, the gentlemen-speculators soon realized that they could simply have the land surveyed and then take possession of it, relying on a

¹ Power pamphlet, p, 454. Garrett Power. Parceling out land in Baltimore, 1632-1796, Part I. Maryland Historical Magazine, Vo. 87, No. 4, Winter 1992.

clause common to all the warrants that forbid staking a claim to land previously surveyed. Another way in which land was acquired was through escheat. Land owners who died in the wilderness without heirs or a will had their lands escheated back to the Land Office (although technically not through escheat, land also reverted to the Land Office if the owner failed to pay the required quit-rent). Such land could then be purchased fairly cheaply by another gentlemen-speculator. Escheat actions would be brought by those hoping to buy cheaply from the Land Office in this way. To make matters more complicated, surveys were often careless and so boundary disputes were common.² [is this right?]

The Fairfield peninsula seems to have been the object of land acquisition from 1652 on. The land was well-situated, being surrounded by water (water transit being the only way to ship goods), and, unlike choice sites on the nearby Potomac, Patuxent, and Severn Rivers, the south side of the Patapsco River had not yet been settled³ (e.g, there were already 77 men living on the Severn by 1653⁴). What is unclear is who first held title and where,⁵ although it is certain that the Cromwell family, who

² Power pamphlet, p. 455-460.

³ Brooklyn-Curtis Bay in Baltimore Neighborhoods, internet posting of the Enoch Pratt Library.

⁴ Mark's notes--A Brief History of the Fairfield Peninsula, citing History of Anne Arundel County, but no p. #

⁵ There are at least three accounts of the first settlement of the Fairfield peninsula. According to the Enoch Pratt Library (via internet), in November 1652 Lord Baltimore ceded 1,555 acres along the waterfront above Curtis Bay in five tracts to five

individuals. Among the first plantations were Paul Kinsey's "Curtis' Neck" and George Yates' "Denchworth." Yates, a deputy surveyor, is said to have acquired 615 acres in December 1670. Immediately he patented a 300 acre parcel of this land to John and William Cromwell, planters who named the parcel "Cromwell's Adventure." This tract was west of Curtis Creek in present-day Curtis Bay. It is believed that the Cromwells bought up additional lands in the area, including William's purchase of the 100-acre "Marshall's Hope" conveyed to him by John Boring in 1677.

A History of Brooklyn-Curtis Bay, 1776-1976 [find cite] asserts that the first land patent on the Fairfield peninsula was granted to Paul Kinsey on June 29, 1663. This patent was for about 200 acres of land, called Curtis' Neck, and was bounded on the west side by Curtis Creek (then called Broad Creek). If so, then the land was really on the Hawkins Point peninsula directly across Curtis Creek from the Fairfield peninsula. Kinsey's friend, George Yates acquired land next to Kinsey's on July 18, 1679. This land was located between the heads of Marley Creek and Stoney Creek, well south of the Fairfield peninsula.

To further cloud the state of the earliest claims to the land, a Pratt Library map entitled "Baltimore County, 1658, Manor of Baltimore, North Patapsco Hundred, Original Patents Only, III. Section, Early Patapsco River Section" (Md. Map X658 B2 G45 1658) shows Yates' and Kinsey's parcels to be east, not west and south, of the Fairfield peninsula, and to be dated 1663 (450 acres) and 1673 (910 acres) respectively. The only patent on Fairfield peninsula is for 400 acres on the tip of the peninsula (approximately the site of present-day Old Fairfield), which was patented by Thomas Sparrow in 1652 and called "South Canton." The same Thomas Sparrow had a 1652 patent to 600 acres north of the Patapsco River and directly across from Fairfield, at the site of present-day Canton. This tract is called "North Canton" on the map. [one problem, the map is dated 1658 but many of the parcels on it are dated in subsequent decades, up to 1695 or so?]

Thus, it would appear from the map that the popular tradition of how the Canton neighborhood in Baltimore received its name is mistaken. The popular story goes that name dates to 1785 when Captain John O'Donnell arrived from China, bring with him the City's first cargo of silks, tea, and spices. With the fortune he made from selling this cargo, he bought a huge estate, calling it Canton after the Chinese port whence he had acquired his cargo. [cite Power pamphlet, p. 168, Part IIMaryland Historical Magazine, Vol. 88, No. 2, Summer 1993; and one of his sources, J. Thomas Scharf, History of Baltimore City and County (1881; [repr.] 2 vols; Baltimore: Regional PUBLISHING Co., 1971: 2:928]

From Sparrow, the Fairfield land may have been conveyed to Thomas Tailor and his wife Elizabeth (Sept. 15 1659); from Tailor et ux to Robert Clarkson (date?), and from Clarkson to his

eventually created the name of "Fairfield" for their lands, had acquired title to much of the land south of the Patapsco River by the late 1600s. The several Cromwell brothers in the first and succeeding generations in the New World busily acquired parcels with colorful names typical of the day, such as "Cromwell's Adventure," "Utopia the Third," and "Hay Meadow."⁶ During the

son Robert, who suspected that patent for South Canton (which was now only 200 acres) was in fact larger. So Robert had the land re-surveyed and obtained an additional 45 acres from George Holland in 1680. By this year, however, there is also indication that the land had fallen into the hands of Richard Cromwell and thence to his brother William. [Mark's notes--his source?] Again, to complicate matters, the Pratt map of "original" patents shows 150 acres as having been patented to Thomas Cromwell in 1671-- just east of the Fairfield peninsula, across from the South Branch of the Patapsco River and directly north of Kinsey's patent.

⁶ Power's notes, and Mark's notes (A Brief History of the Fairfield Peninsula). The details of the Cromwell family's acquisition of their earliest parcels is also cloudy, as is their reason for coming to American in the 1670s. Popular, but unsubstantiated, history holds that they were relatives of Oliver Cromwell, former Lord Protector. For example, an article of 9/22/46 in the Baltimore American says that there were three brothers (William and John who arrived in Maryland on March 11, 1671 on the ship Benoni Eaton) and Richard (who arrived a little later), who were sons of Henry Cromwell, brother of the Lord Protector; if so, it would be understandable why they would wish to leave England following the restoration of King Charles II.

The details of the Cromwells' earliest acquisition appear to be as follows: John Cromwell settled on land in now Cherry Hill (east of the Fairfield peninsula, directly across the South Branch of the Patapsco River), not, as asserted by A History of Brooklyn-Curtis Bay, 1776-1976, in the Fairfield peninsula [cite]. He had a patent for 300 acres (Liber 16, Folio 151). This was called "The Cromwell's Adventure" and may have been conveyed to John's brother William as well, by George Yates [see other footnote]. Another parcel was obtained by the brothers in 1671, but this may possibly be the same land, since it is called "Cromwell's Adventure" and consisted of 300 acres. But it is recorded in a different book (Certificate in LIber 13, Folio 80; Patent in Liber 14, Folio 52). The search for this patent is difficult because George Yates made a number of land transfers at

18th century and early 19th century, the family held up to 6,000 acres, consisting of the Fairfield peninsula and other lands in Anne Arundel and Baltimore Counties (the Fairfield peninsula would not be annexed by Baltimore City until 1918).⁷ They left little record of how they used the land on the Fairfield peninsula, but presumably they owned plantations that grew produce for the expanding town of Baltimore just across the Patapsco River (during the 18th century, the population of Baltimore grew from 2 inhabitants to 30,000). Probably, bulk cargoes of peas, beans and melons were brought by bugeye, pungie, or sloop to Baltimore's Marsh Market. As early as 1781 there was a ferry connection across the Patapsco to Baltimore.⁸

this time, and there were other men named Yates who also had patents.

John and William Cromwell appear to have entered the colony in 1667 (MD land records, Liber 12, Folio 554). At least one more brother and a sister, Richard and Edith, later entered the colony, so there were at least three or four Cromwells of the first generation buying and selling land in the colonial Anne Arundel and Baltimore Counties starting in the late 17th century.

[Mark's notes--could go on and on into 18th c. but see little point]

⁷ Originally the peninsula lay within Baltimore County (as did Baltimore City until 1851). The County Commissioners were appointed by the State Assembly in 1698 to delineate the first official southern boundary line of the county, which they placed below the Patapsco River. Complaints by inhabitants of southernmost Baltimore County, such as that they had to travel too far to the courthouse, led to an Act of the State Assembly in 1725 that repealed the Act of 1698, and in 1726 the Fairfield peninsula and adjacent areas were annexed by Anne Arundel County. [cite Mark's timeline, Brooklyn-Curtis Bay info sheet from Pratt Library via internet--get other sources]

⁸ cite Power's notes [check on ferry, from class notes--source?].

Although there was no community of Fairfield until the late nineteenth century, the name "Fairfield" seems to have been in use as a designation of the Cromwell land on the peninsula by the early 1800s, if not before.⁹ The place name first enters the realm of written history in 1813. In the summer of that year Richard Cromwell, an Anne Arundel County farmer (plantation owner), requested a special warrant from the Maryland State Land Office for a resurvey of a total of 538 and 1/4 acres belonging to him but spread among four contiguous parcels. The acres included all or parts of parcels previously obtained by the Cromwell family, called "Utopia the Third," "South Canton," "Hay Meadow," and "Pleasant Prospect." The purpose of the resurvey was to correct errors and reduce the four contiguous parcels to one tract, to be called "Fair Field."¹⁰ The total tract constituted about 1/3 of the peninsula, waterfront property along

⁹ A Jul 2, 1941 Sun article tells of a Miss Anne Armour Perkins, a resident of Baltimore, who had in her possession the journal of her grandmother, Mrs. Elizabeth Cromwell Corner. Mrs. Corner is said to have been born on the Cromwell ancestral home of Fairfield in 1802. John Cromwell is asserted to be the first owner of Fairfield. He had three sons, Richard, John, and Thoms. John Cromwell, Jr., became a physician and a founder of the Medical and Chirurgical Faculty. Mrs. Corner was the daughter of Richard, Jr., son of "Richard of Fairfield" who died in 1804. [in MD Dept at Pratt]

¹⁰ cite Richard Cromwell's patent for 538 and 1/4 acres, Fair Field, of August 12, 1813? The patent gives the following history of the four smaller parcels that were combined into "Fair Field": (1) part of South Canton, a 500-acre parcel acquired by John Cromwell on Sept. 6, 1733; (2) the 33-acre Hay Meadow obtained by William Cromwell on Oct. 20, 1739; (3) the 6-acre Pleasant Prospect obtained by Richard Cromwell on July 6, 1782; and (4) the 340-acre Utopia the Third obtained by Richard Cromwell on Oct. 17, 1782.

its southern edge facing the Patapsco River and Curtis Creek.

After the resurvey Cromwell patented the 538 1/4 acre tract and within a month conveyed it to William Flannagain, a shipbuilder from Baltimore City, for the then munificent sum of \$12,918. The original terms of the sale were that Flannagain would pay 1/2 of the principal amount immediately, 1/4 of the remaining principal plus interest a year later, and the final 1/4 plus interest in 1815. However, in 1814 Cromwell agreed to cancel the original promissory notes, and bound Flannagain to pay off the entire 1/2 remaining principal in 1815. Flannagain was unable to pay off the principal, though for a few years he managed to pay interest. In 1817 he assigned his Bond of Conveyance to a third party, who paid neither interest nor principal. Richard Cromwell apparently was a patient man. He did not institute legal proceedings against Flannagain while he was alive, but in December 1821 he brought a Bill of Complaint before John Johnson, Chancellor, against the heirs and representatives of William Flannagain (and he later subpoenaed the third party). None of the people he sued attempted to offer a defense, so the Chancellor issued a decree in his favor in 1822, and the property was ordered to be sold at public auction at the Exchange in Baltimore to pay off Flannagain's debt to Cromwell. The highest bidder turned out to be none other than Richard Cromwell, who was able to buy back the property he had valued at \$12,918 in 1813 (and for which he received \$6,459 plus a few

interest payments) for \$7,500 in 1824.¹¹

Why did Flannagain think the large, undeveloped tract was worth so much money? And why did he default? Almost certainly the answers to both questions are to be found in his occupation as a shipbuilder. During the War of 1812 Baltimore built one-third of the ships in the U.S. Navy,¹² most of them at Fells Point. The City was also the leading commissioner of privateers in the nation.¹³ Privateers were in effect U.S. government-sanctioned pirates who would capture and destroy British merchant ships. The privateers would man and arm their vessels at their own expense, but by posting bond to assure compliance with regulations, they would receive a letter of marque, or commission, from the U.S. government.¹⁴ Flannagain probably planned to rival the clipper ship builders of Fells Point by creating a shipbuilding and privateering empire off the deep waters below Baltimore City. In February 1815, however, a peace treaty was signed, and the privateering market was destroyed. So was Baltimore's maritime trade generally, as peace among the

¹¹ Richard Cromwell vs. James Beachem & others Heirs and Representatives of William Flannagain, December Term, 1821 (Dec 4, 1821), pp. 155-171. How to cite? say incl. exhibits and subsequent related docs, such as Chancellor Johnson's final order of Feb. 27, 1824.

¹² Olson, at 46.

¹³ Olson, p. 46.

¹⁴ Keith, p. 125.

European powers unleashed devastating European competition in the carrying trade for American merchants and the glutting of American markets with European manufactured goods that had been inventoried during the war.¹⁵ There must have been no market for Flannagain's ships. Fairfield's future as a major shipbuilding center would have to wait until another century.

Crisps Take Over--mid-century

Beginning around the middle of the 19th century, the position of the peninsula's leading family passed from the Cromwells to the Crisps, who may have been relatives of the Cromwells. Like the Cromwells, Nicholas J. Crisp and his five sons seem to have been farmers, growing cantaloupes and asparagus and harvesting crabs and oysters. [cite?--Brooklyn-Curtis Bay Historical Committee work] (Before the Patapsco River was dredged in ____ to allow bigger ships entrance into Baltimore's harbor, the river was home to some of the finest oyster beds in the entire region.) [find cite for dredging] By the end of the century, the Crisps were regarded in Baltimore Society as the pioneers most responsible for the settlement of northern Anne Arundel County.¹⁶ At this time, various Crisp siblings owned most of the land in the Brooklyn-Fairfield area. Although they had

¹⁵ Gary Larson Browne. Chapter IV, Economic Crisis and New Directions, 1815-1831, p. 70-71, in Baltimore in the Nation, 1789-1861. The University of North Carolina Press, Chapel Hill, NC, 1980.

¹⁶ Sun. June 21, 1936. need to find this in Pratt and get title [fd. in Hull's paper]

started off as farmers, by the turn of the century the Crisps had become major players in the development of the land for industrial use.

At mid-century, the Fairfield peninsula remained an isolated, agricultural region, connected only by a ferry to Baltimore, which had grown to be a city of 170,000 people.¹⁷ Its isolation, yet proximity to deep water and to the City, determined its development in three key respects beginning around mid-century: the location was ideal for siting of a public pest hospital, for the development of an adult entertainment district beyond the bounds of the City's regulations, and, also beyond the City's regulatory grasp, for the erection of heavy industries. All of these factors combined to interfere with the dream, envisioned by various developers and leading citizens of Baltimore and Anne Arundel County, of the peninsula's and its environs becoming the site of populous, prosperous residential communities.

When City health officials established a line of quarantine, most of the peninsula was beyond the line in the region of "intermittent and remittant fever"¹⁸ (small pox, yellow fever, typhus and tuberculosis were the big killers of the day). [check on this--Olson?] In about 1845, the City purchased 20 acres [check this, it's 20 in case but Greg earlier says 125] from the Crisp

¹⁷ find source for this--1850 Census.

¹⁸ cite A Map of the Medical Topography of Baltimore, 1851, Map 2, by Dr. Thomas H. Buckler--find rest of source.

family and built a Marine Hospital just past the line of quarantine on the peninsula in what is now Old Fairfield. [cite for purchase fr. Crisps] The hospital's original purpose was the care of sick immigrants and sailors. During the Civil War, the Marine Hospital was used by the U.S. government as a "flimsy barrack hospital." After the Civil War, Baltimore resumed control of the hospital grounds.¹⁹

The hospital began to serve a second purpose as a result of the smallpox epidemic of 1871 in Baltimore. The City began to use the Marine Hospital as a pest hospital, that is, as a place isolated from the City where people with often fatal contagious diseases could be housed. Poor people who were ill but not afflicted with contagious diseases were also sent to the Marine Hospital. The hospital was not inspected by any city officials and consequently was poorly managed.²⁰ Some health care practitioners decried the City's use of a single institution wherein immigrants and sailors who may have been sick, but not with contagious diseases, were exposed to patients from the City who had serious contagious diseases. The resident physician at the hospital in 1872 wrote that "there is not an institution of

¹⁹ William Travis Howard. Public Health Administration and the Natural History of Disease in Baltimore, Maryland, 1791-1920, Carnegie Institute of Washington, Washington, D.C., 1924, p. 93. [check this]

²⁰ Greg gets all of this, but without page numbers, from John Cox, Annual Reprprt of the Board of Health to the Mayor and City Council of Baltimore for the Year Ending October 31, 1972. City Printer, Baltimore, 1873. [check]

the City or State so wholly uncared for, and so universally unpopular."²¹ He proposed that the City erect two suitable and distinct hospitals on the Marine Hospital property. But by 1877 the hospital was being used primarily for people from the City who had contagious diseases.²²

Finally, in 1883 the City decided to separate the two functions, establishing a quarantine hospital at Leading Point²³ and eventually an infectious disease hospital in the City.²⁴ By

²¹ Cox, at 73.

²² John Cox, Annual Report of the Board of Health to the Mayor and City Council of Baltimore for the Year ending December 31, 1877, City Printer, Baltimore, 1878. [page?]

²³ Mayor, Etc. of City of Baltimore v. Fairfield Imp. Co. of Baltimore City, 39 Atl. Reporter 1081, 1082 (1898). [get Md. cite?]

²⁴ William Dulaney, Annual Report of the Board of Health to the Mayor and City Council of Baltimore for the Year ending December 31, 1900, Public Printers, Baltimore, 1901. [check on this]

the early 1880s, the Marine Hospital had only 14 patients and was in "miserable condition"²⁵ according to the annual report of the City's board of health, as evidenced by its lack of kitchen, laundry facilities, fire escape, and fire extinguishers.²⁶ The City ordered the buildings be burned and the land directed to be sold.²⁷ Apparently there were no purchasers for the right price because the City held on to the land.

In addition to its suitability as a location for pest houses and quarantine hospitals, the isolated yet accessible regions just below the City were excellent and eventually notorious sites for adult amusement parks, where patrons from the City could indulge themselves in freedom from the City's gaming and alcohol regulations. The first of these parks appears to have been Acton Park, a gaming/amusement/burlesque establishment opened by Samuel Acton at the southern ferry terminal in the 1840s. Acton resided at the Walnut Spring Hotel, which was built in 1841 just over the

²⁵ Sidney Heiskell, Annual Report of the Board of Health to the Mayor and City Council of Baltimore for the Year ending Decemer 31, 1884, City Printer, Baltimore, 1885. p. 173

²⁶ Heiskell at 174-175.

²⁷ Balt. v. Fairfield imp. co., at 1085.

Patapsco River from the City, at the present corner of Hanover Street and Patapsco Avenue.

In 1856 the Cromwell and Crisp families together built the Light Street Bridge (also called the Long Bridge or Brooklyn Bridge). They charged an exorbitant toll for use of this drawbridge, 5 cents for a pedestrian, 25 cents for a one-horse buggy, and 50 cents for a two-horse buggy. As a result local farmers tended to take more circuitous land routes to the City,²⁸ and thus the bridge had little immediate impact on the Fairfield peninsula's development.

At the same time as the Crisp and Cromwell families were connecting their farmland to the City by bridge, real-estate developers became interested in the as-yet pristine region that was now becoming more accessible to the City. A group of developers incorporated the Patapsco Company in 1853.²⁹ Many of the same developers were also involved in the Patapsco & Brooklyn Company, which would later become the Curtis Bay Company.³⁰ The companies' leaders included prominent citizens in Baltimore City, such as Josias Pennington, an architect; William S. Rayner, an immigrant from Bavaria, where he had been a Hebrew scholar, who

²⁸ A History of Brooklyn-Curtis Bay, 1776-1976. The Brooklyn-Curtis Bay Historical Committee, 1976. p. 31? check this cite and others? [Power's notes, Pratt library on "Brooklyn-Curtis Bay" via internet]

²⁹ Enoch Pratt Free Library, MD vertical file on Patapsco Company--Patapsco Land Company of Baltimore City.

³⁰ Baltimore: Its History and its People, Vo. III, at 879 (1912) [check]

became a large dry goods merchant, real estate developer, and philanthropist in the New World; and his son Isidore, whose political career stretched from 1878 until 1912, when he died in office as U.S. Senator. [cite? Brookly-Curtis Bay history?] The plans of the developers were ambitious: their aim was to construct a large bedroom community. The developers had good reason to be ambitious--the population of Baltimore was doubling in size between 1840 and 1860, becoming the second largest city in the nation in that year.[cite census?] The story goes that an employee of the Patasco Company, R.W. Templemann, came up with the name of Brooklyn for the community. Templeman suggested that the planned residential community at the north base of the Fairfield peninsula, which was to be connected by a bridge to Baltimore, would be analogous to Brooklyn, New York.³¹

Perhaps because of the high fees charged by the Crisps and Cromwells for passage across the Light Street Bridge, the developers' plans for Brooklyn were slow to yield fruit. By 1866, only 40 lots had been sold. In desperation, the developers attempted to entice new customers by offering each purchaser of a house lot a bonus lot in the Patapsco Cemetery, now nicknamed the "Bonus Land Cemetery." The promotion failed to attract many new buyers,³² and Brooklyn never did become the large, prosperous suburban borough envisioned by the Patapsco Company and its

³¹ A History of Brooklyn-Curtis Bay, at 30.

³² John Mellin, Arundel Vignettes, The Capital, March 25, 1988.

successors. (Today, it is a working-class community of about 15,000 people). [cite census figures]

In 1874 the Patapsco Company was reorganized as the Patapsco Land Company of Baltimore,³³ and in 1882 it was reorganized again as the South Baltimore Harbor and Improvement Company.³⁴ The changes in corporate name and structure reflect the company's inability to attract enough customers of the right class and thus fulfill its promises to its previous purchasers. For example, the original plan called for construction of a 64-block grid with a 15-acre square in the middle. When the developers failed to sell enough lots they reneged on their promise to build the square. [find cite for this story--ask Garrett?]

The reorganized developers changed their tactics and goals, dropping the dream of a bedroom borough and now capitalizing on the region's suitability for industrial development, along with its concomitant rise of company towns for immigrant workers. They now turned their attention toward the land south of Brooklyn, in what would become Curtis Bay (today a working-class neighborhood of about 5,000) at the base of the Fairfield peninsula. [check census] Curtis Bay's development is important for understanding the historical context of what seems today to be the bizarre mix of heavy industrial and residential uses characteristic of Old Fairfield and Wagner's Point further out on the peninsula.

³³ A History of Brooklyn-Curtis Bay, p. 31.

³⁴ Enoch Pratt vertical files on Patapsco Company and file on South Baltimore Harbor and Improvement Company.

The 1874 prospectus of the Patapsco Land Company shows that the developers intended to provide both places of employment and nearby housing for European immigrants,³⁵ although their sales pitch was definitely aimed at the employers of the immigrants. The developers dreamed that "manufactories of every description will be established" to take of the advantage of the area's access to water and its lush farmland.³⁶ The manufactories they described included chemical and fertilizer plants; the packing of oysters, fruit, and vegetables; machine shops and locomotive car factories; and coal and oil refineries.³⁷ The developers' proposal of combining industrial and residential land uses made sense at the time for both workers and industrialists: there was no ready transportation for poor workers to get to and from work (especially if they lived outside the City limits), and the industrialists had a ready supply of cheap labor and open land on which to build and expand in the future (also, outside the City, they would be free from nuisance laws and other regulations). Some industries, such as the Baltimore Car and Foundry Company in Curtis Bay, built company homes for their employees.³⁸ Unlike the middle-class who did not flock to Brooklyn, the factories and

³⁵ A History, p. 31; also, Mellin, Arundel Vgnettes, the Capital, Dec 22, 1988.

³⁶Sun, 1909 art. March 7. Curtis bay once aspired to put Baltimore out of business, p. 15?

³⁷Id.

³⁸ A History, at 33.

immigrants did come to Curtis Bay and the peninsula generally, although the "country residences" envisioned by the developers, which would be situated on the "rolling land rising gradually back from the bay, which commands magnificent views of the Chesapeake Bay," never did materialize³⁹ (for obvious reasons, the industrialists themselves preferred to live in the more attractive, convenient, and wealthy neighborhoods of the City).⁴⁰

By 1909, Curtis Bay was a depressed working-class town with a population of about 8,000, and was considered by the Sun to be a "foreign-tenanted and rather remote suburb of Baltimore."⁴¹ At this time the residential parts of the town were owned almost wholly by the Patapsco Land Company's successor, the South Baltimore Harbor and Improvement Company. The rest of the town was shared by the Baltimore and Ohio Railroad and the factories.⁴² Although the founders' dreams went unrealized in both Brooklyn and Curtis Bay, and although both communities (Curtis Bay in particular) are situated near noxious industries, the two communities had become sizeable enough by the early 20th century to ensure that they would not become fragile residential enclaves completely engulfed by heavy industry, as occurred to Old

³⁹ Sun 1909 art. again.

⁴⁰ For example, Martin Wagner, of Wagner's Point, founded a small community for his workers next to the three factories he owned, but he himself commuted to work from Baltimore.

⁴¹ Curtis Bay once aspired to put Baltimore out of business. Sun March 7, 1909. p. 15?

⁴² Sun, 1909 art. on curtis bay.

Fairfield and Wagner's point.

Three events soon after 1874 improved transportation to and from the peninsula, thus making the area more accessible for industrial development. In 1878 the State bought the Light Street Bridge and promptly lifted the toll. In 1882 the Baltimore and Ohio Railroad (B&O) constructed its Curtis Bay spur, so that it could have a pier for the coal from its Garrett County, Maryland, mines. In 1892 the Baltimore and Curtis Bay Railway opened its electric street car line across the Light Street Bridge. [cite other than Pratt internet Brooklyn-Curtis Bay--perhaps the Brooklyn-Curtis Bay's historical committee's work?]

An 1878 map of northern Anne Arundel County shows the Crisp family (and to a lesser extent, the Cromwells) holding much of the land in the area, in particular the sites of what would shortly become Old Fairfield and Wagner's Point.⁴³ The B & O's initial incursion into the peninsula undoubtedly added to the value of the land. For example, when R.O. Crisp died in the 1880s, his trustees were able to sell his farm bordering the Patapsco River and Curtis Creek on the southern tip of the peninsula for \$100,000,⁴⁴ a vast amount equivalent to _____ in today's dollars. [find this out] Perhaps because of the increased ease of transportation to and from the peninsula starting in

⁴³ from 1878 Hopkins Atlas of Anne Arundel County, 5th District, 1878, Anne Arundel Co. [how to cite? check

⁴⁴ Crisp v. Crisp, 61 Md. 149 (1884), 148, 151.

1878, the Crisps became land developers themselves.

They seem to have been involved in the Fairfield Improvement Company, first mainly as a tax shelter and then as a means to sell the land to industrialists. For a period of about 17 years between 1891 and 1907, and most intensively between 1891 and 1893, the Crisp family members made hundreds of land transfers back and forth between the company and themselves. At first when did sell off to outsiders, the buyers were individuals. But by the early years of the century, the Crisps were conveying land to the B&O Railroad Company and the Prudential Oil Company. The last conveyance by a Crisp occurred in 1919. It was to Sun Oil Company.⁴⁵

[check onthis--where does Power get this, and I'm guessing about who did the developing] Once the B&O had entered the peninsula, the Crisps and the Fairfield Improvement Company planned to develop Fairfield as a 20-block parcel. But the major impetus to development of Fairfield may have been the location of a Rasin Fertilizing Company's factory in the area,⁴⁶ perhaps as early as the start of the 1880s. At least one source suggests

⁴⁵ Anne Arundel and Baltimore Grantor-Grantee Indexes, Jan. 1, 1839-Dec. 31, 1919. Cited in Hull: Stephanie Hull, unpublished paper, A Historical Analysis of Land Use Conflict in the South Baltimore Community of Fairfield--Mayor of Baltimore City v. Fairfield Improvement Company of Baltimore City, 87 Md. 352 (1898).

⁴⁶ The Story of the Fertilizer Industry in Baltimore. by Industrial Bureau, Baltimore, June 1950, at 52.

that the community was established to house workers at the plant.⁴⁷ What we do know is that by 1893, there were 2,100 workers employed at nine factories in Fairfield. The plants included the Rasin plant, the Baltimore Chrome Works, and the Monumental Acid Works.

That a fertilizer plant was among the first factories established at Fairfield is reflective of that industry's major role in Baltimore commerce from the mid-19th century on. Because tobacco farming had severely depleted the soil, Maryland agriculturalists had experimented with various kinds of fertilizer as far back as Colonial days.⁴⁸ It was not until the "guano mania" of the 1840s and 1850s, however, that Baltimore became the national leader in the fertilizer industry.⁴⁹ The first shipment of Peruvian bird guano arrived in 1832.⁵⁰ By the 1840s, a thriving market had emerged in the City, with Baltimore's port receiving an estimated 58% of the 66,000 tons of guano entering the U.S. from Peru between 1844 and 1851.⁵¹ Soon the high price of the "fabulous fertilizer"⁵² (\$1.50 per ton when

⁴⁷ Benjamin Latrobe, Jr., & Dennis M. Zambala, eds. 1995) Baltimore: Industrial Gateway on the Chesapeake at 73.

⁴⁸ Industrial Bureau, The Story of the Fertilizer Industry in Baltimore, Baltimore, June 1950, 17, 48 [check this book]

⁴⁹ Jimmy M. Skaggs, The Great Guano Rush (1994), p. 8-9.

⁵⁰ Industrial Bureau, The Story of the Fertilizer Industry in Baltimore, Baltimore, June 1950, at 17.

⁵¹ Skaggs at 9.

⁵² Skaggs at 9.

\$1 could buy a man's tailor-made suit⁵³) created a market for cheaper substitutes. This in turn created a need for a state regulatory scheme to protect unwary consumers from fraudulent guano. An 1854 Maryland law required all guano arriving at the Baltimore port to be analyzed for its ammonium and phosphate condition.⁵⁴

As well as being used for inspection and regulation, chemical analysis could be employed to in the preparation of natural and artificial substitutes. That was certainly the hope of guano merchants as the prime supply of Peruvian guano had declined by the late 1850s. Sometime in the late 1860s, the Navassa Phosphate Company hired PhD chemist R.W.L. Rasin to increase the potency of its "guano" (the company-owned island in the Caribbean turned out not to house a huge supply of guano but phosphate deposits instead⁵⁵). [cites for hiring of Rasin--

⁵³ Skaggs at 10.

⁵⁴ See Report of the Inspector of Guano in Obedience to an Order of the Senate (1856).

⁵⁵ The Navassa "guano" find almost led to an international armed conflict. According to Skaggs at 99, the uninhabited island was discovered by a Captain Duncan of Baltimore, who mistook the phosphate deposits for a million tons of guano. He laid claim to the island, and then sold it to another Maryland captain, E.O. Cooper. In the meantime, Haiti learned of the "guano"-rich island and dispatched forces to the island to assert Haitian sovereignty over the guano operations there. By this time the U.S. Congress had recognized the importance of guano to the national economy and had passed the Guano Act (48 U.S.C. sec. 1411-1418? check on this). The act authorized the U.S. government to treat as an appurtenance any uninhabited island containing guano deposits discovered by a U.S. citizen. Further, the act authorized the use of U.S. military force to protect any U.S. claim to any such island. Although Captain

Scharf?, Skaggs? Industrial Bureau?] By 1872, Rasin and a partner were ready to start their own company.⁵⁶ The original plant of the Rasin company was reputed by a contemporary writer to "have no superior."⁵⁷ The factory at Fairfield was the company's second plant. Sometime in the late 19th century, the Royster Guano Company also opened a plant in Fairfield, next door to the Rasin plant.⁵⁸ It is also likely that the Monumental Acid Works at Fairfield was involved in fertilizer production,⁵⁹ as a

Cooper had not technically complied with the provisions of the Guano Act, the State Department responded to his request for protection against the Haitian forces by sending U.S. forces to the island. Fortunately, the Haitians had departed before the U.S. forces arrived. Diplomacy was finally able to resolve the resulting tension between the two nations.

⁵⁶ See Skaggs at 148 and Scharf at 398. [check on following]: R.W.L. Rasin's son was Isaac Rasin, who along with Arthur Pue Gorman ran the Gorman-Rasin Democratic Party political machine controlling Baltimore politics until the municipal reforms of 1895. Cite Olson, p. 152 and 224 on ring, but need cite for Isaac as son or other relative.

⁵⁷ J. Thomas Scharf, History of Baltimore City and County, p. 398 (1882).

⁵⁸ Map from The Baltimore News, 1908, "Index of Industries Located along Baltimore's Waterfront". It is interesting that the map designates the Brooklyn-Curtis Bay area as "South Baltimore" when the area was still in Anne Arundel County (much of the area, including all of Fairfield and Wagner's Point, was annexed by the City, but not until 1918). [need more info on this map] I THINK THIS MAP IS REALLY FROM 1918--THAT WOULD EXPLAIN THE SOUTH BALITMORE--ALSO, DAVE'S PAPER SUGGESTS DATES OF 1917 AND SO ON FOR THE EARLIEST OIL COMPANIES!

⁵⁹ According to the records of the Baltimore City Department of Public Works, Maps and Real Property Records section and to Sheet No. 88 of the 1971 Zoning District Maps of Baltimore [cited elsewhere, correctly in full], the Rasin plant later operated under the name Rasin Monumental Fertilizer Company, suggesting that at some time the Rasin company had bought out the acid works--perhaps as early as the first decade of the century, since

subindustry of Maryland's fertilizer industry became the production of the artificial equivalent to guano, superphosphates. An essential ingredient in the production of superphosphates is sulfuric acid. Just as Baltimore became known for its guano imports, it later became known for its manufacture of artificial guano substitutes.⁶⁰

Despite the rapid rise of industry among the farms and orchards of Fairfield, only 221 people actually lived in the town as of 1893. Most of the 2,100 workers commuted by scow or the two-round-trip a day ferry service. The B&O ran occasional excursion steam trains so that real estate agents could try to persuade Baltimoreans to settle there. The community was not a rowhouse community but consisted of frame two-story houses.⁶¹

Once couple who decided to live in Fairfield after taking an excursion there were Mr. and Mrs. William Potts. They moved to

the 1908? or 1918? Baltimore News map [cited elsewhere in full] does not include the Monumental Acid Works in its index of Baltimore's waterfront industries.

⁶⁰ check out The Story of the Fertilizer Industry in Baltimore for info on this.

⁶¹ Fairfield Reminiscences: Industrial Area Looks Back on its almost pastoral past, Sun Jun 26 1941. The Sun article cites and quotes the obscure The Fairfield Journal, of 1893. The Fairfield Journal of 1893 was probably not a newspaper so much as a publicity sheet of the realty developers. This would explain its exaggerated claims for the community: "Perhaps no place around Baltimore is better off than Fairfield. It is easily accessible by steam railroad, electric railroad, by boat and by easy driving." Sixteen years later, the Sun still described neighboring Curtis Bay as a "rather remote suburb."--in "Curtis Bay once aspired to put Baltimore out of business," Sun, March 7, 1909, p. 15.

town in 1888, first living in a company house. Within a year they had purchased a lot and built Fairfield's fifth house for themselves. In 1941, at the age of 78, Mrs. Potts reminisced for the Sun, remembering that her husband always found work and that "times were good . . . at \$8.25 a week we raised a family of five children and had some money left over" (the Sun estimated the average costs of a mortgage and taxes to be only \$47.16 per year for a six-room house). In a tone of nostalgia for the rural days of her youth that reminds one of the nostalgia felt by later residents of Fairfield and Wagner's Point for community life before World War II and in the 1950s,⁶² Mrs. Potts said, "This was a great place in the early days. . . . Why on Sundays the road . . . was black with people walking and with all sorts of horsedrawn vehicles. They had come to this lovely spot to spend the day in the woods, fields and along the shore."⁶³

Presumably Mrs. Potts was a white woman because the Sun did not mention her race, as was customary at the time among Baltimore papers if the person being reported about were African American. [true, need source for this?] It may be that Fairfield began as an all-white or as a mixed-race community. Early Fairfield had a later, perhaps mythic reputation as being a rare

⁶² For examples, see the reminiscences of longtime Old Fairfield residents Jennie Fincher and Jimmy Drake quoted in the 1980s section of this paper; and see the quoted reminiscence of Jeannette Skercz (sp?), a Wagner's Point resident since the early 1940s, quoted in the 1950s section on the sewer plant in this paper.

⁶³ Id.

place where the races got along.⁶⁴ Certainly there were some African Americans there by the 1910s, as longtime African American resident and community leader Jennie Fincher moved to Fairfield from Virginia with her family sometime in the second decade of the century.⁶⁵ Mrs. Fincher claims that "Fairfield was one of the first truly integrated communities in the city."⁶⁶

From the beginning, workers at the fertilizer factories may have been African American, as the Navassa Phosphate Company used African American workers (and white supervisors) from Baltimore to work the mines on Navassa island.⁶⁷ Starting in the late 1890s, there was a great influx of African Americans from the rural areas of the state. The immigration created a housing crunch, as the racist (and profitable) policies of the politicians and real estate business of the day restricted virtually all development of new housing for African Americans, thereby maintaining a tight grip on the supply and pricing of the

⁶⁴ See, e.g., Site of Sewage Plant Still Lacks Sewers: Technology Surrounds Fairfield, But Fails to Serve It. Sun. Oct 19 1970, by Louis P. Peddicord.

⁶⁵ Old Fairfield worries about community's future. Sun. Oct 29, 1979. Pratt Fairfield file. by John Schidlovsky. listing the date as 1917; but Michael Anft, "Ghost Town," The City Paper, May 12, 1989, gives the year as 1914.

⁶⁶ Michael Anft, "Ghost Town," The City Paper, May 12, 1989.

⁶⁷ In 1889, long after Rasin had left the company, black workers in Navassa, who were undernourished and treated with extreme brutality, rebelled and killed five of their white supervisors. At the subsequent trial before an all-white jury in Baltimore, three of the workers were condemned to hang. The company was not compelled to change its work conditions. See Olson's book, at 201-202.

available secondhand housing.⁶⁸ A leading historian of the Baltimore area asserts that one of the few new housing opportunities for African Americans were the "shanties built by industry or tolerated on industrial land adjoining the fertilizer and chemical factories as at Fairfield" but gives no citation for this assertion.⁶⁹

One plot of Fairfield land that was not developed as late as 1897 was the 20-acre site of the City's former and now demolished pest house and marine hospital. The land closest to this site had been deeded to a F. Grafton Crisp in 1881.⁷⁰ By 1897 all the land surrounding the former pest house was under the control of Fairfield Improvement Company, which at least on paper had divided the area into a grid of building lots for homes. Apparently at least some homes had been built in the vicinity and were inhabited by workers at the nearby factories. The homes were either owned by the companies or had been purchased by the residents from the Fairfield Improvement Company.⁷¹ After allowing the land to lie unused since the early 1880s, the City decided in 1897 to house there an Italian immigrant with leprosy and contracted for her to be taken care of by an unskilled laborer

⁶⁸ Sherry H. Olson, *Baltimore: The Building of an American City*. rev ed. Baltimore, Maryland: The Johns Hopkins University Press, 1997. at 275-276.

⁶⁹ Olson at 276.

⁷⁰ Hull paper, p., 10, note 7, citing Anne Arundel and Baltimore Grantor-Grantee Indexes from Jan 1 1839-Dec. 31 1919.

⁷¹ Hull, p. 2, andher Footnote 8, 87 Md. 352 at 358 (1898).

and his family.⁷²

Fearing that the value of its surrounding property would plummet if this nuisance were allowed to remain on the City's land, the Improvement Company sued and won in the Court of Appeals of Maryland.⁷³ The City argued that it was legitimately exercising its police powers to protect the health and safety of its populace by isolating those with contagious diseases. The Court noted, however, that the region was no longer so isolated, as it was now home to industry and resident workers; also, the City had taken no precautions to ensure the safety of the people in Fairfield. Most damaging to the City, it had effectively abandoned the property more than a decade before, thus giving credence to the Fairfield Improvement Company's claim that they had not come to the nuisance but rather were unreasonably threatened with the destruction of their valid investment expectations in the region. The City had done nothing to stop or

⁷² The laborer appears to have been William Helmstetter, who, ironically enough, bought two properties from the Fairfield Improvement Company in 1891 and 1893. Hull, FN 9, on p. 10, citing Grantor Index to Land Records, Jan 1 1839-Dec 31 1908, Anne Arundel County, and notes that the court opinion seems to have misspelled the name as Hemstetter (no record of such a property owner could be found).

The unfortunate immigrant with leprosy was Mary Sansone, who was probably the mother of Joseph Sansone, who had immigrated to the U.S. from Italy in 1892. Mr. Sansone was a poor fruit dealer who rented a house in Baltimore City. He spoke no English and could not read or write. It is not known what happened to Mary Sansone. She may have been sent to one of three existing leprosariums between New Orleans and Boston. [Again cite Hull, pp. 10-11, footnote 10.

⁷³ 87 Md. 352, 39 Atl. Reporter 1081, Mayor etc. of city of Baltimore v. Fairfield Imp. Co. of Baltimore City (1898).

warn the people moving into the area in reliance on its abandonment of the property. The Court granted a perpetual injunction against the City's reuse of the land for pest house purposes.⁷⁴

Rise of Wagner's Point

In addition to fertilizer production, Baltimore in the last decades of the 19th century was known for its canning and packing industry. By century's end, the City was the national leader in the packing of oysters and the canning of vegetables and was considered "the cradle of the canning industry."⁷⁵ At this time, however, the canning plants were busily relocating outside the City limits to be closer to their supply of produce.⁷⁶ For example, in 1900 75% of the industry was still located in the City, but by 1905 only 48% remained inside Baltimore.⁷⁷

One of the companies that moved outside the City was that of Martin Wagner, who moved his thriving company in 1896 to the southern tip of the Fairfield peninsula, west of Curtis Bay and south of Old Fairfield.⁷⁸ Wagner was born in Baltimore in 1849 to

⁷⁴ Id.

⁷⁵ U.S. Census: 1900, IX, Manufactures, pt. 3, 480; also, see Earl C. May, *The Canning Clan* 8 (1937).

⁷⁶ Eleanor Bruchey, *The Industrialization of Maryland, 1860-1914* in *MARYLAND: A History*, at 415. (Richard Walsh & William L. Fox, eds., 1983).

⁷⁷ E. Emmet Reid, *Commerce and Manufactures of Baltimore, in Baltimore History and Its People* (Clayton C. Hall, ed., 1912), p. 521.

⁷⁸ Martin Wagner. Sun. Feb 24, 1952.

German immigrants, and he served an apprenticeship in a tin can factory where he learned to make cans by hand.⁷⁹ By the 1880s he owned and operated his own can factory,⁸⁰ and three years later he started up a canning business as well, in the Canton area of the City (a small street there is still called Wagner Street).⁸¹ His business became one of the largest canning enterprises in the industry's glory days in Baltimore. His "Dog's Head" brand of tomatoes, peaches, apples, beans, peas, preserves, and oysters were distributed nationally. He also imported pineapples from the West Indies in his own boat. In 1896 he moved outside the City to be closer to the truck farmers of Anne Arundel County and more accessible to the produce farmers of the Eastern Shore, who shipped him their produce in small boats. Wagner bought a 50-acre tract and there set up an "integrated" operation, with his workers not only packing and canning but also making the tin cans and the wooden boxes in which the cans were shipped.⁸²

The area as a whole came to be known as Wagner's Point, but the residential community Martin Wagner established for his

⁷⁹ Baltimore: Industrial Gateway on the Chesapeake 72 (Benjamin Latrobe & Dennis M. Zambala, eds., 1995).

⁸⁰ David Brown. Life in Wagners Point: Cut off but happy. Sun. Dec 26 1982. Pratt VF--Wagners Point.

⁸¹ Id.; also, see Martin Wagner. Sun. Feb 24, 1952; Baltimore: Industrial Gateway on the Chesapeake 72.

⁸²See, e.g., Martin Wagner. Sun. Feb 24 1952. Pratt VF; Baltimore: Industrial Gateway on the Chesapeake 72.

workers was first known as East Brooklyn.⁸³ Although today few remember or use the original name, until the 1950s, when the community had a post office, volunteer fire house, bakery, barber shop, and so on, it was officially known as East Brooklyn.⁸⁴ Wagner constructed three blocks of about 100 two- and three-story brick rowhouses.⁸⁵ Originally, the houses were owned and rented as apartments by Wagner. The homes had shutters and were painted red with each brick outlined in white. The wooden front steps were also painted white. Each house had its own privy in the back yard.⁸⁶ Each house had a tree in front, which was whitewashed annually by employees of Wagner's company.⁸⁷

The sidewalks were brick, and the streets were "level shell roads."⁸⁸ The original street names were generic and nondescript, e.g., First Avenue, Second Avenue, Centre Avenue. But by 1920 the people had renamed them with the more descriptive names still

⁸³ See, e.g., Martin Wagner. Sun Feb 24, 1952. Pratt VF-- Wagner, Martin 1849-1903.

⁸⁴ The Post Office closed in 1952. Regiec, p. 15, citing personal letter from longtime resident, Ted S. Bruchalski, Nov. 16, 1989.

⁸⁵ See, e.g., Life in Wagners Point, etc. 1982; Front-steps kind of neighborhood, jun 14, 1979. [do cites]

⁸⁶ Regiec, p. 3, citing her personal interview with Louise Regiec, November 1989.

⁸⁷ David Brown. Life in Wagners point: cut off but happy. Sun. Dec 26, 1982.

⁸⁸ Lee McCardell. Saga of Old Days Adds New Chapte Here. Evening Sun, Nov 8 1940, p. 56; also, interview by author with Jeannette Skrzecz, Nov 5, 1997.

attached to them today, names which reflect the old way of life: Cannery Avenue, because it led to the Wagner cannery (today it leads to the municipal sewage plant); Leo Street, in honor of Pope Leo XIII; and Asiatic Avenue, because it led to the Asiatic Oil Company (one of the oil companies that came to the area in the early years of the century).⁸⁹

The mainly Anglo-American supervisors lived in the larger 3-bedroom rowhouses on "Silk Stocking Row." The workers, who were predominantly Polish immigrants, lived in the smaller houses.⁹⁰ Wagner himself lived in the wealthy Baltimore neighborhood of Bolton Hill,⁹¹ but he was an old-fashioned paternalistic employer (enshrined to this day in the memories of many residents⁹²) who liked to visit the town in his carriage, "to make sure that the

⁸⁹ Regiec, p. 4.

⁹⁰ See, e.g., Wagner's Point: Front-steps kind of neighborhood. Patrick Gilbert. Evening Sun. Jun 14 1979; Life in Wagners Point: cut off but happy. David Brown. Sun Dec 26 1982.

⁹¹ Life in Wagners Point: cut off but happy. David Brown. Sun. Dec 26 1982.

⁹² See, e.g., Cindy Regiec, The Rise and Fall of Wagner's Point, unpublished paper for English 101, Dec 24, 1989; also Rose Hudgins, Wagner's Point, undated unpublished paper, probably also from the 1980s. [both papers in the possession of the author] These two documents, written by residents who descend from Wagner's employees but had no direct memories of him, testify to the almost mythic status he has among the residents with deep roots in the community. Both papers trace the beginning of the end of their community to Wagner's death in 1903. It should be noted that Wagner died less than ten years after he had created East Brooklyn--at the height of the canning industry's prosperity, a few years before his family starting selling off much of their property to oil companies and long before the massive influx of the wartime shipbuilding industry and the erection of the municipal sewage plant.

houses and streets were neat and tidy," in the words of one Wagner company employee and longtime resident.⁹³ This resident remembered that Wagner "treated his people well. Every year he would put on oyster roasts, and dances and parties in the fire house. Everyone in town came to them, including Mr. Wagner."⁹⁴ Wagner's company provided a horse-drawn bus to carry residents, for free, to the nearest street-car stop. At Christmas each child received a box of candy and each family a basket of the company's canned goods. The town also attracted weekend visitors who came to watch semiprofessional baseball and purchase beer on Sundays (which was forbidden by law in Baltimore).⁹⁵

Besides providing entertainments and transportation, Wagner saw that his workers' souls were cared for. On Sunday mornings he would send carriages to the tiny town to transport families who wished to attend mass to the City.⁹⁶ In 1907, four years after his death, his family helped the community finance its own church, St. Adalbert's, named after the apostle to the Poles. The church seated 400 people.⁹⁷ It is reported that the women of

⁹³ Martin Wagner, . Sun. Feb 24, 1952. Enoch Pratt, VF, quoting Charles FABig, a worker for the Eastern Box Company (Wagner's box company, at the time still owned by his family).

⁹⁴ Id.

⁹⁵ Life in Wagner's Point: Cut off but happy. David Brown. Sun. Dec 26 1982. Pratt VF--Wagner's Point.

⁹⁶ Martin Wagner. Sun Feb 24, 1952. Pratt VF--Wagner, Martin, 1849-1903.

⁹⁷ Id.

the town carried bricks to the construction site in their aprons.⁹⁸ The town later built a meeting hall and a parochial school on the church grounds.⁹⁹

A boosterish 1898 history of Baltimore quaintly describes East Brooklyn as a model of paternalistic industrial relocation to the suburbs:

In carrying the plant from Baltimore to Wagner's Point--about four miles distant from Baltimore--they likewise carried the operatives who form a happy and prosperous community, to the now busy little town of East Brooklyn. With its hundred two- and three-story finely built brick dwellings, a post-office whither comes and goes the mail three times a day, a largely attended country public school, drug store, bakery, shoe store and restaurant, it has every claim to the dignity of a town many times older and larger. The town enjoys the presence of a well-conducted grocery and provision store at which goods are sold at city prices.¹⁰⁰

But despite the amenities provided by Wagner's company, life in the early days of the workers' town was typically hard, and often so for the children. Adam Kolodziejki, who was born there in 1903, used to shuck oysters at the plant starting at 4 AM before going to school.¹⁰¹ His wife, Helen Kolodziejki, nee Zebron, went to work fulltime at the age of 11 after her father

⁹⁸ Wagner's Point: Front-steps kind of neighborhood. Evening Sun. Jun 14 1979. Pratt VF--Fairfield

⁹⁹ Id.; also Life in Waganer's Point: Cut off but happy. David Brown. Sun. Dec 26, 1982. Pratt VF--Wagner's Point.

¹⁰⁰ History of Baltimore, Maryland, from Its Founding as a Town to the Current Year: 1729-1898. S.B. Nelson, 1898.

¹⁰¹ Patrick Gilbert. Wagner's Point: Front-steps kind of neighborhood. Evening Sun. Jun 14, 1979.

died. She worked six 10-hour days. Her father-in-law supported nine children by supplementing his income from his job at the cannery by cutting hair on weekend nights and sewing pants during his few spare moments.¹⁰²

In 1912 the cannery burned down and was never rebuilt.¹⁰³ By this time the cannery industry in the Baltimore area was starting to slow down. As of 1914 the City was no longer the national leader in the industry.¹⁰⁴ The tin can and wooden box plants continued to stay in business, although the food-processing and can-manufacturing industries were increasingly becoming the preserve of large national companies. In 1920 Martin Wagner's sons established what would become the longterm future of the family business, a corrugated box plant. Soon afterwards, the paper box branch of the family business absorbed the others.¹⁰⁵

¹⁰² Life in Wagners Point: cut off but happy. David Brown. Sun. Dec 26, 1982.

¹⁰³ See, e.g., David Brown. Life in Wagners Point: cut off but happy.

¹⁰⁴ Bruchey at 417 (citing U.S. Census of Manufactures, 1914, I, 555). [Mary's source]

¹⁰⁵ Regiec, pp. 11-14. Her sources include a November 20, 1989, interview with George Warren Wagner, great-great-grandson of Martin Wagner (see below).

In 1922 the original Martin Wagner Company became the Eastern Box Company as two of its subsidiaries, the Eastern Box Company (which the family had operated in Baltimore) and the East Brooklyn Box Company, consolidated under the Eastern Box Company name. [Source: Brooklyn-Curtis Bay Historical Committee, A History of Brooklyn-Curtis Bay, 1776-1976, at 150. Baltimore: J.O. O'Donovan & Co., Inc., 1977.]

This company continued to operate in Wagner's Point under family control until 1959, when it was bought by Union Camp Corp. In 1967, two of Martin Wagner's great-great-grandsons, George

Within a generation of Martin Wagner's death, his family began to sell off most of its land holdings on the peninsula to industry.¹⁰⁶ Among the industrial newcomers were the first of the oil companies that would later dominate the landscape so ominously to this day. The first was the Ellis Company in 1906 (which seems to have bought land from the Curtis Bay Company, not the Wagners.¹⁰⁷) The Prudential Oil Corporation in 1914 established a refinery in the middle of the peninsula, about equidistant between Wagner's Point and Old Fairfield.¹⁰⁸ The Texas Oil Company of Delaware (later better known as Texaco) was

Warren Wagner and his brother Lawrence Wagner, who had both worked for Eastern Box Company, once again started a family business--Wagner Bros. Container Inc. Their plant was located on the peninsula but in Fairfield, not Wagner's Point. George Warren Wagner was also chairman of the William T. Walters Association that raised money for the Walters Art Gallery in Baltimore. [Source: G.W. Wagner, Jr., 62, Businessman, Philanthropist (obituary), by Gregory P. Kane and Howard Libit, Sun, May 15, 1995, p. 3B.]

¹⁰⁶ See, e.g., Patrick Gilbert. Wagner's Point: Front-steps kind of neighborhood. Evening Sun. Jun 14, 1979. A 1918? map of industry on the Baltimore waterfront lists the Martin Wagner Company as occupying only 25 acres (it had 50 in 1896). The Baltimore News, 1918? Index of Industries Located along Baltimore's Waterfront. A 1914 map shows that the Wagner Company had a much more sizeable holding to the east and northeast of Old Fairfield. Md. Map X914 B1 .T1 1914, Prepared with the cooperation of the U.S. Geological Survey, Baltimore Topographic Survey, Baltimore Harbor Board.

¹⁰⁷ Lee McCardell, Eve. Sun. Saga of Old Days Adds New Chapter Here. Nov 8, 1940, p. 56.

¹⁰⁸ Baltimore City Department of Public Works, Maps and Real Property Records section. See, also, The Harbor Board of Baltimore, Baltimore Harbor, insert (1917); Harbor Board, Port of Baltimore, "Modern FACilities and Terminal Advantages" at 43, 1918. [cites OK? from Dave]

also established on the peninsula before the end of World War I and is still located along the southeast waterfront, with its huge tanks looming over the homes of Wagner's Point.¹⁰⁹

Two Shadowy Communities: Freetown and Masonville

Besides Old Fairfield and Wagner's Point, there were two other communities on the peninsula that deserve some mention, though there is very little information available about them. The first of them, Freetown, seems to belong to myth rather than history, at least as far as the peninsula is concerned. Some accounts, mostly oral but some written, [cite? e.g., Cornell EIP stuff] claim that Fairfield was the site of the first pre-Civil War community of free African American landowners in the South. There is absolutely no historical evidence for this claim. Rather, there was a Freetown to the southwest of the peninsula near present-day Glen Burnie, although there is no existing research to indicate that this Freetown was the first free African American pre-Civil War settlement in the country. However, there is some evidence (from the 1860 U.S. Census and Anne Arundel County manumission records) to suggest that the area had been settled by a few African American landowners by 1860.¹¹⁰

¹⁰⁹ Baltimore City Department of Public Works, Maps and Real Property Records section. [enough info?--from Dave]

¹¹⁰ See Emily Dick, "Early African American Settlements in the Fairfield Peninsula and Northern Anne Arundel County," unpublished paper, December 1997, U MD law school, pp. 3-7. The historical record on Freetown is almost nonexistent: the major source is a report by the town's fifth graders in the early 1950s. At that time, Freetown was similar to Fairfield, though it claimed to have an extremely high rate of home-ownership

Masonville did exist on the peninsula, but this tiny workers' community (even by peninsula standards) seems to have lasted only for about half a century. The community was located between Brooklyn and Old Fairfield, directly next to the B&O Railroad switching yard and surrounded by sizeable landholdings of Frank Furst, a local businessman and power-broker. Masonville must have arisen in the 1890s or early 1900s.¹¹¹ It is believed that the population was about 100. [I get this from class notes, but where did Garrett get it from???] Presumably, the residents either worked for the B&O or for Furst. By the 1950s, the tiny town had been plowed under to make room for an expansion of the

(95%): the town had a population of 300 African Americans living in small, deteriorating frame houses and lacking basic public services such as water and sewer lines. In the 1960s Anne Arundel County began to buy up the properties and replace them with public housing. Sewer and water lines began to be constructed in 1971.

¹¹¹ The town, like Fairfield, does not appear on an 1878 map (Atlas of Anne Arundel County, Md., Philadelphia: G.M. Hopkins, 1878), but it does appear on a map of 1914 (Md. Map X914 B1 .T1 1914, Prepared with cooperation of U.S. Geological Survey, Baltimore Topographic Survey, Baltimore Harbor Board).

A 1958 Sun correction to an error in its "Diary" column says that there was a "Tyson's Row" of eight two-story, frame houses "when the vicinity" (i.e., Fairfield) "was called Masonville." The houses were demolished before Baltimore City annexed this portion of Anne Arundel County in 1918. The paper based its correction on information received from a former process-server who had served court papers on residents between 1914 and 1918. That Masonville was never sizeable or well known is indicated by the Sun's confusing it with Fairfield and by the fact that the Sun could not find a "Tyson Row" listed in any record in the archives of Baltimore City, Anne Arundel County, or the State Land Office. That by 1958 Masonville was recalled only hazily by the Sun's Diary staff suggests that the community had been plowed under well before 1960. "Correction! Correction!" Evening Sun. Dec 5, 1958, p. 33. Pratt VF.

railroad's switching yard. The street names evoke what must have been a rough way of life: Feeder, Shredder, Grinder, Binder, Rake, Harrow, Husker, and Thresher.¹¹²

Frank Furst was a key player in both Baltimore City and Anne Arundel County business and politics in the late 19th and early 20th centuries. He owned several companies involved in the gritty but necessary bases of municipal development: the digging of sand and gravel, barging of garbage, paving of streets, dredging of waterways, and development of industrial tidal land realty. At a time when major public works projects tended to require either the paving of streets or the dredging of waterways, Furst was able to use his business acumen and political connections to control the "alley gate"¹¹³ of the southern perimeter of Baltimore's harbor:

About 1910 he merged his half-dozen firms into the Arundel Corporation, which held land along the tidewater rim, exploited the sand and gravel deposits, and in the Maryland tradition used its dredging spoils to "make" more land for industrial sites. . . . As founder of the Atlantic and Gulf Coast Dredge Owners' Association, he arranged the price fixing and assignment of government contracts. His company . . . had contracts at fourteen cents a cubic yard, others at nine cents.¹¹⁴

¹¹² Ideal Street Atlas of Baltimore and Surrounding Communities. New York: Geographia Map Co., Inc., ca. 1960. [from Eldon BUT the companies listed on the map all seem to be pre-1960 corporations, e.g., Union Shipbuilding, --was it a reprint of an earlier map?]

¹¹³ Olson, p. 263.

¹¹⁴ Olson, p. 264. See Olson, 263-265, for her account of Furst's life and career.

Although he never held elective office, Furst was an active member in the Democratic Party from the heyday of the Gorman-Rasin machine in the late 19th century onward through the start of the new century.¹¹⁵ In 1905 he was chairman of the committee to persuade the voters to pass the sewerage loan necessary for Baltimore to construct its first City-wide system of sanitary and storm sewers.¹¹⁶ He later held the dredging contract for the B&O's expansion of its Curtis Bay coal pier in the mid-1910s, which was the world's largest at the time.¹¹⁷ In 1931 his Arundel Corporation dredged Curtis Bay.¹¹⁸ Furst died a millionaire¹¹⁹ and is commemorated to this day by "Frankfurst Avenue," which leads into Old Fairfield from the Hanover Street Bridge. The Arundel Corporation is still in the sand-and-gravel business on the peninsula and elsewhere in the state.

Jack Flood's Adult Entertainment

The rise of the factory towns in and around the Fairfield peninsula did not hinder the growth of the area's pleasure industry, which flourished from the 1880s until 1916. One of the most successful and notorious of the adult parks in the region

¹¹⁵ Olson, p. 224, 263-265.

¹¹⁶ They Feared Sewers. Sun. April 4, 1952. Prat MD VF-- Sewerge-Baltimore.

¹¹⁷ See, e.g., Olson, at 262 and 264.

¹¹⁸ "Brooklyn-Curtis Bay" Pratt library info via internet on Baltimore Neighborhoods.

¹¹⁹ Olson, p. 265.

was Jack Flood's beer garden and dance hall, which was founded in the late 1880s at Ferry Point, just south of Wagner's Point, and flourished until the Prohibition Movement forced its closing in 1916.¹²⁰ No doubt, Baltimore's regulations of the 1890s contributed to the park's popularity. In 1890 the City enacted a licensing law for liquor, and in 1891 the City's Sunday Blue Laws were strictly enforced.¹²¹ In addition, the start-up of the trolley line across the Long Street Bridge in the 1890s greatly facilitated transportation to the park (the trolley line terminated at the gate of the park¹²² and its last run was after the 2:30 A.M. closing time on Sunday morning).¹²³

In its heyday the park attracted thousands of Baltimoreans on the weekend (especially Sunday), who came to enjoy the dancing girls in white tights and vaudeville entertainment as well as the strong drinks.¹²⁴ Notable visitors from out of town came as well, including Frederick Reese, the bishop of Georgia. [Catholic? check Greg's source] When the bishop was confronted about sharing a drink with a young woman performer, he said that she was one of

¹²⁰ See, e.g., "'Miss Lizzie' Flood Dies at Age 83", the Sun, Nov. 21, 1939; Keith, pp. 34-35.

¹²¹ Enoch Pratt Free Library Vertical File. "Prohibition," The Prohibition Movement in Maryland, p. 2. [check this]

¹²² Curtis Bay once aspired to put Baltimore out of business. The Sun, March 7, 1909. p. 15? [from Pratt Md Dept]

¹²³ need cite for this

¹²⁴ Robert C. Keith, Baltimore Harbor: A Picture History. rev. ed. 1991. The Johns Hopkins University Press, Baltimore, MD. pp. 34-35.

God's children and it is how far you go that matters.¹²⁵ By 1916, however, the Prohibition Movement had gained a stronghold over Baltimore's public morality, and Flood's license was not renewed.¹²⁶

Annexation and Zoning: Aids to Industrial Development

Annexation

Starting almost immediately after the Civil War and continuing until after World War I, Baltimore sought to keep up with the Joneses, that is, other major American cities, by expanding. Expansion was seen as necessary to incorporate outlying industrial areas (or areas that could be developed for industry), to re-capture wealthy potential taxpayers who had moved to large homes outside the City, and simply to increase the City's population in an effort to retain its position as one of the largest and most notable metropolises in the country. The City used annexation of parts of surrounding counties to double its size in 1888 and to increase an additional 1 and 1/2 times in 1918 (this latter annexation captured the Fairfield peninsula for the City). Baltimore was hardly unique in such efforts. For example, Philadelphia expanded from two miles to 130 miles in 1854. New York increased from about 44 miles to almost 300

¹²⁵ Enoch Pratt Free Library Vertical File. "Parks-Baltimore-Flood's Park," Oral history from Mr. Crowley. [check this]

¹²⁶Keith, p. 35.

square miles in 1898.¹²⁷

When Baltimore officially began in 1729, it was a mere 60-acre town on the north side of the Patapsco River.¹²⁸ By 1773, it had expanded by almost 200 acres.¹²⁹ Occasional expansions continued until 1851, when the Maryland legislature separated the City from the surrounding Baltimore County. Between 1850 and 1870, the City's population grew from 169,054 to 267,354. To accommodate its rapidly expanding population, the City attempted to expand again in 1874, but this effort was defeated by the voters in the regions slated for annexation.

The City tried again in 1888 and this time was partially successful. Voters in regions to the north and west agreed to join the City, contributing some 17 square miles and 35,000 people to Baltimore. Voters in the region to the east, however, rejected the annexation.¹³⁰ In a decision with important ramifications for the future, the Court of Appeals not only turned down a challenge to the legality of this particular

¹²⁷ Kenneth T. Jackson, *Crabgrass Frontier: The Suburbanization of the United States*, 138-156 (1985).

¹²⁸ Garrett Power, *Parceling Out Land in the Vicinity of Baltimore: 1632-1796, Part 1*, Md. Hist. Mag., Vol. 87, No. 4, at 460-61.

¹²⁹ S.S. Field, *Greater Baltimore 1918* (a pamphlet published by the City Solicitor to celebrate his success in persuading the Court of Appeals to approve the 1918 annexation). Found in the Department of Legislative Reference, Baltimore City Hall, 352.114B211F). The pamphlet describes the physical growth of the City from colonial times onward.

¹³⁰ *Id.* at 19.

annexation but suggested that an annexation would pass constitutional muster even if the City made no attempt to first win voter approval.¹³¹

The City's drive toward expansion was closely related to its increasing industrialization and the City's leaders' desire to industrialize even further. For instance, in 1877 the City Council appointed a commission to consider how the City could encourage industrial development. Between 1870 and 1900, the number of industries located in Baltimore increased threefold, and capital invested increased sixfold. Industries developed in the south and east, along the waterfront and the B&O's tracks.¹³²

Notwithstanding its rapid increase in industrial power, the City leaders were intensely aware of Baltimore's manufacturing inferiority to the cities of the northeast.¹³³ One of the areas the City's leaders looked to in their efforts to overcome this inferiority was the Curtis Bay and Fairfield region. For example, in 1892 J. Thomas Scharf, acting Commissioner of the state's Land Office, published a promotional booklet on

¹³¹ *Daly v. Morgan*, 69 Md. 460 (1888). The Court distinguished Baltimore City from the counties of the state, which, according to the explicit language of Section 1, Article XIII, of the Maryland Constitution, could not take property from one another without prior approval by a majority of voters in the region to be annexed.

¹³² Suzanne Green, *An Illustrated History of Baltimore*, Windsor Publications, Woodland Hills, California, p. 147 (1980).

¹³³ See, e.g., Edward Spenser, *A Sketch of the History of Manufactures in Maryland* (1882), published by the City's Merchant's and Manufacturer's Association (which later became involved in zoning to promote industrial development).

Maryland's industrial and natural resources. In the pamphlet, he stressed that "the advantages of South Baltimore or Curtis Bay for manufacturing purposes can not be overestimated."¹³⁴

An industrial survey conducted in 1914 confirmed fears that Baltimore lagged behind other major cities. Upon completion of the survey, the Advisory Committee concluded that "the one clear and emphatic impression left upon our minds by the data hereinafter presented is that the industrial growth of Baltimore has been less pronounced than it should have been, having in mind the general economic progress of the country and the forward strides of other cities no more favorably circumstanced."¹³⁵ In response, the City established an Industrial Bureau to court industry.¹³⁶ The City's leaders desire to promote industry, coupled with the movement of industry to outlying areas characteristic of urban development in the late 19th century,¹³⁷ made it inevitable that the waterfront lands south of the City would be among the next targets of annexation.

As early as the 1870s, plans for the development of what was

¹³⁴ J. Thomas Scharf, *The Natural and Industrial Resources and Advantages of Maryland* (1892). [place? Land Office as publisher?]

¹³⁵ Report of the Advisory Committee, 1914 Industrial Survey of Baltimore (1915).

¹³⁶ H. Findlay French & Ralph J. Robinson, *Baltimore's Industrial Development 1919-1950*, 7-10 (1958).

¹³⁷ Eleanor Bruchey, *The Industrialization of Maryland 1860-1914* in *MARYLAND: A HISTORY*, 396-498, at 410 (Richard Walsh & William L. Fox, eds. 1983).

to become southernmost Baltimore involved a mixture of residential and industrial uses. The scales were early tipped in favor of industry, however, as evidenced by the Patapsco Land Company of Baltimore City's reluctant concession that a new bedroom community was not to arise. The company began eagerly to court newly arriving European immigrants who could live cheaply and find factory work outside the City.¹³⁸ So the first real influx of residents to the area consisted of factory workers who lived in close proximity to their places of employment. Some factory owners, like Martin Wagner in the 1890s, built their own towns or company homes for their employees.¹³⁹ At the same time, the state's lifting of the toll on the Light Street Bridge in 1878 and the B&O's erection of tracks connecting the City to Brooklyn and Curtis Bay in the 1880s made the area far more accessible to commuting working people than it had been before.

In 1912, the supporters of expansion introduced an ambitious annexation bill into the Maryland General Assembly. The bill called for the creation of four new boroughs and the addition of 141 square miles to the City (which at the time was less than 32 square miles in size). One of these boroughs was to include much of northern Anne Arundel County, encompassing the Fairfield

¹³⁸ The Brooklyn-Curtis Bay Historical Committee, *A History of Brooklyn-Curtis Bay 1776-1976* (1976) at 31; see also John Mellin, *Arundel Vignettes*, *THE CAPITAL*, December 22, 1988.

¹³⁹ For example, the Baltimore Car and Foundry Company built homes for its employees. See *The Brooklyn-Curtis Bay Historical Committee, A History of Brooklyn-Curtis Bay 1776-1976* (1976) at 33.

peninsula. The bill stalled because of opposition from Baltimore County and Democrats who wanted the annexation to be approved by voters within the areas to be annexed (an unlikely result).¹⁴⁰ The supporters of annexation, however, who included the City's most prominent and powerful citizens (such as Mayor James Preston, City Solicitor S.S. Field, and Frank Furst)¹⁴¹ did not give up easily. They revised their plans to appear less ambitious and more concerned with the welfare of the state as a whole. They formed a Non-Partisan Greater Baltimore Extension League to draft an annexation bill and persuade the General Assembly to enact it. The league stressed the business advantages of annexation and the great public importance of retaining Baltimore's status as a top-ten municipality. As the league's pamphlet stated, without annexation, Baltimore would fall in the 1920 census from seventh to "tenth or twelfth place . . . [and] be advertised all over the country as a slow town, which is going back. AND THIS [WOULD] DO THE STATE and the City INCALCULABLE DAMAGE."¹⁴²

¹⁴⁰ See *Annexation and the Borough Plan*, February 1914 (found in the Department of Legislative Reference, Baltimore City Hall, 352.144 B213), a pamphlet published by opponents to annexation.

¹⁴¹ See *Non-Partisan Greater Baltimore Extension League, Organization, Principles and Purposes* (1917).

¹⁴² *Id.* at 79 (emphasis in the original). The league's concern was shared by the editors of the *Baltimore Sun*, who had written in 1916 that

A Census Bureau bulletin, giving estimates of the size of American cities on July 1, 1916, which was made

The league stressed the vital importance of uniting the entire harbor area under one government:

The advantages of the harbor and surrounding land as a place for one of the great shipping and manufacturing centres of the world is becoming widely known. The Committee believe that in order to realize the highest and best development of the City and harbor of Baltimore, the whole territory concerned with the development should be under one government of Baltimore City, rather than partly in the City, partly in Baltimore County and partly in Anne Arundel County, and that it is of great importance to have the extension of the City limits made by the Legislature of 1918, in order that the City may get the advantage of its proper standing in the census of 1920.¹⁴³

Moreover, the league pointed out that "the situation in the

public today, shows that Baltimore is in grave danger of dropping from "seventh" to "tenth city" in population rank by 1920 unless she extends her city limits and takes in her populous suburbs. Pittsburgh, Detroit, and Los Angeles, through the annexation of their suburban territory, are crowding Baltimore from "seventh" place, and if their gains for the next four years are as large as they have been in the last few years, each will pass the Maryland Metropolis.

Baltimore Sun, December 12, 1916.

¹⁴³ *Id.* at 27.

Curtis Bay, Fairfield, and Brooklyn districts of Anne Arundel County is ideal for a wonderful increase in manufacturing industries."¹⁴⁴ Thus, Fairfield and Wagner's Point were seen as prime industrial prizes for the City.

The nation's involvement in World War I was also a factor in making the 1918 annexation a success (in contrast with the failure of the years immediately preceding the war). The local war effort in Baltimore created hundreds of new jobs. The proponents of annexation exploited the thriving war industry as a harbinger of what Baltimore could become more generally through expansion. In particular, the boosters of annexation complained that Baltimore had fallen behind Philadelphia (which had expanded through annexation). A major cause of the City's decline was the location of major manufacturing centers outside the City limits, such as Curtis Bay and Sparrow's Point (the site of Bethlehem Steel's main operations), which were not supported by county governments.¹⁴⁵

Statistics show that the league's proposed bill would greatly enhance the City's population and tax base at the expense of the surrounding counties. While the City would take only 46.5 square miles from Baltimore County (leaving the County with 600 square miles), it would annex 65,000 of its 140,000 people. That is, the City would take only 7% of the county's land but 46% of

¹⁴⁴ *Id.* at 70.

¹⁴⁵ Baltimore Sun, front-page endorsement (?) accdng to LeFaivre, January 29, 1918.

its population and 41% of its assessable tax base. Anne Arundel County would lose only 4.5 of its 430.4 square miles (1%) but 9% of its population and 23% of its taxable assets. The 4.5 miles consisted of prime industrial land in the northernmost part of the county (just south of the City).¹⁴⁶

To the citizens of the annexed counties (particularly the wealthy citizens of Baltimore County north and west of the City), the League offered an extension of City services and infrastructure improvements that were largely lacking in the counties--police, water, and sewer services and the construction of paved roads, alleys, and sidewalks. To the industrialists of northern Anne Arundel County, the League promised substantial tax breaks and freedom from local nuisance ordinances. In short, the City (through the League) offered municipal-quality services without the usual municipal restraints on heavy industry in residential areas. The industrialists were assured that the City would not encourage the residential development of the prime waterfront lands.¹⁴⁷

Despite the bitter protests of some Anne Arundel County

¹⁴⁶The Non-Partisan Greater Baltimore Extension League, Organization, Principles and Purposes, "Map Showing Proportionate Size of Anne Arundel County, Baltimore County and Baltimore City after Passage of the Non-Partisan Greater Baltimore Extension League Bill."

¹⁴⁷ *Id.* at 71 and 24 (the annexed areas would be taxed at 60% of the City rate for 1919, with a 2% annual increase thereafter until 1939). See also Editorial, Baltimore Sun, September 26, 1917 (arguing that the City could provide better services to county residents and develop their property in a more orderly fashion).

industrialists and Baltimore County residents who were not convinced by the league's arguments,¹⁴⁸ the Maryland General Assembly passed the league's bill.¹⁴⁹ The Annexation Act of 1918 gave the people annexed by the City no referendum on the issue. Vigorous constitutional challenges followed, but in *McGraw v. Merryman*¹⁵⁰ the Court of Appeals re-affirmed its reading of the state constitution, articulated in *Daly v. Morgan's* upholding of the 1888 annexation, that a referendum was not constitutionally required of City annexations. In his two-hour closing argument, City Solicitor Field (a member of the Extension League) not only spoke for the constitutionality of the annexation but reminded the Court that the City had become extremely active in the promotion of industrial and port development around the harbor after the great fire of 1904. [cite? from LeFaivre's paper but probably in the court case]. To the plea of county residents that the court should not follow *Daly* because of its "great injustice," the court opined that it was the legislature's responsibility to change the constitution and also stressed the public importance of *stare decisis*, lest judicial decisions be seen as "depending on the individual views of the Judges who happened to constitute the Court."¹⁵¹

¹⁴⁸ "Baltimore County's Protest" pamphlet in the Department of Legislative Reference, Baltimore City Hall.

¹⁴⁹ Act 1918, ch. 82.

¹⁵⁰ 133 Md. 247 (1918).

¹⁵¹ *Id.* at 260-261.

Zoning

Like other major cities that had recently expanded through annexation, Baltimore next sought to develop its new lands in an orderly fashion--by means of zoning. Although initially intended as a tool to promote long-range planning for future growth,¹⁵² zoning quickly degenerated into a means of preserving the status quo in a race- and class-segregated society.¹⁵³ Although its ulterior motive was segregation, zoning's ostensible and more justifiable rationale was the need to preclude the arising of nuisances in residential neighborhoods. As Baltimore's Democratic Mayor Preston said in 1916, "It is manifestly injurious to a purely residential neighborhood to have a factory, store, or other injurious establishment of business placed in a section which is set aside for and should be occupied by

¹⁵² See, e.g., Charles Haar, In Accordance with a Comprehensive Plan, 68 *Harvard L. Rev.* 1154 (1955) [check to make sure this is something he really says there]

¹⁵³ In fact, Baltimore's zoning ordinances were the direct descendants of the City's segregation ordinances of 1911 and 1913, which immediately became the model for similar ordinances in other southern cities. See Garret Power, *Apartheid, Baltimore Style*, 42 *Md.L.Rev.* 289 (1983). Within a few years, such ordinances were declared unconstitutional in the great test case of *Buchanan v. Warley*, 245 U.S. 60 (1917) (holding that a Louisville, Kentucky, segregation ordinance denied substantive due process to a white homeowner whom the ordinance prevented from contracting freely for the sale of his home to a black buyer). Less than a decade later, white people in Baltimore advocated zoning at least in part because they feared a "Negro invasion" resulting from sales of homes by whites to blacks who wished to move into formerly all-white neighborhoods. There were even popular proposals that whites who sold to blacks be tarred and feathered. *Protective Groups Form Association*, *Balt. Sun*, May 14, 1925.

residences."¹⁵⁴ Whereas traditional nuisance law dealt with a nuisance after it had developed, zoning sought to prevent nuisances from developing in the first place.

A measure of how popular zoning was with the City's elite is the fact that Mayor Preston's Republican successor, Mayor Broening, was equally as eager for the City Council to approve a zoning ordinance as soon as possible. The Baltimore Sun, which had promoted annexation a few years before, now strongly endorsed zoning as being favorable to both the City's residential and industrial development:

A good zoning system will benefit the industries no less than the householders, and will even protect the industries against themselves. It will provide space for industrial development with due regard to its requirements for labor. . . . It will do much to reserve for industries those sections which, on account of rail or water connections are essentially industrial in character; and it will carry out the popular idea of guarding residential districts from the unnecessary invasion of industrial nuisances. These matters cannot be easily regulated under the present system, which operates rather to remove nuisances than to prevent them.¹⁵⁵

That zoning would benefit industry was also the opinion of Jefferson C. Grinnalds, Assistant Engineer for the City Plan Committee. Grinnalds believed that industry's supply of ready

¹⁵⁴ Garrett Power, *The Unwisdom of Allowing City Growth to Work Out Its Own Destiny*, 47 Md. L. Rev. 626, 627 (1988).

¹⁵⁵ Editorial, Baltimore Sun, October 28, 1920. The Sun had previously called for the General Assembly to pass a zoning enabling act, thereby ensuring the legality of zoning under the state constitution. "Can't Buy Warehouse," Balt. Sun, Mar. 10, 1920.

workers could be housed on nearby land that was not suitable for industry.¹⁵⁶ The pertinence of the Sun's and Grinnald's views to the development of the Fairfield peninsula is obvious: here was a perfect spot for the development of heavy industry and the residences of African American and immigrant workers, far from the posher neighborhoods of the City.

Mayor Broening presented a zoning ordinance in 1921 to the City Council, which quickly approved it.¹⁵⁷ The law called for the creation of a commission to devise a comprehensive zoning ordinance for the City, which was passed into law in 1923. This first attempt at comprehensive zoning was only the first shot in a decade-long war between zoning's proponents and opponents in Baltimore.¹⁵⁸ Although the Court of Appeals ruled that the first ordinance and a subsequent one were unconstitutional under the

¹⁵⁶ Jefferson C. Grinnalds, *Industrial Zoning Gives Business Districts the Reciprocal Protection Which Highly Residential Neighborhoods Have*, Balt. Mun. J., Sept. 9, 1921.

¹⁵⁷ Balt. American, July 20, 1921.

¹⁵⁸ See Garrett Power, *Pyrrhic Victory: Goldman's Defeat of Zoning in the Maryland Court of Appeals*, 82 Md Historical Magazine 275 (1987); Garrett Power, *The Unwisdom of Allowing City Growth to Work Out Its Own Destiny*, 47 Md. L.Rev. 626 (1988).

The major case in this war was *Goldman v. Crowther*, 147 Md. 282 (1925), wherein the Court of Appeals found the first zoning ordinance to be "an artificial and arbitrary plan of segregation" rather than a legitimate exercise of the City's police power. *Id.* at 292. The Baltimore Superior Court Judge Charles W. Heuisler had ruled in favor of the City, stating that "people of all classes and races have been wandering about the town locating themselves wherever they please. It must stop." Balt. News, Dec. 27, 1923. (The immigrant Goldman had had the audacity to move to an upscale part of town and set up a tailor shop in the basement of his home in an exclusively residential district.)

state constitution's due process clause,¹⁵⁹ the City ultimately prevailed in the light of the United States Supreme Court's upholding of comprehensive zoning in *Euclid v. Amber Realty*, 272 U.S. 365 (1926), and the passage of enabling legislation by the General Assembly in 1927 (thereby ensuring the state constitutionality of zoning).¹⁶⁰ In 1931 the zoning commission, which now included one African American,¹⁶¹ devised another comprehensive scheme, which was signed into law by Mayor Jackson.¹⁶² In both this zoning plan and its revision in 1952, the Fairfield peninsula retained its heavy industry designation (which it retains to this day, although in 1971 the City did forbid the erection of new residential housing in the area). [check on this cite--the current ordinance which goes back to 1971 says this--but is 1971 the first time new housing was forbidden?]

By the time the first ordinance was enacted in 1923, however, the fate of the Fairfield peninsula had already been decided by the City's leaders. The first ordinance and its successors were examples of Euclidean zoning, i.e., they divided the City into various use, height, and area districts, with the

¹⁵⁹ *Goldman v. Crowther*, *supra*, at 158; *Tighe v. Osborne*, 149 Md. 349 (1925).

¹⁶⁰ Act 1927, ch. 705.

¹⁶¹ Says Zoning Commission is Representative Body, *Balt. Sun*, June 8, 1927.

¹⁶² Mayor Signs Bill and Names Board, *Balt. Sun* Mar. 31, 1931.

lightest residential use districts reserved for single-family residences only and the heaviest industrial districts allowing for any and all lighter industrial uses and even residential dwellings. With regard to Fairfield and the rest of the new South Baltimore, the zoning commission found that since only a small percentage of the winds in the City blew from the east and northeast, "the proper location in Baltimore for nuisance industries would be on the leeward side of the city, which would be to the south and southeast"¹⁶³ (later, this was a reason for the siting of the Patapsco Sewage Treatment Plant next to Wagner's Point). On March 9, 1922, the members of the City's zoning commission met with the zoning committees of the Merchants' and Manufacturers' Association and the Engineers' Club. At the meeting, the committees' members decided that all noxious industries would be segregated, under the new zoning ordinance, in "Highlandtown, Curtis Bay, Westport, and similar sections."¹⁶⁴ For the next fifty years, there was no further policy discussion of this zoning decision that was so momentous for the residents of Wagner's Point and Fairfield.¹⁶⁵

¹⁶³ Balt. Sun, Nov. 16, 1921 (quoting Commissioner Perring).

¹⁶⁴ "Nuisance" Plants to be Segregated, Balt. American, Mar. 10, 1922.

¹⁶⁵ The City's decision was first publicly questioned by the Neighborhood Design Center in the early 1970s. The center advocated (unsuccessfully) for the rezoning of Fairfield as a residential district. *Rezoning Fairfield* (Vertical Files, Enoch Pratt Free Library, Maryland Room, "Fairfield" files). See pp. ___ of this article for a fuller story of the center's advocacy of rezoning.

The Fairfield peninsula exemplifies what Yale Rubin called "expulsive zoning,"¹⁶⁶ whereby zoning was used not only to exclude the unwashed and nuisance industries from high-class neighborhoods, but also to serve industrial interests by expelling lower-class residents from areas designated for heavy industrial use. By treating a community of lower-class residents as though it did not exist, a city's officials could use zoning to permit industry to expand freely, unrestricted by the police power regulations that protected the residents of other neighborhoods. The ignored and neglected residents would eventually abandon their neighborhoods.

Despite the amazing tenacity of its residents, this gradual process of abandonment has largely been completed in Old Fairfield and may be completed soon in one systematic relocation from Wagner's Point and the remaining homes in Fairfield. The residents of the Fairfield peninsula clung (and cling) to their neighborhoods despite the absence of the basic City services that were promised them in exchange for the annexation of 1918. The City first annexed the people of the peninsula without asking whether they wanted to be annexed. Next it zoned their neighborhoods for the heaviest industrial use. Then it used the zoning designation as an excuse for foot-dragging in response to the resident's decades-long pleas for basic services. During

¹⁶⁶ Yale Rubin, *Expulsive Zoning: The Inequitable Legacy of Euclid* in *ZONING AND THE AMERICAN DREAM*, 101 (Charles M. Haar & Jerold Kayden, eds. 1989).

almost all of this time (interrupted by occasional human interest stories in the Sun and other papers), the City's officials and other leaders ignored the very existence of the residents.

Oil and Railroads between the Wars

By the time of the 1918 annexation, the Fairfield peninsula was already home to at least three petroleum-product refineries,¹⁶⁷ in addition to Wagner's canning operations and a few fertilizer factories. Increasingly in the first half of the 20th century, the peninsula came to be dominated by oil/gasoline/asphalt refineries and related storage and transfer facilities; in the second half of the century, as the Gulf Coast became the main site of U.S. crude oil production and pipelines replaced trucking as the preferred method for the shipment of oil, some of the storage and transfer facilities remained, but the refineries closed down, to be replaced by agricultural chemical plants.

The story of the Prudential Oil Corporation's site illustrates this progression. In 1914 the company built a refinery on a lot in the middle of the Fairfield peninsula but extending to the eastern waterfront. In 1929 the refinery was acquired by the midwestern Marland Oil Company, which in 1931 merged with another midwestern company, the Continental Oil

¹⁶⁷ These were operated by the Prudential Oil Corporation and United States Asphalt Refining Company (which had bought out the Ellis Company), The Harbor Board of Baltimore, Baltimore Harbor, insert (1917) [Dave's paper], and the Texas Oil Company of Delaware, 1908? or 1918 map of harbor industries cited elsewhere.

Company. Continental moved to Fairfield in order to take advantage of its eastern and foreign markets. By 1932, the refinery was described as a "huge operation" with over \$5 million in revenues.¹⁶⁸ Continental's refinery--the longest-lasting on the peninsula--was to make a huge impact on the lives of the peninsula's residents. In 1965, after the other refineries had closed down, a fire at Continental's refinery displaced residents of Wagner's Point and led to the City's first serious consideration of a "phase-out" of all three communities on the peninsula (see more in the 1960's section). In the early 1970s the company was cited by the state of Maryland for polluting the harbor with oil discharges from its Fairfield plant.¹⁶⁹ Today the lot is the site of a plant owned and operated by the Condea Vista Chemical Company.

At least four factors led to the proliferation of petroleum-product refineries and storage facilities at Fairfield starting in the second decade of this century. In 1911 the Standard Oil Company of New Jersey (now Exxon) was sued by the United States for anti-trust violations.¹⁷⁰ As a result, Standard Oil was separated into several companies, thus allowing for the growth of

¹⁶⁸ *Conoco Comes to Baltimore*, May 1932 [Prof. Power has this pictorial?]

¹⁶⁹ Matthew J. Seiden, *Water Pollution Case Is Study in Frustration*, Baltimore Sun, April 16, 1973.

¹⁷⁰ *Standard Oil Company of New Jersey v. United States*, 221 U.S. 1 (1911).

other big oil companies in the country.¹⁷¹ In 1913, the opening of the Panama Canal made possible the shipment of crude oil to Baltimore from as far away as California and Mexico.¹⁷² World War I increased industry's need for petroleum products. And, most significantly, the automobile began to create its huge market for gasoline.

Two of the companies aided by the Standard Oil anti-trust case were founded in Baltimore and were among the second generation of oil companies to site some of their operations on the Fairfield peninsula. Both the American Oil Company (AMOCO) and Sherwood Brothers, Inc., were started by men who sold kerosene from horse-drawn wagons. Both men, Louis Blaustein and John Sherwood, were pioneering entrepreneurs whose companies began to flourish when they became the first in the nation to successfully concoct and market smooth-running blends of gasoline.¹⁷³ By 1922 Blaustein's American Oil Company had

¹⁷¹ Standard Oil's involvement in Baltimore goes back as far as 1892, when the company purchased the Canton-based Baltimore United Oil Company. Benjamin Latrobe, Jr. *Baltimore: Industrial Gateway on the Chesapeake Bay*, 20-21 (1995); Robert C. Keith, *Baltimore Harbor: A Picture History*, 134 (1991). Standard used a pipeline, built in 1883 by the National Transit Company, to transfer crude oil from the fields of Pennsylvania and, eventually, Oklahoma to its Baltimore refinery and storage-and-distribution center. The pipeline was discontinued in 1925 and the refinery was closed in 1957, but the storage-and-distribution center continues in operation. *Baltimore Harbor* at 134 (1991). [check onwhether Canton center is still going]

¹⁷² *Baltimore Harbor* at 134.

¹⁷³ *Baltimore American Magazine*, April 1937; *Golden Anniversary, Houses, Gardens, and People*, Oct. 1946. [from Dave's paper--improve cites]

incorporated, and by the mid-1920s it had become a serious competitor with Standard Oil for the mid-Atlantic market (Standard Oil was by then split into several companies but was still dominated by the Rockefellers).¹⁷⁴ The American Oil Company operated an asphalt refinery on the Fairfield peninsula from 1933, when it acquired the property from the Mexican Petroleum Corporation, until the 1950s.¹⁷⁵ Today, the property is still owned by the company but lies vacant.

Sherwood Brothers, Inc., also flourished in the 1920s, affiliating with Richfield Oil of New York in 1929. In 1933 both companies became wholly-owned subsidiaries of Sinclair Refining.¹⁷⁶ From 1939 until 1971 Sherwood Brothers operated an

¹⁷⁴ Standard Oil eventually won the competition by buying control of American Oil's affiliate, which owned all of American's crude oil reserves, thus making American dependent on Standard for its oil supply. See *Blaustein v. Pan American Petroleum & Transport Co.*, 21 N.Y.S. 2d 651 (Supreme Court, New York County 1941) (trial court agreeing with the Blaustein family's allegations of antitrust violations by Standard Oil); *Blaustein v. Pan American Petroleum & Transport Company*, 31 N.Y.S. 2d 934 (App. Div. first department 1941) (reversal on appeal). The Blaustein family and their business did not lose out completely, however, since AMOCO has survived to this day in the gasoline distribution business; the family later formed Crown Central Petroleum, *Blaustein, Oil Operator, Dies in Atlantic City*, *Baltimore Sun* (Eve), July 27, 1937, and Suzanne Ellery Greene, *Baltimore: An Illustrated History* 256-57 (1980); and Louis' son, Jacob, became a director of Standard Oil Company of Indiana, *Oil Firm Merges with Standard*, *Baltimore Sun*, Aug. 18, 1954.

¹⁷⁵ *Oil Firms 50th Anniversary*, *Baltimore Sun*, Jan. 10, 1960; Baltimore City Department of Public Works, Maps and Real Property Records section.

¹⁷⁶ *Golden Anniversary, Gardens, Houses, and People*, Oct. 1946.

oil storage and transfer facility in Fairfield. The site had previously been used by Interocean Oil Company of Delaware, and is now owned and operated by British Petroleum.¹⁷⁷

At the same time that Big Oil was making its indelible mark on the peninsula, the railroad industry was intruding further and further. In 1915, the B&O dismantled its coal station at Curtis Bay and replaced the pier of 1882 with a mechanized pier that would be the world's largest for many years.¹⁷⁸ To service this huge pier, the B&O constructed a vast switching yard just half a mile from the residences of Fairfield and Wagner's Point. By the 1950s, the peninsula had become completely hemmed in by the railroad tracks servicing the many waterfront industries of Curtis Bay as well as Fairfield and Wagner's Point. The coal pier was rebuilt again in 1969 and continues in operation today. By 1989 the switching yard had become 57 tracks wide.¹⁷⁹

It was not the major oil companies or the locally dominant B&O that were to cause the first (and most severe) industrial fire on the peninsula, however, but the now-forgotten United States Asphalt Refining Company, which in 1911 had bought out the

¹⁷⁷ Baltimore City Department of Public Works, Maps and Real Property Records section; *Baltimore Trust Co. v. Interocean Oil Co.*, 29 F.Supp. 269 (1939).

¹⁷⁸ Curtis Bay Coal Pier, General Plan, undated sketch in possession of Baltimore & Ohio Railroad Museum. [Eldon's paper-- the best cite he could find? check Keith and Latrobe?]

¹⁷⁹ Baltimore Division Roadway Maps II, Baltimore Terminal, CSX Corp., 1989. [again, is the best cite? probably the yard had been this wide for a decade or more]

equally forgotten Ellis Company, the first oil company on the peninsula. The asphalt company enlarged the Ellis plant and laid out railroad tracks, forming the Chesapeake and Curtis Bay Railroad Company in 1916.¹⁸⁰ The company prospered until the summer of 1920, when one of its tanks was "struck by lightning, exploding a pocket of gas under the lid and setting the contents on fire."¹⁸¹ According to a contemporaneous newspaper account, the fire raged for more than 26 hours, and two boats were required to help extinguish the fire by pumping water from the Patapsco River.¹⁸² As the account noted, the fire caused extensive damage to the asphalt company, a neighboring oil company, and the little town of East Brooklyn (Wagner's Point):

The losses at this time [the day after the fire had started] include three huge steel tanks belonging to the Asphalt Refining Company and their contents, estimated to be 90,000 barrels of crude and fuel oil; two small steel tanks of the Texas Oil Company and their contents, one of them said to contain 2,000 barrels of gasoline; the laboratory of the Asphalt company, a brick structure, 12 dwellings destroyed, 10 dwellings badly damaged and the headquarters of the East Brooklyn Volunteer Fire Company, together with its chemical engine destroyed.¹⁸³

¹⁸⁰ Lee McCardell, *Saga of Old Days Adds New Chapter Here*, Balt. Sun (eve), Nov. 8 1940, pp. 6 and 56. [check cite? from Regiec school paper]

¹⁸¹ David Brown, *Life in Wagners Point: Cut Off But Happy*, Balt. Sun, Dec. 26, 1982 (Pratt, Maryland Room, "Wagners Point" vertical file).

¹⁸² *Oil Fire Still Raging After More Than Day*, Balt. Sun (Eve), July 20, 1920, pp. 2 and 22. [check cite--from Regiec paper]

¹⁸³ *Id.* at 22.

Burning asphalt covered 15 acres, and a portion of the Patapsco River, into which some of the firefighters had retreated, was in flames.¹⁸⁴

The immediate effect of the fire on the residents of East Brooklyn was understandable panic:

Before the torrents of blazing oil, hundreds of residents fled from their homes, screaming in terror. In their arms, some carried babies, others carried household effects, while still others, wide-eyed and panic-stricken, fled coatless and hatless in a frantic effort to escape the blazing flood.¹⁸⁵

On the first night after the fire had started, many of the homeless were forced to sleep in fields, but by the next day, Martin Wagner's sons notified the families that Martin Wagner & Company (soon to be reduced solely to the manufacture of corrugated paper boxes) would put them up in its facilities.¹⁸⁶

Despite having lost everything, the families remained to live and work in East Brooklyn. In later decades, major fires or accidents would be met, not by the solicitude of paternalistic private enterprise, but by government attempts at "phase-outs" and relocation.

The Construction of the Sewage Plant before the War

In the first two decades of this century, Baltimore had

¹⁸⁴ David Brown, *Life in Wagners Point: Cut Off But Happy*, Balt. Sun Dec. 26 1982.

¹⁸⁵ *Id.* presumably quoting the July 20, 1920, Sun article cited by Regiec. [check on this?]

¹⁸⁶ *Oil Fire Still Raging After More Than Day*, Balt. Sun (Eve), July 20, 1920, p. 2.

become the first major U.S. city to construct a comprehensive dual system of separate sanitary and storm-drainage sewers, as well as the first city in the world to use a chlorinated water supply.¹⁸⁷ The Fairfield/Wagner's Point area did not share in this first chapter of Baltimore's sewerage history, however, because the area had not yet been incorporated into the City when peninsula was annexed in 1918, it did not become part of the City's comprehensive system for quite some time, long after the heroic era of Baltimore's internationally admired efforts in public health and sanitary engineering were over. Fairfield and Wagner's Point were not included among the neighborhoods served by the city's original (and still largest and most technically up-to-date) waste water treatment plant at Back River. The proximity of Fairfield and Wagner's Point to the Patapsco River (where raw sewage had been dumped directly and indirectly for centuries), as well as the sparseness of the area's population and the people's comparative poverty and lack of political connections, undoubtedly contributed to the area's neglect by the city's sanitation engineers. Even today, like the local people it serves, the local Patapsco Waste Water Treatment Plant is

¹⁸⁷ See the following for the story of the creation of Baltimore's sewerage system: Steven G. Davison et al., *Chesapeake Waters: Four Centuries of Controversy, Concern, and Legislation* 83-90, 102-03 (2d ed. 1997); Sherry H. Olson, *Baltimore: The Building of an American City* 245, 249-53 (rev. ed. 1997); Calvin W. Hendrick, *Colossal Work in Baltimore*, 20 *Nat'l Geographic* 365-73 (April 1909).

given scant attention by the city or the press.¹⁸⁸

The history of preparations for the Patapsco Waste Water Treatment Plant begins soon after the annexation of 1918. Fairfield and Wagner's Point, as well as the more populous Brooklyn and Curtis Bay, were too low-lying to be included in the Back River system. For decades after the annexation, the sewage from these areas of South Baltimore continued to be dumped raw into the Patapsco and its tributaries. Planning and other preparatory work, however, began almost immediately after annexation. In 1921, studies were made of available shoreline property and of river currents so that a suitable site could be selected. These studies were followed in 1923 by a survey of the local industries to ascertain the nature and quality of their sanitary and industrial wastes.¹⁸⁹ The original plant property was purchased in 1924 for \$115,000 and consisted of 29 acres of

¹⁸⁸ For example, this researcher could not find a single mention of the Patapsco plant in all the materials on display or otherwise available to the public at Baltimore's new Museum of Public Works; and detailed newspaper or magazine articles about the plant, as opposed to Back River or Baltimore's sewerage history generally, are nonexistent--even the few documents made available by the city's Department of Public Works conflict with each other about basic facts.

¹⁸⁹ Whitman, Requardt and Associates--Engineers, Master Plan Report: Back River Wastewater Treatment Plant and Patapsco Wastewater Treatment Plant, Baltimore, Maryland 97 (1968) (unpublished report to the Regional Planning Council, Department of Public Works, Baltimore City and Baltimore County, on file with the Maryland Room, Enoch Pratt Free Library, Baltimore, Md.); Patapsco Wastewater Treatment Plant 1 (late 1980s or early 1990s) (unpublished pamphlet given to visitors of the plant).

land and almost 39 acres total.¹⁹⁰

It was not until 1937, however, that construction of the plant began. This notable delay was probably caused by a diversion of attention and money in the 1920s-1930s to the repeated expansion and upgrading of the Back River plant, not to mention the financial concerns created by the Great Depression. Construction started in June 1937, and was completed three years later, with the plant being placed in service on November 12, 1940.¹⁹¹

From the 1940s until the major expansion of 1974-1985, the plant's operations were limited to the mechanical processes of preliminary and primary treatment. Preliminary treatment removes large floating objects, such as rags and sticks, and fast-settling grit, such as coffee grounds, that can damage a plant's equipment. Primary treatment removes suspended solids and biological, or biochemical, oxygen demand (a measure of the amount of oxygen required to break down organic matter in water). Approximately only one-third of the pollutants (suspended solids and biological oxygen demand) were removed from the sewage effluent before it was discharged into the Patapsco River.¹⁹² This was the best the plant could do until it started to perform

¹⁹⁰ Patapsco Wastewater Treatment Plant, *supra* note 3, at 1.

¹⁹¹ Whitman, Requardt, *supra* note 3, at 97; Patapsco Wastewater Treatment Plant, *supra* note 3, at 1.

¹⁹² Patapsco Wastewater Treatment Plant, *supra* note 3, at 1.

secondary treatment forty years later.

Secondary treatment is a biological process whereby bacteria and other organisms consume the organic matter left in sewage effluent after primary treatment. Secondary treatment methods produce sludge as well as much cleaner effluent than that produced by primary treatment alone.¹⁹³ The flagship Back River plant had been using secondary treatment since its inception in 1911, and had updated its operations to include the most sophisticated, and less malaodorous, treatment available in 1939.¹⁹⁴ Such sophisticated secondary treatment may originally have been planned for Patapsco, judging from a 1938 *Evening Sun* article¹⁹⁵ that refers to the eventuality of secondary treatment facilities being installed after the primary treatment facilities had been completed (this researcher was unable to find any contemporary or later City documents that referred to this eventuality--although remarks attributed to George E. Finck, chief of the Bureau of Sewers, in a 1936 *Sun* article¹⁹⁶ suggest that the modern, virtually odorless methods of purification would be installed at the Patapsco plant). If secondary treatment had

¹⁹³ Laws, *supra* note 7, at 126-29.

¹⁹⁴ Whitman, Requardt, *supra* note 3, at 33-35.

¹⁹⁵ Lee McCardell, *City Goes in for Latest Sewage Disposal Tricks: Costly Improvements under way at Back River with Aid of PWA--New Plant Going up near East Brooklyn*, *Evening Sun*, Apr. 26, 1938.

¹⁹⁶ *Sewer Work for Brooklyn to Start Soon: Construction Program Will Include Curtis Bay Also*, *Sun* (Baltimore, Md.), Aug. 30, 1936.

been planned at this early stage in the plant's history, realization of the plan may have been thwarted by financial concerns or by fear that the plant's large proportion of industrial waste (which was not pretreated until the mid-1980s) would have destroyed the microorganisms used in secondary treatment.

Construction began as a joint effort of the Works Progress Administration and the Public Works Administration. The system was planned first to take care of sewage from the surrounding areas in the City and then be extended into northern Anne Arundel County and Baltimore County. It was anticipated that the plant could handle the waste from Fairfield and Wagner's Point more populous neighbors, Brooklyn and Curtis Bay, until 1950, at which time the plant would have to be expanded.¹⁹⁷

At the time the construction plans were announced to the public in 1936, George E. Finck sought to assuage fears that the plant's odors would cause a nuisance (bad odors had been a continual source of irritation to Back River's neighbors and, just recently, had been bitterly complained of in Curtis Bay and Brooklyn regarding a City sewer line that discharged raw sewage

¹⁹⁷ See, e.g., *id.*; *Work Being Pushed on New Sewer Line*, Sun, Oct. 9, 1936; *Work on Third Section of Sewer for Brooklyn Area to Begin Soon*, Sun, Mar. 14, 1937; *Disposal Plant to Serve County: Sewage Project in East Brooklyn to Be Used by Anne Arundel*, Sun, Feb. 27, 1938; Lee McCardell, *2,000 Miles of Sewers Carry off City's Waste*, Evening Sun, Apr. 25, 1938; McCardell, *supra* note 11; *Work on Sewer System Started*, Sun, Feb. 12, 1939;

into the Patapsco).¹⁹⁸ To this end he emphasized that the plant site was in an area of oil refineries with "no residential neighborhood nearby"¹⁹⁹ (although in fact the original sewage plant was almost directly across the street from rowhouses in Wagner's Point). In this opinion, he seemed to be joined by the *Sun* writers of the 1930s and 1940s who mention that the plant will be built at East Brooklyn but otherwise refer only to Curtis Bay and Brooklyn in their articles about the Patapsco plant and its related sewer lines.

Although the original cost estimate for the entire project was at a little over \$1.3 million,²⁰⁰ the actual cost was several times as much. When the Works Progress Administration and Public Works Administration money ran out, the city was at first unwilling to pay for the partially completed project. In May 1939, a sewerage loan was defeated by the voters. A desperate Mayor Howard W. Jackson warned of a possible typhoid fever epidemic and proposed borrowing \$2.5 million under emergency borrowing powers granted in the City Charter.²⁰¹

¹⁹⁸ *Brooklyn Citizens Complain of Smell: Curtis Bay People Also Protest What They Say Is Caused by Sewage Disposal*, Evening Sun, Aug. 14, 1934.

¹⁹⁹ *Sewer Work for Brooklyn to Start Soon*, supra note 12.

²⁰⁰ *Work Being Pushed on New Sewer Line*, supra note 13.

²⁰¹ Ernest V. Baugh, Jr., *Baltimore not Covered Fully by Sanitary Sewers. Lacks Financial Program to Complete Task Started in 1906*, Sun, July 10, 1938; *Sewer Loan, Fought for 2 Years, to Ease Threat of Epidemic*, Evening Sun, Nov. 15, 1940; Baltimore City Health Department, *Baltimore Health News*, Vol. XVII, No. 5, *Sanitary Sewers Needed in Outlying Sections of Baltimore City* 33-

The City Council and Board of Estimates approved the plan, but it was defeated in the courts. According to Article XI, Section 7, of the Maryland Constitution, the city could borrow money without the approval of a majority of legal voters only under emergency conditions requiring the maintenance of the police or preservation of public health, safety, and sanitary conditions. Circuit Court Judge Samuel K. Dennis ruled that the neighborhood conditions, which had not alarmed state or city health officials during the years of construction when funding and eventual completion seemed assured, did not seem dire or exigent enough to meet emergency criteria. His decision was upheld by the Court of Appeals of Maryland early in 1940.²⁰² Mayor Jackson promptly moved to put another loan before the public. This time, in November 1940, the public responded to the Mayor's and the neighborhoods' concerns and voted for a \$5 million loan.²⁰³

One week after the loan was approved, the Patapsco treatment plant opened. Due to the unavailability of funds, however, much of Brooklyn and Curtis Bay were yet to be connected to the Patapsco system. It was not until after World War II that many nearby City and Anne Arundel and Baltimore County residents were

36 (May 1940).

²⁰² Mayor of Baltimore v. Hofrichter, 178 Md. 91, 11 A.2d 375 (1940).

²⁰³ Sewer Loan, Fought for 2 Years, to Ease Threat of Epidemic, *supra* note 17.

served by the Patapsco plant, in part because of wrangling between the local governments over fees.²⁰⁴ Fairfield Homes was connected to the Patapsco system in 1942, and Wagner's Point was connected at approximately, if not exactly, the same time (but much of Old Fairfield had to wait until 1976 for sewer connections!).²⁰⁵

Condition of Old Fairfield/Wagner's Point before WWII

Newspaper accounts of the 1970s and later, including interviews with longtime residents, tend to portray the peninsula as near-pristine farmland that was destroyed by the "postwar industrial boom that brought chemical plants and petroleum tank farms"²⁰⁶ to the communities' edge.²⁰⁷ These writers forget that at the start of U.S. involvement in World War II, the federal government had commandeered most of the peninsula, arranging for the influx of thousands of outside workers to live in new

²⁰⁴ *Pumping Station Bids to Be Asked*, Sun, Nov. 20, 1944; *Anti-pollution Program for Patapsco Set*, Sun, May 26, 1945; also, see, *Sewerage Agreement: Baltimore City and Baltimore County*, March 6, 1974, which refers to the original agreement of December 6, 1945.

²⁰⁵ Mike Bowler. *And now? Old Fairfield will finally get its sewers*. Sun. Mar 13, 1976; *Fairfield gets some help but will it be enough?* Stephen McKerrow. *Eve*. Sun. Sep 26, 1977; Telephone Interview with Jeannette Skrzecz, member of Fairfield/Wagner's Point Neighborhood Coalition (Nov. 5, 1997); Van Smith, *EZ Money: Empowerment Zone Fever Takes Hold in Fairfield*, City Paper (Baltimore, Md.), May 17, 1995, at 19.

²⁰⁶ Heather Davis. *Residents cry foul over odor*. Sun. 4A and 4B? Dec. 18, 1997.

²⁰⁷ Also see, e.g., John Schidlovsky, *Old Fairfield worries about community's future*. Sun. Oct 29 1979. Pratt Vert. File.

temporary and permanent housing in the area as they worked night and day to build 10% of the nation's fleet at the country's largest wartime mass production shipyard.²⁰⁸

Even before the massive war effort changed the landscape around the two communities, they had long been "industrial" suburbs²⁰⁹ in fact as well as on the zoning maps. In June 1941 (shortly after the keel for the first ship had been laid at the Bethlehem-Fairfield shipyard²¹⁰), the Sun published two articles on Fairfield's history and contemporary condition,²¹¹ presumably to introduce its readers to the community before it would become the scene of frequent articles on the shipyard's productivity and resulting housing crunch for workers. As the article on contemporary Fairfield reports, although the late 19th-century developers of the peninsula had "envisaged a complete transition from agriculture to industry," the truck farms of vegetables and fruit had been replaced by farms of another sort: "the Fairfield district is now known for its vast tank farms--great aggregations

²⁰⁸ Keith, p. 51.

²⁰⁹ See Fairfield Famous for Farms for More than Sixty Years: But Tank Farms Replace Fields of Peas, Beans, and Cantaloupes of the Past. Sun. Jun 29, 1941. Pratt V.F.

²¹⁰ Keith, p. 50.

²¹¹ Fairfield Reminiscences: Industrial Area looks back on its almost pastoral past. Jun 26 1941, p. 26. Pratt V.F.; and Fairfield Famous for farms for more thansixty years: but tank farms replace fields of peas, beans and cantaloups of the past. Sun Jun 29, 1941.

of steel tanks in which petroleum products are stored."²¹² Rather than housing manufacturing plants employing thousands of resident workers, as seemed its possible future in the 1880s, Fairfield by 1941 was already essentially an industrial storage area: "a great reservoir of lubricants, liquid fuels for heating plants and Diesel engines, gasoline for automobiles, airplanes and tanks, and bunker fuel for oil-burning steamers."²¹³ After a brief period of intense wartime productivity, Fairfield resumed its predominant role as a storage area, accessible by railroad and water, where petroleum (and, increasingly, chemical) products were housed and processed before or after shipment.

The article on contemporary Fairfield (as of 1941) states that the landscape is still one of green hills, but now the hills are topped with white oil tanks and the grass is kept green by the oil companies as a fire barrier. To keep the grass from growing tall and dry, the companies used an ingenious, albeit primitive, technology: sheep and goats grazed the grass on the hills.²¹⁴

A contemporary court case suggests that although the residents may have been surrounded by green hills dotted with grazing farm animals, the conditions under which the people lived were already dilapidated. In Mayor and City Council of Baltimore

²¹² Fairfield famous for farms, etc. Jun 29 1941

²¹³ Id.

²¹⁴ Id. (Fairfield famous for farms)

v. United States, 147 F.2d 786 (4th Cir. 1945), the U.S. Court of Appeals for the Fourth Circuit affirmed a district court ruling that the City was entitled to only \$1 in nominal damages as compensation for the federal government's taking of the City's interest in one-and-a-half acres of unimproved public alleys in Fairfield. The suit arose as a result of the federal government's effort to enlarge and otherwise ready the existing shipyard at Fairfield for wartime production. The federal government exercised eminent domain to take title to numerous private lots in Fairfield. All the private owners had their claims settled through negotiation or received compensation through awards after jury trials. The City was a defendant in the proceedings because the streets and alleys of the community had been dedicated to it when the community was developed years ago. The federal government agreed not to condemn the streets, but did the condemn the alleys.

The case is most interesting for what it reveals about the conditions of the streets, alleys, and garages of Fairfield. As the trial court noted,

Both the streets and alleys were, however, merely 'paper' improvements, because never actually laid out, although under the beds of some would-be streets, the City had actually constructed some sewer and water lines. . . . No sewerage or other lines or any improvements had ever been constructed under or upon these alleys.

Id. at 787-88, quoting United States v. Certain Parcels of Land Situated in Fairfield, Baltimore, MD., 54 F.Supp 667, 668 (D. Md. 1944). As the Fourth Circuit observed,

The alleys had not been graded or paved or improved in any way by the city but they were used to some extent, as abutting owners had built on the back of their lots adjacent to the alleys a number of garages which were poor in character and dilapidated in condition when the land was taken.

Id. at 788. Clearly, by 1941 Old Fairfield was already a poor neighborhood of deteriorating homes, unimproved public rights of way, and surrounding storage facilities of big industry.

Shipbuilding's during World War II and After

As the country's involvement in World War II seemed more and more inevitable, the industrial and financial leaders of Baltimore realized the City's value as a location for producing steel and building ships. The shipping channels in the harbor were sufficiently deep, and its geographical position was ideal. Baltimore harbor is both close to Europe by sea and close to the American heartland by rail. Furthermore, the harbor, lying 100 miles inland from the coast, was considered easy to defend against land invasion and submarine attack. In addition, the City's industrial districts were considered to be capable of absorbing further growth.²¹⁵ These factors were to allow the harbor's waterfront industries to play a primary role in the nation's wartime production.

Although the Fairfield peninsula did not become nationally famous for its shipbuilding until World War II, its first

²¹⁵ Sherry H. Olson, *Baltimore: The Building of an American City*, The Johns Hopkins University Press, Baltimore, 1980, at 292.

shipyard began during World War I. This yard was established by the Union Shipbuilding Company, which turned to shipbreaking in the mid-1920s.²¹⁶ In 1920 Baltimore financial interests bought a shipbuilding company in Wisconsin and moved it to a 70-acre tract at Fairfield, thus starting the Maryland Drydock Company (later renamed the Maryland Shipbuilding and Drydock Company in 1955). This company specialized in the repair of damaged or seaworn ships.²¹⁷

Both yards were to play key roles in the heroic production during World War II. The drydock company had remained in business in the years prior to the war. Once the war started, it was enlarged to provide berths for 31 ships.²¹⁸ The old Union Shipbuilding yard, however, was the site of the most amazing wartime industrial activity. In 1941 Bethlehem Steel Corporation leased the yard and added 12 new ship ways to its existing four. The steel company also took over the Pullman & Standard Steel Co. railroad car manufacturing plant two miles to the south of the shipyard. Bethlehem Steel used the machinery of the Pullman plant to organize a mass production line for ship components. The B&O Railroad brought the components to the shipyard, where

²¹⁶ Robert C. Keith, *Baltimore Harbor: A Picture History*, 50 (1991).

²¹⁷ *Id.* at 54.

²¹⁸ *Id.*

they were assembled on the ship ways. In less than five years, Bethlehem Steel built 508 steel ships.²¹⁹

The first ship was called the *Patrick Henry*. Its keel was laid on April 30, 1941, it was launched on September 27, and was delivered on December 30, 1941. In all, the yard produced 384 of these "Liberty" cargo ships before switching in 1944 to the production of "Victory" ships, which were faster and more suitable for postwar commercial shipping. The yard went out of business in September 1945, shortly after the war's end. At its peak, the yard was engaged in round-the-clock production, and reduced the time between keel-laying and launch to less than 30 days. The yard produced 10% of the U.S. fleet, more tonnage and more ships than any other wartime mass production shipyard.²²⁰ The shipyard and related industries brought 4,000 residents and 20,000 workers to the peninsula.²²¹

In a move that seems symbolic of the peninsula's decline from its heroic importance to the nation during the war, Bethlehem Steel (which had acquired the yard during the war years) turned the nation's premier shipyard into the Patapsco Scrap Corporation, which scrapped hundreds of Liberty ships and

²¹⁹ *Id.* at 50-51.

²²⁰ *Id.* at 50-53.

²²¹ Dan Fesperman, "A Place Apart; Fairfield: Money for improvements is finally on the way, but most of the people are already gone," *Balt. Sun*, March 9, 1997, 1A. [Keith says 47,000 people were employed at the peak of the shipyard, but that sounds like too many]

other naval vessels to feed the furnaces of Bethlehem's steel-making plants. The scrapyards closed down in 1964, with the company unable to find a buyer. Subsequently, it was used by a subsidiary of Bethlehem Steel to produce storage and pressure tanks for the petroleum and chemical industries.²²²

The Maryland Drydock and Shipbuilding Company, on the other hand, thrived during the 1950s and 1960s, before succumbing to the pressure of labor disputes and foreign competition in the 1970s (it closed down in 1984). The yard was the site of two significant innovations in the technique of shipbuilding. The first was "jumboizing," cutting a ship in half, separating the two halves, and welding a new section between them to increase capacity. The second was the creation of containerships. In 1960 the yard converted a freighter to the world's first containership by adding side blisters, or "sponsoons," to make it wider. Later the same year, the yard produced the first completely new containership.²²³

Wartime Housing and the Creation of Fairfield Homes

The massive wartime effort on the peninsula had a huge impact both on land use and resident's housing conditions. Between 1940 and 1944 most of the remaining vacant land on the peninsula was developed into new housing (including trailer parks) for workers, storage yards, or new industries to serve the

²²² *Id.* at 51-53.

²²³ *Id.* at 54.

war effort.²²⁴ Workers at the Bethlehem Steel shipyard lived on the peninsula, commuted by car, or took mass transit. Thousands of workers and would-be workers came up from West Virginia and elsewhere in Appalachia. The turnover rate was high, in part because workers were called up for military service and in part because others were not able to keep up with the rapid pace of the yard. For the first time, a large number of blacks and also women worked in the yard, though few were employed in supervisory or white-collar positions.²²⁵

Housing the influx of workers required the efforts of government and private enterprise. The Federal Works Administration (FWA) was in charge of building the public housing (with the Housing Authority of Baltimore acting as its agent). In July 1941, the FWA announced its plans to build an initial 1,000 units for war workers in the Baltimore area, specifying that 500 units would be built in Brooklyn at a site accessible to the Fairfield peninsula by streetcar.²²⁶ Subsequently, 300 of the 1,000 units were slated for construction at a 21-acre site in direct proximity to the Bethlehem-Fairfield Ship Yard and the Maryland Drydock Company, thus ensuring that the workers housed

²²⁴ Baltimore Museum of Industry archives, Baltimore City Department of Planning publication, *The Baltimore Harbor*, c. late 19890s, p. 54.

²²⁵ Baltimore Museum of Industry archives, *Interview with Ed Rahe by Bob Quilter*, June 1, 1979.

²²⁶ *1,000 Homes Planned for Ship Workers*, Balt. Sun, July 6, 1941.

there would not impose further demands on the already overwhelmed transportation infrastructure of the City.²²⁷

In addition to the public housing, private developers announced that they would build 2,000 units (with the aid of Federal Housing Administration--FHA--underwriting).²²⁸ These homes would be situated primarily in Brooklyn (none were planned for the Fairfield peninsula) and would be sold to white families. The public housing, on the other hand, was to be rented to workers and would meet the "need for as many as 500 houses for Negro workers employed by defense industries in the area," according to E. Lester Muller, the state director of the FHA.²²⁹ Despite this statement, the public housing may never have been made available to African American workers (see below for the story of the integration of Fairfield Homes and its parallel housing project in Brooklyn in 1954 and 1967, respectively).

The announcement of the plans for emergency wartime housing met with much initial public opposition, including that of leading Baltimore politicians such as Mayor Jackson. The City's building engineer denied the FWA a building permit on the grounds that the planned lots were so small that they would create a population density greater than that allowed by the City's zoning

²²⁷ 3 Sites to House Workers Approved, Balt. Sun, Aug. 3, 1941.

²²⁸ Builders Plan 2,000 Homes for Workers, Balt. Sun, July 7, 1941.

²²⁹ Id.

ordinance.²³⁰ Immediately thereafter, the Housing Authority of Baltimore announced that it intended to use the public housing for habitation by "slum dwellers" after the war (the Authority's prior plans for slum clearance in South Baltimore had been abandoned after rousing intense public opposition).²³¹ After this announcement, Mayor Jackson backed off, apparently realizing that the federal government could condemn the land and build despite local opposition. He chartered a middle course, cooperating with the defense program but at the same time being on guard against "hasty, hysterical action that might for all time in the future prove detrimental and at the same time burden the taxpayers with unduly heavy fixed charges."²³² Within a few days, the City's zoning board approved the plan to build the initial 500 units in Brooklyn.²³³

Notwithstanding the City's reluctant compliance with the federal demand for war workers' housing, public complaints continued to be raised about the injustice of having to care for defense workers before the needs of native non-defense workers were provided for. The federal demand came

²³⁰ *Permit Denied for Brooklyn Housing Job*, Balt. Sun, Aug. 8, 1941; *FWA Queried on Space for Housing Project*, Balt. Sun, Aug. 9, 1941.

²³¹ *Post-War Role for Defense Homes Is Set*, Balt. Sun, Aug. 10, 1941.

²³² *Id.*

²³³ *Way Cleared for Defense Housing Plan*, Balt. Sun Aug. 20, 1941; *Defense House Plans Okayed*, Balt. Sun, Aug. 22, 1941; *Brooklyn Defense Housing Approved*, Balt. Sun, Aug. 27, 1941.

in the face of what had already been a severe housing shortage for the City's poor, particularly its African American residents (*who were the primary victims of slum clearance).²³⁴ At the same time, it was noted that the war workers' influx had greatly exacerbated the situation.²³⁵ Baltimore's supply of shipbuilding labor had been exhausted, and much more would have to be done than the construction of 3,000 units to serve the needs of "some 18,000 new workers, many of them over the draft age and most of them heads of families, [who] will be employed by the shipbuilding, oil and chemical industries in the area."²³⁶ In reality, not much more was done, at least not on the Fairfield peninsula itself. Rather than additional permanent housing, the federal government set up a huge trailer park with 500 government-owned and 70 private vehicles.²³⁷

Fairfield Homes opened for occupancy on March 1, 1942.²³⁸ The project contained 300 units of mostly two-story (and some one-story) row houses, ranging in size from one to three

²³⁴ See, e.g., Clark S. Hobbs, *Plight of the Non-Defense Workers* (Editorial), *Balt. Sun* (eve.), Sep. 26, 1941.

²³⁵ See, e.g., *What's Wrong with This Picture*, *Balt. Sun* (Eve.) Sep. 24, 1942; *Box Stalls for War Workers*, *Balt. Sun* (Eve) Sep. 25, 1942.

²³⁶ *Fairfield Housing Crisis Becomes Acute; 18,000 Workers Due in 6 Months*, *Balt. Sun*, Jan. 19, 1942.

²³⁷ *Many Seek Trailer Home*, *Balt. Sun*, Aug. 7, 1942; *Federal Trailer Site at Fairfield Opened to Private Vehicles*, *Balt. Sun*, Sep. 24, 1942; *Shirley Abell, Trailer Wives at Fairfield Camp Organize Mobilization Groups*, *Balt. Sun* (Eve.), Feb. 23, 1943.

²³⁸ Logan paper, p. 3, but he does not cite this date!

bedrooms. The houses were spread out on almost 21 acres of flat land near the center of the peninsula, surrounded by railroad yards and oil and chemical facilities and close to the now-defunct shipbuilding and drydock yards where the original residents were employed.

Integration Followed by De Facto Segregation

Apparently, Fairfield Homes remained all-white until 1954, by which time the federal government had turned over the property to the City. As early as 1950, the House of Representatives had authorized the granting of options for purchase of 1,300 war housing units to the City's housing authority, including the 300 units of Fairfield Homes.²³⁹ Integration seems to have been a condition of the transfer. On June 1, 1953, the Housing Authority of Baltimore announced plans to offer housing in Fairfield Homes to African Americans.²⁴⁰ (The City was unable to purchase the project from the federal Public Housing Authority until it could show that it met federal requirements, including integration.) On June 2, 1953, the City bought the project. Local community groups opposed the purchase and asked the City housing authority to keep the project segregated and to raise the

²³⁹ *BHA May Get 1,300 Federal Dwellings*, Balt. Sun, Mar. 23, 1950(?), p. 48, date unclear, erroneously cited as 3/25/50 by Sherri, [go to Md. V.F. Enoch Pratt Free Library to check?]

²⁴⁰ Unpublished paper, appendix, by Jim Logan, "The Origins and Fates of the Brooklyn Homes and Fairfield Homes Public Housing Developments," [I don't have copy of the appendix he cites--need to get from Prof. Power as text of paper gives no cites]

income limits. The City proceeded as planned, however, and on October 1, 1954, the first African American family moved in. Within a month the project was 20% African American.²⁴¹ Within a few years, it was 100% African American.²⁴²

Fairfield Homes was the ideal project at which integration could start. Unfortunately, the same factors that made intergration at the site less likely to arouse serious public opposition also made rapid conversion to all-black segregation inevitable. That is, the site was extremely isolated from middle- and working-class residential communities. It was close by the homes of Old Fairfield, but these homes were already decaying and housed only a few hundred, mostly African American residents. The working-class community of Wagner's Point was a few blocks a way, but tank farms and chemical plants separated the project from the tiny "town," and the people of Wagner's Point, though white, hardly had the numbers or wealth with which to mount successful political opposition.²⁴³ Moreover, the site

²⁴¹ *Id.*

²⁴² Not sure at which date this was achieved, but it's clear from later accounts (1970's for example) and from the late 1950s brochure of the urban renewal and housing agency, which shows a large crowd of black residents in the playground, in contrast with the white people in the Brooklyn Homes photograph.

²⁴³ In the 1950s many of the original Polish families of Wagner's Point moved out, to be replaced by families from Appalachia looking for work in the mills and shipyards of Baltimore. David Brown, *Life in Wagners Point: Cut Off But Happy*, Balt. Sun, Dec. 26, 1982. Interestingly, few if any of these white families seemed to have considered moving into Fairfield Homes.

was even more isolated from the nearest junior high and high schools and from any commercial district. Aside from a handful of small grocery stores on the peninsula, the nearest shopping center was a mile away in Brooklyn.²⁴⁴

The rapidity and ease with which Fairfield Homes became integrated contrasts sharply with the integration of Brooklyn Homes, the 500-unit war housing project that was built contemporaneously with the Fairfield project. Brooklyn Homes remained all-white until 1967 and might have remained so even longer had not the public become aware of an increasing number of vacancies in the project. This awareness sparked a demand for integration. According to the Housing Authority of Baltimore, as of December 1966 no African American families had requested to move into the project. Given the reception accorded the first families that did so the following year, the housing authority's claim, as self-serving as it was, may have been accurate. In the spring of 1967, two weeks after the first African American family moved in, the Ku Klux Klan visited the project. Five more protest visits followed that summer and fall, with the KKK burning crosses on least two of the occasions. Finally, the police dispatched 100 officers to surround Brooklyn Homes and arrest the KKK leader. That put to an end to the protests, and

²⁴⁴ Brochure on Fairfield Homes, Baltimore Urban Renewal and Housing Agency, found in "Housing-Baltimore-Fairfield" Vertical File, Md. Dept., Enoch Pratt Free Library, undated but seems, judging from furniture in photos and other visual evidence, to be from the mid or late 1950s (post-integration, as all the photographed residents are black).

in the years that followed, Brooklyn Homes remained predominantly white but with a sizeable African American population. Thus, although Brooklyn Homes was the site of fiercer opposition to integration, in the long run maintaining an integrated population (as opposed to an all-African American population) proved more viable at this project, which was located in the center of a large, predominantly white working- and middle-class community.²⁴⁵

Shortly after the integration of Fairfield Homes in 1954, the Baltimore Urban Renewal and Housing Agency published nearly identical promotional brochures on Fairfield and Brooklyn Homes.²⁴⁶ Both brochures feature photographs of "planned recreation" events, with the Brooklyn brochure showing white children and adults on the playground and the Fairfield brochure showing black children and adults on the playground. No verbal mention is made of race, but obviously none was needed. The text of the Fairfield brochure would seem charmingly redolent of 1950s "Ozzie and Harriet" innocence if it were not so bitterly ironic from today's perspective:

Families who are looking for a home away from the hustle and bustle of the city and who want a safe place for their children to run and play, will find Fairfield Homes a good place in which to live. . . . Within a short distance of the project are the plants and shipyards of Fairfield, where families may find good job opportunities. Despite the fact that these plants

²⁴⁵ Logan paper, pp. 7-8, presumably he's citing the same appendix as before. [Check on this]

²⁴⁶ Baltimore Urban Renewal and Housing Agency, "Fairfield Homes" and "Brooklyn Homes," date unknown, but probably mid to late 1950s.

are conveniently close to the project, they are not so close that their dirt and grime is a problem to housekeepers.²⁴⁷

Expansion of the Primary Treatment Facilities at the Sewage Plant

In 1952 the City purchased approximately another 30 acres so that the Patapsco Waste Water Treatment Plant could be expanded.²⁴⁸ In 1956 Congress for the first time appropriated federal funding for construction and expansion of municipal sewage treatment plants.²⁴⁹ Probably not coincidentally, in 1956 the city decided to handle the increasing flows from the counties by expanding the primary treatment facilities. Further expansions followed in 1960s. For example, in the late 1960s temporary chlorination facilities were constructed²⁵⁰ (apparently there had been no chlorination of the primary-sewage effluent for the first quarter-century of the plant's operation). No more major construction was undertaken until the massive transition to secondary treatment and handling of pretreated industrial wastes starting in 1974 (and not completed until 1985).

Beginning with the expansion of the mid-1950s, the Patapsco plant played an important role in the rapid commercial and industrial growth of Fairfield/Wagner's Point that was making the

²⁴⁷ *Id.*

²⁴⁸ Whitman, Requardt, *supra* note 3, at 97.

²⁴⁹ Robert V. Percival et al., *Environmental Regulation: Law, Science, and Policy* 881 (2d ed. 1996).

²⁵⁰ Whitman, Requardt, *supra* note 3, at 98.

area less hospitable to its human residents.²⁵¹ Although the state was making efforts to curb the dumping of raw sewage into the Patapsco as part of a post-War anti-pollution program,²⁵² even the state's top health officials asserted that the cost of an industrially polluted harbor was a bargain in return for keeping in and attracting industries to the state. In response to parents in northern Anne Arundel County who complained that their kids were getting rashes from swimming in the Patapsco, Abel Wolman of the Johns Hopkins University Schools of Engineering and Public Health said that "there are very few harbors in the world that are clean," and Paul W. McKee, director of the Water Pollution Control Commission, pointed out that an abundant supply of water for use in manufacturing and for dispersal of wastes is a major attraction to industries.²⁵³ The consensus among experts during the post-War boom was that industry was doing its fair

²⁵¹ Another 1950s construction effort that was to play a key role in the postwar industrialization of the peninsula was the state's construction of the Harbor Tunnel Thruway (I-895). Sherry H. Olson, *Baltimore: The Building of an American City*, 360 (1997). The thruway passes just north of Old Fairfield on its way to the harbor tunnel, which enters the Patapsco River between the sites of the now-defunct Bethlehem-Fairfield Ship Yard, Inc. and the Maryland Drydock and Shipbuilding Company. The tunnel connects the peninsula with the Canton area of Baltimore (another former industrial region and the site of Martin Wagner's canning factory before he moved his business to the point that now bears his name). The thruway, which connects to I-95 of the interstate highway system, greatly facilitated the movement of trucks to and from the peninsula.

²⁵² *Anti-pollution Program for Patapsco Set*, *supra* note 20.

²⁵³ James S. Keat, *Two Groups Join Battle on Pollution: But Different Points of View on Harbor Pose Problems*. Sun. Jul 22, 1957.

share to ensure that the harbor area was as clean as could reasonably be expected for a modern city, and that the harbor waters had the requisite depth and tidal movement to dissipate any wastes before they reached the Chesapeake Bay.²⁵⁴

Before the mid-1950s expansion of the Patapsco plant, Wagner's Point had cobblestone streets lined with brick sidewalks and many trees. The residents enjoyed free access to the shoreline by the sewage plant. Wagner's Point residents who grew up in the neighborhood at this time have fond memories of swimming, crabbing, and fishing near the original treatment plant. At this point in its history, the Patapsco plant contributed favorably to the residents' feeling that the isolated urban neighborhood was a "lovely place" and that to live there was "like living in the country" (in the words of one longtime resident). But during this first expansion period, the city fenced off the treatment plant, thus blocking much of the former access to the river shore. The city also paved the streets and most of the alleys of Wagner's Point, removing "gadzillions" of trees in the process. Finally, the city began to install storm drains in Wagner's Point but never completed their

²⁵⁴ See, e.g., James S. Keat, *Stream Pollution Problem Grows*, Sun, Sjul 21, 1957; James S. Keat, *Two Groups Join Battle on Pollution: But Different Points of View on Harbor Pose Problems*, Sun, July 22, 1957; James S. Keat, *Harbor Bathing to Be 'No More': Pollution Debated but Area Is 'Unsafe' for Purpose*, Sun, Jul 23, 1957.

construction.²⁵⁵ These improvements, though undoubtedly necessary to handle the increased truck traffic in the area and contemporary and anticipated increases in sewage flows, seem to have been the seeds of a decades-old and deeply bitter resentment of the treatment plant.²⁵⁶

1960s: Stirrings of Activism amid Fire and Decline

Starting in the 1950s and continuing into the next decade, the composition of the Wagner's Point population began to change somewhat. Many of the original Polish families remained, but others were replaced by families from Appalachia, who had come to Baltimore to find work in the City's mills and shipping industry.²⁵⁷ There were other signs that the community was losing some of its original cultural character: the post office and volunteer firehouse were closed down as the City began to deliver mail directly to homes and to provide fire protection.²⁵⁸

²⁵⁵ Telephone Interview with Jeannette Skrzecz, *supra* note 21.

²⁵⁶ *Id.*; Meeting among Wheelabrator Patapsco Pelletizer employees; Larry Slattery, director of the Patapsco Waste Water Treatment Plant; and members of the Fairfield/Wagner's Point Neighborhood Coalition, Patapsco Pelletizer Facility, Baltimore, Md. (Oct. 30, 1997).

²⁵⁷ David Brown, *Life in Wagners Point: Cut Off But Happy*, Balt. Sun, Dec. 26, 1982; Cindy Regiec, English 101 paper, Dec. 24, 1989, "The Rise and Fall of Wagner's Point," p.15.

²⁵⁸ Regiec, p. 15, citing letter to her from longtime resident, Ted S. Bruchalski, Nov. 16, 1989; Charles R. Eisenrath, *Phaseout Plans Disturb 2 Communities: Point Areas Engulfed by Industry*, Balt. Sun (Eve.), Feb. 11, 1966.

In 1955, Father Kotlarz, the first and only pastor of St. Adalbert's, died after decades of service to the community.²⁵⁹ Before the war, the church choir was famous throughout Baltimore's Polish immigrant community.²⁶⁰ But now, after its pastor's death, the church endured a decade of decline. The church was operated on a part-time basis by the pastor of another parish before being closed in 1967 (its last service was a mass conducted by Cardinal Lawrence Shehan).²⁶¹ According to a contemporary account, the church was closed "because of the deterioration of the building and heavy industrialization in the area that prompted many of its parishioners to move."²⁶² Before the church and hall could be demolished, however, both were struck by fires.²⁶³ After demolition, the church site was used as a "storage lot for heavy equipment."²⁶⁴

²⁵⁹ Regiec, p. 16.

²⁶⁰ Regiec, p. 11, citing Bruchalski letter, Nov. 16, 1989.

²⁶¹ Brooklyn-Curtis Bay Historical Committee, *A History of Brooklyn-Curtis Bay 1976-1976*, Baltimore: J.O. O'Donovan & Co., Inc., 1977, p. 55; David Brown, *Life in Wagners Point: Cut Off But Happy*, Balt. Sun, Dec. 26, 1982.

²⁶² *Historical Documents Stolen from Catholic Church Ruins: Appeal Made for Return*, Capital Gazette News, Glen Burnie, MD, Jan. 16, 1969, p. 1.

²⁶³ David Brown, *Life in Wagners Point: Cut Off But Happy*, Balt. Sun, Dec. 26, 1982; *2-Alarm Fire Hits Monday*, Capital Gazette News, Glen Burnie, MD, Jan. 16, 1969.

²⁶⁴ Patrick Gilbert, *Wagner's Point: Front-steps kind of neighborhood*, Balt. Sun (Eve.), Jun. 14, 1979, B1.

A more severe fire however, had already struck the community, and its repercussions have affected Wagner's Point to the present day. On December 23, 1965, a 9-alarm fire erupted at the Continental Oil Company about two blocks away from the row houses of Wagner's Point. The fire took 200 firemen four hours to control; nine hours later, the firemen were still hosing acid and benzene tanks to prevent a flareup. The fire was the area's third that year but was by the far the worst. It injured 32 persons and produced a mushroom cloud visible from much of the City. No transportation was available to the frightened residents, as the peninsula's only bus stop was in Fairfield and no taxi dared brave the blaze.²⁶⁵

The fire spurred the City to more seriously consider buying the residents out. The idea had been circulated as early as April 1964 by Catherine Prichard, a Wagner's Point resident and owner of the town's general store.²⁶⁶ She had written to the Mayor and City Council president requesting that the City provide compensation above the practically nonexistent market value for the residents' homes:

We have Food Machinery [Food Machinery & Chemical Corp.] in front of us, Sinclair and Texaco on the one side with American Oil in between. Then we have their tanks and loading racks in the rear, with Shell and City Service on the other side. . . . It's not fair. No one wants to buy our homes, for fear and danger.

²⁶⁵ Charles R. Eisenrath, *Phaseout Plans Disturb 2 Communities: Point Areas Engulfed by Industry*, Balt. Sun (Eve.), Feb. 11, 1966.

²⁶⁶ *Id.*

Are we supposed to carry them on our backs and flee like culprits?²⁶⁷

Predictably, although the politicians politely responded to the letter, no representative of any public agency had visited the residents to discuss their problems since May of 1964.²⁶⁸

The well-publicized and highly visible fire, however, prompted the City's urban renewal agency to revive the proposal of a community buyout of the residents of both Fairfield and Wagner's Point.²⁶⁹ The Mayor directed the staff of the urban renewal agency to meet with residents and conduct studies.²⁷⁰ By November 1966, the agency was prepared to advocate the "phaseout" of the communities, with the City to provide relocation assistance to the residents. Agency staff pointed to the likelihood of another dangerous fire, to the dilapidated conditions of the Old Fairfield houses in particular, and to the public health hazard posed by Old Fairfield's lack of connection to the City sewer system.²⁷¹ At the same time, the Fairfield Improvement Association filed suit against the City to force the installation of sidewalks and sewers.²⁷²

²⁶⁷ Quoted in *id.*

^{268.} *Id.*

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ Louis P. Peddicord, *Site of Sewage Plant Still Lacks Sewers: Technology Surrounds Fairfield, But Fails to Serve It*, *Balt. Sun*, Oct. 19, 1970.

²⁷² *Id.*

Neither the suit nor the urban renewal agency's proposal bore fruit that year, however. The residents of Old Fairfield would have to wait another decade for their sewers.²⁷³ And the relocation proposal was quietly let go, in part because the residents could not agree on whether to relocate or what valuation method of their houses would be fair. In a pattern that was to be repeated over the next three decades, City officials balked at the prospect of offering the residents of merely one of the City's blighted neighborhoods relocation benefits that would pay more than the market value of their homes. As a reporter noted in the early 1980s, "The people living there, however, sought payment for their houses that would allow them to buy comparable dwellings in other parts of Baltimore. The idea died, as it probably would again, for the houses today still sell for as little as \$8,000."²⁷⁴

1970s: Push for Residential Zoning

It was not until the early and mid-1970s, however, that Old Fairfield and Fairfield Homes were to be seriously adopted as a righteous cause by activists and academics. For awhile, it appeared that the area would actually be rezoned as R-5, medium-density residential. Instead, at the end of the decade, it was a Federal Government charge of racial discrimination and a near-

²⁷³ Mike Bowler, *And now? Old Fairfield Will Finally Get Its Sewers*, Balt. Sun, Mar. 13, 1976.

²⁷⁴ David Brown, *Life in Wagner's Point: Cut Off But Happy*, Balt. Sun, Dec. 26, 1982.

disastrous derailment of a train loaded with toxic chemicals that most determined the fates of the two communities, inducing the City to once again propose a phase-out of the neighborhoods--and, this time, over the next decade or so, the people of Fairfield left.

Baltimore City Police Department and U.S. Census block statistics convey Fairfield's unique strengths and weaknesses as it entered the decade. The 26 acres of Old Fairfield were occupied by 288 people living in 86 households, with 24 homes lying vacant. The density per acre was only 12 people (compared with 15 for the City and as high as 64 for one inner-city neighborhood). Home-owner occupancy was amazingly high for such a poor community (55%, slightly higher than Baltimore as a whole, and many times higher than comparably poor inner-city neighborhoods). The average rental rate and number of rooms in the rental homes compared favorably with the statistics for all City public housing projects. The robbery rate in 1971 was below 16%, only one-third the rate in the City's more densely populated inner city neighborhoods. On the other hand, the average market value of the lots was only \$675 and was only \$1,875 for the homes. The vacancy rate was extremely high (22% compared with about 5% for the City as a whole, 10% for typical inner-city neighborhoods, and 12% for neighboring Wagner's Point, also in the M-3 zone but provided with sewer links and paved streets). Twenty-six percent of the households lacked some plumbing facilities (compared with less than 4% for the inner-city

neighborhood with the highest percentage). The population had declined by 20% since the 1960 census. And one in five residents was over 62 years old, with a slightly smaller proportion under 18.²⁷⁵

By contrast, Fairfield Homes had a high percentage of children (63% compared with about 50% for other City public housing projects). The 1,157 residents were crammed into 299 units (297 of them rented), with only two vacancies. Fairfield Homes had among the lowest vacancy and move-out rates of the City's housing projects, and it had the highest rate of crowding (30% of the units had more than one person per room).²⁷⁶ Despite the demonstrated commitment of its resident families to remaining in Fairfield Homes, the City had failed to perform the extensive modernization of the project that it had performed at other public housing projects in 1960s.²⁷⁷ Still, apparently, the families preferred the crowded conditions in deteriorating Fairfield Homes to moving out to a bigger apartment in another of the City's housing projects. Also, many families had relatives in Old Fairfield.²⁷⁸

²⁷⁵ All Baltimore City Police Department and U.S. Census statistics from the 1970 census drawn from NDC report, Rezoning Fairfield, Neighborhood Design Center, 206 east biddle, 1972, pp. 4-7, 8-10.

²⁷⁶ 1970 Census stats and info from Baltimore Housing and Community Development drawn from NDC study again, pp. 4-7.

²⁷⁷ NDC, p. 3.

²⁷⁸ NDC again, p. 7.

[need transition here] In 1970 the City's Department of Public Works announced plans to extend a \$ 1/2 million sewerage link-up to Old Fairfield.²⁷⁹ By the residents' own estimates, one-half of the households lacked sewer services and either had private septic systems or outdoor privies.²⁸⁰ (A survey by a sympathetic group of volunteers suggested that 15 households (17%) used outhouses because of the lack of sewers,²⁸¹ but either estimate is shocking). Those that had services had been linked up decades ago,²⁸² presumably when Fairfield Homes and Wagner's Point received services. Despite the City's 1970 promise, the remaining residents were not to be provided with sewer services until 1976.²⁸³ Street lights were provided soon thereafter,²⁸⁴ as the City seemed resigned to providing some minimal services while waiting the residents out.

In 1971 Fairfield residents started to receive help from the Neighborhood Design Center (NDC), an organization of Vista volunteers and professional planners and architects who

²⁷⁹ "Site of Sewage Plant Still Lacks Sewers: Technology Surrounds Fairfield, But Fails to Serve It." Louis P. Peddicord. Baltimore Sun. Oct. 19, 1970 (MD Dept. Pratt Library).

²⁸⁰ Ibid.

²⁸¹ NDC, p. 5.

²⁸² Ibid.

²⁸³ "And now? Old Fairfield Will Finally Get Its Sewers." Sun. Mar 13, 1976. Mike Bowler.

²⁸⁴ Chessie line neighbors ask to be relocated. News American. May 14 1979.

volunteered their time to consult with communities in the metropolitan area. On June 21, 1971, the NDC hosted a meeting between 8 Fairfield residents and two officials from the City's Department of Planning and Department of Housing and Community Development.²⁸⁵ The purpose of the meeting was to discuss the City's plans for the area; at this time, the City had designated Fairfield an urban renewal area and seemed intent on turning it into the "Fairfield Industrial Park." A neighboring businessman, Frank Gamble of Brooklyn Salvage Company (see below), had already expressed his intent to buy up the community. At the June meeting, it was decided that the NDC would draw up an alternative plan more to the community's liking. The resulting plan was to buy up property to create a buffer zone between Old Fairfield and Fairfield Homes and the surrounding industries. The plan also called for the City to provide services such as sewers and street lights.²⁸⁶

Until October 1971 it appeared that the City had no interest in providing services to the residents or even allowing them to continue to reside in their communities. The City planners envisioned three possible alternatives for the area but clearly preferred one to the other two, because it was the only one that seemed to augur Federal aid. The plans were to keep the areas residential (no Federal aid), to reduce the residential area to

²⁸⁵ Social Work School study. p. 36

²⁸⁶ Ibid.

one-third its size and allow further encroachment of industry (again, no Federal aid), or to clear the area of its residents, relocate them, and create the Fairfield Industrial Park.²⁸⁷ This last alternative was project # 197 in the City's Capital Improvement Plan for 1971-1976.²⁸⁸ The City expected significant Federal aid and to receive a return on its investment by means of the high taxables on the proposed industrial properties. The park was to be constructed in 1975-1976. Public utilities would be provided for the industries, and the two Fairfield communities would be phased out as soon as possible.²⁸⁹ At this point, the City defended its M-3 zoning for the residential communities as having been "entirely justifiable in terms of sound land use planning": the communities were merely tiny enclaves within heavy industrial areas and had poor access to shopping and other services because they were enclosed by industry and railroad tracks.²⁹⁰

But abruptly, in October 1971, the City was forced to drop its plans for the Fairfield Industrial Park (although this dream would later resurface as the current Ecological Industrial Park,

²⁸⁷ Ibid, p. 18-23.

²⁸⁸ Baltimore's Development Program--The Next Six Years, (1971-1976), May 1970, p. 75.

²⁸⁹ See social work study again. pp. 18-23.

²⁹⁰ Unpublished letter written by Bernard L. Berkowitz, Associate Director of the Department of Planning, to Robert C. Embry, Jr., Commissioner of the Department of Housing and Community Development, September 1, 1971, p. 1. In social work study, p. 19.

whose planning has been made possible through federal assistance for brownfields reclamation and empowerment zone revitalization). The City gave four reasons for this decision: the residents of Old Fairfield wished to remain in their homes, Fairfield Homes had an extremely low vacancy rate, the population of Old Fairfield was decreasing (with abandonment inevitable under any circumstances), and the City would receive \$ 1/2 million in Federal aid for the installation of lateral sewers only if the sewers were for residential as well as industrial use (and once the residents left, their sewer linkages could be converted to industrial use).²⁹¹ It does not take a cynic to believe that reasons three and four were the most persuasive in the minds of the City planners, particularly since the renewal project was found ineligible for federal assistance and would be prohibitively expensive for the City to undertake without federal aid.²⁹² The City could best afford to wait the residents out as it waited for federal dollars to become available. The City's next Capital Improvement Program (1975-1980) contained a plan not for an industrial park but for residential improvements, such as paved streets, storm drains, sewer linkages, etc.²⁹³ (some of

²⁹¹ Unpublished letter of Robert C. Embry, Jr., Commissioner for the Department of Housing and Community Development, to Larry Reich, Director of the Department of Planning, October 22, 1971, pp. 1-2. In social work study, pp. 23-24.

²⁹² Rezoning Fairfield. by the neighborhood design center, 206 Middle St., Balt. NDC study, p. 2. 1972?

²⁹³ Social Wk study, p. 25.

these were undertaken in the mid-1970s, but most have not been done to this day).

In November 1971 the NDC decided to persuade the City to rezone Fairfield as a medium-density residential district, in the hopes that rezoning would require the City to provide basic services.²⁹⁴ The NDC pointed out that although the two Fairfield communities, along with Wagner's Point, constituted the census tract with the lowest median income in the whole City, the industrial zoning designation made the communities ineligible for some War on Poverty programs.²⁹⁵ In early 1972 Fairfield residents met with City officials and presented them with a petition requesting the rezoning. Soon afterwards, Fairfield was the subject of an article in the Sun, entitled "Fairfield, City's junkyard, fights off industry."²⁹⁶ The article noted the City's recent change of mind about turning Fairfield into an industrial park and concluded that "most of the longtime residents are staying."²⁹⁷ The article also quoted the Victory elementary school principal to the effect that the children had the highest anemia rate in the City and that her requests for school nurses and crossing guards had been ignored.²⁹⁸

²⁹⁴ Social wk study, pp. 37-38.

²⁹⁵ NDC study, 1972. p. 11.

²⁹⁶ "Fairfield, City's junkyard, fights off industry." The Sun, February 13, 1972.

²⁹⁷ Id.

²⁹⁸ Id.

In the wake of the publicity and the residents' renewed commitment to organizing for their rights, the peninsula's City Councilman, Myers (D-6th), was quick to introduce Bill No. 140 into the City Council.²⁹⁹ This bill called for an amendment to the 1971 zoning ordinance that would classify the two Fairfield communities as R-5, medium-density residential.³⁰⁰ The City's Planning Commissioners approved the proposed rezoning without comment,³⁰¹ and the Board of Municipal and Zoning Appeals recommended the bill be passed, albeit lukewarmly: "It appears to the Board that possibly the classification of M-3 for this area is incorrect and not in the public interest; therefore, we feel that we should cooperate with the community so that they can accomplish their aims."³⁰² Two weeks later, the City's Department of Planning promulgated a staff report (signed by Department Director Larry Reich) that gave the bill much warmer support, noting that the existing M-3 designation had placed a "cloud"

²⁹⁹ Social wk study, p. 39.

³⁰⁰ City Council of Baltimore, Bill No. 140, Messrs. Myers, Leone, and Wheatley, introduced February 28, 1972, Referred to Judiciary Committee. A Bill entitled "An Ordinance to amend Sheets Nos. 97 and 98 of the zoning district maps of Article 30 of the Baltimore City Code (1966 Edition), title "Zoning" (Ordinance No. 1051, approved April 20, 1971) by changing from the M-3 Zoning District to the R-5 Zoning District. . . ."

³⁰¹ James D. Dilts, "Medium-density zoning in Fairfield gets support from planning panel," Sun, May 12, 1972; and Paul D. Samuel, Change urged for Fairfield, Eve. Sun, May 12, 1972.

³⁰² Letter from Board of Municipal and Zoning Appeals to City Council, May 16, 1972, Gilbert V. Rubin writing for the Board. Quoted in social wk study.

over the community and helped deter the City from providing basic services (although the report did admit that a change in zoning classification would not "automatically" provide for services, which already could have been provided regardless of the M-3 designation).³⁰³ The staff report concluded that "the rezoning would be desirable if it is included with a concentrated municipal effort to provide the basic services the community has been missing."³⁰⁴

The Department of Planning justified the proposed rezoning by claiming that it was necessary "to correct an error in the original zoning classification."³⁰⁵ According to contemporary Maryland case law, an amendment to a zoning ordinance had to satisfy the formidable test of the "Maryland mistake-change rule," whereby the original ordinance enjoys a strong presumption of validity, requiring the government to show that the original ordinance had been in error or that a substantial change in the neighborhood had occurred to justify rezoning.³⁰⁶ Perhaps the Department of Planning and the NDC would have had a more persuasive case legally if they had cited a substantial change in neighborhood as the reason for the rezoning: although Old

³⁰³ Staff Report, June 1, 1972, on City Council Bill #140, signed by Larry Reich, Director of Department of Planning. pp. 1-3.

³⁰⁴ Id. at 3.

³⁰⁵ Id. at 1.

³⁰⁶ See, e.g., MacDonald v. Board of County Commissioners for Prince George's County, 238 Md. 549, 210 A.2d 325 (1965).

Fairfield had coexisted with industry in 1931 when the City's original zoning ordinance was passed, two significant changes occurred in the subsequent decades. In 1942 Fairfield Homes became the residence of 300 families (probably a far greater number than had ever lived in Old Fairfield), and in 1951 the Victory Elementary School opened. It is true that Fairfield Homes opened under exigent circumstances as wartime housing for shipyard workers, and that the original school was constructed to allow for easy conversion to a warehouse and that its 1960s extension was easily convertible to office space.³⁰⁷ But it is also true that from the beginning Fairfield Homes was planned to provide permanent low-rent housing for "slum dwellers" once the war was over,³⁰⁸ and that the school marked a recognition that the communities had a sufficient number of children so that they should be educated in their neighborhood. Thus, it could be argued that the size and character of the residential area within the M-3 zoning district had substantially changed since 1931.

The day after the Board of Municipal and Zoning Appeals tepidly recommended passage of Bill No. 140, the Baltimore Sun, which had been following the issue closely in one of its intermittent spells of attentiveness toward Fairfield, published an editorial in favor of the rezoning initiative as a step toward

³⁰⁷ NDC, pp. 2-3.

³⁰⁸ See, e.g., "Post-War Role for Defense Homes Is Set: Planned Projects will be used to house slum dwellers, 1,000 units to be designed like those in clearance groups." The Sun, August 10, 1941.

providing essential services such as sewers and street lights. The editorial was entitled "Fairfield Is Recognized as Human."³⁰⁹ After decrying the City's neglect of the communities "more than a mile beyond the nearest semblance of urban life," the paper defended the residents' preference for "a semi-rural existence in individual frame houses, however poor and rundown, to moving into crowded inner-city conditions which would be their alternative from a financial standpoint."³¹⁰ However, the paper fell short of defending the people's right to live in the area forever, assuming that abandonment or relocation was inevitable: "Eventually heavy industry most likely will win out, because the area is best suited to industrial development."³¹¹

The bright prospects for Fairfield's zoning change faded within a month, however, when a public hearing was held on the bill on June 20, 1975. At the hearing, representatives and attorneys from local industries unanimously opined that the zoning change would damage the City's tax base.³¹² In the following month Old Fairfield residents charged the City with racial discrimination for failing to provide them with the same services provided to the neighboring white community of Wagner's

³⁰⁹ Fairfield is recognized as human. Sun. May 17 1972.

³¹⁰ Id.

³¹¹ Id.

³¹² social work stuyd, p. 39.

Point.³¹³ These charges were echoed by the City's Community Relations Commission (CRC).³¹⁴ By December the residents had not heard further from the City. The NDC suggested the people start a letter-writing campaign to their elected officials to solicit their support of the bill.³¹⁵ Reverend Oliver Chase, a Fairfield minister, wrote to Mayor William Donald Schaefer and received the following response:

We are making every effort to keep the residential areas as livable as possible as long as the residents wish to remain. . . . On the other hand, the long range use of what is presently called Old Fairfield . . . is projected to be industrial.³¹⁶

Clearly the City's policy was to wait the people out. A year-and-a-half later, Reverend Chase learned from another City official that Bill No. 140 had been withdrawn by Councilman Myers.³¹⁷

By 1975 the residents of Old Fairfield were still waiting for the sewer and other services promised by the City. Having received a federal grant, the Department of Housing and Community Development, however, had finally approved and installed new

³¹³ Id. at 39.

³¹⁴ Fairfield gets some help but will it be enough? Stephen McKerrow. Eve Sun. Sep 26, 1977.

³¹⁵ social work, pp 39-40.

³¹⁶ Letter to Reverend Oliver Chase from Mayor William Donald Schaefer, December 3, 1973, quoted in social work study, p. 40.

³¹⁷ social work study, p. 40.

fixtures, plumbing, wiring, etc. for Fairfield Homes.³¹⁸ And efforts to rezone the two communities had not died out. Student activists at the University of Maryland School of Social Work and Community Planning met with Jennie Fincher and her husband Robert of the Fairfield Improvement Association (incorporated as of 1971³¹⁹). Together they decided it was time to launch an intensive campaign to change the zoning of Old Fairfield. The students arranged for Catholic Charities to fund and supervise community organizers to aid the community. More meetings were held, and efforts were made to effect a "massive" publicity campaign and policy of direct confrontation with City officials. The students acknowledged that the residents were sceptical and frustrated after more than four years of trying to get their neighborhood rezoned (and many more years of requesting basic services).³²⁰ Although the campaign ultimately failed to produce a zoning change or many of the services needed by the residents, it did contribute to some significant short-term results. In the spring of 1976 Old Fairfield became the "last major community in Baltimore without municipal sewer service" to be hooked up to the nearby Patapsco Waste Water Treatment Plant.³²¹ In 1979 street

³¹⁸ Old housing projects will get a facelift, by Norman Wilson, Eve. Sun, Sep 19, 1974; social work, p. 4 and p. 45, note 4.

³¹⁹ source: social work study, p. 36.

³²⁰ social work, pp. 41-44.

³²¹ Mike Bowler. And now? Old Fairfield will finally get its sewers. Sun. Mar 13, 1976.

lights were put up, although the neighborhood was (and is) still lacking in graded streets, curbs, sidewalks, and storm drains.³²²

In 1977 Old Fairfield received \$5,000 from Catholic Charities' Campaign for Human Development to be used to re-establish the abandoned and vandalized small grocery store in the neighborhood.³²³ Apparently because of the industrial zoning for the community, the store was barred by the City Health Department from opening as a grocery store and was allowed only to provide carry-out food.³²⁴ In the same year, the CRC revived its charge of racial discrimination, voting to make Old Fairfield its top priority. Once again, Old Fairfield was contrasted with neighboring white Wagner's Point, which had received sewer services, paved streets and sidewalks, and a playground. However, the CRC director, John B. Ferron, was not optimistic about his agency's efforts. Although Mayor Schaefer himself had requested a meeting with Mr. Ferron, Ferron said that "it is reasonable to anticipate" he would be advised that the City did not intend to devote more time or money to the anachronistic and aging community.³²⁵

³²² See, e.g., Neighborhood that City Hall wishes would go away. eve Sun editorial. Aug 24 1979.

³²³ Stephen McKerrow. Fairfield gets some help but will it be enough? Eve. Sun. Sep 26, 1977.

³²⁴ John Schidlovsky. Old Fairfield worries about community's future. Sun Oct 29, 1979; Neighborhood that City Hall wishes would go away. Eve. Sun. Aug 24, 1979.

³²⁵ Fairfield gets some help but will it be enough? by Stephen McKerrow. Eve. Sun. Sep 26, 1977.

In 1978, residents of Fairfield Homes joined with tenants of other City housing projects to threaten a rent strike as they successfully pressured the City into providing more needed repairs and maintenance, such as repair of sagging bathroom floors and pest and vermin removal.³²⁶ More significantly in 1978, investigators from the Federal Office of Revenue Sharing discovered the dilapidated conditions in Old Fairfield. The investigators, who were making a comprehensive inquiry into the City's provision of services to minorities, found what seemed to be clear evidence of racial discrimination in the City's neglect of the community: "A black community which lacks the basic municipal services provided all other citizens in the city." Baltimore was then ordered to produce a plan for giving Old Fairfield residents their share of City services.³²⁷

Following the Office of Revenue Sharing's order, the City seemed to be faced with the straightforward task of providing all the basic services normally provided residential neighborhoods, and that would probably require the rezoning change sought since the beginning of the decade. [in 10/29/79 sun art & elsewhere Fincher & newswriters & city officials seem to say that M-3 zone prevents City provision of resid. services, contra NDC and Planning Dept statements in early 70s--had the law changed?]

³²⁶ City faces rent strike by public housing tenants. Sun. Nov 26, 1978.

³²⁷ John Schidlovsky. Old Fairfield worries about community's future. Sun. Oct 29, 1979.

Certainly the residents had hopes of a revitalized community that would yet retain the secluded, rural characteristics they prized.³²⁸ But a 1979 industrial accident led to the City's once again opting for a phase-out of the community and relocation of its people.

In May 1979 a railroad car carrying 9,000 gallons of sulfuric acid overturned in the Chessie switching yard just about 25 feet from some of the homes in Fairfield Homes. In addition to sulfuric acid, the derailed train carried chlorine and alcohol. Fortunately, there was no spill and mixture of the hazardous chemicals. Even so, 700 of the Fairfield Homes residents were evacuated to the Victory Elementary School until the car could be set back on the tracks. This close call was almost sure to be repeated, since the rails carried up to 500 loads of dangerous chemicals a day. In the aftermath of the accident, about half the residents in Fairfield Homes demanded that the City relocate them.³²⁹ The City was amenable to the demand and soon tentatively extended the relocation idea to Old Fairfield. In June 1979 the City signed an agreement with the Federal Office of Revenue Sharing committing itself either to provide services to Old Fairfield or to relocate its residents. Over the summer the City surveyed Old Fairfield residents to see

³²⁸ See, e.g., Old Fairfield worries about community's future. Sun. Oct. 29 1979. John Schidlovsky.

³²⁹ Chessie line neighbors ask to be relocated. News American. May 14 1979.

if they would agree to each receive about \$10,000 above the assessed value of their homes (according to Robert Fincher of the Fairfield Improvement Association).³³⁰ At this time, the leaders of Old Fairfield remained adamant in preferring their "sweet place to live" to relocation to the inner city, and the Baltimore Sun seemed to reiterate its support of a rezoning of the area.³³¹ By the fall of 1979, the City seemed to have backed off the idea of offering \$10,000 above assessed value, but the City Solicitor still conceded the "possibility" of offering money to each of the Old Fairfield households. The City Solicitor further remarked that the residents would receive relocation costs and generally be treated the same as City residents dislodged by condemnation proceedings to make for way for a highway. However, he added that unlike in exercises of eminent domain, the City would not force any unwilling resident to relocate.³³² In fact, it would not be until 1989 that the City would be able, with federal funds, to begin to relocate the residents of Fairfield Homes.³³³ Most of the residents of Old Fairfield moved out by the late

³³⁰ Neighborhood that City Hall wishes would go away. Eve. Sun. Aug 24 1979.

³³¹ Id.

³³² Old Fairfield worries about community's future. Sun. Oct 29, 1979. John Schidlovsky.

³³³ *Fairfield tenants to be moved out of danger area.* Martin c. Evans. Sun. January 31, 1989. All the residents moved out within the next two years, and the project was finally demolished in January of 1997. Marilyn McCraven, *City begins demolishing huge Fairfield Homes public housing complex*, Balt. Sun, Jan. 26, 1997, p. 3B.

1980s but not with City relocation assistance. [solicitor spoke of 1980 fed deadline to relo or serve but neither happened--relo not till 1989, I believe, so what happened? was there ever relocation of Old F. residents? find City Paper and Wash. Post articles cited by EMily Dick and Regiec]

In reviewing this decade of activism by and on behalf of the residents of Old Fairfield and Fairfield Homes, two questions arise. The first pertains to the absence of concern shown by the advocates of rezoning to the environmental hazards of living in such an area. The newspaper articles and reports are studded with quotations from the residents extolling the virtues of living in an urban community that has room for large, farm-like vegetable gardens (to this day, one household maintains a thriving cornfield). Old Fairfield residents repeatedly cited the gardens as making life around the tank farms, chemical facilities, sewage plant, and junkyards worthwhile.³³⁴ But never is the issue raised that the fruits and vegetables grown therein may not be healthful. Only in the late 1970s did the newspapers begin to quote residents of Fairfield Homes as complaining of skin rashes, respiratory problems, and headaches, and of being compelled by the stench some days to close all their windows and doors and stay indoors.³³⁵ The absence of much concern

³³⁴ See, e.g. Old Fairfield worries about community's future. John Schidlovsky. Sun. Oct 29 1979.

³³⁵ See, e.g., Chessie line neighbors ask to be relocated. News American. May 14 1979.

environmental health is surprising since the 1970s was the decade of the passage of the modern Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, and the Resource Conservation and Recovery Act, as well as practically every other major piece of federal environmental regulation still in effect. But the environmental justice movement was not to be born until 1982, when over 500 community activists were arrested at a protest over the location of toxic landfill in predominantly African American Afton, North Carolina.³³⁶ Perhaps in the 1970s in Baltimore, Civil Rights activists were not yet prepared to see the importance of the environmental dimensions of the Fairfield situation, and environmentalists were not yet able to realize the profundity of the human costs caused by environmental hazards to poor and minority communities.

The second question pertains to the neglect of Wagner's Point by the activists and newspapers, except to point out that the white community had received sewer services when the Patapsco plant first began operating and more recently had received paved streets and sidewalks. Granted, Wagner's Point did receive more services than Old Fairfield (though probably not more than Fairfield Homes), and racism almost certainly played a role in this differential treatment. But Wagner's Point--with its

³³⁶ See, e.g. Christopher H. Foreman, Jr. A winning Hand? The Uncertain Future of Environmental Justice. The Brookings Review. Spring 1995. p. 23.

approximately 40 registered voters³³⁷--was hardly a favored community of the City's powers-that-be. In some ways, the white community was even worse off than African American Old Fairfield. Until the late 1980s, the residents of Wagner's Point had to walk up to Fairfield (about 3/8ths of a mile) to the nearest bus stop.³³⁸ Although Old Fairfield was about 1/4 of a mile from the sewage plant, the families of Wagner's Point were just across the street. There was (and is) only one road in and out of the community at the end of the peninsula. In case of fire or other industrial calamity, this road could be blocked off and the residents trapped inside a danger zone. The road, despite incessant truck traffic to and from the industries and sewage plant, was unpaved until the residents convinced the City to pave it in 1977--by staging a community sit-in, including mothers with their babies in strollers.³³⁹

In many respects aside from skin color, Wagner's Point was akin to Old Fairfield: 1970 block statistics from the U.S. Census

³³⁷ Patrick Gilbert, "Wagner's Point: Front-steps kind of neighborhood," Balt. Sun (Eve.) Jun. 14, 1979. The estimate of registered voters was made by Jeannette Skrzecz, a leading activist in the community for several decades.

³³⁸ Cindy Regiec. The Rise and Fall of Wagner's Point. College? paper for English 101, Dec. 24, 1989, Mrs. Reichelt's class. from Clinic file.p. 27.; also, notes of phone conversation with Jeannette Skreecz, 11/5/97; also, David Brown. Life in Wagner's Point: Cut off but happy. Sun. Dec 26, 1982.

³³⁹ See, Patrick Gilbert. Wagner's Point: Front-steps kind of neighborhood. Eve. Sun. Jun 14 1979. This was the only Baltimore newspaper article this researcher could find on Wagner's Point in the 1970s.

show Wagner's Point to have a population of 286 in 84 households, compared with Old Fairfield's population of 288 in 86 homes.³⁴⁰ Both had high rates of owner-occupancy for poor neighborhoods (55% for Old Fairfield and 51% for Wagner's Point),³⁴¹ but also both had high rates of vacancy (22% and 12% respectively).³⁴² And both communities were within census tract 25-6, which had by far the lowest median income in the entire City³⁴³ (this tract included only Fairfield Homes in addition to the two smaller, older communities). Yet the NDC and other activists who fought for the rezoning of Old Fairfield and Fairfield Homes seem not even to have considered advocating the rezoning of Wagner's Point from heavy industrial to residential. Was this simply because Wagner's Point had received some modicum of basic services? Or was the color of the residents a bar to perceiving them as victims of the City's neglect and industrial imperatives?

Like the residents of Old Fairfield, the people of Wagner's Point stubbornly resisted relocation in the 1960s, and they found amenities where outsiders could find only dilapidation and danger. As the local tavern owner, John Skrzecz, put it:

³⁴⁰ Census statistics taken from Ralph B. Taylor, Sidney N. Brower, and Whit Drain. *Toward a Neighborhood-Based Data File: Baltimore*. October 1979. Center for Metropolitan Planning and Research, The Johns Hopkins University, Baltimore, Maryland.

³⁴¹ NDC, p. 4.

³⁴² NDC, p. 6.

³⁴³ NDC, p. 11.

I never minded living around all this industry. Sometimes it has actually been to our advantage. During the garbage strike, Texaco put out extra dumpsters for the residents. And when it snows, we get our streets plowed before the rest of the city, thanks to the companies' snowplows.³⁴⁴

Again like the residents of Old Fairfield, the people of Wagner's Point were tempted by the tentative offers of relocation assistance in 1979, if the price were right (i.e., more than market value). By the late 1970s, the residents had noticed a high rate of cancer deaths among their families and neighbors, and fears of industrial accidents had increased. On the other hand, as one resident said a month after the train derailment in 1979, "There's not too many places left in the city where you can buy a good house for \$6,000."³⁴⁵

The Brooklyn Salvage Company: Turning Municipal Neglect into Private Profit

While the residents of Fairfield and Wagner's Point suffered under decades of municipal indecision and indifference, some local businessmen thrived, perhaps none more flamboyantly than the junkyard proprietor, Frank Gamble. [check spelling of name-- Hull spells it "Gambel."] In 1952 a City Council ordinance permitted Gamble to use the area on Carbon Avenue just north of Old Fairfield for a junkyard and scrapping enterprise (such use was prohibited in all City zones but M-3, and even there it was a

³⁴⁴ Wagner's Point: Front-steps Kind of Neighborhood. Patrick Gilbert. Eve Sun. Jun 14 1979.

³⁴⁵ Wagner's Point: Front-steps kind of neighborhood. Patrick Gilbert. Eve Sun. Jun 14 1979.

conditional use). His main business property was bounded by railroad tracks on the north, oil and gas tank farms on the east and west, but by the homes of Fairfield on the south.³⁴⁶ Gamble routinely and flagrantly violated City building and fire codes with impunity, while steadily aggrandizing (buying up property in Fairfield and when that was not possible, simply spilling his business over into the City streets).³⁴⁷ By 1981 Gamble had become the largest property owner in Old Fairfield, acting as absentee landlord of many homes as well as business proprietor of his junk empire.³⁴⁸

Brooklyn Salvage's actions would quickly have been prohibited in any more visible part of the City. For example, in May 1972, the Board of Municipal and Zoning Appeals approved the installation of a metal reclamation furnace, as this would not "menace or endanger the public health, security, general welfare or morals."³⁴⁹ This auto incinerator was approved just days before the Board tepidly recommended passage of Bill No. 140 (to rezone Old Fairfield as residential) and only 7 years after the 9-alarm fire at Continental Oil in nearby Wagner's Point. The Board stated that it approved use of the incinerator after

³⁴⁶ social work study, p. 29.

³⁴⁷ Id. at 31-34.

³⁴⁸ Real Estate Tax Assessments, Baltimore. Published by Mayor and City Council and Baltimore Board of City Realtors, 1981. [found cite in Hull--check?]

³⁴⁹ Appeal No. 145-72X, Board of Municipal and Zoning Appeals, May 9, 1972, p. 2

extensive investigation of the site and surrounding area,³⁵⁰ and the Fire Department³⁵¹ and Health Department³⁵² also signed off on the incinerator. Fortunately, before Gamble was able to construct the incinerator (but 18 months after Board approval), the Department of Planning discovered that he had provided misleading information about the surrounding area, having neglected to mention that a 60,000-gallon high-octane gas tank owned by Tenneco was situated only 125 feet away from the proposed site of the incinerator!³⁵³

Gamble was forced to drop his incinerator plans, but he continued to use the unimproved City streets in the area as his private company's storage area for junked cars (often piled 4 or 5 cars high). Not only did the cars and junk spill over from the unfenced sides of his enterprise, but he actually took over and fenced in sections of two City streets. Trucks to and from his business travelled from early in the morning until late at night, the junk and trash attracted rats and snakes, he used land without a proper use permit, constructed a shearing machine

³⁵⁰ Id. at p. 1.

³⁵¹ Unpublished memo by Thomas J. Burke, Chief of Fire Department, to S.H. Mortimer, Chief of Building Inspection, June 7, 1973. Source: social work study, p. 30 and 47.

³⁵² Appeal no. 145-72X, Board of Municipal and Zoning Appeals, May 9, 1972, p. 2. Source: social work, p. 30 and 47.

³⁵³ Memo written by Larry Reich, Director of Planning, to Ottavio Grande, Director of Construction and Building Inspection, Department of Housing and Community Development, November 1, 1973, p. 1. Source: social work, p. 30 and 47.

without a building permit, and a young girl was allegedly struck and killed by one of his truck drivers.³⁵⁴ Despite this track record, Gamble had the chutzpah to suggest to the City in 1973 that it allow him to purchase the streets he had already fenced in and colonized.³⁵⁵ Finally, in the light of the publicity Old Fairfield was receiving regarding the proposed rezoning, in May 1974 the Department of Housing and Community Development issued a violation notice to Gamble covering 36 properties owned by Brooklyn Salvage.³⁵⁶ Gamble requested and received a hearing, at which he managed to persuade the City to allow his junk business to continue on a probationary basis, although the City did insist that he restrict truck traffic, fence in the sides of his property, and open up the public rights-of-way he had fenced in.³⁵⁷ Not easily deterred, Gamble, only two days later, and

³⁵⁴ Social work study, pp. 31 and 34. citing on p. 47 Memo written by Larry Reich, Director of Planning, to Ottavio Grande, Director of Construction and Building Inspection, Department of Housing and Community Development, November 1, 1973, p. 1; and Memo written by Larry Reich, Director of Department of Planning, to Gilbert V. Rubin, Executive Secretary, Board of Municipal and zoning Appeals, July 31, 1974, pp. 1-2.

³⁵⁵ social work, p. 32. citing letter written by Paul r. Rochlin, attorney for Brooklyn Salvage, to Larry Reich, Director of the Department of Planning, July 1, 1974.

³⁵⁶ social work, p. 33, citing letter written by Ottavio F. Grande, Director of Construction and Building Inspection, Department of Housing and Community Development, to Brooklyn Salvage Company, May 8, 1974.

³⁵⁷ social work, pp. 33-35. citing personal interview with Ron Meckler, 6th District Planner, November 21, 1975, and Memo written by Larry Reich, Director of the Department of Planning, to Gilbert V. Rubin, Executive Secretary, Board of Municipal and Zoning Appeals, July 31, 1974, pp. 1-2.

again a couple of months after that, went before the Planning Commission to request their approval of his proposal that the City sell him the portions of the two streets he had taken over.³⁵⁸ His request was denied, as the Planning Commission noted that "the past history of the Brooklyn Salvage Company has been characterized by a lack of concern for the neighboring community."³⁵⁹ The Commission did not comment on whether the City's lack of concern for the neighborhood had encouraged Gamble's boldness.³⁶⁰

Major Expansion of the Sewage Plant: Secondary Treatment and Pretreatment of Industrial Wastes, and Handling Waste from the Developing Suburbs

³⁵⁸ social work, p. 34.

³⁵⁹ social work, p. 34, citing memo by Larry Reich, Director of the Department of Planning, to Gilbert V. Rubin, Executive Secretary, Board of Municipal and Zoning Appeals, July 31, 1974, pp. 1-2.

³⁶⁰ The Brooklyn Salvage Company was still spurring neighborhood opposition in the 1990s. For example, in 1994 the company successfully defended against a challenge to the City zoning board's approval of its application for alteration of conditional use of a junkyard in Curtis Bay. *Sipes v. Board of Municipal and Zoning Appeals*, 635 A.2d 86 (Md. App. 1994). The company's desire to operate a shredder met with the opposition of an environmental coalition and two neighborhood associations (representing Curtis Bay and Brooklyn). The company's defense was successful because the coalition and associations lacked the taxpayer status and special aggrevement (beyond that of the public generally) required under Maryland law to achieve standing. An individual taxpayer who was a close neighbor of Brooklyn Salvage (and was also head of one of the neighborhood associations) sought to intervene, but did so in an untimely manner.

The long and bumpy transition (1974-1985) to secondary treatment and handling of pretreated industrial wastes was prompted by federal legislation. The 1972 Federal Water Pollution Control Act (later called the Clean Water Act) mandated that all municipalities install secondary treatment systems by 1977 (this deadline was later extended to 1988 in the face of nationwide noncompliance) and created a construction grants program for this purpose. As with the Patapsco plant, the Environmental Protection Agency (EPA) typically paid up to 75% of the construction costs.³⁶¹

A. Planning: The best-laid schemes . . . gang aft a-gley

Almost two decades before this federal impetus, however, a plan had been formed to divert sewage from the overloaded Back River plant to the Patapsco plant by placing a major sewer line at the end of the Back River outfall sewer at Lower Gwynns Falls. In addition to receiving some sewage from East Baltimore, this "Southwest Diversion Project" would receive sewage from the rapidly developing Gwynns Falls drainage basin (both within the city and especially from Baltimore County). The plan was to keep the existing influent line to handle the incoming sewage and industrial waste water from the low-lying local area and to use the Southwest Diversion line to convey all the sewage from the outlying areas. Although the project was first proposed in two

³⁶¹ Percival, *supra* note 23, at 881-88.

reports of the 1950s,³⁶² serious planning did not begin until 1968 when the engineering firm of Whitman, Requardt and Associates was commissioned to devise a Master Plan Report for improvements to both Back River and Patapsco (extending to the year 2000). By this time the Patapsco plant was also overloaded, having a nominal capacity of 10 million gallons per day for a population of approximately 90,000 but really receiving between 11 and 12 million gallons per day.³⁶³

As the engineering firm noted, a large but unknown proportion of the plant's sewage was industrial waste, which could be toxic to the microbes used in secondary treatment. No state or municipal agency had attempted to identify the wastes and their presence could prevent a successful expansion. However, the engineers predicted that soon the plant would be serving such a large population from the suburbs that the wastes would be rendered innocuous through dissipation. The plant, which then served an area of 28 square miles (5.5 in the City) and a population of about 90,000, was predicted to expand greatly in 1970-1980 (due to installation of the Southwest Diversion Project) and steadily thereafter until the year 2000, at which time it would serve a population of 900,000 and an area of about

³⁶² Robert T. Regester, Report on the Joint Sanitary Sewage Problem of Baltimore County and the City of Baltimore (1956), and Report on Sewerage Relief Facilities for Southwest Diversion and Outfall Sewer--City of Baltimore (Mar. 1958), unpublished reports cited in Whitman, Requardt, *supra* note 3, at 10.

³⁶³ Whitman, Requardt, *supra* note 3, at 98-99.

200 square miles at a rate of 120 million gallons per day.³⁶⁴ (Currently, however, the plant's nominal design capacity is 70 million gallons per day for a population of approximately 400,000; its actual allowable capacity, due to trouble meeting State discharge requirements, is 60 million gallons per day;³⁶⁵ and its sewage is still about 50% pretreated industrial waste--as opposed to Back River's, which is 90% domestic and 10% industrial. Moreover, the treatment of industrial wastes continues to disrupt the operations of the plant³⁶⁶ and is a problem that may never be solved.)³⁶⁷

As already noted, the planners of Patapsco's future were overly optimistic about both the amount of domestic sewage the plant would handle and the speed with which it would serve outlying populations, thus leading them to underestimate the difficulty the plant would have in handling industrial wastes at levels commensurate with the soon-to-be-announced EPA requirements. This difficulty, along with typical municipal

³⁶⁴ Whitman, Requardt, *supra* note 3, at 5-8, 105-116.

³⁶⁵ Comprehensive Water and Wastewater Plan, Amended 1995, Baltimore City, Department of Public Works, George Balog, Director, pp. IV-55 and IV-60; also, November 14, 1997 letter to the author, by George G. Balog, Director of Public Works, Baltimore City.

³⁶⁶ Interview with R. Kent Nicholson, Wastewater Maintenance Manager, Department of Public Works, City of Baltimore (Oct. 16, 1997); interview with a state employee who wishes to remain unnamed, January 14, 1998.

³⁶⁷ Interview with a state employee who wishes to remain unnamed, January 14, 1998.

construction delays and litigation, was the major cause of the long delay in completing the secondary treatment facilities. In fact, after initial start-up of secondary treatment in 1982, the plant had to shut down because of the toxicity of the industrial wastes. It was not until April 1984 that it first met permit levels for biological oxygen demand and suspended solids, and it was not until late June 1985 that the plant had its dedication ceremony.³⁶⁸

Not surprisingly, the planners did not consider odor problems to be a significant factor, given that "the general area surrounding the plant is industrial with predominantly chemical and oil installations. There are no significant residential areas nearby." According to the 1970 U.S. Census, there were about 1,700 people living in the immediate vicinity of the plant at this time.³⁶⁹ The engineering firm did not even bother to budget in the cost of covering the secondary treatment facilities³⁷⁰ (although these were covered when built a few years later). The amplified malodorousness of the plant, along with two other results of the plant's expansion--complete blockage of access to the shoreline and increased truck traffic--have all

³⁶⁸ Interview with Nicholson, *supra* note 33.

³⁶⁹ Census figures taken from *Toward a Neighborhood-Based Data File: Baltimore*. Ralph B. Taylor, Sidney N. Brower, Whit Drain. October 1979. Center for Metropolitan Planning and Research. The Johns Hopkins University, Baltimore, Maryland.

³⁷⁰ Whitman, Requardt, *supra* note 3, at 116.

combined to intensify the bitterness and frustration felt by the plant's neighbors in Wagner's Point.³⁷¹

Initially the City planned to barge sewage sludge from the plant so that it could be dumped into the ocean, near Cape May, New Jersey, or Cape Henry, Virginia.³⁷² But soon Federal law prevented this strategy, as the Marine Protection, Research and Sanctuaries Act (the "Ocean Dumping Act") of 1972 mandated the cessation of this common municipal practice of sludge disposal.³⁷³ As a result, from the mid-1980s to the mid-1990s the city first treated and dewatered the sludge before incinerating it on site and disposing the ash in a landfill. Because this process was both costly and polluting, the City decided to stop dewatering and incineration in favor of sending the sludge to a private facility on-site where it could be converted into fertilizer pellets (this cutting-edge technology fits in with the City's current plan to revitalize the area through the siting of "green" industry in the peninsula's nascent Ecological Industrial Park).

Gwynns Falls Overflows

While the city planned and eventually started building, a problem festered in the Lower Gwynns Falls, a Patapsco River

³⁷¹ Interview with Jeannette Skrzecz, president of Fairfield\Wagner's Point Neighborhood Coalition, Nov. 5, 1997; meeting with Wheelabrator Pelletizer Facility staff and Fairfield\Wagner's Point Neighborhood Coalition, October 30, 1997, at pelletizer facility on-site at the Patapsco Waste Water Treatment Plant, Baltimore, Maryland.

³⁷² Whitman, Requardt, *supra* note 3, at 103, 105, 117, 119.

³⁷³ Percival, *supra* note 23, at 884-85.

tributary in Baltimore City north of the Fairfield peninsula. By the mid-1970s the Back River plant could not adequately treat all the sewage it was receiving, and the river itself was likened to a "plugged toilet."³⁷⁴ At least the Back River plant was not spilling raw sewage into the river. But this is exactly what was happening at Gwynns Falls in downtown Baltimore, at the mouth of the long-planned Southwest Diversion Project first proposed in the mid-1950s. From that time until completion of the project almost thirty years later, the City's sewage system was unable to handle the ever-increasing amounts of waste being produced in the developing suburbs--wastes intended to be treated at the Patapso plant.

The issue heated up politically in the early 1970s and again in the early 1980s, pitting state health officials against developers and politicians at the state, city, and county levels. The health officials, most prominently Dr. Neil Solomon, the state's health secretary, were concerned about the possible outbreak of an epidemic of typhoid fever or other intestinal disease. Twice in the early 1970s, Dr. Solomon imposed near-total moratoriums on sewer hookups in rapidly developing Baltimore County northwest of the City.³⁷⁵ Since these

³⁷⁴ Jeff Valentine, *Plenty of Effluent Put into Back River*, Evening Sun, Feb. 12, 1976; Jeff Valentine, *1913 Vintage Sewage Plant Just Can't Handle the Job Anymore*, Evening Sun, Feb. 12, 1976.

³⁷⁵ Stuart S. Taylor, Jr., *Building Banned in Gwynns Watershed*, Sun, Sept. 14, 1973; Mary Knudson, *14-month Ban Put on Gwynns Sewer Hookups*, Sun, May 15, 1974,

moratoriums affected buildings already well under construction, the developers were livid, as was Baltimore Mayor Donald Schaefer, who chafed at Dr. Solomon's suggestion that the city build a temporary sewage treatment plant pending completion of the Southwest Diversion Project (at that time expected to be completed by 1976).³⁷⁶

Governor Marvin Mandel entered the fray by appointing a review board intended to have the authority to approve sewer hookups over the objections of the health department. Predictably, the review board overturned Dr. Solomon's refusals to grant moratorium exceptions to individual developers. By May 1975, an estimated 10 million gallons of raw sewage overflow was being dumped into the Gwynns Falls.³⁷⁷ In July 1976 the Court of Appeals of Maryland ruled that although the review board had statutory authority to review Dr. Solomon's orders (e.g., the moratoriums themselves), a denial of a request for an exception was not an "order" as statutorily defined. Therefore, the review board had no jurisdiction to invalidate Dr. Solomon's denials. The Court's decision left Dr. Solomon free to reinstate a modified moratorium.³⁷⁸

³⁷⁶ *City Speeds Sewage Plans*, Sun, May 15, 1974.

³⁷⁷ *The Litigation Keeps Rising in the Gwynns Falls*, Sun June 27, 1975.

³⁷⁸ *Id.*; *Montgomery County v. One Park N. Assocs.*, 275 Md. 193, 338 A.2d 892 (1975).

In late 1977, the City discovered that at least one of the four contractors involved in construction of the 8-mile-long Southwest Diversion Project had neglected to put in some \$400,000 worth of gravel as support beneath the sewer pipe (nevertheless, the diversion project was still expected to go into service in July 1978). Apparently, the firm hired to inspect and oversee the project had been notifying the city of alleged construction deficiencies since 1974, but to little avail.³⁷⁹ In 1980 three state officials (including a top aide to Governor Mandel and a former Baltimore District Court judge) were convicted of sharing fees to influence the issuance of sewer permits.³⁸⁰ And in March 1983 another building ban was imposed in Baltimore county because the state health department determined that the area could not handle any new sewer hookups. This time the Southwest Diversion Project was promised to be completed by May 1984.³⁸¹ (In actuality, it was completed in late 1984.³⁸²)

Plant Construction: Delays and Litigation

Like the diversion project, construction of the Patapsco plant involved numerous delays, cost overruns, and litigation.

³⁷⁹ Douglas Watson, *City Finds Nearly Ready Sewer Lacks Support*, Sun, Dec. 22, 1977.

³⁸⁰ Russ Robinson, *County Building Ban Jolts Builders, Realtors, Home Buyers*, Sun, Mar. 2, 1983.

³⁸¹ *Id.*; Robert Benjamin and Richard H.P. Sia, *Sewer Curbs Halt Some Area Development*, Sun, Mar. 1, 1983.

³⁸² Comprehensive Water and Wastewater Plan, Amended 1989. Baltimore City, [find out who was Director--Kuchta?], p. IV-47.

By late October 1977, several months after the original July 1, 1977, deadline under the Clean Water Act for achieving secondary treatment, the plant was gamely planning to receive sewage from the Southwest Diversion Project starting in 1978 and to begin to operate the secondary treatment facilities in 1981.³⁸³ Both events were not to be realized until 1984.

By that year the city had entered into a legal battle with its then major contractor, J.W. Bateson, Inc., a Texas construction firm. The firm sued for \$12 million in delay damages because it blamed the city's poor design and planning for its failure to complete construction in 1980 (it finished in 1982, after which time the plant repeatedly violated EPA standards until 1984). The city counterclaimed for \$4.8 million, arguing that the delays resulted from Bateson's poor planning and faulty sludge-processing equipment, and that the firm left the project before the plant was up and running properly.

After a few years of negotiating, the two sides compromised on a settlement agreement in August 1987, with the city agreeing to pay \$1.6 million to Bateson and to forgive Bateson \$1.8 million in fines it had assessed against the firm. In addition, the city had spent \$1 million on litigation costs and \$1.9

³⁸³ *Prospects Brighten at Far End of Sewer Line*, Evening Sun, Oct. 28, 1977.

million on fixing faulty equipment and other problems that it had blamed on Bateson.³⁸⁴

The construction delays also spawned a lawsuit between the City and the press. In April 1985 a reporter for the *News American* sought permission from the city under the Maryland Public Information Act to inspect and copy documents related to construction at the Patapsco plant. The city responded by noting that some documents were unable to be found and were presumed lost, others were too sensitive to be inspected because they could endanger the city's arbitration proceedings against Bateson, and the documents that could be copied would cost the cash-strapped newspaper about \$50,000 to cover the costs of copying, employee time spent on retrieval, and an Assistant City Solicitor's time in reviewing the documents to delete material not suitable for disclosure.³⁸⁵

In May 1985 the city sued to gain permission to continue its refusal to release the documents, but the Circuit Court, Baltimore City, granted the newspaper's motion for a summary judgment. This decision was affirmed by the Court of Special Appeals of Maryland immediately after oral arguments in February

³⁸⁴ See, e.g., *Waste Treatment Plant Triggers Costly Legal Battle*, *United Press International*, Apr. 20, 1985, Saturday, AM cycle; *Maryland News Briefs*, UPI, June 3, 1987, Wednesday, AM cycle; *Settlement between City and Texas Firm*, Sun, Aug. 6, 1987, at F1; *City, Firms Settle over Plant Delays*, *Eng. News-Record*, Aug. 20, 1987, at News 12.

³⁸⁵ See *Mayor of Baltimore v. Burke*, 67 Md.App. 147, 147-150, 506 A.2d 683, 683-85, cert. denied, 67 Md. 118, 507 A.2d 631 (1986), for a description of the circumstances behind the case.

1986 and was explained in an April 1986 decision (writ of certiorari denied by the Court of Appeals of Maryland that same month). Judge Karwacki opined for a unanimous court that the city had violated the Maryland Public Information Act by failing to base its refusal of a fee waiver on the Act's mandated consideration of the public interest and other relevant factors, such as the dangers to public health posed by discharge of improperly treated sewage, the importance of bringing to light the reasons behind the cost overruns and construction delays, and the possible chilling effect a fee for information might have on freedom of the press.³⁸⁶

The 1980s: Old Fairfield Becomes a Ghost Town While Wagner's Point Lingers On

The relocation both desired and fought against so strenuously in the 1960s and 1970s finally arrived in 1989, but only the residents of the Fairfield Homes public housing project were given relocation assistance.³⁸⁷ Nonetheless, Old Fairfield, with many of its residents related to the inhabitants of the greatly more populous project, gradually became a "ghost town" between the train derailment of 1979 and the departure of the last

³⁸⁶ *Id.* at 157, 506 A.2d at 688.

³⁸⁷ *Fairfield tenants to be moved out of danger area.* Martin c. Evans. Sun. January 31, 1989; Michael Anft, "Ghost Town," *The City Paper*, May 12, 1989. [check both these sources on this point]

residents of the Fairfield Homes in the early 1990s.³⁸⁸ The longtime residents of Old Fairfield spoke nostalgically of the community, in words reminiscent of those of Mrs. Potts in 1941 recalling the greenery of the peninsula at the turn of the century.³⁸⁹ Jimmy Drake, a senior resident of Old Fairfield by 1984, described the community he moved to in the 1920s: "This here used to be the garden spot of south Baltimore. . . . We used to have a barber shop, grocery shop, a cleaners. . . . The places where the tanks are now used to be fields and swamps leading out to the water."³⁹⁰ Jennie Fincher, who was for two decades the leader of the Fairfield Improvement Association and had lived in the community since the 1910s, described the community before World War II as "a beautiful, green place. People did a lot of fishing, crabbing and ball-playing. We had a dance hall--women couldn't go to bars then. There were homes very close together on every street."³⁹¹

³⁸⁸ Michael Anft, *Ghost Town*, The City Paper, May 12, 1989. [check on this point and find pages]

³⁸⁹ *Fairfield Reminiscences: Industrial Area Looks Back on Its Almost Pastoral Past*, Balt. Sun, Jun 26, 1941.

³⁹⁰ Michael Anft, "South of the Bridge," The City Paper, March 16, 1984.

³⁹¹ Michael Anft, "Ghost Town," The City Paper, May 12, 1989. Mrs. Fincher, who is at least in her mid-90s, has recently moved out of the neighborhood.--cite EMily's unpublished paper for this info? Emily Dick, "Early African American Settlements in the Fairfield Peninsula and Northern Anne Arundel County," unpublished paper, 1997, for U MD Law school.

A handful of Old Fairfield residents remained throughout the decade and beyond. Today fewer than 20 individuals live in the area, but there are still a few large gardens with corn and squash. The residents are now part of a coalition with the still largely intact Wagner's Point and will be included in any relocation program for that community. Jennie Fincher moved out in 1997 to live with relatives in a nearby community.³⁹² She had resided in Old Fairfield from her teenage years until she was well in her 90s, having lived in the same home for over 80 years.³⁹³

Although Wagner's Point remained strong numerically throughout the 1980s, it was no longer the little town known for its white-washed trees, church choir, clean stoops, and community parades. The town retained its isolation, which made it safer than other poor City neighborhoods, but in other respects it shared their problems: "We have our bad elements and drug users but we know who they are and where they live."³⁹⁴ Although it may have ensured safety, the community's isolation and lack of recreational and educational resources seem to have impaired the young people's ability to get ahead in the outside world:

³⁹² source: Old Fairfield worries about community's future. Sun Oct 29 1979 by John Schidlovsky.

³⁹³ Van Smith. EZ Money: Empowerment Zone Fever Takes Hold in Fairfield. The City Paper, Vol. 19, No. 20, May 17, 1995. p. 23.

³⁹⁴ Community activist Jeannette Skrecz quoted in Patrick Gilbert, *Wagner's Point: Front-steps Kind of Neighborhood*, Balt. Sun (Eve.), Jun. 14, 1979.

. . . a visitor is struck by how many teenage boys do not finish high school, some dropping out as early as ninth grade. There are a few families in which the parents finished high school but the children did not.

"Some of them have a difficult time going over the Hanover Street Bridge. They want to stay in this vicinity of the city," said Donald L. Knox, principal of Benjamin Franklin Junior High School in Brooklyn. .

Mr. Knox's school serves Wagners Point's children before they go to Southern High School, in South Baltimore. He believes that the dropout rate for Wagners Point is higher than that from other neighborhoods in junior high school's district.³⁹⁵

Other writers looked to statistics to explain the rundown condition of Wagner's Point. A 1984 *Baltimore City Paper* article reported that according to the 1980 U.S. census, the teen dropout rate was close to 80%, the unemployment rate was 17%, and 22% of the households were run by single mothers.³⁹⁶ The owner of the local carry-out grocery store stated that much of her business was done through food stamps: "There are a lot of welfare mothers down here," she says, "and most of them are young."³⁹⁷ Another writer looked to the census for basic economic information on income and housing values: "Census figures tell the story: Median household income is \$17,670; 24 percent of the families live below the national poverty line; 8.3 percent of the adults

³⁹⁵ David Brown, *Wagners Point: Cut Off But Happy*, *Balt. Sun*, Dec. 26, 1982.

³⁹⁶ Michael Anft, "South of the Bridge: Four Neighborhoods' Struggle to Live in Industry's Shadow," *The City Paper*, Mar. 16, 1984, 6-13.

³⁹⁷ *Id.* [get page #]

completed high school. Houses rent for \$50 a week, cash, and sell for \$10,000 each."³⁹⁸ The same writer found that practically the only recreational activities engaged in by the residents were playing pool and video games at the tavern and standing on street corners, talking, smoking, and drinking.³⁹⁹ He also noted that although outhouses had been replaced by sewer lines, the row houses had not been supplied with natural gas lines: "Each house has a propane gas tank hooked up to the back porch."⁴⁰⁰ As one young resident stated, in the Wagner's Point of the 1980s "there are no oyster roasts, no dances, no picnics, and no strawberry festivals. . . . People who see Wagner's Point as it is today, have no respect for what it once was like. . . . All it has become is a rundown neighborhood surrounded by tanks and a stinking waste treatment plant."⁴⁰¹

Besides poverty and boredom, the residents still had to contend with the constant fear of industrial fires or explosions from the petroleum-product tanks and chemical plants that surrounded them. City fire officials assured the residents that

³⁹⁸ Paul W. Valentine, "Lost in the City: Hard Times, Hard Luck Abound in Baltimore's East Brooklyn," *Washington Post*, July 30, 1984, A8.

³⁹⁹ *Id.*

⁴⁰⁰ *Id.*

⁴⁰¹ Cindy Regiec, "The Rise and Fall of Wagner's Point," Dec. 24, 1989, English 101, pp. 23 and 27. Unpublished. It should be emphasized that Ms. Regiec cited and quoted with approval the descriptions of her community found in the *Washington Post* and *City Paper* articles cited previously in this section.

any danger was minimal because fire-fighting equipment was only minutes away.⁴⁰² The residents knew from past experience, however, that it would be difficult if not impossible to escape by means of the town's single access road. When fires had struck in the past, fire equipment blocked the streets and people from elsewhere in the City flocked to the area to watch the huge fires. Presumably, the onlookers did not realize the danger they were in from the oil and gasoline tanks and industrial chemicals.⁴⁰³ Besides the fear of fire, the people of Wagner's Point in the 1980s had to live with the increased stench wafting from the expanded sewage treatment plant across the road. In the hot, humid nights of the Baltimore spring and summer, residents who slept with their windows open often awoke feeling nauseated.⁴⁰⁴

Why, then, did the residents of Wagner's Point not pack up and leave, as did the residents of Fairfield Homes and Old Fairfield? For the same reasons given in the 1960s and 1970s: the neighborhood was free from violent crime, housing was affordable, and the community was close-knit (indeed, many of the families were related to one another). The same held true of Old Fairfield in the early 1970s and yet it had become a ghost town

⁴⁰² Paul W. Valentine, "Lost in the City: Hard Times, Hard Luck in Baltimore's East Brooklyn," *Washington Post*, July 30, 1984, A8.

⁴⁰³ Cindy Regiec, "The Rise and Fall of Wagner's Point," *English 101*, Dec. 24, 1989. Unpublished paper. pp. 26-27.

⁴⁰⁴ *Id.* at 27.

by the end of the 1980s. Even today, Wagner's Point has almost as many families as it did twenty years ago.⁴⁰⁵ There is no clear answer to this question, but certainly the fact that many of the residents of Old Fairfield were related to residents of Fairfield Homes was a major factor. Perhaps also the type of housing in Wagner's Point had something to do with its tenacity. In contrast to the detached and spread-out houses of Old Fairfield, Wagner's Point consists of row houses clustered in a few blocks. Again unlike Old Fairfield, the streets and sidewalks are paved. Sewer service had been provided for all since the early 1940s. Finally and ironically, the longevity of Wagner's Point may have been maintained precisely because the community had not been adopted in the 1960s and 1970s as a cause by activists from outside the area. The activists may have meant well and tried hard, but their failed efforts divided, frustrated, and disappointed the community of Old Fairfield.

The 1990s: Will Fairfield Turn Green Again? Plans to Create an Exemplary "Ecological Industrial Park"

As the 1980s ended, the residents of the peninsula fought successfully to prevent the siting of what would be the nation's

⁴⁰⁵ Today there are about 255 individuals and close to 70 families in the community. A 1979 article states that there were close to 90 families at that time. Patrick Gilbert, "Wagner's Point: Front-steps Kind of Neighborhood," Balt. Sun (Eve.), Jun 14, 1979, B1.

.. largest medical waste incinerator near Old Fairfield.⁴⁰⁶ This success was a small consolation, however, since the incinerator was eventually constructed at nearby Hawkins Point.⁴⁰⁷ As the incinerator's financial woes intensified (along with complaints by workers of violations of environmental regulations), its owners lobbied the City Council to extend its range for taking in waste to be treated to a 250-mile radius. [find cite to March 11, 1997 vote, also there were articles about violations allegations at that time].

By the beginning of the decade, the peninsula's residents had become so fed up with the City's indifference that they joined with the residents of the more populous working-class neighborhoods of Brooklyn, Curtis Bay, and Hawkins Point in demanding that the City repeal the 1918 annexation and return them to Anne Arundel County. Sen. George W. Della, Jr. (D-Baltimore) sponsored a bill in the General Assembly, but it found little support. Tellingly, the senator from Anne Arundel County who represented the district adjacent to South Baltimore said

⁴⁰⁶ Find newspaper source from 1989? This was based on interview with Jeannette Skrzecz by Terry Hickey in November 1997, summarized in his unpublished paper, "Fairfield: A Study in Environmental Justice."

⁴⁰⁷ The community activists of South Baltimore fought a hard battle to ban the incinerator altogether, but in a 1992 decision the Maryland Court of Appeals held that the activists' organization was not an aggrieved party, as it lacked a property interest distinct from that of its members and its injury was not different in kind or character from that of the public generally. *Medical Waste Associates, Inc. v. Maryland Waste Coalition, Inc.*, 327 Md. 596 (1992). [check this cite]

that while he was sympathetic to the residents' concerns, it would be too devastating for Baltimore to lose more of its population.⁴⁰⁸ Although the low property tax and car insurance rates of Anne Arundel were obviously attractive to the residents of the peninsula, one doubts that the peninsula's mix of contaminated sites, sewage, and tiny, impoverished neighborhoods had much appeal to the county's political and business leaders.

But in the mid-1990s three extraordinary government initiatives appeared to give new hope that the Fairfield peninsula might flourish in the 21st century, not as a residential enclave but as a model of urban industrial revitalization. The three initiatives are brownfields redevelopment, empowerment zone creation, and the planning of an ecological industrial park. The three initiatives are closely related and involve cooperation among federal, state, and City governments. Although time will tell whether the goals of industrial growth and job creation are realized by the government projects, it is already apparent that the residents of the peninsula have not been targeted as beneficiaries of the projects in any meaningful way.

The redevelopment of brownfields (abandoned or underused industrial sites that have or are perceived to have low levels of contamination) as a spur to inner-city economic development received a huge boost from the federal government when EPA chief

⁴⁰⁸ Paul W. Valentine, "Baltimoreans Want to Get Out of Town," The Washington Post, Mar. 14, 1991, B1.

Carol Browner announced in January 1995 her agency's decision to de-list the lower-priority, less-contaminated 2/3s of the approximately 38,000 sites on the Superfund list, thus encouraging investment in redevelopment.⁴⁰⁹ Ms. Browner stated that when investors suspect serious contamination in an urban industrial area, "the neighborhood loses jobs, loses its tax base, loses hope. Meanwhile, development goes on outside the city, in fields and forests never before developed."⁴¹⁰

On July 26, 1995, the EPA announced that Baltimore had been chosen as one of the first 15 cities to receive federal grants for brownfields redevelopment, specifically to aid in the redevelopment of abandoned industrial land on the Fairfield peninsula.⁴¹¹ Baltimore officials stated that the City was sorely in need of opening up the "last economic development frontier," as the City had lost 50,000 jobs since 1989 and had no undeveloped land on which to attract new industries.⁴¹² In 1996 the Maryland General Assembly failed in its efforts to enact a bill to facilitate redevelopment of brownfields de-listed by the EPA (e.g., by encouraging voluntary cleanup by owners not responsible for contamination and by limiting lender liability).

⁴⁰⁹ Neal R. Pierce, "Cleaning Up the Urban 'Brownfields'," (editorial), *Balt. Sun*, March 13, 1995, 7A.

⁴¹⁰ *Id.*

⁴¹¹ James Bock, "Schmoke picks up \$14 million, exposure," *Balt. Sun*, July 27, 1995, 1B.

⁴¹² Timothy B. Wheeler, "Pollution fear sends companies to suburbs," *Balt. Sun*, Dec. 3, 1995, 1C.

In February 1997, however, the legislature succeeded in enacting a revised bill that was greeted with approval by the business and environmentalist communities.⁴¹³

It was not a coincidence that the Fairfield peninsula was chosen as Baltimore's first brownfields redevelopment focal point. The peninsula was labeled a "crucial industrial site" by the brownfields coordinator for the City's department of planning.⁴¹⁴ The area's approximately 1,300 acres are loaded with abandoned and underused lots, each of which contains a few generations' worth of low-level contamination, according to the site manager for the Baltimore Development Corporation.⁴¹⁵ Only the 21 acres used for 50 years as the site for the Fairfield Homes housing project are comparatively uncontaminated, but even these acres had to be cleansed of lead and asbestos.⁴¹⁶

Although the peninsula is contaminated, no sites had earned a high hazard ranking from the EPA largely because the drinking water used by the peninsula's residents is neither within a four-mile radius or within 15 miles downstream of the sites. Agency documents show that at least 12 sites had at one time been on the

⁴¹³ Terry M. Neal, "Cleanup Measure Passes in Md.," The Washington Post, Feb. 19, 1997.

⁴¹⁴ Donna De Marco, "Battle to reuse brownfields gets \$454,000 federal boost," Baltimore Business Publication, Nov. 1, 1996, p. 14.

⁴¹⁵ Donna De Marco, "Battle to reuse brownfields gets \$454,000 federal boost," Baltimore Business Publications, Nov. 1, 1996, p. 14.

⁴¹⁶ *Id.*

Superfund list but had been de-listed, or archived.⁴¹⁷ This is not to say that they were not sources of heavy metal and other contamination, however. As an EPA report noted, the contaminated soil and shallow groundwater on one typical site led to pollution of the Patapsco River, Stonehouse Cove, and Curtis Bay, "further degrading the water quality for aquatic life" of the already stressed waters of the Baltimore Harbor region of the Chesapeake Bay system.⁴¹⁸ Furthermore, the report states that the site was not a serious public health concern only because it was fenced off and had no residents in the vicinity. Otherwise, remediation would have been called for.⁴¹⁹ Such technical distinctions among contaminated sites are of small comfort to the remaining residents of the peninsula in the adjacent communities of Old Fairfield and Wagner's Point.

In tandem with Fairfield's status as a flagship for brownfields redevelopment, the peninsula was designated in December 1994 as one of Baltimore's three empowerment zones. The City was one of six across the country to be slated for the

⁴¹⁷ Sources: copies of documents on CERCLIS sites, NPDES permits, and brownfields sites within Empowerment Zone 3 (Fairfield peninsula) given by Art O'Connell, Chief, Site Assessment/State Superfund, Maryland Department of Environment, to Prof. Garrett Power, University of Maryland School of Law; documents given to Michael Forlini, law student, by Bill Wentworth, U.S. EPA, Region III, Emergency Response Center, [some of these are marked "Confidential"?]. In possession of the author.

⁴¹⁸ U.S. EPA, Region III, Emergency Response Center, report on MRI/M&T site, p. 27. In possession of author.

⁴¹⁹ *Id.*

creation of empowerment zones and to receive \$100 million in federal aid to revitalize its low-income neighborhoods (plus at least \$225 million in tax credits).⁴²⁰ Fairfield's singularity in relation to the other two Baltimore empowerment zones is shown by a simple statistic: the three zones together account for about 10% of the City's population, totaling about 73,000 residents.⁴²¹ Only about 270 live on the peninsula.

The main goal of the empowerment zones project is to create jobs for inner-city residents, including the creation of jobs elsewhere in the regional economy that residents can commute to. As one urban strategist stated regarding Baltimore's empowerment zones, "There is job creation in central cities, but it is primarily in higher-skilled positions. . . . The reality of the empowerment zone is that it's part of the regional economy. You must open access to the regional economy to those who currently reside in the empowerment zone."⁴²² Clearly, there are hardly any people residing in the comparatively vast tract of the Fairfield peninsula. So the job creation planned for this particular zone must be for residents from elsewhere. In fact, 1,500 of the jobs

⁴²⁰ Eric Siegel, "Ecological-Industrial park weighed for Fairfield area," Balt. Sun, Dec. 11, 1995, 5B; Judith Evans, "Baltimore's Dawn of an Urban Renaissance," The Washington Post, Nov. 2, 1996, E1; James Bock, "Schmoke picks up \$14 million, exposure," Balt. Sun, July 27, 1995, 1B.

⁴²¹ Judith Evans, "Baltimore's Dawn of an Urban Renaissance," Washington Post, Nov. 2, 1996, E1.

⁴²² Judith Evans, "Baltimore's Dawn of an Urban Renaissance," Washington Post, Nov. 2, 1996, E1.

to be created at Fairfield are planned for the residents of Baltimore's other two empowerment zones (both are populous inner-city neighborhoods).⁴²³ It remains to be seen, however, whether so many jobs will actually materialize and whether they will match the skills and training levels of the other empowerment zone residents. Aside from a handful of jobs in the construction business created for public housing residents who participated in the demolition of Fairfield Homes,⁴²⁴ not many jobs had been created on the peninsula as of the time of writing this history.

Included in the City's application for empowerment zone designation was a proposal to develop the Fairfield peninsula into an Ecological Industrial Park. The park, among only four to be proposed in the country, would be an "industrial ecosystem" wherein the toxic wastes produced by one industry could be transformed into "benign, useable materials for another company."⁴²⁵ The result of such recycling would be to "remove toxins from the environment, reduce risk to citizens during transport and storage of toxic wasters, and reduce costs for the

⁴²³ Eric Siegel, "Ecological-industrial park weighed for Fairfield area," Balt. Sun, Dec. 11, 1995, 5B.

⁴²⁴ Marilyn McCraven, "City begins demolishing huge Fairfield Homes public housing complex," Balt. Sun, Jan. 26, 1997, 3B.

⁴²⁵ Special Advertising Section on "Baltimore: Mid-Atlantic's Technology and Financial Headquarters for the 21st Century," reprinted from BusinessWeek, Spt. 11, 1995 issue, page on "The Fairfield Eco-Industrial Park," sponsored by the Baltimore Development Corporation.

companies involved."⁴²⁶ The President's Council for Sustainable Development has advocated the creation of such parks as the "next stage of environmental action and industrial development."⁴²⁷

There actually is an successful ecological industrial park in Kalundborg, Denmark, wherein several industries have recycled and utilized each other's waste for the past twenty years. Three major obstacles to the creation of such a park on the Fairfield peninsula are the lack of control over the land (almost all of the 1,300 acres is in private hands, divided into a patchwork of parcels), the need for extensive improvements in infrastructure (roads, sewers, power), and the necessity of cleaning up the brownfields.⁴²⁸

The redevelopment of the peninsula into the utopian ecological industrial park may be facilitated by EPA Administrator Carol M. Browner's designation of the area as a Project XL site, meaning that the EPA will allow Baltimore the flexibility to experiment with innovative pollution-reduction

⁴²⁶ Special Advertising Section on "Baltimore: Mid-Atlantic's Technology and Financial Headquarters for the 21st Century," reprinted from BusinessWeek, Spt. 11, 1995 issue, page on "The Fairfield Eco-Industrial Park," sponsored by the Baltimore Development Corporation.

⁴²⁷ Special Advertising Section on "Baltimore: Mid-Atlantic's Technology and Financial Headquarters for the 21st Century," reprinted from BusinessWeek, Spt. 11, 1995 issue, page on "The Fairfield Eco-Industrial Park," sponsored by the Baltimore Development Corporation.

⁴²⁸ "Can Fairfield be Reborn?" Balt. Sun, July 31, 1995; Eric Siegel, "Ecological-industrial park weighed for Fairfield area," Balt. Sun, Dec. 11, 1995, 5B.

technologies and to proceed at a faster-than-usual pace through the hurdles of EPA regulations.⁴²⁹ One sticking-point remains, however. Lot owners and operators responsible for contamination still fear potential liability under federal and state environmental laws, thus making it likely that many of the longtime owners and operators on the peninsula will be reluctant to negotiate to sell their property, thereby triggering an environmental assessment with the consequent risk of being held responsible for the site's contamination.⁴³⁰ National and multinational corporations, in particular, may think it safer financially to sit on contaminated lots than to sell them.⁴³¹

City officials planning the Ecological Industrial Park have large, visionary, and as yet unaccomplished goals for it. For instance, the project is expected to generate "2500 new jobs with above average wage scales over the next 5-10 years" and will "change the overall image of the site location."⁴³² According to consultants hired by the City to analyze the actual economic and

⁴²⁹ Paul D. Anuel, "EPA head gives boost to city effort to create unique eco-industrial park," Daily Record, May 29, 1996, 3.

⁴³⁰ See, for example, the remarks of David Levy, Fairfield _____, Baltimore Department of Planning, in Jacques Kelly, "Seeing the sites of the future," Balt. Sun, July 19, 1997, 1B; and Michael Powell's article in real estate transactions book on Md. brownfields law. [find cite]

⁴³¹ David Levy's remarks in Jacques Kelly, "Seeing the sites of the future," Balt. Sun, July 19, 1997, 1B.

⁴³² "Eco-Industrial Park Fact Sheet," distributed at the Fairfield Homes Demolition on January 25, 1997, by the Baltimore Development Corporation.

.. market context of the Ecological Industrial Park, in the mid-1990s there were only about 2,200 jobs on the peninsula in approximately 40 businesses--compared with 17 residents in Old Fairfield and 256 residents in Wagner's Point.⁴³³ The peninsula is dominated by "three heavy industries" whose image may be hard to glamorize: "petroleum product manufacturing and distribution; chemical manufacturing; and shipping-related industries (automobile import terminals, storage operations, and trucking operations)."⁴³⁴

Officially, the Ecological Industrial Park has not turned its back on the peninsula's residents. The park's mission statement embraces the goal of improving the residents' quality of life by means of "community linkages":

The community is integrally connected to the development of the Fairfield/Wagner's Point area in ways that enhance the quality of life for immediate and nearby residents and assure that industrial development is consistent with the health and well-being of local residents. Access to a safe and healthy community are shared by residents and businesses. Day care, recreational and other community and retail services are available to those who live and work in the area through common facilities. The community demonstrates environmental awareness in household and commercial use and the maintenance of a clean and green appearance. Businesses make evident community responsibility through open sharing of information and through active

⁴³³ Arthur Andersen LLP, Real Estate Services Group, "Fairfield Ecological Industrial Park: An Empowerment Zone Project of the City of Baltimore: Economic and Market Context," December 1996, p.3. This report cited the number of jobs on the peninsula as being based on a June 1995 estimate in Cornell University's *Fairfield Ecological Industrial Park Baseline Study*.

⁴³⁴ *Id.*

involvement of companies and their employees in community projects.⁴³⁵

The difference between utopia and reality at Fairfield is suggested by the criminal activity that thrived in the obscurity of the peninsula at roughly the same time as the flagship economic development initiatives generated national publicity and praise for Baltimore. In 1988, German exporter Peter Walaschek arranged with Alcolac, Inc., a chemical manufacturer in Fairfield, to ship large quantities of thiodiglycol (the main ingredient in mustard gas) to Iran in violation of the U.S. ban on sale of the chemical to Iran and Iraq. In 1989 he plead guilty to selling the chemical to Iran, shortly after thousands of people had been killed by mustard gas in the Iran-Iraq war. Alcolac also plead guilty to violating export law and paid a fine. But Walaschek fled the country. Six years later the Croatian Supreme Court refused to extradite him (he claimed he was in Croatia, one of only three countries where he could live free from fear of arrest by Interpol, to deliver medical supplies). The U.S. also was denied extradition of another

⁴³⁵ "Mission Statement and Vision," adopted by consensus at the Planning Charrette, May 16, 1995, found on <<http://www.cfe.cornell.edu/wei/fairfield/mission.html>>. Cornell University consultant Edward Cohen-Rosenthal was instrumental in the initial development of the Ecological Industrial Park at Fairfield, for which he was paid \$86,000. He stated the goal of the park more succinctly than did the mission statement: "'This whole thing is based on taking this area and making it a showcase, from a dumping ground to a proving ground.'" Eric Siegel, "Ecological-industrial park weighed for Fairfield area," Balt. Sun, Dec. 11, 1995, 5B.

European exporter who had bought thiodiglycol from Alcolac during the Iran-Iraq War (allegedly shipping it to Iraq).⁴³⁶

Because the peninsula is an isolated, sparsely populated industrial wasteland, yet is situated just below the Baltimore harbor, it is possible to commit heinous criminal acts successfully on site, rather than merely arrange for shipments of contraband materials. After the Cold War ended, the U.S. Navy sold off obsolete warships to shipbreakers, mostly situated in economically depressed ports like Baltimore.⁴³⁷ In 1993, shipbreaker Kerry L. Ellis and his company, Seawitch Salvage, began operating on the Fairfield site once owned by the Maryland Drydock and Shipbuilding Company. Seawitch Salvage took on the job of dismanteling a 52,000-ton aircraft carrier in what was to be the largest shipbreaking job in U.S. naval history.⁴³⁸ The result was a series of environmental crimes and human rights violations. Seawitch Salvage's labor force of predominantly non-English-speaking Mexicans were instructed to rip asbestos insulation from piping with their bare hands and were not given respirators to protect them from the asbestos particles that

⁴³⁶ Michael James, "Mustard gas fugitive escapes extradition," Balt. Sun, March 7, 1995, 1A.

⁴³⁷ Will Englund & Gary Cohn, "The Shipbreakers," Balt. Sun, Dec. 7, 1997, 1A.

⁴³⁸ Will Englund & Gary Cohn, "Coral Sea Salvager Convicted," Balt. Sun, May 31, 1997, 1A.

filled the air.⁴³⁹ The workers were also ordered to dump oil into the harbor and to squirt dishwashing detergent onto the oilslicks so that the oil would emulsify and sink undetected.⁴⁴⁰ Seawitch Salvage operated in this manner in the obscurity of the Fairfield peninsula for over two years before two *Sun* reporters began to investigate the company.⁴⁴¹

Still Troubles at the Sewage Plant

Today the director of the Patapsco Waste Water Treatment Plant, Larry Slattery, claims that the plant is sending out cleaner effluent than ever before,⁴⁴² and he seems to be correct (certainly it is cleaner than the river it discharges into). And there has been much fine-tuning of the plant's operations since the mid-1980s. But serious, and perhaps intractable, problems persist. The plant remains one of the two or three worst point-source polluters in the harbor area,⁴⁴³ which is itself one of three EPA-designated toxic "hot spots" in the Chesapeake Bay.⁴⁴⁴

After at least eight months of fruitless negotiations, the

⁴³⁹ Will Englund & Gary Cohn, "The Shipbreakers," *Balt. Sun*, Dec. 7, 1997, 1A.

⁴⁴⁰ Will Englund & Gary Cohn, "Coral Sea Salvager Convicted," *Balt. Sun*, May 31, 1997, 1A.

⁴⁴¹ Schott Shane, "Sun investigation wins Pulitzer," *Balt. Sun*, April 15, 1998.

⁴⁴² Wheelabrator Patapsco Pelletizer meeting, October 30, 1997.

⁴⁴³ *Id.*

⁴⁴⁴ Timothy B. Wheeler, *Reversing History of Toxic Pollution*, *Sun*, Aug. 6, 1996, at 1A.

U.S. Department of Justice and Attorney General of Maryland filed suit against the City in December 1997, charging the Patapsco plant with having exceeded seven different permit levels intermittently since 1993.⁴⁴⁵ The residents of Wagner's point complained that the suit did not address the odor problems, which they claim are at least a weekly occurrence and have been plaguing them since the plant began secondary treatment in the mid-1980s.⁴⁴⁶ In response, officials from the City Department Public Works and even the Maryland Department of Environment (MDE) professed never to have received any complaints: "We do encourage citizens to give us a call," said the MDE's chief inspector for the Baltimore area, "If there's something going on out there, we'd like to know about it."⁴⁴⁷

The residents have noticed that the malodors increase with heavy rains. This was explained by one of the plant's maintenance managers, who admitted that the plant overflows several times above capacity (up to 190 gallons a day) after heavy rainstorms. The city has not yet been able to identify the source of this problem in the sewage system's aging collection system. When a big rain occurs, the damage to the plant's secondary treatment is similar to that caused by a release of inadequately pretreated toxic chemicals from one of the

⁴⁴⁵ Id.

⁴⁴⁶ Residents cry foul over odor. Heather Dewar. Sun, 4A and 4B, December 18, 1997.

⁴⁴⁷ Id.

industries in the area: the microbes have to be sequestered in one of the aeration tanks while the sewage is allowed to pass quickly through the plant, with insufficient time for proper settling of sludge. In short, the plant becomes a primary treatment plant for two to three days, and not a particularly effective primary treatment plant. Even worse, if the plant's staff do not act quickly enough (or are not warned about an industrial release), the microbes are destroyed for an entire monthly cycle.⁴⁴⁸

Once the plant discovers and fixes the storm overflow problem, it must still face problems that may be prohibitively expensive and technologically unsolvable--problems that could affect the plant's viability as a partner in the Ecological Industrial Park. Although it has generally been well managed, the plant has had trouble handling industrial wastes since the pretreatment program began in the mid-1980s.⁴⁴⁹ Despite recent improvements in the pretreatment program and in-plant control of the secondary treatment processes, the plant cannot prevent damage from unadmitted midnight or weekend industrial discharges.

⁴⁴⁸ Interview with Nicholson, *supra* note 33.

⁴⁴⁹ See, e.g., John A. Botts, Jonathan W. Braswell, William L. Goodfellow, and Dolloff F. Bishop. Project Summary: Toxicity Reduction Evaluation at the Patapsco Wastewater Treatment Plant. United States Environmental Protection Agency, Research and Development, Water Engineering Research Laboratory, Cincinnati, OH, EPA/600/S2-88/034, Sept. 1988; Interview with Linda Schott, Pollution Control Section, Department of Public Works, Baltimore, Maryland. Jan. 14, 1998; interview with state employee who wishes to remain anonymous, Jan. 14, 1998. [check on Schott's title]

Such discharges may be the cause of the intermittent failures to meet permit levels and may prove impossible to pinpoint.⁴⁵⁰

Even if the problem proves relatively easy to identify and fix, the City may find the cost of further modernization prohibitive, particularly as it may be compelled to use biological nutrient removal (BNR) to denitrify the sewage at the Patapsco plant. BNR would necessitate another doubling in size (if not a greater expansion). It is currently estimated that implementation of BNR would cost \$100 million.⁴⁵¹ The MDE has suggested a offset plan whereby the Back River plant would increase its BNR efforts to offset the Patapsco River plant's being allowed to forego BNR,⁴⁵² but the EPA may prohibit offsetting by imposing a regime of total maximum daily loadings (TDMLs) on the entire state. Implementation of TDMLs requires that each segment of a waterway be held to an individualized

⁴⁵⁰ Interview with state employee who wishes to remain anonymous. Jan. 14, 1998. The state employee indicated that the official position of the Department of Public Works is that the problems have been caused by troublesome pH and CO₂ levels associated with the plant's reliance on pure oxygen to aerate the microbes used in secondary treatment; however, this employee states that the Patapsco plant has always been "totally unique" among the state's sewage plants. For instance, the Hagerstown, Maryland plant, which also uses pure oxygen, has never experienced the problems that have plagued Patapsco since industrial pretreatment and secondary treatment started there over ten years ago.

⁴⁵¹ Interview with Kent Nicholson, etc. October 16, 1997; interview with state employee who wishes to remain anonymous, Jan. 14, 1998.

⁴⁵² Interview with Kent Nicholson, etc. October 16, 1997; interview with anon. Jan 14, 1998.

water quality standard (by imposing a maximum amount of pollutants allowed to be discharged into the water segment from all sources combined).⁴⁵³ [keep on eye on this in the future]

Not surprisingly, there have been calls for privatization of the entire sewage system over the last few years. Mayor Schmoke has met with at least three companies over the last four years but reports that the city's low water and sewer rates (raised in 1996) indicate that its systems run efficiently. Proponents of privatization point out that the city's systems require a hefty budget of \$180 million a year and a workforce of 2,000 employees (8% of the city's total). However, the attractiveness of privatization is limited by the probable legal restriction that any cost savings produced would be limited to reducing rates or improving services (the money to operate the systems comes from a special fund supported by user fees).⁴⁵⁴

The Patapsco plant's current operations do involve a small privatization venture--an on-site facility for converting the plant's combined primary and secondary sludge into fertilizer pellets. The Bio Gro Division of Wheelabrator Water Technologies, Inc., which has a 20-year contract with the City, has commercially operated its Patapsco Pelletizer Facility since

⁴⁵³ Interview with state employee who wishes to remain anonymous, Jan. 14 1998; also, see Percival, p. 943 for general explanation of TDML implementation.

⁴⁵⁴ Eric Siegel, *Business Eager to Assume City Burdens: Privatizing Municipal Wastewater Facilities Seems to Make Economic Sense*, Sun, June 1, 1997, at 6F.

July 1997. The pelletizer's air emissions are well below the levels previously released by the plant's incinerators.⁴⁵⁵

The city's current permits restrict Wheelabrator to handling only sludge from the Patapsco plant and in quantities far below the private facility's capacity. In the fall of 1997 the company has been approached by Anne Arundel County and Domino Sugar about pelletizing their dewatered sludge and calcium carbonate waste, respectively. (Domino Sugar approached Wheelabrator at the suggestion of officials working on the empowerment zone program and Ecological Industrial Park for the Fairfield peninsula.)⁴⁵⁶

A Neighborhood Coalition Meeting

To inform the community and ask for tentative approval of this possible new development, Wheelabrator invited the Fairfield/Wagner's Point Neighborhood Coalition to a meeting on October 30, 1997. The meeting was attended by eight members of the coalition in addition to pelletizer personnel and Larry Slattery, director of the municipal sewage plant. Local City Councilman Edward L. Reisinger (D-6th) also showed up, about an hour and a half late (apparently he did not know where the waste water treatment plant was located).

⁴⁵⁵ Wheelabrator Patapsco Pelletizer meeting, Oct. 30, 1997; Telephone Interview with Karl von Lindenberg, Plant Manager, Baltimore Facilities, Wheelabrator Water Technologies (Oct. 30, 1997).

⁴⁵⁶ Wheelabrator Patapsco Pelletizer meeting, Oct. 30, 1997; Interview with von Lindenberg, Oct. 30? 1997. [change these]

After hearing a comprehensible presentation of what the proposed developments would involve, the coalition unanimously but politely voiced their unequivocal opposition. One man pointed out that the facility had not been in commercial operation for a year and already Wheelabrator wanted to expand. Others pointed out that when the company flew some of them to Canada to see a pelletizer there before Wheelabrator started operations at Patapsco, the company had promised them it would treat only waste from the local plant. This promise had been reiterated at the facility's first, introductory meeting with the neighborhood in late 1996. The people were tired of taking everyone's garbage. The pelletizer's expansion would certainly not be a health benefit to them, and any financial benefit the city would realize would not come their way. Privately, an elderly woman told this researcher that "the whole thing was bullshit!"

What struck this researcher most was that the soft-spoken, shy, and polite Mr. Slattery, who was there to listen to the Wheelabrator presentation and did not make a speech himself, had to deal with a deep well of bitterness and resentment about the waste water treatment plant. During the question-and-answer session after the presentation, again and again the members of the neighborhood coalition voiced grievances about the treatment plant rather than questions about the pelletizer. Trucks coming into the plant were said to be the worst offenders about driving down Cannery Avenue, which is forbidden to truck traffic. The

odors from the plant were said to penetrate the homes of Wagner's Point, making them "smell like the inside of outhouses," especially at night, weekends, and holidays. One woman even accused the plant of releasing noxious odors purposefully at these times. The water by the outfall sewer in the river was said to be a dead zone where not even a worm could survive. Although Mr. Slattery assured the coalition that the water released by the plant was now cleaner than ever before, this seemed cold comfort to people who had seen their neighborhoods suffer the blight of urban industrialization and municipal public works so that others elsewhere could enjoy the benefits.⁴⁵⁷

The End of Residency on the Peninsula--Countdown to Relocation?

By the year 2000 there could very well be no residents living anywhere on the peninsula. The death by cancer of Wagner's Point's leading activist seems to have been the catalyst for the most serious effort yet at the relocation of the residents of Wagner's Point (and the few remaining households in Old Fairfield). Ironically, it is the City's need to expand the waste water treatment plant to include BNR facilities that may provide the rationale for the City's buyout of the community's homes.

On April 17, 1998, Jeannette Skrzecz died at age 56 from cancer of the liver and colon.⁴⁵⁸ She had lived in Wagner's Point

⁴⁵⁷ Wheelabrator Patapsco Pelletizer meeting, *supra* note 28.

⁴⁵⁸ Heather Dewar & Joe Matthews, *Residents Want Out of Industrial Ghetto*, Balt. Sun, April 19, 1998, 1A and 8A.

since the age of 3, had married a man who had been born there, and she raised her family there. For the last 25 years of her life, Ms. Skrzecz had devoted her time to defending the community against City Hall, neighboring chemical and oil companies, and the waste water treatment plant, and to speaking out in the newspapers and to students and other outside activists. In 1977 she helped lead the successful blockade of the town's only access road in order to force City officials to pave the road.⁴⁵⁹ Two decades later, she was the main spokesperson and representative of the community in working with its legal counsel; the University of Maryland School of Law Environmental Law Clinic. By this time she had achieved no small measure of notoriety throughout Baltimore and even the state. For example, *tony Baltimore Magazine* designated Ms. Skrzecz and four of her allies from South Baltimore communities the magazine's "Baltimoreans of the Year" in the "Environmental Activists" category.⁴⁶⁰ The magazine noted that the outspokenness and tenacity of the five

⁴⁵⁹ Patrick Gilbert, *Wagner's Point: Front-steps Kind of Neighborhood*, *Balt. Sun (Eve.)*, June 14, 1979.

⁴⁶⁰ Source: Baltimore Online: Baltimoreans of the Year: Environmental Activists: Delores Barnes, Ann Bonnenberger, Doris McGuigan, Mary Rosso, and Jeannette Skrzecz. Their photo and a brief, breezy story appeared in the January 1997 issue of the magazine. [find printed cite?] Although the story was extremely sympathetic to the grassroots activism of the five "gray-haired . . . ladies" from working-class neighborhoods, it did not present much information about their communities. For example, it commended their work on behalf of "the sometimes-forgotten neighborhood of Fairfields" [sic].

women were as respected by professional environmentalists as they were as feared by local and state politicians.⁴⁶¹

It was the shock and loss of Ms. Skrzecz's death, however, that most galvanized her community. From the moment her sudden illness was diagnosed as terminal, it seems that most of the residents of Wagner's Point began to unite around a buyout-and-relocation proposal to present to City officials. The Baltimore Sun once again turned its attention to the peninsula and intensively covered the relocation proposal's fate throughout the spring and summer of 1998. As the paper quoted one neighbor as saying, her death "changed the whole mood around here. . . . Here is Jeannette, this energetic person who becomes one of the victims of what she's fighting against. People are thinking that if it can happen to her, it can happen to me."⁴⁶² To City officials, also, her death seemed to highlight a sea change in the residents' attitudes: "Even with all the complaints I heard three years ago, I never heard people say they wanted to leave. . . . Jeannette was always fighting industry and the city because they wanted to stay."⁴⁶³

Even before Ms. Skrzecz's death, however, three factors combined to make this latest relocation impetus the most likely to succeed. The first was the influx of federal dollars and

⁴⁶¹ *Id.*

⁴⁶² Heather Dewar & Joe Matthews, "Residents want out of industrial ghetto," Balt. Sun, April 19, 1998, 1A.

⁴⁶³ *Id.*

concomitant attention to the peninsula associated with the area's designation as an Ecological Industrial Park, Empowerment Zone, and part of a Brownfields Pilot Project (see above). The second was the occurrence of two accidents within less than two years at the FMC plant. The first of these accidents helped spur the Environmental Law Clinic to prepare a law suit against FMC and other companies in the area. The third was the involvement of Lois Gibbs, the housewife-turned-professional activist of Love Canal fame.

According to the Environmental Law Clinic, millions of pounds of hazardous materials are stored in the peninsula's industrial sites. Among these materials are the top twenty accident-causing substances. Moreover, neither the City nor the industries have developed an effective evacuation plan for the peninsula's residents. Instead, when a serious accident occurs, the residents are advised to remain inside their homes.⁴⁶⁴ One such accident occurred at the FMC plant near Wagner's Point on December 4, 1996. An explosion at the plant blew the top off a storage tank, injured six workers, and caused a two-alarm fire. No residents were hurt, but the windows of their homes were shook by the blast and, understandably, they were frightened. Ironically, on the day of the explosion, FMC officials, along with representatives of the Maryland Department of the

⁴⁶⁴ "Threats to the Environment and Public Health Posed by Industrial Accidents in Fairfield and Wagner's Point," Environmental Law Clinic, University of Maryland School of Law, April 9, 1997.

Environment and the Baltimore Fire Department, were in Philadelphia talking to federal emergency planners about their handling of hazardous materials. In Baltimore, the Maryland Public Interest Research Group held a press conference, announcing that the City was in the top 2% of areas nationwide in the number of chemical accidents. Jeannette Skrzecz spoke at the conference, demanding that the City and chemical industries provide better information about the hazardous materials stored near her home and that they devise an adequate evacuation plan.⁴⁶⁵

In part due to the Environmental Law Clinic's advocacy, area residents met with representatives of the chemical plants so that emergency safety procedures could be explained to them.⁴⁶⁶ The residents, however, were not assured by this meeting. Nor were they assured by South Baltimore's national ranking as the area 7th-highest in risk of a major chemical accident in 1995, according to the U.S. Public Interest Research Group.⁴⁶⁷ On behalf of the newly formed Cleanup Coalition of South Baltimore residents and environmental activists,⁴⁶⁸ the Environmental Law

⁴⁶⁵ Peter Hermann, "Explosion at chemical company injures 6; Storage tank top blown off at plant," Balt. Sun Dec. 5, 1996, 3B.

⁴⁶⁶ Peter Hermann & Jamie Stiehm, "Fairfield residents want information on chemical plant emergency response," Balt. Sun, Feb. 12, 1997, 3B; "Training Offered to Residents Fearful of Industrial Accidents," Balt. Sun, Feb. 13, 1997.

⁴⁶⁷ Heather Dewar, "Chemical companies face lawsuit," Balt. Sun, April 25, 1998, 1B.

⁴⁶⁸ This group is headed by Terry Harris, head of the Baltimore Sierra Club chapter. Although not a resident of the peninsula, Mr. Harris worked closely with Jeannette Skrzecz and

Clinic issued a notice of intent to sue under the citizen suits provision of the Emergency Preparedness and Community Right-to-Know Act (EPCRA).⁴⁶⁹ The clinic found that 7 of 10 companies on the Fairfield peninsula whose records it investigated were in violation of EPCRA because they withheld information about hazardous materials they used (three were oil companies and four were chemical manufacturers).⁴⁷⁰ Moreover, the clinic alleged that when companies did provide safety information, City officials let the information lie in unopened envelopes. In their defense, four of the companies explained that the Maryland Department of the Environment had mislaid the documents they had filed. The City fire department explained that although the number of hazardous industrial facilities in Baltimore made it impractical to develop the detailed plans required by EPCRA, the public was in no danger.⁴⁷¹ As the fire department's spokesperson stated, "Any missing information has no impact on the city's ability to handle emergencies. . . . When we talk about collecting data for the purpose of [citizens'] right to know, yeah, maybe we're not expending a lot of manpower on that. But

other local activists as a consultant on environmental matters.

⁴⁶⁹ [cite EPCRA--explain a bit about it? see Percival's book]

⁴⁷⁰ Heather Dewar, "Chemical companies face lawsuit," Balt. Sun, April 25, 1998; Baltimore Residents Prepare Citizen Suit, Chemical Week, May 13, 1998, p. 16. The notice of intent to sue was filed on April 24, 1998, a week after Jeannette Skrzecz died.

⁴⁷¹ Heather Dewar, "Chemical companies face lawsuit," Balt. Sun, April 25, 1998, 1B.

that information is available to firefighters when they need it."⁴⁷²

Only a few weeks after the notice of intent to sue was filed, another chemical accident occurred at the FMC plant. Although according to City and plant officials, the spill of several of at least 3,000 gallons of herbicide was contained and of no danger to the community, the residents of Wagner's Point complained about a sickening smell, eye and throat irritations, and a yellow gas plume that could be seen as far away as the neighboring community of Curtis Bay. A week after the accident, FMC officials stated that they still were unable to determine what chemical compounds were formed when the spilled herbicide combined with air.⁴⁷³

Meanwhile Lois Gibbs had also taken up the cause of Wagner's Point.⁴⁷⁴ Ms. Gibbs had led the community movement to publicize and pressure government officials and industry executives to force the relocation of all 900 families from the toxic Love Canal dump site near Niagara Falls, N.Y., where she lived as a

⁴⁷² *Id.*

⁴⁷³ Ivan Penn, "Herbicide spill at Curtis Bay [sic] plant blamed on overheated equipment," Balt. Sun, May 17, 1998, 4B; Greg Garland, "Residents, lawmakers want answers about spill," Balt. Sun, May 22, 1998, 8B (Howard edition), 2B (Final edition); Greg Garland, "Review of plans for spills is sought," Balt. Sun, May 23, 1998, 1B.

⁴⁷⁴ Heather Dewar & Joe Matthews, "Residents want out of industrial ghetto," Balt. Sun, April 19, 1998, 1A. This Sunday front page article contained an epigraph from Ms. Gibbs: "You see these kids on teeter-totters, ignoring the noise and smell, like it's all normal. It just broke my heart."

housewife with her family in the 1970s. This grassroots movement led to the passage of the "Superfund" act in 1980.⁴⁷⁵ Since then Ms. Gibbs had created the Center for Environmental Health and Justice, a source of information and training for community groups battling hazardous waste sites and other environmental threats in their neighborhoods. Ms. Gibbs' center had helped plan buyouts for communities in Louisiana's "Cancer Alley" between Baton Rouge and New Orleans.⁴⁷⁶

Under Gibb's political guidance and the legal counsel of the Environmental Law Clinic, the communities of Wagner's Point and Fairfield devised a buyout plan whereby the City, state, and federal governments and the peninsula industries would pay the residents to relocate at a rate far above the negligible market value of the residents' homes. The communities expected the City to use some of the \$100 million dollars earmarked for its empowerment zones.⁴⁷⁷ The residents, about 270 individuals and 80 families, requested about \$16 million dollars, with the requirements that families who wished to stay be allowed to remain in their homes, that homeowners receive about \$115,000 each and renters about \$30,000, and that the City negotiate with

⁴⁷⁵ Cite CERCLA, maybe explain a bit [see Percival's book]

⁴⁷⁶ Heather Dewar & Joe Matthews, "Residents want out of industrial ghetto," Balt. Sun, April 19, 1998, 1A. [Need to go to library and get credible info on her--all I have is some Internet stuff, not sure how good it is]

⁴⁷⁷ *Id.*

the two communities as a whole (rather than with households individually).⁴⁷⁸

Predictably, City officials and industry spokespersons did not embrace the plan. And government scientists could not agree on the dangers present in the area. The president of the City agency responsible for management of the empowerment zones stated that it was "unlikely" that any zone money would be used for relocation.⁴⁷⁹ Mayor Schmoke, although he met with the residents a few times over the spring and summer of 1998, said he was concerned that a buyout would establish a dangerous precedent whereby other communities living near hazardous industries would seek similar relocation assistance.⁴⁸⁰

The City health commissioner had reported that three cancer-causing chemicals were in the air of South Baltimore at levels up to 30 times higher than those the EPA considers safe and that three types of cancer were reported in the area "at rates

⁴⁷⁸ The Marc Steiner Show, WHJU public radio station, June 22, 1998, show on Wagner's Point issue with Rena Steinzor, professor and head of the Environmental Law Clinic, University of Maryland School of Law, and Tim Buckley, PhD?, associate professor of environmental health sciences, Johns Hopkins University School of Public Health [get exact name and get Rena's title right, etc]; Joe Matthews, "City denies Wagner's Point request," Balt. Sun, June 20, 1998; Joe Matthews, "Wagner's Pt. buyout plan is revived," Balt. Sun, July 8, 1998, 1A; Joe Matthews & Gerard Shields, "Wagner's Point thrown a curve," Balt. Sun, July 17, 1998, 1A.

⁴⁷⁹ Heather Dewar & Joe Matthews, "Residents want out of industrial ghetto," Balt. Sun, April 19, 1998, 1A.

⁴⁸⁰ Heather Dewar, "Residents of industrial ghetto get support from local officials," Balt. Sun, April 21, 1998, 3B.

significantly higher than the citywide average, which is higher than the state, which is the highest in the nation."⁴⁸¹ But Hank Topper, the EPA's liaison to Wagner's Point and the larger communities of South Baltimore, opined that pollution levels were "typical for urban areas across the U.S. The factories' emissions only raised pollution levels by a small percentage. . . . I don't think there's any more concern for the residents of Wagner's Point than for any other urban neighborhood."⁴⁸² Part of the difficulty in determining the levels of pollution and their causes in the peninsula is the lack of solid scientific studies to date.⁴⁸³ Another is that the factory emissions are only part of the problem; the peninsula is filled with oil and gasoline tanks, yet petroleum-product storage facilities are not covered under the Toxic Release Inventory mandate to report emissions, and neither are the benzene and other chemicals released by the hundreds of trucks that pass through the peninsula each day (besides the releases of the trucks and cars idling nearby on the Harbor Tunnel Thruway).⁴⁸⁴

Industry executives denied any responsibility for relocating the residents or for the health problems that the residents'

⁴⁸¹ Heather Dewar & Joe Matthews, "Residents want out of industrial ghetto," Balt. Sun, April 19, 1998, 1A.

⁴⁸² *Id.*

⁴⁸³ Steiner show, Tim Buckley, June 22, 1998.

⁴⁸⁴ Steiner show, Rena Steinzor, June 22, 1998. [TRI summarize from Percival book--cite statute]

anecdotal evidence suggests are unusually severe.⁴⁸⁵ While some industry spokespersons expressed sympathy for the people's fears while denying that they had a rational basis, at least one plant manager was enraged by the buyout proposal:

It makes me angry , to tell you the truth, to hear people now say they got sick because of us. I mean, I've watched tanks explode down here for 20 years, and these people never batted an eye. Suddenly there's an empowerment zone, and a chance to get big money for their houses, and now I'm supposed to believe there's a problem?⁴⁸⁶

Rena Steinzor, professor and director of the Environmental Law Clinic of the University of Maryland School of Law, stated that industry executives had privately told her they recognized that justice and fairness required their helping the people of the peninsula to relocate, but that they were afraid to establish a dangerous precedent. If the industries helped the people of Wagner's Point and Old Fairfield, then everyone who lived near a polluting industry would demand a buyout. Mayor Schmoke publicly stated that he feared a buyout of Wagner's Point would set a precedent for at least one other City neighborhood (a community in the vicinity of an incinerator).⁴⁸⁷ Against this argument, the Environmental Law Clinic pointed out that the peninsula is a unique area where pollution is especially acute and that having

⁴⁸⁵ Heather Dewar & Joe Matthews, "Residents want out of industrial ghetto," Balt. Sun, April 19, 1998, 1A.

⁴⁸⁶ *Id.*

⁴⁸⁷ Heather Dewar, "Residents of industrial ghetto get support from local officials," Balt. Sun, April 21, 1998, 3B.

people live near such a concentration of heavy industry and its detritus is not the wisest and best use of the land, which should be utilized exclusively for industrial purposes.⁴⁸⁸ Furthermore, the clinic's position was that in the long run the City would have to pay more for health care and services than to relocate the residents.⁴⁸⁹

On June 19, 1998, Mayor Schmoke, through a brief letter signed by the City Solicitor, turned down the residents' request for relocation assistance.⁴⁹⁰ Within a few days, however, the Mayor had changed his mind, at least to the extent that he was willing to consider some kind of relocation plan. He asked the neighborhood to conduct a survey to determine who wished to move and who wished to remain. He also insisted that the City would negotiate with homeowners individually.⁴⁹¹ This last demand did not sit well with the residents of the close-knit community: "This neighborhood wants to negotiate as one," said [Adrienne] Law, who has lived on Leo Street for 15 years. "I think the mayor is trying to divide and conquer us. I don't believe that's going

⁴⁸⁸ Rena Steinzor, statements made on The Marc Steiner Show, WJHU, June 22, 1998.

⁴⁸⁹ Heather Dewar & Joe Matthews, "Residents want out of industrial ghetto," Balt. Sun, April 19, 1998, 1A, at 8A.

⁴⁹⁰ Joe Matthews, "City denies Wagner's Point request," Balt. Sun, June 20, 1998.

⁴⁹¹ Joe Matthews, "Wagner's Pt. buyout plan is revived," Balt. Sun, July 8, 1998, 1A.

to fly.' "⁴⁹² (Ms. Law is not alone in moving to the neighborhood fairly recently, long after the noxiousness of its environmental problems were apparent and palpable. This researcher spoke with a couple who moved to Wagner's Point in late 1997. Despite the obvious presence of pollution, the neighborhood still has its advantages for poor and working-class families: safety from crime and a neighborhood where everyone knows everyone else.)

On July 7, 1998, Mayor Schموke announced to the residents of Wagner's Point that the Patapsco Waste Water Treatment Plant, whose stench they had complained of for years, would be their salvation. The Mayor said that the City's Director of Public Works had reminded him that the sewage plant would need to be expanded eventually in order to take in the growing wastes from Anne Arundel and Baltimore counties (not to mention, which the Mayor did not, the BNR required by federal law in order to avoid further law suits brought by the Department of Justice). As the Director of Public Works noted, the sewage plant is locked in by the Patapsco River on one side and industry on two sides, leaving only the row houses of Wagner's Point as room for expansion. The residents were pleased by the Mayor's turnaround. John Regiec, who suffers from terminal leukemia, said "At least we'll have something." "⁴⁹³

⁴⁹² *Id.*

⁴⁹³ Joe Matthews, "Wagner's Pt. buyout plan is revived," Balt. Sun, July 8, 1998, 1A. The article notes that the Mayor's visit to the community was preceded by a rare City cleanup--a long-missing street sign was put up, a fire hydrant was freshly

Ten days later, the residents were not so pleased. The Mayor announced that in order to make room for expansion of the sewage treatment plant, he would have the City exercise eminent domain and move for condemnation of the residents' homes.⁴⁹⁴ This meant that the people would receive only the fair market value of their houses (no house had sold for over \$30,000 between 1993 and 1997, according to the *Baltimore Sun*⁴⁹⁵). The funds for the relocation would come not from the federal dollars given to the empowerment zones but from special City funds derived from water and sewage fees, as well as from any future bonds sold by the City to finance the expansion of the waste water treatment plant.⁴⁹⁶

The Mayor's announcement that he would introduce an eminent domain bill to the City Council in the fall seemed to contradict the statements of the City officials who had been engaged in negotiations with the residents shortly before the Mayor's news conference. These officials had spoken of eminent domain proceedings as a "last resort." The Mayor, however, did leave the door open for additional funding to be supplied by the state

painted, grass in the tiny playground was cut for the first time all summer, etc.

⁴⁹⁴ Joe Matthews & Gerard Shields, "Wagner's Point thrown a curve," *Balt. Sun*, July 17, 1998, 1A.

⁴⁹⁵ Joe Matthews, "City denies Wagner's Point request," *Balt. Sun*, June 20, 1998.

⁴⁹⁶ Joe Matthews, "Wagner's Pt. buyout plan is revived," *Balt. Sun*, July 8, 1998, 1A.

and federal government.⁴⁹⁷ (Ten days earlier, Rep. Wayne T. Gilchrist, a Republican whose district includes the peninsula, had promised residents that he would work to obtain additional relocation funds from the empowerment zone or from community development block grants issued by the U.S. Department of Housing and Urban Development.⁴⁹⁸ These funds, he said, would pay "the value of the houses if they weren't in the chemical industry's back yard."⁴⁹⁹)

After the Mayor's surprise announcement, City officials insisted that eminent domain would be the best course, because it would prevent the few families who wished to stay on the peninsula from delaying or otherwise thwarting negotiations between the City and the neighborhood. Such residents seem to be a small minority (representing 21 of 80 households according to the City, but only 8 according to the *Sun*⁵⁰⁰). This minority, however, is vocal, indignant, includes residents of all ages, and has created divisions within families. Some vowed never to move. One said that she would put her body in front of the wrecking ball, if it came to that. And a 24-year-old lifetime resident said, "I would rather see my kids get cancer when they're 50

⁴⁹⁷ Joe Matthews & Gerard Shields, "Wagner's Point thrown a curve," *Balt. Sun*, July 17, 1998, 1A.

⁴⁹⁸ Joe Matthews, "Wagner's Point buyout plan is revived," *Balt. Sun*, July 8, 1998, 1A, at 12A.

⁴⁹⁹ *Id.*

⁵⁰⁰ *Id.* at 4A.

than have us move into the projects or into Curtis Bay and take a chance of them getting shot.' ⁵⁰¹

The residents also seemed to have mixed emotions about the industries that surrounded them. Even those supporting the community's buyout proposal admitted that the local businesses had been generous in paying the utility bills and even rent of at least one resident. Another had been give money and clothing after her home and possessions had been destroyed by fire.⁵⁰²

The Baltimore *Sun*, which had published several sympathetic articles throughout the spring and summer of 1998, seemed to have changed its mind about the residents' plight in light of the Mayor's firm offer of fair market value. In an editorial on July 17, 1998, the paper accused the residents of having turned greedy: "It's not the industrial stench people in Wagner's Point are smelling these days but money." Calling the community's proposal a "veritable ransom," the editorial echoed the peninsula's industries in stating that "for decades, pollution existed at high levels that would not be tolerated today. People got sick and died, of course, but that seemed to be expected." Of the recent cases of cancer, the editorial stated that although some may have been caused by pollution, "others may be linked to lifestyle and genetic factors." The editorial concluded that the Mayor's offer of a buyout at appraised value was fair, especially

⁵⁰¹ *Id.* at 4A.

⁵⁰² *Id.* at 4A.

since the City was willing to pay relocation expenses and comparables may be impossible to determine for the unique community.⁵⁰³

Six days after this hard-minded editorial, the paper reported that the U.S. Public Interest Research Group had once again ranked South Baltimore as among the top ten areas in the country most at risk for a "worst-case" chemical accident. Wagner's Point, in particular, was cited as a dangerous place by the group's Maryland affiliate. And once again, chemical industry spokespersons disagreed with the report's findings. The City's fire department spokesperson said that the City was now working with the peninsula's oil companies to devise a viable escape route for residents.⁵⁰⁴

Conclusion: Site of Environmental Injustice or a Safe Haven in
the City?

The history of the communities of the Fairfield peninsula would seem to be a classic case of the discriminatory siting of polluting industry and public works projects as a result of intentional environmental racism and classism. The story of the peninsula's annexation and zoning as the heaviest industrial district would seem to bear out this reading of the communities' fates. In short, City officials, in league with industrial

⁵⁰³ "Smelling money" (editorial), Balt. Sun, July 17, 1998, 12A.

⁵⁰⁴ Heather Dewar, "Wagner's Point area ranked 9th in U.S. for chemical accident risk," Balt. Sun, July 23, 1998.

interests, decided to put and maintain the most noxious industries in heaviest concentration where only a few poor, predominantly African American and (even fewer) white people lived.

Undoubtedly, there is more than bit of truth to this view of the area's history. But several factors complicate the picture. The first is that, starting with Wagner's canning industry and the fertilizer plants at Old Fairfield in the late 19th century and continuing with the Bethlehem-Fairfield Ship Yard, Inc. in World War II, patterns of industrial growth and residential settlement coincide. And certainly, new residents from the 1950s on could be accused of having come to the nuisance. Another complicating factor is that the treatment of the white working-class community of Wagner's Point seems to have differed in few essential respects from that of the African American communities of Old Fairfield or the public housing project of Fairfield Homes. In fact, currently some residents of Wagner's Point are charging that the City treated the residents of Fairfield Homes better by relocating them in the late 1980s and early 1990s.⁵⁰⁵

Moreover, all three communities were for much of their history working-class, rather than impoverished, communities. As the local industries became more high-tech and more devoted to storage and transfer than to production, and as more industrial

⁵⁰⁵ Joe Matthews, "City denies Wagner's Point request," Balt. Sun, June 20, 1998.

lots ceased to be used at all, the ranks of the unemployed in the communities rose.

Although white and working-class neighborhoods do not fit the stereotypical view of targets, intentional or unintentional, of environmental injustice, the statistically most sophisticated and comprehensive research on studies of environmental racism and classism indicates that, at least within the 25-year period from 1970 to 1994, the percentage of African Americans in a neighborhood does not affect the probability of a subsequent siting of a hazardous waste treatment, storage, and disposal facility (TSDF), the archetypal instance of a locally undesirable land use (LULU).⁵⁰⁶ This same study, by Been and Gupta, also found that there was a negative correlation with poverty, i.e., neighborhoods with high percentages of residents below the poverty line were actually less likely to have TSDFs sited among them than were working-class and lower middle-income neighborhoods.⁵⁰⁷ Been and Gupta's distributional analyses indicated a U-shaped distribution for both race and class, i.e., LULUs were less likely to be disproportionately sited in all-white or all-African American or all-wealthy or all-poor

⁵⁰⁶ Vicki Been & Francis Gupta, "Coming to the Nuisance or Going to the Barrios? A Longitudinal Analysis of Environmental Justice Claims," 24 *Ecology L.Q.* 1 (1997), *passim*. This study is the first to apply a comprehensive battery of sophisticated statistical tests to the nationwide data on the subject.

⁵⁰⁷ *Id.*

neighborhoods than in working-class neighborhoods with some racial mixture.⁵⁰⁸

The Fairfield peninsula, of course, has a long history of concentrated sitings of various types of LULUs among its African American and white working-class communities. Been and Gupta's findings suggest that the peninsula may after all be a classic case of environmental injustice throughout this century. Race did not seem to play a key role in determining the concentration of polluting industries located near the communities, but their working-class status undeniably did. At the start, the workers needed to live near the factories that employed them (and employers and real estate developers encouraged this settlement pattern). Once they were situated near heavy industry, the neighborhoods lacked the wealth and education to pack much political clout. As one Wagner's Point resident complained, "'We pay the same tax rate as Roland Park [an affluent north Baltimore neighborhood also annexed in 1918⁵⁰⁹], but the city dumps everything on us. . . . We're not against industry, but why put it all in one place?'"⁵¹⁰

Been and Gupta discuss the "common sense" assumption that population density plays a key role in the siting of LULUs: "As

⁵⁰⁸ *Id.* at 34.

⁵⁰⁹ Although Garrett Power, Esquire, has recently moved to Buckingham Manor in Baltimore County, Roland Park is no less exclusively affluent and white.

⁵¹⁰ Quoted in Paul W. Valentine, "Baltimoreans Want to Get Out of Town," *The Washington Post*, March 15, 1991, B1.

the population density of an area increases, the number of people likely to oppose the siting grows, as does the expected cost of any accident. With greater population density, the probability of housing a facility should decrease."⁵¹¹ And indeed the researchers found evidence of negative correlations between population density and LULU sitings.⁵¹² The applicability of this finding to the Fairfield peninsula is clear. The area never had a sizeable population except for the few years of intense overcrowding during World War II. Both in the decades before and after the war, the area never developed the more concentrated housing settlement patterns of the less isolated working-class communities of Curtis Bay and Brooklyn located near the base of the peninsula.

A final complicating factor in the view of the history of the Fairfield peninsula as a classic instance of environmental injustice is the stubborn fact that many present and former residents, even to this day, cling to the peninsula emotionally as a haven safe from the crime and anonymity of modern life. Despite the devastating un-greening of Fairfield they witnessed, the damage to their health they claimed the pollution had caused, the constant danger posed by industrial accidents, and the lack of basic municipal services other urban Americans took for

⁵¹¹ Vicki Been & Francis Gupta, "Coming to the Nuisance or Going to the Barrios? A Longitudinal Analysis of Environmental Justice Claims," 24 Ecology L.Q. 1, 23.

⁵¹² *Id.* at 24, 25, and 34.

granted, all three communities tenaciously held on. Many residents even actively resisted relocation efforts made by the City. Today, some residents of Wagner's Point are vowing to hold on despite the threat of condemnation.

The tenacity of the residents was as perhaps driven by fear of what they would find elsewhere as by love of what they had. For example, when Fairfield Homes was demolished some six years after the last resident had been relocated, former residents were quoted as longing nostalgically for the close-knit and safe community they had known. One resident, who had lived at the housing project for over 30 years, was quoted as saying, "'They moved people from here to high-rises where people were breaking in and killing people. . . . I know two people who were killed in places they moved to after leaving here. We felt like cows going to the slaughter.'" ⁵¹³ The same former resident echoed the sentiments of hundreds of others from Old Fairfield and Wagner's Point, as well as Fairfield Homes, when he stated that the old neighborhood was like a country town, "where everybody knew your name." ⁵¹⁴

Thomas H. Crook, Jr.'s, story is a case in point. Mr. Crook lived in Wagner's Point for 34 years. He and his wife bought a row house in 1960 for \$4,300. It was their first house and they

⁵¹³ Marilyn McCraven, "City begins demolishing huge Fairfield Homes public housing complex," Balt. Sun, Jan. 26, 1997, 3B.

⁵¹⁴ *Id.*

raised their seven children there. The kids swam in the Little End, the neighborhood cove that was fenced off by the expanding sewage plant in the early 1970s. He was known around the community for the roses and tomatoes he raised in his garden, and for his efforts to keep the streets of the town clean of trash. He worked in the Bethlehem Steel Corp. shipyard and for the FMC Corp.⁵¹⁵

Although he grew up in Cincinnati and ended his days in a home in Queen Anne's County, Maryland, Mr. Crook loved Wagner's Point so deeply that he decided to hold a wake for himself there while he was still alive but dying from cancer at the age of 74. His illness prevented his attendance, but he insisted his wife go to the event. That the community's close-knit character is not a myth is shown by the fact that about 50 people attended the wake held at Jerry and Jethro's Tavern. One former neighbor planned the event and prepared the food.⁵¹⁶

At the time the *Sun* reported on the plans for the wake, the newspaper attempted to fit Crook's story into the framework of its series of stories in the late 1990s about the putatively high rate of cancer in the area. Although the paper noted that the lack of definitive studies on the residents' health and the area's pollution have forced reporters to rely on anecdotal

⁵¹⁵ Joe Matthews, "Ill man hopes to attend his wake," *Balt. Sun*, Jan. 4, 1997, 1B; Fred Rasmussen, "Wagner's Point remained close to the heart of a dying man," *Balt. Sun*, Feb. 22, 1997.

⁵¹⁶ *Id.*

evidence,⁵¹⁷ such evidence was deemed substantial: "No link between that industry [surrounding the community] and the cancer rate has been shown, but the disease has touched nearly every family in the neighborhood."⁵¹⁸ A little more than a year after Mr. Crook's death, when Jeannette Skrzecz had died of cancer and the community's buyout proposal had been presented to City officials, the *Sun* represented Crook's wake "as an effort to highlight the problem" of the suspiciously mounting cancer rate.⁵¹⁹ The stories at the time of Crook's wake and death, however, suggest that this is a misrepresentation of his aim, which was to celebrate the community and his life there. Both at his wake and immediately after his death, Crook's wife repeated to the *Sun* the only words her husband had specifically requested

⁵¹⁷ Some factors that have made it exceedingly difficult to determine the rate of cancer and its possible sources in polluting industry are the small size of the population (apart from South Baltimore generally), the length of time needed to perform a proper human exposure study, the complications caused by background pollutants (e.g., truck and car exhaust), and the lack of comprehensive requirements for industry reporting on potentially hazardous releases. See Rena Steinzor, profesor and head of the Environmental Law Clinic, University of Maryland School of Law, and Tim Buckley, associate professor of environmental health sciences, Johns Hopkins University School of Public Health. The Marc Steiner Show, WJHU, public radio, June 22, 1998. Tapes of the show are available from WJHU.

⁵¹⁸ Joe Matthews, "Ill man hopes to attend his wake," *Balt. Sun*, Jan. 4, 1997, 1B.

⁵¹⁹ Heather Dewar & Joe Matthews, "Residents want out of industrial ghetto," *Balt. Sun*, April 19, 1998, 1A, 8A.

be printed in his obituary: "He lived in Wagner's Point for 34 years and loved every minute of it."⁵²⁰

The history of the communities of the Fairfield peninsula yields no pat conclusions. Given the advantages of hindsight, it is too easy simply to say that the City should never have allowed industry to overrun the peninsula as it did, or else that the City should long ago have condemned the residents' homes and relocated them to other neighborhoods. The residents themselves, though undoubtedly not the primary beneficiaries of the industrialization of the peninsula, did live and work in an area many of them loved and refused to leave. Despite the manifest unhealthiness of their environment, many of them refused to trade the safety and closeness of their community for the housing that the market value of their homes and the income from their jobs could have provided them elsewhere in the City or neighboring counties. Unlike at Love Canal, for example, the environmental hazards on the peninsula appeared gradually over the course of several generations, competing--often vainly--with the resident's tenacious love and nostalgia for their close-knit but isolated communities. Ironically, it was the combined isolation from and proximity to downtown Baltimore that made the peninsula attractive both to its working-class residents and the industries that initially employed them and eventually destroyed the

⁵²⁰ Joe Matthews, "Ill man hopes to attend his wake," Balt. Sun, Jan. 4, 1997, 1B; Fred Rasmussen, "Wagner's Point remained close to the heart of a dying man," Balt. Sun, Feb. 22, 1997, 4B.

...livability of their neighborhoods.