# It Takes More Than a Village: Community Economic Development Clinics as a Mechanism For Meaningful Public Participation in an Adversarial Planning Landscape

SARAH M. JACOBS[†]

## I. INTRODUCTION

Ford City (Windsor, Ontario, Canada): the vibrant growth of the Ford Motor Company in the early twentieth century turned a tiny farming community along the Detroit River into the birthplace of the Canadian automotive industry. Ford City was incorporated in 1915, and developed quickly and somewhat haphazardly[1] to meet the needs of a growing industry. This bustling urban village, brimming with possibilities, would meet its decline in less than four decades. The Ford Motor Company relocated to Oakville, Ontario in 1953, causing significant economic hardship in Ford City, leading to the closure of several businesses and declining property values.[2] Several attempts were made over the next few decades to revive the Ford City area (now amalgamated into the City of Windsor), with limited success.[3]

Recently, the local media uncouthly labeled Ford City as Windsor's "Island of Misfit Toys,"[4] inspiring a grassroots initiative—Ford City Neighbourhood Renewal—to mobilize and revive the community. Despite facing the challenge of recruiting volunteers in a community where neighbors did not know one another and social capital was depleted,[5] this group has made tremendous strides. Small businesses have relocated to the

---

[†] Assistant Professor, University of Detroit Mercy School of Law. For their helpful comments and suggestions, I would like to thank the participants of the Regional Faculty Workshop hosted by the Valparaiso University Law School on October 26, 2012. I would also like to thank Karlene Nielsen and Stephen Lynn of Ford City Neighbourhood Renewal, as well as Troy Harris, of the University of Detroit Mercy School of Law, and Benjamin Richardson of the University of British Columbia Faculty of Law.

[1] This is in contrast to the neighboring town of Walkerville, which was carefully and comprehensively planned based on the English 'Garden City' concept, allowing for a mix of compatible uses. *See Life and Times Memories of Walkerville: The Boom Years,* THE WALKERVILLE TIMES, http://www.walkervilletimes.com/boomyears.htm (last visited Feb. 27, 2014).

[2] Mike Morency, Karlene Nielsen, & Stephen Lynn, Envision Ford City: Community Conversations for a Shared Community Vision (November 2011), at 1.

[3] *Id.* at 1–2.

[4] Frances Willick, *Island of misfit toys*, THE WINDSOR STAR (July 24, 2010), http://www2.canada.com/windsorstar/news/story.html?id=888817a3-2ee7-4bc7-a361-1a8406ef4e50.

[5] Interview with Karlene Nielsen & Stephen Lynn, Ford City Neighbourhood Renewal (October 11, 2012).

area, a community garden has been created, and an overall vision plan for the community has been adopted.[6] The collective hope is to restore the area to an urban village, with a vibrant arts community and strong local businesses. However, an informal and unincorporated network of community leadership committees struggles with issues such as fundraising, networking with the development community, and maneuvering the land use planning and legal system that governs the type of redevelopment they hope to achieve.[7]

Its situation in Ontario, Canada theoretically means that Ford City Neighbourhood Renewal could benefit from a progressive legislative framework that provides plentiful opportunities for public participation. In reality, however, the constantly clashing interests of the private sector and a bureaucratic obligation to a (falsely) singular notion of "the" public interest makes local decision making a difficult field for community groups to navigate. This problem manifests through procedural complexity, perceived opaqueness in local decision-making, and an ability to appeal local decisions to an expert adversarial tribunal (the Ontario Municipal Board). Ford City Neighbourhood Renewal is but one example of a Canadian grassroots community organization with strong and viable plans for community improvement, which is in need of legal and technical expertise to help it achieve these goals as a community.

This Article investigates the Community Economic Development Clinic (CEDC) model as a potential solution for organizations like Ford City Neighbourhood Renewal, as a mechanism for meaningful public participation in all stages of urban redevelopment—from the earliest planning stages to adversarial dispute resolution. Part I considers "meaningful public participation" in theory and in practice, by first exploring the theories and underlying ideologies that form the basis of local government decisions and potentially act as a barrier to participation. This theoretical context leads to a definition of meaningful participation as a process that: (1) involves the community at the earliest stage of decision making, before private and bureaucratic agendas are set; and (2) provides some level of assurance that citizen views will have an effect on decision making. The legislative framework for public participation in Ontario is then discussed to examine how these theories and ideologies work in practice.

Part II discusses community economic development where there is a perennial debate on how the CEDC model may achieve its goals to redress urban poverty and to empower citizens. The practical and theoretical

---

[6] Morency, Nielsen & Lynn, *supra* note 2.

[7] Interview with Karlene Nielsen & Stephen Lynn, Ford City Neighbourhood Renewal (October 11, 2012).

aspects of the model are explored to assess its ability to facilitate meaningful public participation as defined above. The model's focus on transactional legal work is then evaluated in terms of its reliance on empowerment theory. Placing empowerment theory within its broader context of planning law ideologies allows the model to be expanded to include adversarial planning matters.

Part III discusses the opportunities and challenges of implementing the CEDC model in an adversarial planning landscape generally, and in Ontario specifically.

## II. MEANINGFUL PUBLIC PARTICIPATION: THEORY AND PRACTICE

While "meaningful public participation" is a term frequently used by local government, land use planners, and citizens alike, it belies concise definition. This section first defines meaningful public participation by tracing its historical evolution within the framework of planning ideologies that detail the bases for land use planning decisions—from private interests to a singular public interest, to modern legislative requirements for public participation. The ideologies are examined within a practical context, using Ontario's legislative framework for public participation, which also sets the stage for the later discussion of implementing CEDCs in Ontario.

### *A. Planning Law Ideologies: The Road to Meaningful Public Participation*

Land use planning, and specifically urban redevelopment, is a forum for constant mediation among competing interests: landowners, developers, local government, and concerned citizens. Patrick McAuslan created a framework of three land use planning law ideologies in which to situate these competing interests.[8] While McAuslan's work is now over thirty years old, it remains relevant in the discourse of public participation and competing interests.[9] Any given land use planning decision is premised on one of the three ideologies, and so it is crucial to understand public participation, the most recent ideology, in light of its two competing ideologies.

Property-related disputes in the common law system gave rise to the private interest ideology, whereby interests of property owners are preferred over a broader public interest.[10] The public interest ideology, in contrast, is grounded in the notion of the welfare state, where the ills of industrialization and urbanization necessitated regulation for the benefit of

---

[8] PATRICK MCAUSLAN, THE IDEOLOGIES OF PLANNING LAW, 2 (1st ed. 1980).

[9] McAuslan's three ideologies are useful to frame the discussion here; each of the three ideologies is described with reference to the literature as it has evolved since McAuslan's treatise.

[10] MCAUSLAN, *supra* note 8, at 3.

public health and safety.[11] While there is a tradition of private interests clashing with the public interest, modern planning theory focuses on the ideology of public participation. Here, the law is valued as a provider of participation rights based not on property ownership, but rather on general principles of democracy and justice.[12] McAuslan argues, and planning theorists may agree, that the objectivity of planning law is challenged by the three competing ideologies, as each dominates or conflicts at different stages of land use planning decisions.[13]

*1. Private Interest Ideology*

The private interest ideology developed alongside planning related to the living conditions of urban working classes in the mid-nineteenth century.[14] Property owners, dissatisfied with new controls on and regulation of their property, took their disputes to the courts, where it seemed that "the whole climate and ideology of the law stressed private property, its uses and transactions."[15] In asserting private property rights, landowners perceived development control as a statutory intrusion on the natural law of land tenure.[16]

This intrusion appears in modern land use planning processes, where there is a perception of infringement on commercial freedom by property owners and developers.[17] In Canada, specifically, there is a perception that local governments tend to be "particularly responsive to business and propertied interests."[18] Arguably, property taxes, as a municipality's main source of revenue, may at least fuel the perception of the prevailing private interest in municipal decisions.[19] The private interest ideology is undoubtedly rooted in economic concerns; the social considerations that are obviously overlooked here are necessarily the foundation of the public interest ideology.[20]

---

[11] *Id.* at 4.
[12] *Id.* at 5.
[13] *Id.* at 2.
[14] *Id.* at 3.
[15] *Id.*
[16] MCAUSLAN, *supra* note 8, at 4.
[17] *Id.* at 147.
[18] Leslie H. Brown, *Organizations for the 21st Century? Co-operatives and 'New' Forms of Organization*, 22 CAN. J. SOC. 65, 68 (1997).
[19] *See* William Kennedy & Mary Louise McAllister, *Politics of Municipal Property Taxes: Implications for Decision-Making*, 48 CAN. PUB. ADMIN. 207 (2005).
[20] Environmental law scholars provide a useful, more current discussion on the relationship between private property rights and environmental protection. *See, e.g.,* PROPERTY RIGHTS AND SUSTAINABILITY: THE EVOLUTION OF PROPERTY RIGHTS TO MEET ECOLOGICAL CHALLENGES (David Grinlinton & Prue Taylor eds., 2011).

*2. The Public Interest Ideology*

The notion of a singular, discernible public interest likely infuriates planning practitioners and lawyers alike when attempting to identify it, and more troubling, determining how to adhere to it in decision making. These frustrations aside, the ideology has inspired and, in fact, shaped modern planning legislation.[21] The ideology attempts to redress the harms of its private interest counterpart by guarding against the often selfish interests of landowners.[22] To achieve this end, the law confers broad discretion on public administrators to do as necessary to advance the public interest.[23]

McAuslan's public interest ideology accords with public interest concepts as presented by traditional planning theorists. In particular, the traditional comprehensive planning model requires planners, like McAuslan's administrators, to consider and weigh community goals as articulated by members of the public who are concerned about a particular proposal, in order to achieve outcomes that are in the public interest.[24] While admirable in its ideal, the public interest ideology is widely criticized for its unrealistic goal of discerning a singular public interest,[25] and because, at the height of its reign in the 1960s, the public interest was determined through a limited dialogue between government and white, middle-class businessmen.[26]

In response to the comprehensive planner's unfruitful search for a singular public interest, advocacy planners sought to bring to the forefront the interests of those typically underrepresented in the planning process, minorities.[27] The advocacy planner's focus on minority interests fueled criticism that the advocacy planner, like the comprehensive planner, was guilty of searching for a singular public interest—that of underrepresented minorities—thereby ignoring other conflicting interests in a community.[28] Advocacy planners inevitably realized that their work could not be objective in attempting to consolidate the interests of all parties; rather, "the only road to follow was to see that all interested parties had proper

---

[21] MCAUSLAN, *supra* note 8, at 5.

[22] *Id.* at 4.

[23] *Id.*

[24] Alan Altshuler, *The Goals of Comprehensive Planning*, 31 J. AM. INST. PLAN. 186 (1965).

[25] McAuslan later evaluated the public interest ideology from a public choicists's perspective. *See* Patrick McAuslan, *Public Law and Public Choice*, 51 MOD. L. REV. 681 (1988).

[26] Altshuler, *supra* note 24 at 189.

[27] Paul Davidoff, *Advocacy and Pluralism in Planning*, 31 J. AM. INST. PLAN. 331, 331 (1965). Interestingly, the advocacy planning approach is said to have originated in Cleveland, where Norman Krumholz, then Planning Director, struggled to revive the city from its state of deindustrialized decline. *See* Norman Krumholz, Janice Cogger & John Linner, *Make No Big Plans . . . Planning in Cleveland in the 1970s*, *in* PLANNING THEORY IN THE 1980S (R. Burchell & G. Sternlieb, eds., 1978).

[28] *See* Lisa R Peattie, *Communities and Interests in Advocacy Planning*, 60 J. AM. PLAN. ASSOC. 151, 152 (1994).

representation."[29]

This realization provided a foundation for postmodern planning theorists, who recognized a need to consult multiple publics in planning decisions[30] to represent a 'pastiche' of interests.[31] While postmodern planning theorists acknowledge the impossibility of including the interests of all of these multiple publics in planning decisions, they offer suggestions for consulting with and communicating with these publics in ways that validate their opinions. Critics of postmodern planning theory argue that a pastiche of interests may become unintelligible; however, proponents of this approach have achieved success in urban redevelopment projects.[32]

Ironically, despite widespread criticism of searching for a singular public interest, planning legislation typically requires planners and local government to act in this interest.[33] Regardless of the approach—working on behalf of one or multiple publics—a mechanism to hear citizen opinions became necessary, and this is the premise for the third ideology: public participation.

### *3. The Public Participation Ideology*

The public participation ideology is premised on the notion that the law should provide a right of participation to all who are likely to be affected by, or have a concern with, a proposed development.[34] The powers of the prevailing property owner from the private interest ideology and the public administrator with broad discretion to guard the public interest are diminished significantly here. The interests of property owners are now "one of a great number to be considered in the democratic process of decision-making,"[35] and public servants are compelled to act only after full public debate, with continuous public consultation. Public participation is generally considered to be essential to the democratic process, with many perceived benefits, including agency accountability,

---

[29] *Id*.

[30] *See* Leonie Sandercock, *Voices from the Borderlands: A Meditation on a Metaphor*, 14 J. PLAN. EDUC. & RES. 77 (1995).

[31] *See* M. J. Dear, *Postmodernism and Planning*, 4 ENV'T. & PLAN. D. 367 (1986).

[32] Perhaps one of the more notable success stories of postmodernism in action is that of the redevelopment of the St. Louis waterfront. Local government representatives worked with multiple communities to redevelop the waterfront in a way that was attractive to tourists, but also true to negative aspects of the area's history that had traditionally been hidden, in particular with regard to slavery. Multiple oral histories were gathered from citizens, many discussing the same events from vastly different perspectives. *See* Andrew Hurley, *Narrating the Urban Waterfront: The Role of Public History in Community Revitalization*, 28 THE PUB. HISTORIAN 19, 20–21 (2006).

[33] MCAUSLAN, *supra* note 8, at 5.

[34] *Id.*

[35] *Id.*

consideration of local knowledge in decision making, and bolstering support for planning decisions.[36]

Public participation has been federally mandated in development-related decision making in the United States since the 1950s.[37] Most notably, the Urban Renewal movement saw to the establishment of citizen boards to represent affected communities. Their participation was eventually viewed as a form of tokenism, where board members were "legitimatizing urban redevelopment decisions that had already been made by the local government."[38] In contrast, public participation did not become pronounced in Canadian planning until the 1960s.[39] Citizen lobbying in public health, housing, and controversial redevelopment proposals set the stage for citizens to become more involved in planning decisions.[40] Citizens became active in seeking opportunities to have their say, and governments and agencies became proactive in encouraging participation, attempting especially to include underprivileged persons.[41] The appearance of public participation in planning represented a heightened awareness by residents of matters likely to affect them,[42] and also an emerging cynicism of the ability of government and administrators to make decisions in their interests.[43]

This emerging cynicism became widespread for participating citizens

---

[36] *See* Lucie Laurian, *Public Participation in Environmental Decision Making: Findings from Communities Facing Toxic Waste Cleanup*, 70 J. AM. PLAN. ASSOC. 53, 53 (2004). Again, environmental law discourse provides interesting insight into the modern implications of McAuslan's ideologies. *See also* United Nations Conference on Environment for Europe, Aarhus, Denmark, June 25, 1998, *UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*, http://www.unece.org/env/pp/treatytext.html ; and Melissa J. Marschall, *Citizen Participation and the Neighborhood Context: A New Look at the Coproduction of Local Public Goods*, 57 POL. RES. Q. 231 (2004) for a discussion of meaningful participation opportunities that result in a sort of coproduction of public goods or services, where citizens see their participation influencing outcomes.

[37] Audrey G. McFarlane, *When Inclusion Leads to Exclusion: The Uncharted Terrain of Community Participation in Economic Development*, 66 BROOK. L. REV. 861, 867-68 (2000).

[38] *Id.* at 870. For a detailed historical survey of public participation in the United States, *see also* Damon Y. Smith, *Participatory Planning and Procedural Protections: The Case for Deeper Public Participation in Urban Development*, 29 ST. LOUIS U. PUB. L. REV. 243 (2009).

[39] GERALD HODGE, PLANNING CANADIAN COMMUNITIES: AN INTRODUCTION TO THE PRINCIPLES, PRACTICE, AND PARTICIPANTS 394 (Thomson, 1998).

[40] An example of this is the 1960s Spadina Expressway proposal in Toronto, which would have bisected the city; the expressway was only partially built and ultimately cancelled due to public opposition.

[41] Walter A Rosenbaum, *The Paradoxes of Public Participation*, 8 ADMIN. & SOC'Y 355, 355 (1976).

[42] Alastair R Lucas, *Legal Foundations for Public Participation in Environmental Decisionmaking,* 16 NAT. RESOURCES J. 73, 74 (1976).

[43] *See* Marcia Valiante & W.A. Bogart, *Helping Concerned Volunteers Working Out Of Their Kitchens: Funding Citizen Participation in Administrative Decision Making*, 31 OSGOODE HALL L.J. 687, 688–89 (1993).

and administrators alike; the former became disillusioned by the latter's use of participation as a type of publicity,[44] or statutory lip service. Conversely, distrust of citizens and their ability to inform decision-making grew among administrators,[45] who struggled to mediate the tension between adequate participation and meaningful deliberation.[46] The tension is inherent in deliberative democracy, where participation is required to ensure openness and transparency in decision making, while deliberation is required to ensure that "collective decisions are something more than the consensus of 'mere majorities.'"[47]

Administrators are criticized for using participation for its intrinsic value to local government in meeting statutory requirements, rather than for the intrinsic value of participation for citizens.[48] The ideological core of public participation is lost in a planning system where the public interest ideology rules the day. Administrators see statutory opportunities for participation as sufficient, having little or no regard for the importance of participation opportunities.[49] At the very extreme:

> [t]he people who live where redevelopment happens, the people who have the most to lose, generally have no say in this "local" and "community driven" process. On a good day, project area residents can block particularly egregious redevelopment proposals. On worse days, the project area residents can gain concessions for a plan that otherwise did not consider them or their needs. Never do project area residents comprise the driving force behind the creation of a plan.[50]

The tensions that arise in discerning the public interest through an effective participatory process necessitates a closer look at what is entailed in "meaningful public participation."

*4. So . . . What Does "Meaningful Public Participation" Mean?*

Bureaucrats, citizens, lawyers, and scholars alike scoff at the mention

---

[44] MCAUSLAN, *supra* note 8, at 17-18.

[45] *See* Kaifeng Yang, *Public Administrators' Trust in Citizens: A Missing Link in Citizen Involvement Efforts*, 65 PUB. ADMIN. REV. 273, 273 (2005).

[46] *See* Jim Rossi, *Participation Run Amok; The Costs of Mass Participation for Deliberative Agency Decisionmaking*, 92 NW. U. L. REV. 173, 177 (1997).

[47] *Id.* at 212.

[48] McFarlane, *supra* note 37, at 893.

[49] MCAUSLAN, *supra* note 8, at 145.

[50] Benjamin B. Quinones, *Redevelopment Redefined: Revitalizing the Central City with Resident Control*, 27 U. MICH. J. L. REFORM 689, 698 (1994).

of—and perhaps doubt the existence of—meaningful public participation. It may be that the concept simply cannot live up to its idealistic roots, which aspire to Habermasian ideals of true consensus, based on communication bringing about agreement and mutual understanding.[51] It is useful to consider the concept in a relatively modern and practical context. Modern usage of meaningful participation is widely credited to Sherry Arnstein's "ladder" concept of citizen participation, where activities of nonparticipation are on the lowest rung, and citizen power is at the highest level.[52] According to Arnstein, a meaningful participatory experience is one where the participant is successful in influencing an outcome.

Similarly, in accordance with McAuslan's ideology, a truly meaningful participation process would enable citizens to take part in formulating important decisions,[53] enabling "citizens to shape planning decisions and outcomes while increasing their levels of social and political empowerment."[54] A meaningful public participation process in a redevelopment context legitimizes redevelopment decisions from both a public and potentially judicial perspective; it provides significant procedural protections for residents who live in distressed communities, and it provides an opportunity for low-income residents to share in the benefit of redevelopment.[55]

While Arnstein's model of meaningful participation is certainly compelling, it has been questioned for its utility in the context of modern participation, given that it was developed in the late 1960s context of social unrest.[56] Therefore, it may seem "unrealistic to demand that government hand over power to communities to plan and operate government services."[57]

There are, given these theoretical difficulties, opposing views as to how meaningful or empowering participation may be achieved in practice. At one extreme, longstanding distrust of the ability of administrators to consider community interests in redevelopment has inspired a call for resident-controlled redevelopment.[58] This approach could arguably shift power away from local elites to low-income residents by creating an elected agency comprised of two-thirds of project-area residents with full

---

[51] *See* Rossi, *supra* note 41; *see also* Jean Hillier, *Agonizing Over Consensus: Why Habermasian Ideals cannot be 'Real,'* 2 PLAN. THEORY 37, 39 (2003).

[52] Sherry R. Arnstein, *A Ladder of Citizen Participation*, 35 J. AM. INST. PLAN. 216, 217 (1969).

[53] MCAUSLAN, *supra* note 8 at 16.

[54] Laurian, *supra* note 36, at 53.

[55] Smith, *supra* note 38, at 246.

[56] McFarlane, *supra* note 37, at 922.

[57] *Id.* at 923.

[58] *See* Quinones, *supra* note 50.

decision making authority regarding planning and implementation of redevelopment projects.[59]

This raises a question as to who in a community actually participates;[60] the answer may present a barrier to meaningful participation. As mentioned previously, at the height of the public interest ideology's reign, white middle-class businessmen dominated the participatory dialogue. Participants are often motivated by financial or business interests, and may not even be local.[61] There is a perception that the loudest voices prevail—typically the elites of a community whose interests are inconsistent with the poorest in the community.[62]

While potentially meaningful, a resident-controlled approach may undermine the legislative and administrative framework of redevelopment, which must exist to provide opportunities for participation.[63] This aligns with the three ideologies, which coexist and compete to form the basis of land use planning decisions:

> Private property and public interest are basically on the same side, the side of the responsible land-owner and property developer, and while there are bound to be differences of emphasis on the weight to be accorded to all the various factors in any land development decision . . . there is this underlying community of interest that ensures that the system survives despite the surface differences.[64]

The fear, then, is that when "participants bring goals to the table that are inconsistent with the . . . goals of development, the process will either stop or the inconsistent goals will be discarded as irrational, impractical, or simply undesirable."[65]

What, then, is the happy medium of meaningful public participation? A definition of meaningful public participation must recognize the competing ideologies at work in planning decisions, and, acknowledging that they co-exist, must in some way mediate them. It seems, then, that a meaningful participatory process: (1) involves the community at the earliest opportunity, before private and public interest agendas are set; and (2) provides some level of assurance that citizen views will have an effect

---

[59] *Id.* at 698.

[60] The discourse regarding participation on a micro level is vast; while certainly valuable, it is beyond the focus here on meaningful participation by groups seeking to improve their communities collectively.

[61] Quinones, *supra* note 50, at 762.

[62] McFarlane, *supra* note 37, at 928.

[63] Smith, *supra* note 38, at 257.

[64] MCAUSLAN, *supra* note 8, at 209.

[65] McFarlane, *supra* note 38, at 902.

on decision making. Recognizing the problem of marginalized participation in redevelopment, a meaningful participation mechanism allows citizens to have "a decisive voice in favor of issues that may go against the prevailing value placed on economic development,"[66] especially where such development channels resources away from neighborhoods that could benefit from them. This Article submits that meaningful public participation empowers community groups to be actively involved in the improvement of their communities, from the earliest planning stages throughout the decision-making process.

### *B. The Ideologies in Ontario: Challenges to Meaningful Public Participation*

On its face, Ontario's legislative framework is exemplary in providing multiple opportunities for public participation in redevelopment. The Planning Act governs land use planning in Ontario.[67] The Planning Act has a strong foundation in public participation and the public interest, as two of its main objectives are to "provide for planning processes that are fair by making them open, accessible, timely and efficient,"[68] and to "encourage co-operation and co-ordination among various interests."[69] The legislation provides several opportunities for participation, requiring sufficient notice and public meetings for every major planning and redevelopment process.[70]

While other Canadian provinces offer similar opportunities for public participation, Ontario is unique in allowing persons who make submissions regarding any planning decisions to appeal adverse decisions to the Ontario Municipal Board (OMB).[71] The OMB, one of Canada's oldest administrative tribunals, is an adversarial tribunal that hears appeals arising from the Planning Act and several other statutes.[72] OMB adjudicators are mainly lawyers and planners, with some former municipal politicians, giving rise to the Board's reputation as an expert tribunal.

The OMB, theoretically, presents an additional opportunity for public participation in redevelopment in Ontario. Citizens and citizen groups are able to participate in hearings, either as parties granted full participation in exchanging documents, providing testimony, presenting and cross-

---

[66] *Id.* at 928.

[67] *See generally* Planning Act, R.S.O. 1990. c. P.13 (Can.).

[68] *Id.* § 1.1(d).

[69] *Id.* § 1.1(e).

[70] *Id.* §§ 17(15), 17(20), 34(12).

[71] *Id.* § 34(19).

[72] While the OMB derives jurisdiction from over one hundred provincial statutes, 90 per cent of its cases are appeals from the Planning Act. *See* BRUCE W. KRUSHELNICKI, A PRACTICAL GUIDE TO THE ONTARIO MUNICIPAL BOARD (2003).

examining witnesses,[73] or as participants who are invited to make statements to the OMB.[74] Unincorporated groups are required to appeal in the name of individual representatives, which can bring about significant cost repercussions for those individuals.[75]

The OMB is intended to be less formal and costly than going to court, as citizens are free to represent themselves, and in fact encouraged to do so. There is potentially an advantage for a citizen to proceed in this manner:

> [M]any cases are won by unskilled and unrepresented private citizens. They may bring to the case information about the history of an area that consultants did not know, they can add forceful elements of human emotion such as tears, and they can speak with a devastating sincerity that cannot be attacked in cross-examination.[76]

However, the adversarial and formal nature of OMB hearings has created a judicial setting where parties with resources, such as developers and municipalities, are likely to hire legal representation and expert consultants—a potential disadvantage to citizens and citizen groups who cannot afford to do so.[77] The OMB has also, particularly in the last twenty years, come under scrutiny for appearing to make decisions that favor private interests over public interests.[78]

In fact, this imbalance may pervade other forums for participation in Ontario, such as local council and committee meetings.[79] For example, municipal council meetings are generally required to be open to the public, save for limited enumerated circumstances.[80] However, there is a concern that municipal councils will use these statutory exemptions to debate contentious matters in a closed session, merely ratifying their decision in

---

[73] Ontario Municipal Board, *Rules of Practice and Procedure* (2009), http://perma.cc/V4DL-X35P (last visited Feb. 2, 2014).

[74] *Id.*

[75] *See e.g.* Scott v. Wellington (County) (2000), 19 M.P.L.R. (3d) 192 (Can. Ont. Sup. Ct. J.), aff'd (2001), 19 M.P.L.R. (3d) 190 (Can. Ont. C.A.) (over one-hundred individuals who were part of an unincorporated citizens group were ordered to pay a substantial cost award where they claimed that the municipality did not adhere to procedural fairness in considering an official plan and zoning by-law amendment to permit the establishment of a racetrack and slots facility).

[76] Stanley B. Stein, *Advocacy at the OMB*, 12 ADVOC. SOC'Y J. 14, 14 (1993).

[77] *See* JOHN G. CHIPMAN, A LAW UNTO ITSELF: HOW THE ONTARIO MUNICIPAL BOARD HAS DEVELOPED AND APPLIED LAND USE PLANNING POLICY (2002).

[78] *Id.*

[79] The imbalance of power in administrative proceedings is discussed from a financial perspective in Valiante & Bogart, *supra* note 43, at 687.

[80] Municipal Act, S.O. 2001, c. 25, s. 239.

the open public session.[81]

Given that two key objectives of the Planning Act are to provide open and fair decision-making processes, and to coordinate among various interests,[82] this gap between the abundant statutory opportunities for public participation in Ontario and the reality of imbalanced participation is concerning. There are clearly competing interests at play in Ontario's planning law framework—private development interests, local government and bureaucratic interests, and the interests of citizens who wish to participate in decision-making. For example, one might wonder how the citizens involved in Ford City Neighbourhood Renewal, who lack organizational structure and knowledge of the relevant legislative framework, could effectively engage in negotiations or a decision-making process involving, hypothetically, a sophisticated development corporation seeking to redevelop a large brownfield property in their community. In order to understand how these interests may be effectively mediated, and how citizens may participate meaningfully, it is useful to consider the ideologies that underlie each of these sets of competing interests, and the role that they play in local government decision-making.

Competition and conflict is inherent in the land use planning decision-making process. In Ontario, private interests are perceived to be favored by local governments concerned with their tax bases,[83] and perhaps also by the OMB, a board that has been criticized for favoring development interests in its decisions.[84] At the same time, the statutory framework for planning decisions in Ontario subscribes to the public interest ideology: numerous provisions of the Planning Act require local governments or government officials to consider "the public interest" in decision making.[85]

Conversely, the statutory framework also allows for consideration of multiple interests in decision-making through abundant opportunities for participation,[86] which seems to accord with the public participation ideology. This ideological schizophrenia makes it difficult for unorganized groups, like Ford City Neighbourhood Renewal, to participate in local decision-making in a way that is truly meaningful. The CEDC model, as discussed below, could both facilitate such meaningful participation and be expanded to encompass an adversarial planning landscape.

---

[81] *See e.g.* London (City) v. RSJ Holdings, Inc., [2007] 2 S.C.R. 588, 589 (Can.).

[82] Smith, *supr*a note 38, at 246; *see also* MCAUSLAN, *supra* note 8, at 209.

[83] Kennedy & McAllister, *supra* note 19, at 207.

[84] CHIPMAN, *supra* note 77.

[85] *See, e.g.* R.S.O.1990 , c.P. 13, s. 51(24) (Can.) (relating to review of plans of subdivision); Provincial Policy Statement, 2005, §§ 2.4.2.2., 2.5.2.5 (relating to review of proposals for resource extraction); Environmental Protection Act, R.S.O. 1990, c. E.19, s. 29 (Can.) (allowing the Minister of Environment discretion to provide direction regarding local waste collection or management where it is in the 'public interest').

[86] R.S.O. 1990. c. P.13 (Can.).

## III. CEDCs AS AN OPPORTUNITY FOR MEANINGFUL PUBLIC PARTICIPATION

This section evaluates the utility of the CEDC model as a facilitator of meaningful public participation in urban redevelopment, in light of the theoretical ideologies discussed above. First, the historical context for CEDCs is provided by discussing the emergence of community economic development generally. Next, the legal clinic model that was designed to facilitate such development is itself discussed.[87] The CEDC is evaluated for its ability to facilitate meaningful public participation, and for its potential to handle adversarial planning matters.

### *A. Background*

Community Economic Development (CED) arose in the United States to address the crisis of post-urban renewal inner cities with a "community-controlled development strategy that utilizes the resources and implements the priorities of residents and institutions in low-income communities."[88] The roots of CED may be traced to 1960s government-funded Community Action Agencies, voluntary grass-roots initiatives formed to challenge the power and racism of large urban bureaucracies. These agencies were premised on the belief that citizens have the right to control their communities,[89] seemingly strongly rooted in a public participation ideology. CED efforts were focused on the redistribution of resources within these distressed communities by enlisting the political power of a diverse group of citizens—community-based resident coalitions, labor union members, and clergy—effectively challenging "economic inequality and corporate dominance."[90]

In 1974, government funds were diverted to mayors' offices, rather than to Community Action Agencies, effectively ending this brief experiment in community control.[91] Block grants issued during the Nixon administration were allocated based on revitalization needs, keeping community participation minimal in these efforts, with the possibility of

---

[87] While various corporate structures (such as community development corporations) are mentioned in passing to put the model in context, it should be noted that an evaluation of these business models is beyond the scope of this article, which focuses specifically on the legal clinic model.

[88] Brian Glick & Matthew J. Rossman, *Neighborhood Legal Services as House Counsel to Community-Based Efforts to Achieve Economic Justice: The East Brooklyn Experience*, 23 N.Y.U. REV. L. & SOC. CHANGE 105, 107 (1997).

[89] Daniel S. Shah, *Lawyering for Empowerment: Community Development and Social Change*, 6 CLINICAL L. REV. 217, 228 (1999-2000).

[90] Scott L. Cummings, *Community Economic Development as Progressive Politics: Towards a Grassroots Movement for Economic Justice*, 54 STAN. L. REV. 399, 405 (2001).

[91] *Id.* at 416.

only a public hearing to comment on grant allocations,[92] perhaps signifying a shift to the public interest ideology.

Despite the funding setback, the 1980s saw growth in high-profile partnerships between community-based non-profit and for-profit entities.[93] Lawyers became involved on an individualized basis, negotiating and assisting in transactional matters. Two formal methods of CED emerged during this time: (1) the community development corporation—a larger and more stable non-profit organization typically established to create and operate essential community facilities and services (e.g., housing, health, childcare, commercial revitalization, revolving loan funds, credit unions, small businesses, etc.); and (2) voluntary grassroots ownership groups—non-profit membership corporations started in low-income apartment complexes, or employee-owned cooperatives to start or sustain small businesses.[94] The modern version of American CED is fiscally tied to the federal Empowerment Zone Program, where cities apply for government grants and private commercial investment for particularly socially and economically distressed areas.[95] In Canada, CED has also been carried out through the corporate structures similar to those used in the United States, although there appears to be a strong contribution by co-operative organizations.[96]

In spite of a history of fiscal and administrative obstacles, the CED focus has remained on rebuilding distressed communities, for residents to "join with one another to develop commercial ventures in their communities, to rebuild their housing stock, and to eradicate the symptoms that outsiders use to legitimate stigma and avoidance."[97] CED initiatives run the gamut from providing decent affordable housing, healthcare, childcare, job creation, and fighting disinvestment and gentrification by gaining control over local institutions, resources, land, and capital.[98] While these activities would suggest that the ideological pendulum has swung back to the earlier foundation in public participation, the CED focus on attracting development, sometimes at great cost to the community,

---

[92] Shah, *supra* note 89, at 230.

[93] *Id.* at 231.

[94] Glick & Rossman, *supra* note 88, at 109.

[95] Shah, *supra* note 89, at 242–43.

[96] *See e.g.* Brown, *supra* note 18 at 77–8 (detailing several examples, including, most commonly, retail food co-operatives and credit unions, which have achieved notable success in stabilizing communities in the Atlantic provinces and Quebec). Again, while this article is not advocating for a particular CED business model, the ability of various models to promote meaningful participation on a micro level may be a valuable area for further study within a Canadian context.

[97] Jeffrey S. Lehman & Rochelle E. Lento, *Law School Support Community-Based Economic Development in Low-Income Urban Neighborhoods*, 42 WASH. U. J. URB. & CONTEMP. L. 65, 68 (1992).

[98] Glick & Rossman, *supra* note 88, at 108.

suggests the privileging of private interests.[99] Regardless, such specialized CED initiatives required legal advice on a broader basis than the previously individualized legal services provided; this led to the establishment of CEDCs.

*1. Establishment of CEDCs*

Specialized legal initiatives began to develop in the United States to provide transactional legal assistance to facilitate the transition of grassroots organizations into community development corporations. From the Legal Services Network, a nationwide network of non-profit organizations that provide legal representation and counseling in civil matters to low-income people, Brooklyn A was formed in 1967.[100] Brooklyn A provides a wide range of legal services from tax, contract, real estate, administrative, regulatory, employment, litigation, and pre-development consultation.[101] Its successes also include development of a neighborhood health center,[102] and advising a state-funded Neighborhood Preservation Company in project planning and implementation.[103] A key success of Brooklyn A has been community retention of control and ownership of these projects. A lawyer here typically assists in carrying out goals in a client-centered way, "as an active member of that group, not in his capacity as a lawyer."[104] This accords with the perception of a successful and empowering participatory CEDC model, which seeks to develop community rather than fostering dependence on government programs: "Developmental strategies are designed to overcome—instead of trying to make it easier to live with—poverty."[105]

The role of the CEDC lawyer is non-adversarial in counseling clients by helping them to structure private arrangements to govern future activity, including negotiation and drafting, by understanding clients' plans and objectives.[106] CEDC lawyers find themselves moving beyond traditional legal work by working with clients who may be skilled in their own trades, but who are "not very good with records, and they're not very good with dealing with people downtown."[107] Susan D. Bennett refers to the concept

---

[99] *Id*. at 121–23.

[100] *Id*. at 116–17.

[101] *Id.* at 120.

[102] *Id.* at 124.

[103] *Id.* at 134.

[104] Janine Sisak, *If the Shoe Doesn't Fit … Reformulating Rebellious Lawyering to Encompass Community Group Representation*, 25 FORDHAM URB. L. J. 873, 888 (1997–1998).

[105] Nona Liegois, Francisca Baxa, & Barbara Corkrey, *Helping Low-Income People Get Decent Jobs: One Legal Services Program's Approach*, 33 CLEARINGHOUSE REV. 279, 280 (1999–2000).

[106] Ann Southworth, *Business Planning for the Destitute? Lawyers as Facilitators in Civil Rights and Poverty Practice*, 1996 WIS. L. REV. 1121, 1128 (1996).

[107] *Id.* at 1144.

as 'long-haul lawyering':

> There are the years of staying with the client group that starts with little more than a vision; that keeps its receipts in paper bags and throws away the stupid little forms it gets in the mail from the Internal Revenue Service because, hey, it makes no money so it doesn't have to pay any taxes, right? There are the groups whose officers work three jobs; or spend whole days on line at the Department of Human Services so they don't miss their workfare appointment, and so have no energy to send out notices of membership meetings, let alone hold them.[108]

CEDCs have become particularly popular in clinical education in American law schools. The University of Michigan CEDC, for example, was established in 1989 with support from the Rockefeller Foundation to "bridge the gap between theoretical research and the ongoing efforts of low-income communities to gain control over their environments."[109] This CEDC program is based on two commitments: (1) to use alternative forms of advocacy to advance interests of client groups; and (2) to develop ventures collaboratively between "front-line community activists and back-office theoreticians."[110] In addition to a mandate to serve communities, the law school CEDC model serves to provide law students with a valuable educational experience while preparing clients to be effective in legal matters without lawyers,[111] with projects to return abandoned property to public use, providing housing for the homeless, forming community economic development corporations, and even developing a how-to model for this purpose.[112] The law school CEDC experience indicates success in a non-adversarial approach, especially where the CEDC is multidisciplinary in working with other relevant faculties within a university, including urban planning, architecture, and social work.[113]

### *B. Criticisms and Successes: CEDCs as Facilitators of Meaningful Public Participation*

The CEDC mandate is tied closely to the empowerment goal of

---

[108] Susan D. Bennett, *On Long-Haul Lawyering*, 25 FORDAM URB. L. J. 771, 778 (1997–1998).

[109] Lehman & Lento, *supra* note 97, at 71.

[110] *Id.* at 71–2.

[111] *Id.* at 72–4.

[112] *Id.* at 76–9; *see also* Peter Pitegoff, *Law School Initiatives in Housing and Community Development*, 4 B.U. PUB. INT. L.J. 275 (1994-1995) for a description of more law school CEDCs, and guidelines for assessing their feasibility.

[113] Pitegoff, *supra* note 112.

meaningful public participation. Because the CEDC model is consistent with the public participation ideology, the criticisms of the model from a market-oriented perspective are somewhat troubling for their parallels to the private interest ideology. CED itself is criticized for its focus on attracting business to communities, which can sometimes worsen conditions in poor communities by disorganizing existing social structures, and for attracting subsidies that benefit business owners rather than the citizens of a community.[114] The result may be a more attractive built environment, but behind the scenes, community neighborhood leadership has taken a passive role, and communities become dominated by "moneyed interests."[115] Critics also point out that citizens who are involved in CED take on the risk in redevelopment, which generates massive opportunity costs, such as the creation of white-collar jobs and displacement.[116] The model is also attractive from a purely bureaucratic public interest standpoint for providing a mechanism for fulfillment of statutory participation requirements.

The law school CEDC model in particular has its own challenges that may act as barriers to meaningful participation. The educational aspect of a CEDC requires close supervision of students, which is of course time-consuming, but motivated students and effective supervision can lead to a constructive community impact.[117] More challenging is the community perspective of a law school CEDC, where there may be some suspicion about "ivory tower" involvement and skepticism about program longevity.[118] The University of Michigan experience demonstrates that this may be overcome by locating the clinic within the community it serves, and having staff who are involved in community activities, and therefore have relationships with citizens within the community.[119]

The CEDC lawyer, by nature of her expertise, can inadvertently dominate the collaborative process and act as a barrier, rather than a facilitator, to meaningful participation. The CEDC lawyer is necessarily cautioned in taking on a non-adversarial, non-traditional role, to be careful not to let professionalism overtake the process, and must know "when to act and when not to be seen."[120] The CEDC lawyer must also become a team-player, able to offer a unique perspective, but this perspective should be limited to analyzing legal ramifications of a community group's

---

[114] Cummings, *supra* note 90, at 448.

[115] Shah, *supra* note 89, at 248; *see also* Brown, *supra* note 15.

[116] Quinones, *supra* note 50, at 742.

[117] *See* Pitegoff, *supra* note 112; *see also* Lehman & Lento, *supra* note 97.

[118] *Id.*

[119] Lehman & Lento, *supra* note 97, at 81; *see also* Southworth, *supra* note 106*; see also* Bennett, *supra* note 108.

[120] Bennett, *supra* note 108, at 780.

proposed strategies.[121] Lawyers may struggle with this within a CEDC context, as community groups are typically involved in confrontations with politicians, landlords, and neighborhood institutions where "power, rather than the law, is often the decisive factor."[122] While not traditionally trained to deal with such conflicts, a CEDC lawyer who recognizes this unique role may become a facilitator of meaningful public participation by empowering clients and client groups to effectively represent their own interests.

Despite the challenges faced by the CEDC model, lessons learned indicate that the model is equipped to provide a meaningful participatory experience. CEDCs have a proven record of getting citizen groups involved in decision-making at the earliest possible stage, giving them an opportunity to influence the outcome. In a dynamic decision-making landscape where all three of the ideologies play a significant role, the CEDC model is a viable solution to bring public participation to the forefront, ensuring that community groups can engage meaningfully.

The key to facilitating meaningful participation appears to be "creative collaboration among client organizations and their participants, lawyers, other technical advisors, and a wide array of public and private institutions that support or impede community-based development."[123] From another perspective, Patricia Wilson advocates moving away from a zero-sum "us versus them" CED mentality to a positive-sum approach, recognizing that every individual has valuable resources to share, and that these individual resources will benefit the collective.[124] In other words, participatory CED must start with internally empowered individuals who can access their inner sources of power, without depending on external financial, technical, or political power. As one citizen characterized a positive CED experience:

> There are no longer strangers for me or people who hold power over me. We are all human and we are all powerful. I can walk into the Mayor's office and see him as a human being like me and we can speak as equals.[125]

This is a goal to which many citizens aspire, including those involved

---

[121] Sisak, *supra* note 104, at 879. While beyond the scope of this article, Sisak's evaluation of regnant versus rebellious lawyering is useful for determining the appropriate role of a CEDC lawyer in facilitating citizen empowerment.

[122] Michael Diamond, *Community Lawyering: Revisiting the Old Neighborhood*, 32 COLUM. HUM. RTS. L. REV. 68, 80 (2000–2001).

[123] Pitegoff, *supra* note 112, at 285.

[124] Patricia A. Wilson, *Empowerment: Community Economic Development from the Inside Out*, 33 URB. STUD. 617 (1996).

[125] *Id.* at 628.

in Ford City Neighbourhood Renewal. While implementing the CEDC model in Ontario has the potential to assist many citizens in realizing this goal, the current model is limited in providing only transactional legal assistance.

### *C. Broadening the CEDC's Transactional Mandate to Adversarial Matters*

The discussion of CEDC initiatives in the United States indicates that the model is intended to focus on non-adversarial matters where the CEDC lawyer can take on a collaborative role. Why is the model limited in this way? Perhaps it is because CED is meant to empower citizens to participate meaningfully in the early stages of redevelopment; if citizens feel that they are active participants in the redevelopment process, it seems unlikely there would even be an adversarial dispute.[126] This is where the CEDC's foundation in empowerment theory may unduly limit its perspective regarding the practical realities of urban redevelopment. Empowerment theory cannot be considered in a vacuum; the reason citizens must become empowered is that they are faced with a legal system where there are multiple competing interests, and there is an inevitable struggle to participate in this system in a meaningful way. If we look to the three competing ideologies in land use planning law, it is inevitable that there will be clashes among the private interests of developers and landowners, bureaucrats searching for a falsely singular public interest, and the many citizens representing various public interests who wish to have a voice in the process.

While the proactive approach of CEDCs is admirable in getting citizens to the table early enough that these disputes can be avoided, the practical reality is that sometimes developers suddenly change plans to cut costs, or that citizens miss or are excluded from an essential step of the process. Courts and administrative tribunals are in place to resolve these inevitable clashes in ideologies. By recognizing the competing interests in land use planning law theory, the CEDC mandate could be expanded to empower citizens to engage meaningfully in adversarial, as well as non-adversarial, processes.

---

[126] There are of course many practical implications to adding adversarial matters to the CEDC's roster of legal matters, which are discussed in Part IV.

## IV. IMPLEMENTING CEDCS IN AN ADVERSARIAL PLANNING LANDSCAPE: ONTARIO AND BEYOND

### *A. Opportunities and Challenges for CEDCs in Ontario*

The CEDC model presents an interesting and unexplored[127] opportunity for meaningful participation in redevelopment in Ontario. It should be noted that Canadian inner-cities have not experienced decline to the same extent as American cities that have benefitted from the CEDC model. However, there are pockets of decline in post-industrialized cities such as Windsor, Ontario that certainly parallel—on a smaller scale—American inner-cities in decline. While it would be interesting to study Canadian and American cities from a demographic perspective to explore the implementation of the CEDC model, this is not necessary to implement the model in Canada, because the model, by its very nature and ability to facilitate meaningful public participation, is meant to serve communities, rather than entire cities.[128]

The Ford City neighborhood in Windsor, for example, could benefit from a CEDC for organizational and transactional aspects, and to empower it to deal with any future threats to the neighborhood. The CEDC model, in general, could be adopted to not only incorporate and organize citizen groups, but could serve to empower them to participate in redevelopment, while allowing them to become effective advocates in formal settings such as council meetings, and, as a last resort, the OMB.

Given the reality that some project decisions will ultimately be appealed to the OMB, perhaps by the proponent, a concerned citizen, or the municipality, it is necessary to prepare citizens accordingly. Citizens should be empowered to engage in this adversarial process in a meaningful way. There is no reason why a CEDC lawyer (or law student, as the case may be) cannot simply inform and prepare citizen groups for this process, so that they may be empowered to effectively represent themselves. However, careful screening would need to be undertaken to assess citizen claims, to avoid a situation where costs may be awarded against them.

The most obvious practical challenge to implementing the CEDC model on a widespread basis in Canada is funding. Several of the American examples discussed previously relied on private funding or

---

[127] While community economic development projects are common in Canada, CEDCs are not. There are limited legal initiatives to assist community groups on a pro bono basis through Legal Aid Ontario and Pro Bono Law Ontario; however, the CEDC model has not been explored at the local level.

[128] In fact, lessons learned from large-scale urban redevelopment, such as Cleveland, indicate that focusing on broad goals of city rebirth may provide some fiscal benefit, but can displace or further alienate marginalized communities. As such, it may be unwise to attempt to assess the potential for CEDCs by studying demographics alone. *See* Barney Warf & Brian Holly, *The Rise and Fall and Rise of Cleveland*, 551 ANNALS AM. ACAD. POL. & SOC. SCI. 208 (1997).

Empowerment Zone funding for support.[129] A general lack of government funding and an increase in devolving responsibilities of the provincial government to municipalities present a challenge in this regard in Canada. Partnerships with Legal Aid Ontario and Pro Bono Law Ontario, organizations that have experience in community economic development, could be explored.

### *B. CEDCs in Adversarial Planning Landscapes Beyond Ontario*

While Ontario provided the case study for expanding the CEDC mandate, the inclusion of adversarial matters could be explored in the United States, perhaps for local zoning commissions. In fact, CEDCs commonly work with citizens to represent their interests before municipal councils; it could be argued that this process in itself is at times adversarial, and that preparing citizens to appear before a zoning commission is not beyond the current CEDC mandate.

However, one challenge—in Ontario and beyond—is expertise. Effective practice before agencies and administrative tribunals is a skill that lawyers develop throughout their careers. This could certainly present a challenge to a law school CEDC, where students typically lack experience and could only gain it by appearing before these bodies themselves. This would defeat the empowerment mandate of the CEDC. While clinical faculty may be able to draw on their own practical expertise to assist students and citizens, there is a danger of becoming overwhelmed with this type of work at the expense of transactional matters. One solution may be to have students or clinical faculty act as second chair to clients in adversarial matters, so that they may obtain the requisite experience, while empowering clients to represent themselves.

## V. CONCLUSION

Land use planning law ideologies and community economic development discourse share a common goal of ensuring meaningful public participation in planning processes, which (1) involves the community at the earliest stage of decision making, before private and bureaucratic agendas are set; and (2) provides some level of assurance that citizen views will have an effect on decision making. CEDCs have the ability to empower citizens to meaningfully represent their interests in a planning system where decisions are made based on constantly clashing ideologies; by recognizing that its empowerment foundation is situated in this broader theoretical context, the CEDC mandate can be expanded to empower citizens to represent themselves in adversarial matters.

---

[129] *See, e.g.*, Shah, *supra* note 89; *see also, e.g.,* Lehman & Lento, *supra* note 97.

The intent of this proposal is not to change the fundamental empowerment nature of the CEDC model. In fact, it is recommended that the model be implemented as intended, to organize citizen groups and empower them to engage in meaningful public participation, particularly in redevelopment projects. The hope is that in the majority of cases, a costly legal dispute can be avoided; but where it cannot, CEDCs can work to empower citizens to participate meaningfully in an adversarial setting. This is especially important in Ontario, where the planning process can culminate in an adversarial hearing, and where groups like Ford City Neighbourhood Renewal do not currently have access to legal assistance.