

An aerial photograph of Boston, Massachusetts, showing the city skyline with various skyscrapers and buildings. In the foreground, there are city streets, a parking lot with many cars, and a large stadium with a red roof. The image is used as a background for the report cover.

FIXING BOSTON'S BROKEN DEVELOPMENT PROCESS

WHY AND HOW TO
ABOLISH THE BPDA

CITY COUNCILOR AT-LARGE MICHELLE WU

Chair, Committee On Planning, Development & Transportation

October 2019 | VERSION 1

INTRODUCTION

October 2019

Dear Boston,

Over the last two years, as Chair of the City Council's Committee on Planning, Development and Transportation, I've had a window into Boston's development process. Through conversations with residents and developers, public hearings on proposed projects, and meetings with civic leaders and neighborhood associations, it's become clear that we're not planning for our best future.

Boston is in the midst of a development boom. We see it in the downtown skyline, dotted with cranes. Even more so, we feel it in neighborhoods transformed by an onslaught of zoning variances and special approvals. Instead of delivering the resources to address our most urgent challenges, Boston's development process is making our problems worse. We're more and more anxious about rising home prices and rents, frustrated daily by increasingly awful commutes, and scared about the flooding and extreme heat that intensify every season.

This report is not an outline of these crises or the steps to solve them, but a reminder that all of these issues are fundamentally related to how we are managing Boston's growth and development. And I hope after reading this report, you'll feel hopeful. We are a city of tremendous resources, and we can chart a better path forward by leaving behind outdated structures and removing barriers to participation. Meeting our challenges with urgency and scale will require considering the interconnectedness of these issues and empowering everyone to take part.

Just as we envision a more inclusive, transparent, and ongoing partnership to plan our shared future, the pages that follow are Version 1 of this living document—a starting point for conversation and an invitation to share your experiences and feedback. Please let me know your thoughts about the ideas presented here or your stories about how the development process has affected your community. We'll collect this feedback online (at abolishthebpda.com) and in person at listening sessions across the city. Reach out if you'd like to help host or organize a conversation!

Thanks for all that you do,



MICHELLE WU

Boston City Councilor At-Large

Chair, Committee on Planning, Development & Transportation

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EXECUTIVE SUMMARY

Boston finds itself at a crossroads. Facing an affordable housing crisis, the worst traffic congestion in the United States, and a climate crisis that threatens our very existence, the people of Boston deserve a city planning department that empowers communities and addresses these challenges in a long-term vision for a more equitable future.

Instead, they have the Boston Planning and Development Agency.

Created in the postwar age of urban renewal at the request of Boston's business elite, the BPDA is an anachronism plagued by lack of transparency and misguided priorities. The economic conditions used to justify its creation in 1957 are simply not present today; on the contrary, Boston is experiencing a building boom. However, the BPDA has bolstered the city's structural inequality to ensure that only a select few enjoy this unprecedented prosperity.

Mere reform is not enough. After two scathing audits in 2014 and 2015 revealed the extent of the then Boston Redevelopment Authority's lack of accountability, little has changed—save for a \$675,000 rebranding in 2016. But the BRA by any other name is still the agency that demolished the West End, evicted thousands of residents, and threatened other neighborhoods with a similar fate; that operates on political relationships and special exceptions in the absence of up-to-date zoning and a citywide master plan; that benefits the well-connected while ignoring the needs and concerns of the communities that make Boston such a special place.

We must abolish the BPDA. It may surprise some how much can be accomplished toward this end without a home-rule petition and just through the actions of the Mayor and City Council. By returning the property holdings from which the BPDA derives its operating budget to City ownership, and migrating the BPDA's functions back under City Council oversight, we can effectively dismantle this unaccountable super-agency. This will include terminating the remaining urban renewal areas.

The work cannot end there. In the BPDA's place, a new **Planning Department** should overhaul the zoning code to introduce consistency and predictability to the development process. Most importantly, this new entity should begin compiling a comprehensive master plan built on meaningful community engagement. If Boston will be a city for everybody, then everybody should have a say in planning it.

Section 1 of this report examines the destructive history and legacy of the BRA/BPDA. Section 2 outlines a bold vision for democratic, sustainable development, drawing inspiration from best practices in peer cities of comparable size. Section 3 details what a transition away from the BPDA would look like, and Section 4 offers immediate, actionable steps the City Council can take to begin that process.

The stakes are too high to preserve the status quo. The BPDA is woefully unprepared for the challenges facing this great city. The people of Boston deserve better.

HISTORY AND LEGACY OF BOSTON'S DEVELOPMENT AGENCY

No other city allows a quasi-governmental agency to wield the immense powers that the BPDA possesses, nor removes so many crucial decisions from accountability to the community.

The Boston Planning and Development Agency (BPDA), the umbrella name for the Boston Redevelopment Authority (BRA) and the Economic Development Industrial Corporation (EDIC), is a unique legal creation which for decades has circumvented comprehensive planning and community input in important decisions over the future of Boston. The BPDA gives concentrated control over development to the Mayor of Boston with little to no accountability, giving well-connected developers outsized access to influence decision-making and incentivizing an unhealthy political interdependence. No other city in the United States allows a quasi-governmental agency to wield the immense powers that the BPDA possesses, nor removes so many crucial decisions from accountability to the community.

The BRA's Origins: Prudential Insurance and a Casualty of Community Process

The Boston Redevelopment Authority (BRA) was created in 1957 by the Massachusetts State Legislature and the Boston City Council.¹ At that time, redevelopment authorities were sprouting up across the state and country in a rush to take advantage of federal money made available to spur "urban renewal." The federal government flooded municipalities with funding to acquire and raze "blighted" areas, a practice known as "slum clearance," in order to entice private investment. The Boston Housing Authority handled Boston's first urban renewal projects starting in 1950 until, following calls from the region's most prominent businessmen to create an "integrated planning and execution agency," the BRA was formed seven years later.²

Originally, the BRA resembled a traditional redevelopment authority. But with a dramatic expansion of its powers in 1960, the Authority took on a more familiar form: a monolithic super-agency catering to the needs of powerful interests. The expansion was for a specific purpose: civic leaders sought to satisfy the Prudential Insurance Company's demands for tax breaks in order to secure construction of what is now the Prudential Center on an unused rail yard.³ In a series of advisory opinions starting in 1955, the Massachusetts Supreme Judicial Court (SJC) rejected various schemes aimed at giving Prudential favorable tax treatment.⁴ Repeatedly, the SJC advised that these schemes would not pass constitutional muster.

Meanwhile, Mayor John F. Collins and several members of Boston's business elite courted New Haven redevelopment chief Ed Logue to lead the BRA.⁵ Logue saw the possibility of using federal urban renewal powers as a vehicle to secure the tax breaks for Prudential. His proposal led to two critical changes to Chapter 121A, the state's redevelopment authority law. First, no longer did areas declared "blighted"—a prerequisite to using urban renewal powers—need to be replaced by projects with a "predominantly residential purpose," but could be replaced by projects with a "commercial, industrial, institutional, recreational or governmental" purpose. This meant that commercial projects like the Prudential Center could be built using urban renewal powers. Even more importantly, the BRA absorbed the powers and assets of the City's Planning Board. Unlike other redevelopment authorities across Massachusetts, whose urban renewal projects were subject to local approvals and state review,⁶ in Boston the BRA's power to approve projects would be subject only to mayoral approval, with little state oversight.⁷ The SJC approved these changes.⁸

Five years after ruling that the Prudential Center project was private in character⁹—and therefore ineligible for the generous tax concessions available only to an Urban Renewal Corporation pursuing public projects—the court concluded that the potential benefits, such as the "elimination of grave doubts as to the future use of a great area," were enough to consider it public.¹⁰ For the benefit of a single developer, the BRA gained the power to declare "blighted" any area it deemed "unduly costly to develop . . . soundly through the ordinary operations of private enterprise"¹¹—and in its place, build whatever the market demanded, rather than housing for those displaced.

Within the next year, with little public participation and no oversight,¹² the BRA declared the Prudential Insurance project to have a public purpose and approved tax breaks that would have been unconstitutional if granted to an ordinary business corporation. In effect, the Legislature and City manipulated state statute and tax code, skirting both state and federal Constitutions to ensure that a private company would benefit from a favorable tax situation. Thus, the BRA began to exercise extraordinary powers to facilitate development.

This move had lasting impacts. The Prudential Insurance saga marked the first instance of the BRA prioritizing one big-name project at the expense of coherent and democratic citywide planning; it would not be the last. The Authority's board members, appointed by the Mayor and Governor and removed from City Council oversight, could approve projects in accordance with powerful developers' goals within the city, rather than the people's vision for their communities. This remains true today.



Boston's urban renewal targeted the West End for demolition, displacing a largely immigrant community of 7,500 Bostonians with new residential and commercial use buildings benefiting wealthier residents.¹

Urban Renewal: Expediting Development through Displacement

Urban renewal was created as a set of tools for municipalities to address so-called blighted areas by acquiring private property, relocating residents, and clearing away the old buildings to make room for new development and uses. In practice, low-income communities were targeted for demolition, then replaced with development of new residential and commercial uses benefiting wealthier residents.

The first government urban renewal project in the United States took place in New York in 1937, when reformers tapped new federal funding available for public housing construction through the Wagner Act of 1937 and worked with the New York City Housing Authority to make room by clearing away slums.¹³ A decade later, Congress passed the Housing Act of 1949: a compromise between housing reformers and the real estate lobby. Under Title I of the Act, the federal government would reimburse municipalities for two-thirds of the cost of purchasing and demolishing property in so-called “blighted areas,” and issue loans to private developers for up to 90% of the costs of developing new buildings there.¹⁴

Like other cities, Boston jumped at the federal funding and drew up plans to demolish and rebuild several neighborhoods across the city. The first neighborhood to be cleared was the New York Streets area in the South End. In 1952, the Redevelopment Division of the Boston Housing Authority designated 24 acres as blighted and issued eviction notices for 858 families.¹⁵ Most relocated far from the South End. The community's

“As a whole, the urban renewal program executed by the BRA has never been, and was never intended to be, a neighborhood program.”

—Former State Representative Mel King in his book, *Chain of Change: Struggles for Black Community Development*, 1981¹



Boston's West End, home to 7,500 Bostonians, as it looked in the early 1950s. Charlestown and Bunker Hill are visible in the background.²

worst fears of displacement would come to pass as the project progressed; the BHA planned for fewer affordable housing units than it demolished, and rising housing costs displaced even more neighbors. By the time urban renewal was slated to expand to the rest of the South End, public sentiment had soured as community members mobilized to protest displacement. Eventually, the City backed off from the original plans and agreed to community demands for affordable housing, paving the way for the Tent City development, Villa Victoria, Castle Square, and Cathedral Housing. Many of the housing units came decades too late for the original tenants to return, but remain important anchors for affordability in the South End and Boston.¹⁶

In Boston, urban renewal powers were initially housed in the Boston Housing Authority, but quickly transferred to the BRA, which retains these powers to this day. Subsequent court cases reinforced the BRA's broad authority to exercise urban renewal powers without public oversight, relying on precedent that granted sweeping deference to redevelopment authorities to eradicate urban blight. Not every member of the judiciary agreed. In a scathing dissent to a 1965 court ruling, Justice Paul Grattan Kirk warned that the extraordinary urban renewal powers would not result in improved living conditions for residents in blighted areas, but rather, that “economically powerful private interests, shielded by [the court decision] and working behind the facade of a public authority which has the power of eminent domain, will be enabled to become the real beneficiaries of the exercise of that power.”¹⁷

By design, the creation of the BRA allowed the City to execute urban renewal on a larger and more destructive scale. The next neighborhood to face the wrecking ball was the West End. In the early 1950s, a tight-knit community of 7,500 immigrants and low-income and working-class Bostonians called the West End home. In April 1958, the BRA sent eviction notices to all of these residents.¹⁸ Despite numerous contentious public meetings, protests, and allegations of backroom deals, the BRA moved ahead with its plans and destroyed the West End to make way for high-rise luxury buildings, a new highway, and commercial and government offices.¹⁹ By the end of the decade, only a dozen buildings remained in their original state, and the initial commitment to build enough new affordable housing so residents could return fell far short. In one area of the West End, 2,700 families were displaced to build five



The scale of displacement and outrage after the BRA's redevelopment of the West End in 1958 became a national symbol of the overreach of urban renewal.³

high-rise apartment complexes with just 477 new apartments in total. The scale of displacement and outrage became a national symbol of the overreach of urban renewal.²⁰

The urban renewal toolkit—eminent domain, title clearance and site assembly, streamlined zoning powers, and exclusion from certain provisions of public procurement law—was designed to expedite economic development at the expense of community feedback and transparency. Even the creators of urban renewal in Boston understood these powers to be so far beyond the course of standard government authorities that most urban renewal plan areas included an expiration date. Yet over half a century later, of the twenty-one original urban renewal areas, sixteen are still active in Boston today—including the West End—covering over 3,000 acres of the city.²¹

Starting in 1965, the Mayor and City Council approved urban renewal plans that would sunset after 40 years. In anticipation of the 2005 expiration date, the BRA bundled remaining plans and secured a ten-year extension. The only oversight over future extensions would be approval from the state's Department of Housing and Community Development (DHCD) and no clear requirement for a City Council vote. In 2015, as another expiration loomed, the BRA met resistance and concerns from the public and several City Councilors about the agency's proposal for yet another 10-year extension.²² Under public pressure, the agency agreed to seek a Council vote for the extension and undertook a year of public meetings. The BRA offered three arguments for extension: 1) eminent domain could no longer be used to clear large swaths of land in today's political environment; 2) title clearance and site assembly powers can streamline processes

“ The zones, as currently delineated, make little sense for today’s Boston. ”

—Resident letter addressed to Mayor Martin J. Walsh urging elected officials not to renew the urban renewal area designation for the North End, September 2015²



The West End shopping plaza on December 22, 1966, after the destruction of the neighborhood (above).⁴ Below, Boston drew up plans to demolish and rebuild several neighborhoods across the city, including North Allston.⁵



in a historic city where parcels might not have complete documentation of the chain of ownership over time; and 3) the agency had no inventory of existing land disposition agreements (LDAs) –some of which contain covenants protecting affordable housing, open space, or other uses– and these protections would disappear if the urban renewal areas expired, without the opportunity to codify them in another way.²³

The BRA and City Council reached a compromise in 2016, granting the agency a six-year extension with several conditions. The BRA was tasked with compiling inventories of its LDAs and all agency-owned land, both long-overdue and necessary for the eventual dissolution of the urban renewal plan areas. The BRA also agreed to present biannual urban renewal progress updates to the Council. The DHCD added another condition in its final approval letter, requiring a filing halfway through the extension period detailing the BRA’s intentions for the conclusion of the period. At the September 2019 progress update before the City Council, agency representatives revealed that they notified DHCD that they would consider letting up to five of the smallest urban renewal areas sunset, but seek extension of the largest areas beyond 2022.²⁴ The agency also suggested they may seek expansion of certain plan areas, or even the creation of new ones.

Political Agency: The BRA Gains More Power

While most other cities dismantled their redevelopment authorities after federal funding for urban renewal dried up in the 1970s,²⁵ the BRA continued to consolidate political power. In 1978, four members of the BRA board—all holdover appointments serving at the pleasure of Mayor Kevin White—fired Director Robert F. Walsh for refusing to select White’s friend to develop the Harbor Hotel project.²⁶ A *Globe* editorial at the time lambasted the power play, which rendered the agency “an empty shell, operating at the whim of developers fortunate enough to tickle the mayor’s fancy with their proposals.”²⁷

The 1970s also saw the State Legislature create a suite of quasi-governmental and independent organizations to facilitate development in Boston: the Economic Development Industrial Corporation (EDIC)²⁸ and its affiliates, the Boston Industrial Financing Authority (BIDFA)²⁹ and the Boston Local Development Corporation (BLDC). These entities absorbed typical municipal powers over economic development, only to be later brought under the BRA’s control.

In 1987, the BRA severed its connection to the City of Boston's public budget approvals process. Then-BRA Director Stephen Coyle convinced Mayor Ray Flynn to "free the city of providing funds"³⁰ and allow the Authority to run entirely from its own revenue sources. Previously, the BRA had been required to appear before the City Council annually for budget approval. City Councilor Michael McCormack recognized the change in funding would have troubling implications for oversight.³¹ McCormack feared the BRA was "drifting off from the City Council," and warned that "once you lose control, it's hard to regain it."³²

Less than a decade later, the BRA was no longer self-sustaining financially.³³ The agency had sold off too much land and could not generate enough rent and other income from its remaining parcels. In 1993, Mayor Thomas Menino led an effort to secure state legislation enabling the BRA and EDIC to streamline operations as well as merge finances.³⁴ While preserving their legal status as technically separate entities, the merger enabled the EDIC's large income-generating property, including the Marine Industrial Park, to help balance the BRA's books.³⁵

Maintaining the BRA as a self-funded entity helped stave off City Council oversight. Unencumbered by a yearly budget review or allocation, the BRA funded its operating budget from income-generating property, as well as grants, real estate sales, equity participation, and interest. The vast majority of property income was derived from property that the BRA and EDIC held in place of the City, including money from leases, parking fees, and PILOT payments.³⁶

The BPDA: Continuing the Legacy of Unaccountability

In 2008, a study of public participation in the BRA's Institutional Master Plan review processes found that "members of the community are allowed to advise, but the BRA and institutional developers, and ultimately the Mayor, retain the right to make the final decisions regarding the development."³⁷ Over a decade later, little has changed.

In 2014, the City of Boston commissioned an initial independent audit of the BRA and EDIC from auditing firm KPMG, and in 2015, retained consulting firm McKinsey & Company to conduct a second, more thorough review.³⁸ These audits detailed many systemic problems, including a review of organizational health that placed the BRA in the "bottom-quartile compared to other public and private sector organizations, driven by low coordination/control, accountability, and culture/climate."³⁹ This culture

**“The Boston
Redevelopment
Authority is
encumbered by poor
organizational health
and a lack of clear
vision and direction,
with disempowered
employees working
in a hierarchical
and siloed culture,
according to the
findings of an
operational review
from management
consulting firm
McKinsey & Co.
released this
week.”**

—*Boston Business Journal*,
May 2015³

“The BRA knew what they were doing [in the West End]. We didn’t. And it was too late. And that’s what gets me peeved...You can change the name of a skunk. Well once you smell it, that’s a skunk. No matter what you call it.”

— 90-year-old West End native to WBUR, August 2019⁴



Neither the residents of Boston nor their elected legislators have direct oversight over development and planning decisions.⁶

included limited performance monitoring; a hierarchical, siloed climate with a lack of employee empowerment; and low accountability.

The audits revealed a dysfunctional bureaucracy marred by a lack of critical staff, poor morale, and an inability to manage its property.⁴⁰ Specifically, the Authority’s property management division had no “comprehensive, accurate list of its real estate assets,” nor “a central database of all its current lease agreements or [an ability to] track lease expirations or re-negotiation triggers in real time.”⁴¹ The audit also highlighted how little the BRA was engaging in comprehensive planning, lagging behind peer cities significantly in this regard.⁴²

No significant, systemic reforms followed the audit. The most notable change was a rebranding effort in 2016 to create the umbrella title of “Boston Planning and Development Agency (BPDA)” to describe the combined BRA and EDIC. Design firm Continuum received a \$670,000 contract payment for the rebranding project, which, in addition to the new name, also included a new logo, color scheme, and Twitter handle.⁴³ However, both the BRA and EDIC continue to retain their original names in legal documentation.

A Black Box Approach

Leaving large-scale planning and development policy to a self-funded agency answerable only to the Mayor has allowed well-connected insiders to shape the future of Boston with little transparency or accountability. Neither the residents of Boston nor their elected legislators have direct oversight over development and planning decisions. Accordingly, the public must struggle to understand the deals the BPDA negotiates with developers, how those decisions are made, and whether the commitments made by private entities are upheld.⁴⁴ The expediency that the BPDA offers well-connected developers looking to maximize short-term gains comes at the expense of a broader vision to benefit the city as a whole and future generations.

The BPDA currently facilitates review of individual projects under Article 80 of the Zoning Code, evaluating design, density, use, and physical and social impacts for all development projects in the City of Boston. These projects include proposals for residential, commercial office, hotel, retail, and research and development uses. Article 80 applies to 1) large projects, greater than 50,000 square feet; 2) small projects, between 20,000 and 50,000 square feet; 3) planned development areas (PDA), for

project areas larger than 1 acre; and 4) institutional master plans (IMP), or long-term planning projects relating to academic and medical campuses.

All four types of Article 80 review involve a public comment period and at least one community meeting. However, both BRA audits highlighted a general lack of transparency; even developers did not always understand the process. In practice, project managers had no common procedure for handling development review. Some included neighborhood planners in the review, while others did not. Some used electronic document storage, while others were depending entirely on paper. Many planners relied on “unwritten rules”—rules that only certain, favored developers understood.⁴⁵ This gives well-connected developers an inside track to navigate the opaque review process and the particular inclinations of individual staff members at the agency. Development approvals must be transparent, responsive to public input, and based on clear rules to become fair and consistent.

Part of the approval process includes addressing potential social and environmental impacts of projects by negotiating mitigation provisions between developers and members of the affected community. This includes linkage (fees paid by developers to fund affordable housing and workforce development) and the inclusionary development policy (IDP), as well as any tax financing, including Chapter 121A and 121B agreements and tax increment financing (TIF) agreements. The current lack of transparency around these deals makes it difficult to determine with certainty how many developers are living up to their end of the

Many planners relied on “unwritten rules”—rules that only certain, favored developers understood.

ST. GABRIEL’S

The BPDA Board of Directors approved the redevelopment project at 159-201 Washington Street (an area also known as St. Gabriel’s) on November 16, 2017.¹ This followed months of communicated opposition to the project from residents of the Allston Brighton area and other stakeholders. Just one day earlier, eight members of the Impact Advisory Group (IAG) for the project submitted a letter detailing a series of issues and giving support to the project only on condition of their suggested changes. The other two IAG members opposed the project entirely. The District

City Councilor and State Representatives also expressed opposition in a joint letter, urging the BPDA to address valid community concerns, including the need for more affordable housing and to address how the additional density would impact the transportation system.²

Instead, the Cooperation Agreement approved by the BPDA Board failed to propose concrete solutions to any of these issues. In this case and others, there is no clarity about whether and how the community review process provides meaningful opportunity to shape development decisions.

bargain, and whether the affected communities actually benefited from the project. In one example, a sizable lease required equity participation paid out to the BRA upon refinancing of the property. Due to inadequate monitoring, the property had been refinanced twice without the BRA collecting what amounted to nearly \$1 million in payments.⁴⁶

The BPDA also does not disclose information regarding its tax agreements beyond posting scanned copies. Among the fifty most populated metropolitan regions in the United States, Boston is one of just 10 cities that does not provide online disclosure of municipal subsidy programs.⁴⁷ This is especially problematic, as the BPDA and the City rely on tax breaks authorized under Chapters 121A and 121B of Massachusetts state law. These tax breaks do not require City Council oversight, and no information regarding compliance is publicly available. Although tax increment financing (TIF) agreements do require City Council approval, the City only has six active TIF agreements, and more than one hundred 121A and 121B agreements.⁴⁸ Even the TIF agreements lack current compliance information.

For large development projects, the current mechanism for accountability is cooperation agreements shaped through the recommendations of Impact Advisory Groups (IAGs), comprised of nominated community members. IAGs advise the BPDA on strategies to mitigate the social and environmental impacts of projects reviewed under Article 80. Past IAG suggestions for mitigation have included donations to community organizations or improvements to public spaces. Cooperation agreements are not standardized, however, and sometimes benefit the preferred causes of individual IAG members.⁴⁹ Moreover, the agreements are not publicly reported or tracked, leaving community members in the dark with respect to who serves on IAGs, the full extent of commitments secured, and whether the developers follow through on their promises.

Once these agreements are secured, the BPDA's Compliance Department performs three functions: 1) reviewing, tracking, and monitoring the progress of commitments made for privately funded development projects subject to the Article 80 process; 2) ensuring general contracts comply with wage standards and with the goals outlined in the Boston Residents Jobs Policy; and 3) overseeing affordability restrictions on thousands of privately owned housing units throughout the City.⁵⁰ Although the department does not oversee all developer requirements, it has failed to consistently ensure compliance with those it does oversee. This system leaves open the door for developers to make commitments that may not be enforced. In extreme cases, unenforced obligations could be understood as a backdoor subsidy. Even where noncompliance is discovered, the fines imposed on developers have failed to disincentivize bad actors, because the cost of paying fines for violations is less than the cost of meeting the commitments.⁵¹

Through its urban renewal powers, the BPDA can sidestep the transparency requirements of Chapter 30B state procurement law. The requirements in Chapter 30B aim to save money, as well as promote competition, fairness, integrity and public confidence in government by setting standards for buying and selling services and property.⁵² However, state law exempts urban renewal agencies when "engaged in the development and disposition of said real property in accordance with a plan approved by the appropriate

JERSEY STREET, FENWAY

In 2013, the BRA exercised its eminent domain powers once again. Under the umbrella of a “demonstration project,”³ the agency moved to permanently take a portion of Jersey Street with the intent to sell the rights to the Red Sox.⁴ Under state law, a redevelopment agency may “develop, test and report methods and techniques and carry out demonstrations for the prevention and elimination of slums and urban blight.”⁵ A private party filed suit, claiming that the easement should have been put out for public bidding, but the Supreme Judicial Court ruled that the BRA was exempt from state transparency laws.⁶ It was well-

established that the BRA is exempt from Chapter 30B when exercising its urban renewal powers as part of a “plan,” but Fenway was not in an urban renewal plan area. The court decision reinforced that the BRA could create a separate demonstration project to exercise urban renewal powers. As a result, even if all of the current urban renewal plan areas were ended, there would be no clear barriers to the BRA’s continuing to exercise its urban renewal powers in the form of other “demonstration” projects. The BRA will retain these extraordinary and overreaching powers, possible to be used anywhere in the city.

authorizing authority.”⁵³ While this power appears to be tied to urban renewal plan areas, the BPDA has expanded their use of this power to cover other geographic areas as well through “demonstration projects”—an exception in state law that allows redevelopment agencies to “develop, test and report methods and techniques and carry out demonstrations for the prevention and elimination of slums and urban blight.”⁵⁴

This ad hoc, black-box approach to economic development corrodes public trust and undermines the City’s ability to deliver on a long-term vision for shared prosperity. With a more standardized, streamlined, and transparent process, community members would know what to expect from developers and how to meaningfully engage in the process; residents would be equipped to hold city officials and developers accountable; and developers and businesses would benefit from predictability and a clear understanding of process, including expected project benefits.

A System of Influence Driven by Special Approvals

The lack of a broader vision also leaves Boston without clear rules for development to serve community and economic needs. Because the BPDA does not engage in citywide master planning, the City has no

“ [The BRA] is making so much money now they’re independent, and when they become independent problems can crop up.”

—Former City Councilor
Michael J. McCormack
in *The Boston Globe*,
December 1988⁵

“ Right now we send a lot of things to the [ZBA]. About half of the applications don’t meet zoning, but they almost always get approved by the board.”

– Deputy Director for Regulatory Reform of the BRA to *The New Boston Post*, May 2016⁶



*The City of Boston.*⁷

mechanism for integrating citywide needs into the zoning code. Boston last overhauled its zoning code in 1964, and district-specific initiatives have driven subsequent updates.⁵⁵ Thanks to its outdated zoning code, Boston manages development through a hodgepodge of piecemeal measures with the potential for abuse: zoning variances issued by the Zoning Board of Appeals (ZBA) and Planned Development Areas (PDA) approved by the BPDA board.⁵⁶

For smaller projects, the process is even more backward: the proponent files with the Inspectional Services Department to receive a denial based on zoning code violations, then petitions the seven-member ZBA to grant a special exception in a hearing. In 2016, the BPDA's Deputy Director for Regulatory Planning & Zoning described the extent to which this process is dependent on special approvals: “Right now we send a lot of things to the [ZBA]. About half of the applications don’t meet zoning, but they almost always get approved by the board.”⁵⁷ The same BPDA official admitted the glaring need for zoning reform, “What we want as a city is not reflected in zoning, and we want it to show what our values are.”⁵⁸

Weighing each proposal as an individual exception amounts to a lengthy, costly, unpredictable, and inconsistent process. During ZBA comment periods, neighborhood residents often express frustration with the need to mobilize community and political support for each project in order to be heard. As one neighborhood leader observed:

“[Y]ou can go to the city’s hearing notices, but those are only published five or seven days before a hearing, which is an absurd amount of time for a neighborhood to be notified, to have time to call their councilors or notify other neighbors, write up statements and do research . . . Right now, much could get by us unless you have someone who is dedicated to check the damn thing every day.”⁵⁹

Developers, on the other hand, face uncertainty when purchasing a parcel requiring a variance, as well as an unpredictable timeline for community engagement. Recognizing the value of familiarity with ZBA practices and personal relationships with its members, developers feel pressure to hire the right consultant, attorney, or architect to appear before the board.

A system of special approvals driven by influence disadvantages those without resources. Moreover, it creates both the perception of and potential for corruption. In September 2019, a former BPDA employee plead guilty to federal bribery charges, after he admitted to taking money

in exchange for promising to influence a ZBA member's vote on a zoning variance extension.⁶⁰ The City launched two reviews: a general review of cultural and internal processes at the ZBA, as well as a specific inquiry into current board members' involvement with the development in question.⁶¹ One board member resigned prior to the next ZBA meeting after the charges were announced, and the investigations are ongoing.⁶²

Yet the problem goes beyond rogue criminal activity. Without comprehensive planning and zoning to set clear, community-informed rules for development, Boston is setting citywide development policy through case-by-case exceptions. When the ZBA serves as the city's de facto planning body, the stakes of each vote are high enough to incentivize corruption, preventing equitable access to the benefits of development. Yet the ZBA is forced to take on this role because the agency tasked with planning, the BPDA, has abdicated its citywide planning responsibilities, leaving zoning out of sync with city needs.

The BPDA oversees a separate review process for parcels one acre or larger with a Planned Development Area (PDA) designation. A PDA is a zoning overlay district established by Article 80 of the Boston Zoning Code. PDAs must be approved by the BPDA, then the Boston Zoning Commission and the Mayor.⁶³ Rather than conforming to specific zoning requirements, these overlay districts adhere only to the BPDA's "general planning goals" for the area.⁶⁴ As long as they commit to public benefits the BPDA deems sufficient, developers can flout the underlying zoning code.

Through exceptions to zoning granted by the ZBA or spot-zoning through PDAs by the BPDA, these special approvals drive up land values for specific parcels through a haphazard process and promote speculation by developers who aim to leverage influence to capitalize on investments. In July 2019, a parking lot in the Back Bay covering just one-third of an acre sold for \$40 million.⁶⁵ If this parcel receives the significant special approvals necessary for development, it will drive up land values and costs for the surrounding neighborhood.

A Barrier to Addressing Urgent Community Needs

The BPDA's management and structure are not only insufficient to meet community engagement needs across the city, but are exacerbating

“Outright bribery cases are rare in City Hall, but a web of politically-connected lawyers ushering projects through the city’s approval process, and the construction firms, architects and real estate developers who depend on them play an outsized role in the decision-making processes that govern what gets built in Boston.”

*—The Bay State Banner,
September 2019⁷*

“I grew up in Mattapan. I have a daughter who’s a Boston school teacher. You want your own children to be able to live here, but you’re seeing people move out of the city to find affordable homes.”

- A Mattapan organizer to *The Bay State Banner*, January 2019⁸

Boston’s urgent crises of affordability and inequality, traffic and congestion, and climate vulnerability.

Affordability and Inequality. In 2017, Boston was ranked the sixth most unequal large city in the country based on household income.⁶⁶ Wealth inequality overlaps with racial inequality; the median net worth of White households in Boston is \$247,500, compared to \$8 for Black households.⁶⁷ The racial wealth gap reflects disparities in home ownership: 79% of White residents are homeowners, compared to one-third of African-Americans, fewer than one-fifth of Dominicans and Puerto Ricans, and half of Caribbean-Americans.⁶⁸

The cost of owning a home has increased year after year in Boston. From 2007 to 2017, average home prices rose by 61%,⁶⁹ boosting prices to a new all-time high that is 48% higher than the previous peak home price. Nationally, average home prices were just 3% above the previous peak.⁷⁰ It is unlikely that homeownership trends will change without intervention.

The situation for renters is even more untenable. Boston is the third most expensive city in the country for two-bedroom apartment rents and ranks

TABLE: Comparison of the value of assets held by white and nonwhite households

Comparison of the Value of Assets Held by White and Nonwhite Households. Table from “The Color of Wealth in Boston,” A Joint Publication of Duke University, The New School, and the Federal Reserve Bank of Boston.⁸

	Liquid Assets		Total Assets	
	Median amount (U.S. dollars)	Nonwhite household percentage of white household liquid assets	Median amount (U.S. dollars)	Nonwhite household percentage of white household liquid assets
White	25,000	100.0	256,500	100.0
U.S. Black	670	2.7**	700	0.3**
Caribbean Black	3,500	14.0*	12,000	4.7***
Cape Verdean^b	150	0.6**	---	---
Puerto Rican	20	0.1**	3,020	1.2***
Dominican	150	0.6**	1,724	0.7***
Other Hispanic	700	2.8**	15,000	5.8***
NEC^a	4,000	16.0***	18,000	7.0***

Source: NASCC survey, authors’ calculations

Note: The difference in the percentage of nonwhites as compared with the percentage of white households was statistically significant at the ***99%, **95%, *90% level.

a The “not elsewhere classified” (NEC) category includes mainly respondents that chose more than one race.

b Values for Cape Verdeans were not calculated because sample sizes were too small.



Tenants, activists, and allies march with City Life/Vida Urbana in the Wake Up the Earth Parade in solidarity with tenants facing eviction near Washington Street, May 2017.⁹

as the seventh most expensive city in the world.⁷¹ Over half of Boston renters pay more than 30% of their monthly income toward rent, which the federal Department of Housing and Urban Development (HUD) considers “rent-burdened.”⁷² In order to afford a two-bedroom apartment in the Boston area, a renter must earn at least \$85,000 annually.⁷³ However, the median household income is \$77,800 in the Boston area; \$58,500 within the city proper; and \$32,300 in the lowest-income neighborhood, Roxbury.⁷⁴ Fewer than one-quarter of renters in the Boston area earn enough to consider purchasing a home in the city.⁷⁵

Although the BPDA no longer directly evicts residents as it did during the height of urban renewal, the agency’s policies and practices—including its short-sighted planning and outdated zoning—accelerate gentrification and displacement in the city. Take for example how the City decides what type of housing to build and where. In 2018, Boston pledged to build 69,000 new housing units by 2030, based on population projections and the City’s progress in constructing new housing.⁷⁶ As of September 2018, 27,513 units had been permitted, but fewer than 8% of those units (2,085) were low-income restricted rental housing units, and only 30% were middle-income units.⁷⁷ For extremely low income (ELI) households—that is, households earning 30% or less of the area median income (\$34,000 for a family of four)—the affordable

Boston is the third most expensive city in the country for two-bedroom apartment rents and ranks as the seventh most expensive city in the world.

“We’re not against new development but you have to have balance. The city can’t function in a healthy way if you don’t have balance.”

-A Mattapan neighborhood activist to *The Bay State Banner*, January 2019⁹



Dorchester Not For Sale spoke out against plans for a 488-unit development near Fields Corner, February 2019.¹⁰

housing shortage is even more acute.⁷⁸ In 2016, nearly all ELI households were “rent-burdened,” spending more than 30% of their income on gross rent. More than half of these households spent more than 50% of their income on gross rent.⁷⁹ Data from that same year show that there was fewer than one affordable and available unit for every two ELI households,⁸⁰ a shortage of 141,291 units total.⁸¹ The situation is also compounded by other issues that should be addressed through long-term planning, such as lack of reliable transportation.

Instead of building the affordable housing its residents need, the City is encouraging a luxury housing boom.⁸² Of the twelve highest-priced and presently occupied luxury housing developments constructed in Boston over the last decade, the average condominium price is over \$3 million, a price 50 times higher than Boston’s median household income.⁸³ This boom is disproportionately benefiting wealthy households—in 2015, in the neighborhoods with the greatest density of new luxury housing (Back Bay, Downtown, Fenway and the South Boston Waterfront), there were no home mortgage loans made to Black borrowers.⁸⁴ Many of the beneficiaries of this building boom also do not live in Boston: of the 1,805 highest-priced luxury units in the city, 64% do not claim a residential exemption, indicating that these units are not treated as primary residences.⁸⁵

While Boston’s world-class universities have experienced unprecedented growth in enrollment, on-campus housing has not expanded to accommodate this growth. As a result, students and young professionals compete with neighborhood residents for affordable one-bedroom and studio units, and outbid families for what was previously multi-bedroom family housing.

Likewise, residents of traditionally low-income and ethnic neighborhoods are finding themselves priced out of their own communities. Boston has accelerated the gentrification rate of its historic communities, forcing low-income residents and communities of color into competition for the city’s limited affordable housing supply. Many tenants who live in barely affordable housing situations feel no choice but to accept rent increases or unhealthy living conditions, fearing retaliation from landlords who can easily find new tenants and knowing just how difficult the search for a new affordable unit would be.⁸⁶

As families are forced to relocate outside the city, Boston has seen a downward trend in its population of children and families, which are key demographics for city growth and success. In 2000, children under 18 made up 19.8% of the city's population, a number that has dropped by more than 11% to 16.3% in 2017 as the general population has grown.⁸⁷ This migration trend, in turn, compounds the city's traffic and climate challenges, as more commuters embark on longer commutes back to job centers in single-occupancy vehicles.

Traffic and Congestion. The growth in population and development has not been supported by investments in infrastructure to accommodate this. Boston suffers from the worst congestion in the nation, and the eighth worst in the world.⁸⁸ In 2018, Boston drivers wasted 164 hours—almost a full week—sitting in traffic, and the majority of residents report that congestion has worsened over the last five years.⁸⁹ This creates large economic impacts for the region: 40% of residents have been late to work due to traffic, and one out of every seven residents has considered changing jobs for a better commute. In total, the Boston area sacrificed \$4.1 billion in lost productivity due to congestion in 2018.⁹⁰ The region's public transportation woes are compounding this problem as continuous derailments, safety issues, general unreliability, and increasing prices are discouraging commuters from using public transit.

While other cities across the country have worked to improve mobility, Boston has fallen behind in transportation planning, missing out on integrating basic transportation planning with development. When considered at all during the development approvals process, traffic is only addressed within the confines of individual projects and not through the lens of broader impacts on the MBTA or traffic load across the city. This project-by-project focus is the wrong scale for addressing a looming citywide and regional transportation crisis.

Boston should consider having developers pay into district mitigation funds rather than commit to individual projects. This would allow the city to direct money towards where it is most needed and pool money to take on bigger projects that are too expensive for one developer—as examples, fixing dangerous intersections or installing Bus Rapid Transit lanes. Another issue is that currently issues like snow removal are divided amongst various entities—with one responsible for the streets, another responsible for bus

“This is not for us. You are basically telling the community that you don't want us here.”

- Dorchester Activist to
The Bay State Banner,
February 2019¹⁰



Seaport Boulevard as captured by Instagrammer @Libjammin during the bomb cyclone on January 4, 2018.¹¹

stops, and yet another for sidewalks. If developers paid into a pool, the city could better allocate those contracts. Lastly, developers should be charged with promoting the use of transit, such as by requiring corporate tenants to provide before-tax or even free MBTA passes.

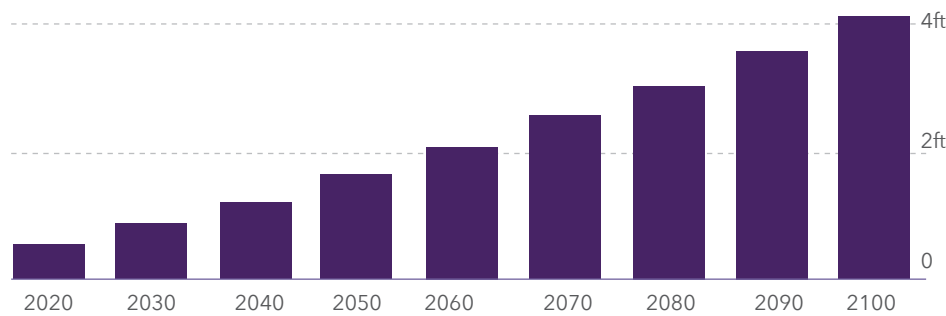
Climate Vulnerability. The impacts of the housing and climate crises are concentrated on low-income communities of color. Without planning explicitly for affordable, thriving neighborhoods in partnership with frontline communities, the very residents who will bear the brunt of the city's housing and climate crises are those who can least afford to deal with the impacts.

New England is one of the most vulnerable regions in the world to the devastating impacts of climate change. In 2018, Boston counted 19 high-tide flood days, more than any other city in the United States,⁹¹ a trend projected to continue in 2019.⁹² 2018 was also Boston's wettest year on record, with 61 inches of rain—a number that's expected to increase—making inland flooding more frequent.⁹³ By 2100, scientists predict that Massachusetts may have to withstand 40 high-heat days per year—that is days with a heat index or "feels-like temperature" of 90 degrees or higher—compared to the current average of 11 high-heat days per year.⁹⁴

Despite the overwhelming risk and urgency, the BPDA has overseen a development boom in some of Boston's most vulnerable areas. For example, the South Boston Waterfront is the most vulnerable to flooding, with nine inches of sea-level rise expected between 2030 and 2050, and three feet projected by 2070.⁹⁵ In January 2018, Boston experienced a "bomb cyclone" storm that left parts of the Seaport neighborhood under a foot of water. Yet nearly 3 million square feet of office space was constructed between 2014 and 2018, the most of any neighborhood.⁹⁶ Though individual buildings have adopted resiliency measures, such as placing the mechanical equipment above floors prone to flooding, there are still no district-wide measures to guard infrastructure or plan for emergencies.⁹⁷ Experts have observed that no other American city has left so much expensive new infrastructure and construction exposed to climate change.⁹⁸ The BPDA administers a Resiliency Checklist for large developments, but the process lacks the accountability that formalized and codified regulations would provide.

Many other parts of the City are vulnerable to climate change as well. By 2050, 7% of the city's land area is expected to be vulnerable to a

GRAPH 1: Projected Sea Level Rise in Boston's New Seaport District



Projected Sea Level Rise in Boston's New Seaport District. Chart via the National Oceanic and Atmospheric Administration, 2019.¹²

Data: National Oceanic and Atmospheric Administration
Reflects intermediate-level probability of sea level changes vs. 2000.

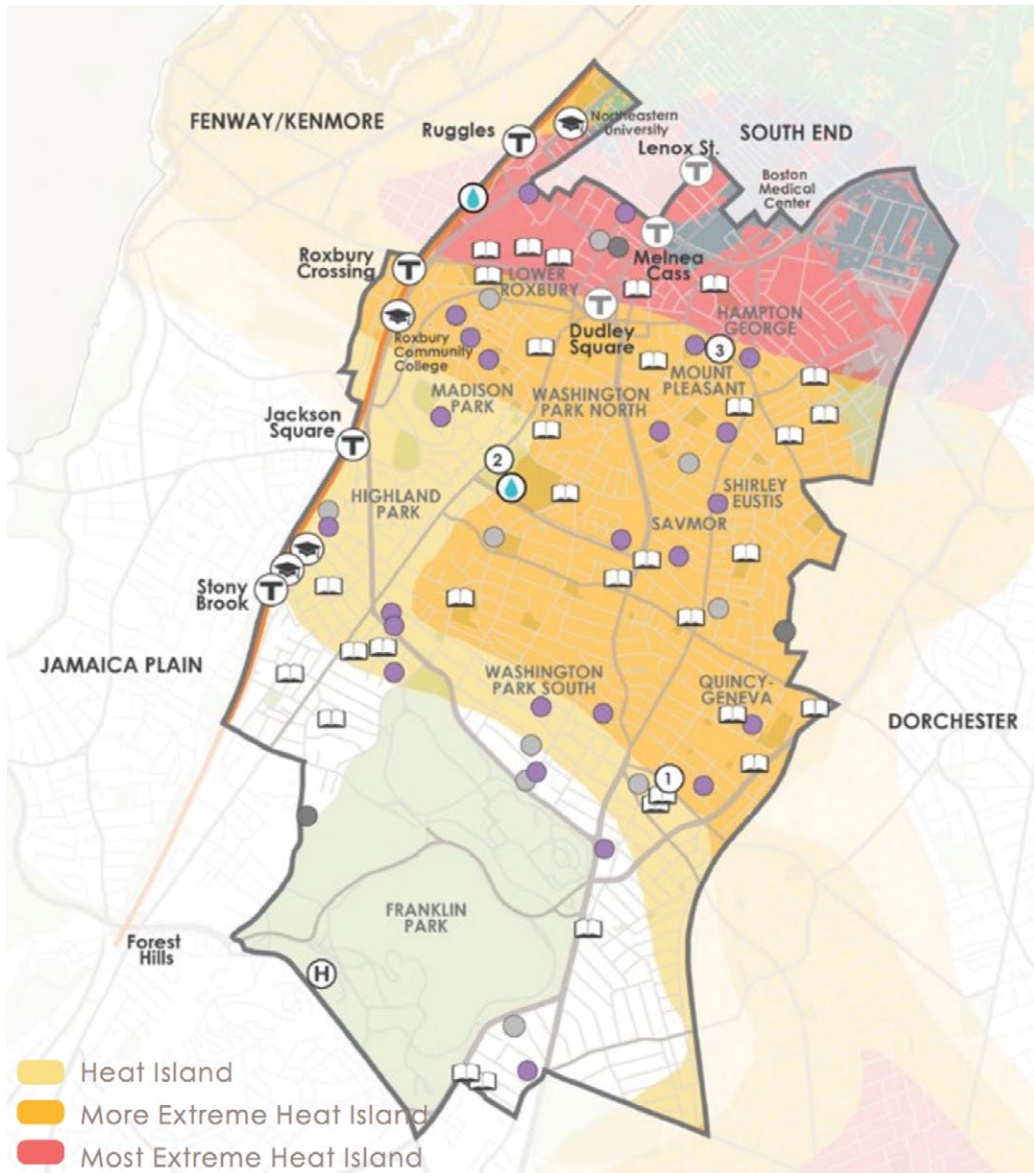
10-year, 24-hour storm, and 9% by the end of the century.⁹⁹ Urban Heat Island effect (when cities experience higher temperatures due to more pavement and more human activity than suburban and rural areas) and the spreading of extreme heat effects are expected to double median heat-related mortality rates for Boston over the next decade, and more than triple heat-related mortality rates over the next three decades.¹⁰⁰ The impacts will be concentrated in low-income communities of color such as Roxbury, which already has the highest summer temperatures and a high proportion of seniors, children, and medically vulnerable residents.¹⁰¹ Increases in extreme heat will also substantially impact infrastructure, causing expansion, buckling, and damage to roads and rails.¹⁰²

These effects can be mitigated by natural, open spaces and an increase in urban tree canopy, areas in which Boston is falling behind other cities. Unlike Boston, most of the state's other coastal municipalities have adopted a wetlands ordinance to ensure that planning and development integrate natural resource areas and mitigate climate impacts.¹⁰³

The challenges facing Boston are serious and urgent, and minor revisions to the current development process and policy are not enough. There must be a systemic overhaul that reorients structures of power to benefit and empower residents rather than well-connected developers.

“We’ve known displacement was coming since we saw development come to the waterfront in 2013. The concern is, are we creating housing for the people who live here, or the people who are moving us out?”

—East Boston Activist to
The Bay State Banner,
June 2019¹¹



Increases in extreme heat will substantially impact Boston's heat islands, displayed here from Climate Ready Boston.¹³

A VISION FOR PLANNING AND DEVELOPMENT

“The agency charged with overseeing the real estate boom coursing through Boston is a dysfunctional bureaucracy, its system for reviewing projects erratic, with just a few powerful staffers deciding how new buildings will look using ‘unwritten rules,’ according to a highly critical audit being released by City Hall Thursday.”

—*The Boston Globe*, July 2015¹²

For decades, the history and structure of the BRA/BPDA has deprived Boston of comprehensive, democratic, sustainable city planning. This unique consolidation of powers into a quasi-public agency is preventing Boston from proactively meeting community needs, and undermining the civic empowerment needed to build a city of shared prosperity.

1. Setting Clear Rules to Match Community Needs

CITYWIDE PLANNING

Urban planning is the setting and coordination of land uses throughout a city, from the size and type of buildings allowed to the infrastructure necessary to support healthy communities. For municipalities of all sizes, planning can afford residents the opportunity to shape the built and natural environment around them, while providing a high quality of life for all. Comprehensive planning helps cities proactively address complex challenges and long-term needs, and effective planning processes strengthen communities through civic engagement.

To reach these goals, planning must be more than a temporary, high-level exercise. Boston’s last official citywide master plan was adopted by the BRA on March 11, 1965.¹⁰⁴ In 1993, Mayor Menino launched a citywide planning effort called “Boston 400” to set a vision for the 400th anniversary of Boston’s founding in 2030, but no plan was ultimately published.¹⁰⁵ In July 2017, Mayor Walsh announced “Imagine Boston 2030,” described as “Boston’s first citywide plan in 50 years.”¹⁰⁶

Yet for all the fanfare surrounding Imagine Boston 2030, the document fails to meet the requirements of a master plan as defined in Massachusetts state law. Most notably, Imagine Boston 2030 lacks an implementation program, which should include: details and timelines

for the “specific municipal actions necessary to achieve the objectives of each element of the master or study plan,...scheduled expansion or replacement of public facilities,...anticipated costs and revenues associated with accomplishment of such activities,...[and] the process by which the municipality’s regulatory structures shall be amended so as to be consistent with the master plan.”¹⁰⁷

In recent years, the BPDA has grown its planning staff and launched smaller-scale planning initiatives in several neighborhoods. However, these efforts are not yet reflected in the outdated zoning code, nor have they reduced the number of special approvals sought from the ZBA. Audit after audit, the agency has lost the trust of the community to carry out the planning process with competence and integrity.

In most other major cities, comprehensive master planning is an ongoing process. Entire teams focus on this work, often supported by a master plan advisory committee or consultant.¹⁰⁸ The 2015 BRA audit highlighted how far Boston lags behind Philadelphia, Seattle, San Francisco, and Vancouver in planning. Each of these peer cities has an overarching, long-term, master plan updated regularly: Philadelphia aims to update its plan every five years and currently has a vision for 2035; Seattle is also planning for 2035 with annual revisions; San Francisco upholds requirements to update various components of their plan according to different schedules; and Vancouver is in the process of planning for 2050. All of these cities’ master plans track concrete metrics, including jobs per household, healthy food access, and new housing units added, and outline clear plans for implementation.¹⁰⁹

Through master planning, residents can shape the growth of their neighborhood, as well as the city as a whole. Planning can empower communities to bring their ideas and vision to the table. For example, Indianapolis—a

CHARLESTOWN MASTER PLAN

Charlestown has seen a significant increase in development in recent years, with projects including the 1.7M square foot Hood Park redevelopment and the 3.3M square foot One Charlestown Project. These changes have sparked resident concern over the lack of a neighborhood master plan that ensures any new commercial development fits with the residential core, especially with respect to the sale of public parcels. Twenty-two neighborhood groups mobilized to collect 1,600 signatures,⁷ and the Charlestown Preservation Society (CPS) sent a letter to BPDA requesting a neighborhood master plan. In July, CPS announced that the BPDA and the Mayor had agreed to a comprehensive Charlestown Master Plan. Shortly afterwards, the agency issued their own announcement indicating the study would only include Rutherford Avenue and the Charlestown

perimeter—a proposal that advocates had rejected as insufficient months before. Interim Planning Director Lauren Shurtleff stated, “They want to use the term ‘Master Plan’ and we don’t do Master Plans.”⁸ In late August, neighbors in Charlestown decided they no longer could trust the city to undertake Master Planning and announced plans to seek mitigation money to hire a private planner who would “cooperate with BPDA” to run the process.⁹ The neighbors reiterated their belief that the BPDA is “too narrow of an organization to be able to address issues like the schools” which are necessary for a Master Plan.¹⁰ The current system places the burden on residents to fight for and sometimes even fund a critical government function—ensuring responsible, sustainable growth of communities that takes all quality of life issues into account.

city of just more than 850,000 residents—conducted a master plan process in 2014-2015 that reached more than 100,000 residents through community engagement initiatives, which included a “People’s Planning Academy.”¹¹⁰ The city hosted six training sessions on weekdays and weekends, both in-person and online to ensure all residents could be active participants.¹¹¹ In stark contrast, about 15,000 residents participated in the Imagine Boston 2030 process.¹¹²

UPDATED ZONING

Although comprehensive planning is crucial, it must be codified into zoning to be binding. In California, for example, cities are legally required to update their zoning codes to match the city’s master plan—a provision that makes planning meaningful and actionable.¹¹³

The BPDA’s purview includes a charge to help “shape the zoning code” through petitioning the Boston Zoning Commission to adopt changes that reflect neighborhood planning goals; submitting recommendations concerning regulations proposed to the Zoning Commission by other parties; and reviewing “development projects which are so large or unique that they cannot be reasonably approved using the existing zoning code.”¹¹⁴

In the 1980s, Mayor Flynn launched an initiative to rezone the entire city and expand citizen participation in the development process.¹¹⁵ The rezoning effort was intended to assist with the regulation of new development while also preserving the character of specific neighborhoods.¹¹⁶ To that end, rezoning was conducted on a district-by-district basis. A planning representative from the BRA met with neighborhood groups and translated their input into zoning and mapping recommendations.¹¹⁷ These rezoned districts were subject to district and sub-district level amendments by the Zoning Commission, as well as citywide zoning amendments.¹¹⁸ Since then, rezoning has occurred at an even narrower scale, focusing on specific corridors or sections of a neighborhood.¹¹⁹

Updating Boston’s zoning code to reflect community needs is necessary for predictability and consistency. To be sure, there will always be certain projects that require special exceptions. However, with a more current zoning code reflecting community feedback, variances would be the exception—not the norm.

EFFECTIVE AGENCY STRUCTURE

The BPDA’s organizational structure also differs from redevelopment agencies in peer cities. In San Francisco, the planning commission is a standalone city agency. In Seattle, Vancouver, and Philadelphia, planning is a department within the City governance structure. In these peer cities, the size of the planning department ranged from 20 employees (Philadelphia) to 89 employees (San Francisco).¹²⁰ Planning organizations typically consist of three to five divisions, including one dedicated to master planning.

Furthermore, peer cities often combine permitting and inspection. Under Boston’s archaic system, these functions are spread across multiple agencies—the BPDA, the ZBA, the Inspectional Services Department (ISD)—requiring multiple layers of approvals and introducing unpredictability at every step. Often a project will undergo an intensive community process to secure BPDA and ZBA approvals, only to be caught up waiting for final building permits, inspections, or construction approvals from other City agencies. Boston

should incorporate meaningful community participation to shape clear rules, then streamline the inspection and permitting process for projects that meet those rules.

Not only is the BPDA's authority, behavior, and structure anomalous among major American cities, it is also unusual within Massachusetts. Other cities and towns have planning boards established under state law.¹²¹ These boards fulfill planning and permitting approval functions. Typically, they are comprised of five, seven, or nine members who serve three- or five-year staggered terms, appointed by the Mayor and confirmed by the City Council. These boards work with their planning departments to meet two major obligations: initiating amendments to the local zoning by-laws or ordinances and creating master plans.¹²² When Boston's planning board was dissolved in 1960 and its accompanying functions transferred to the BRA in order to streamline urban renewal, Boston became the only municipality in Massachusetts to have its planning board powers removed from oversight of the City's legislative branch, the City Council.¹²³

In the wake of urban renewal, local activists recognized how the BRA's takeover of planning functions hindered community participation. In response, they created their own planning resources. Community organizations such as the then-newly created Action for Boston Community Development (ABCD) formed area planning councils to amplify resident voices. Other advocates formed the Urban Planning Aid in 1965 to help arm residents with planning expertise to fight the proposed highway—and they won.¹²⁴

Taking inspiration from these grassroots efforts, Boston should prioritize citywide master planning that is community-focused, accountable, and comprehensive. To most effectively accomplish this, Boston should remove planning board powers from the BPDA and establish an independent planning board and planning department subject to full public accountability. Given Boston's unique size and role in the state, the City's planning board need not and should not mirror every aspect of other Massachusetts municipalities' boards. But its structure should draw on best practices from cities in Massachusetts and peer cities nationally. For example, Boston's new master planning staff could sit within a larger planning division, while maintaining the existing community planning, infrastructure, and environmental planning groups.¹²⁵ The City can also immediately establish a master planning advisory committee to oversee a strategic and comprehensive master plan that incorporates the voices of the people.

2. Providing Transparency

Because the BPDA has not undertaken comprehensive master planning to inform citywide zoning code updates, it is nearly impossible to propose financially feasible projects that are “as of right”—that is, allowable under the current zoning rules without special approvals. Instead, each proposal undergoes a time-consuming, opaque review benefiting applicants with special relationships and knowledge, and disadvantaging those without institutional influence or resources to hire consultants and attorneys. By engaging community in setting regulations for how land should be used, then codifying updated zoning code provisions *before* a developer gets involved, Boston can move to a development review process that is transparent, consistent, and more efficient—saving time and resources for all stakeholders and ensuring that projects fit neighborhood needs.

PERMITTING AND APPROVAL

The 2015 BRA audit recommended taking steps to address major lapses in transparency, including: publishing annual audited financial reports, outlining detailed requirements for Article 80 design review,¹²⁶ and creating systems for tracking and maintaining data on Article 80 project reviews, ZBA reviews, and agency-owned real estate/leases.¹²⁷ We can do even better.

The City must set clear and reasonable timelines and fees on development, including the permitting process.¹²⁸ Transparency would empower community members to better understand various phases of development approvals, and how they can participate. Although the BPDA website lists the dates when each specific project has reached certain milestones, both neighbors and developers struggle to understand when a particular phase of the process will conclude and when public input will be heard.

The City should also have clear guidelines for what fees and reviews are needed for projects. Examples include project types or features triggering the need for a traffic study, or impact fees for certain types of development. By charging development review fees proportional to the size and complexity of each project, as other cities do,¹²⁹ Boston's development review agency would have a more transparent and predictable system less dependent on generating funding through property disposition or leases. The City should use these revenues to directly support the necessary review process.

Taxpayers should also be able to easily access information about commitments made by developers in exchange for project approval, as well as which companies are benefiting from corporate tax breaks. Developers and businesses receiving tax breaks should be required to disclose the tangible public benefits of their projects, including the number of jobs created with wages and benefits information. The City should make all of this information publicly available in a searchable database, as well as an interactive map, for a refreshingly user-friendly experience. Taxpayers deserve to know which developers are good neighbors, and which fall short of their commitments.

MITIGATION

In addition to requiring disclosure and updates for any mitigation commitments or cooperation agreements, Boston should explore adopting a model Community Benefits Agreement or a Community Benefits Ordinance. These tools outline all linkages the City expects a developer to include in a project and make project approval contingent upon community benefits. Model Community Benefits Agreements are triggered by set conditions, such as project size or public subsidies, and strengthen other agreements by setting a standard for development linkages. These standards provide a template for community coalitions and developers to discuss specific project impacts, shorten the learning curve for all stakeholders, and manage expectations with a more predictable environment for anticipated project linkages. A handful of cities, including Cleveland, Detroit, and Portland, Oregon, have adopted variations of these strategies since 2012. Boston can learn from these peer cities and become a leader in setting a progressive standard for development linkages.

SEAPORT SQUARE PERFORMANCE ARTS CENTER

In a 2010 Planned Development Area agreement for Seaport Square on the South Boston Waterfront, the BRA codified commitments to a performing arts center of at least 200,000 square feet.¹¹ Seven years later, a representative of the development company stated that this center was not a requirement—“This was essentially a placeholder for this notional 200,000-square-foot performing arts center with a whole list of caveats and subject-to’s.”¹² Based on the idea that this center was “notional,” in their 2017 revised building plan, WS Development dropped the center entirely and instead proposed a “cultural corridor” of smaller venues, stating that this better aligned with demand for smaller performing arts spaces.¹³ The BPDA stood with the developer, agreeing that the city’s arts landscape had changed significantly since the agreement was first made.¹⁴ Instead of 1,800 seats in one venue, WS proposed three venues totaling 750 seats—not even half of the seats that the community had believed they would see.¹⁵

At the same time as these 2017 negotiations were occurring, the BPDA was conducting an independent

study on performing arts spaces in the city. This report specifically highlighted the need for a “1,300 to 1,800 seat performance space that can appropriately serve opera and ballet.”¹⁶ The report highlighted the “significant opportunity presented by the Seaport Square development, led by WS Development. Their agreement with the City calls for creating a large arts and culture complex that is earmarked for the performing arts. The development may present a once in a generation opportunity to widely address a set of complex needs.”¹⁷ When development decisions directly contradict planning studies, the public loses trust in community engagement processes.

As of 2019, there has been no movement in breaking ground on a theater in the development area—nine years after the approval of the performing arts center. This is despite the recent announcement that one of the plots originally reserved for a performing arts center will be home to Foundation Medicine’s new offices, and that a new building for Amazon’s Boston offices recently broke ground.¹⁸

3. Ensuring Accountability

Transparency is the foundation for accountability, but Boston must go further to improve monitoring and compliance. Boston has the opportunity to align the City’s economic development investments with policy goals of equity and shared prosperity, to embed stronger accountability mechanisms into development approvals and tax incentive programs, and to enhance monitoring of public subsidies and approvals. Especially with regard to public land, Boston residents deserve better accountability than what they have received.

SERVING THE PUBLIC INTEREST

Ensuring accountability to Boston residents also requires safeguarding the public interest through a focus on building a more inclusive, sustainable, and prosperous local economy. Beyond prioritizing performance goals, tracking economic incentives, and increasing accountability, Boston must revisit the role of tax incentives in the city’s economic development agenda.¹³⁰ The City should leverage its economic strength to more aggressively link any public subsidies to private investment in communities. Boston should also prioritize investments that provide public benefits. Investments in social and physical infrastructure, for instance, not only help to attract companies to the city and unlock development projects but also bring much-needed resources to communities, including transportation, job training, housing, schools, and open space.

At a bare minimum, Boston should guarantee transparency and accountability about the terms of any tax incentive package. However, the City should set more exacting standards for developers or businesses receiving taxpayer subsidies in the first place. This should include minimum hiring standards, such as committing to a set number of new jobs per amount of tax incentive provided, and a minimum percentage of hours worked by employees from low-income communities experiencing barriers to employment. Additionally, Boston should set minimum standards for employee benefits, including reasonable wages based on national industry standards, employer subsidized health insurance, a minimum average number of weekly work hours, and paid leave. Each of these helps ensure that a project will be firmly in the public interest and benefit the community. If a project violates any of these standards, the City should have a mechanism to reclaim all or a portion of the investment.

Nashville: Nashville's Metropolitan Council recently passed an ordinance setting standards for public subsidies.¹³¹ The ordinance requires that all applications for subsidies or grants include a proposal disclosing the number and type of jobs that will be created, both during and after construction, and any violations assessed against the developer by the Department of Labor in the last seven years. Additionally, the ordinance requires annual reporting by recipients of subsidies, and it grants the Nashville Metropolitan Council the power to suspend or terminate the incentive program if they determine, based on these reports, that the recipient is not living up to its obligations.

Boston has experienced tremendous economic growth over the past decade. Yet too many Boston families—particularly low- and middle-income households and communities of color—have been excluded from the jobs, housing, and educational opportunities ushered in by this prosperity. The city cannot afford business as usual, and it can no longer tolerate investments that widen income inequality and the racial wealth divide. If Boston is to succeed as a region in the coming decades, its economic development tools must achieve more broadly shared prosperity for its workers, small businesses, and neighborhoods.

UPHOLDING COMMITMENTS

The City has a duty to its residents to track whether commitments secured as mitigation or in exchange for tax incentives are upheld. Every deal should create or retain good jobs in the city and strengthen Boston's neighborhoods,¹³² and the City should establish performance metrics related to job creation and retention, targeted local hiring, living wages, health insurance coverage, paid leave, apprenticeship participation, and, where appropriate, place-based investments.

To ensure recipients deliver on promises and actually create the jobs and community benefits they pledge, Boston must attach pay-for-performance or clawback provisions to every subsidy deal. The City should publicly report whether these developers and companies meet and maintain their required commitments, including job creation, wages, benefits, and community investments. When developers and companies fail

ARNOLD ARBORETUM

In December of 2017, Roslindale residents were shocked to learn that Harvard University had obtained a letter from the BPDA supporting the university's rights to construct a one-acre solar array next to a university-owned research building in an open field on Weld Hill. Several neighbors pointed to binding commitments made by Harvard as part of the community process to develop the research building in 2009, in an area zoned as residential. After nearly three years of community process, Harvard had obtained permission to develop on seven acres of land that were deeded as buildable land, and the adjacent 6.4 acres were restricted as protected open space. In 2017, Harvard sought to erect the solar array in this 6.4-acre no-build zone. The BPDA, in accepting Harvard's assertion that the no-

build agreement prohibited only buildings, not a large solar array, forced the community to become keeper and enforcer of agreements.¹⁹ After public pressure to uphold the intent of the original agreement, Harvard changed its plans and moved the solar array out of the no-build zone—a revision that would be more expensive for the university but aligned with the trade-offs that residents and the university agreed to after a thorough engagement process. When legal commitments made by institutions and corporations are only binding so long as residents remember them, and when the government will only enforce them selectively, public trust in government and civic engagement suffer.

to meet obligations, these reports should state the resulting penalties imposed. More transparent reporting and stronger enforcement will hold all parties accountable and protect taxpayers from investments that do not serve the public interest. Other cities provide examples of best practices.

Austin: The Economic Development Department hosts a well-organized, easily accessible, and downloadable disclosure website of major programs offered. The website links to online databases that provide project information, such as approved subsidies, promised and created jobs, average wages, as well as underlying ordinances, project agreements, compliance reports, and audits of company reports.¹³³

New York: Once a project has been approved, the New York City Economic Development Corporation (NYCEDC) tasks dedicated compliance staff with collecting regularly reported details from project recipients such as insurance, employment, and benefits information, as mandated in each financial agreement. When a company fails to meet contract requirements, the agency employs a clawback provision to recapture financial assistance on all industrial and civic facility projects and some commercial projects.¹³⁴ The program discloses multiple years of project information on their website in an easily accessible and navigable format for the public, including as PDF reports and downloadable spreadsheets.¹³⁵



Community members protest the event announcing the BRA's rebranding as the BPDA, panning the agency as the Boston Planned Displacement Agency. ¹⁴

PUBLIC LAND FOR PUBLIC GOOD

Currently, the BPDA acts as a property manager and collects revenue from parcels of land over which the agency holds ownership in place of the City. Instead, this land should be owned by the public and subject to City Council oversight to ensure the fullest accountability to the public good. The BPDA owns and manages an estimated 500 parcels, including 100 parcels believed to be 20,000 square feet or more.¹³⁶ In total, these parcels include an estimated 16-18 million square feet of land and building area, 10-12 million square feet of which are undeveloped or available for sale or lease.¹³⁷ Approximately 5 million square feet are leased through an estimated 50 leases.¹³⁸ These are all estimates because, as noted in the 2015 audit, the BRA did not have a comprehensive, accurate list of its real estate assets at the time.

Unlike Boston, none of the peer cities analyzed in the 2015 BRA audit charge their planning organizations with real estate management.¹³⁹ Here, several other departments could take over these functions: the aptly named Property Management Department, which already manages City-owned buildings; the Department of Neighborhood Development, which already has a significant role in the disposition of city property; and

Boston should also clarify a policy for property management that advances the best result for residents and is not driven solely by financial gains.

the Public Facilities Commission, which performs all planning, design, and project management for the construction and renovation of City-owned buildings. Given the sizable overlap, Boston could also centralize these functions in a single department.

In addition to moving toward a more effective organizational structure, Boston should also clarify a policy for property management that advances the public interest. The BPDA is a self-funded entity, dependent on revenue from sales and leases of City-owned property. Moreover, because the BPDA oversees a separate balance sheet, the agency does not internalize the negative externalities of harmful land-use decisions. For example, there are real economic costs to Boston from the affordable housing crisis. When the BPDA assigns land to private purposes and not for affordable housing, the City—not the BPDA—bears the cost of those decisions. To align incentives, the City and residents should be making decisions about land use and disposition.

The current method for developing City-owned does not amount to a democratically accountable process. Larger parcels are transferred over to the BPDA to sell, lease, or manage. A vote of the City Council is only required to designate a parcel as “surplus” (freeing it up for disposition), and not at the final stage of disposition. The BPDA often manages the selection of developers and subsequent negotiations prior to disposition without Council oversight.

Any policy for public land must first consider a public use for the land, administered by the City or community organizations through a community land trust. In cases where the City disposes land to a private party, contracts should ensure that public needs are met—for example, by imposing significant affordability requirements on market-rate residential construction, implementing standards for the provision of green spaces, or creating owner-occupied homeownership opportunities. Land disposition, leasing, and property management decisions should not be made in isolation, but with full assessment of the impacts on the surrounding community.

In addition to setting clear policy for public land, the City must ensure compliance with land agreements. Once land is leased, sold, or otherwise turned over to a developer or community organization, the City must monitor the contracts governing the deal. To enable this, City

policies related to land management and the inventory of City-owned land holdings should be clear and accessible. Boston can take best practices from other cities.

Seattle: The homepage of the Department of Real Estate Services features a centralized directory that includes a city property search function, links to the departments that control specific properties, a tool for requesting maintenance, an option to make public comment on public notices (with a link to active property review), and a link to purchase surplus property.¹⁴⁰ The “Property for Sale” page details the city property disposal process. In cases where the city has a specific aim for surplus property, the process involves an initial designation as a “surplus property” by the City Council, followed by solicitations, public bids, and Requests for Proposals (RFPs).¹⁴¹ The department has an interactive map online with listings of all property owned or leased by the City.¹⁴²

San Francisco: The City of San Francisco uses a centralized Real Estate Division to manage the sale and lease of all City-owned property.¹⁴³ Current RFPs are listed and clearly visible on the Real Estate Division’s website.¹⁴⁴ All properties owned or leased by the City are listed in an accessible, timestamped database.¹⁴⁵ The data can be filtered, exported, or even visualized in an interactive map on the website.¹⁴⁶ The SF Planning Department also offers a searchable map of building permits near any local address or zip code.¹⁴⁷

Philadelphia: Since 2015, the City of Philadelphia has used the Philadelphia Land Bank to streamline the process of transferring vacant and tax-delinquent properties owned by public agencies to private owners.¹⁴⁸ All properties go through competitive sales or an RFP process.¹⁴⁹ The Land Bank’s disposition process is clearly outlined in a document that includes guidelines for qualified buyers, publicly available property transaction records, and property sales processes.¹⁵⁰ The Philadelphia Industrial Development Corporation, Philadelphia’s public-private economic development corporation, manages the city’s commercial and industrial real estate.¹⁵¹ Available properties and any active RFPs are listed in a central location on the website.¹⁵²

4. Boosting Civic Engagement

When residents—whether homeowners or renters—are excluded from meaningful participation in decisions about planning and development, the resulting projects reflect developer visions rather than community needs. The BPDA is both referee and final decision-maker.¹⁵³ Boston has an opportunity to support civic engagement for a more holistic and inclusive planning process, by eliminating barriers to public input and participation.

WINTHROP SQUARE GARAGE

In October 2018, Millenium Partners broke ground on a \$1.3 billion tower at Winthrop Square in the Financial District, on what had been the last vacant City-owned parcel downtown.²⁰ The City had previously operated a municipal parking garage on the site, but shuttered the garage in 2013 due to safety concerns about the deteriorating structure, and the Administration sought to move forward with redevelopment in 2015. The City Charter requires a City Council vote to declare City-owned parcels as “surplus” before disposition can occur. At public hearings, Administration representatives stated there was no capacity within the Department of Neighborhood Development to manage the disposition and development of a property at this scale, so the BRA should manage the process. In addition, if the City and DND managed disposition rather than the BRA, state competitive bidding laws designed to ensure transparency and integrity of the process would apply. Ultimately the City Council voted in December 2015 to surplus this land with a codified Memorandum of Understanding that net profits (after the BRA deducted related costs) would be transferred to the City, not retained by the BRA.

Without doing any proactive planning, the BRA issued a Request for Information “to see what types of creative

proposals developers come to the table with,”²¹ then a formal Request for Proposals (RFP). Ultimately, the highest bidder won out despite proposing a building that exceeded the stated height maximums. The Millennium Partners bid also included commitments for ground-floor public civic space, which was later scaled back, and \$153 million for the City to spend freely. Only after the BPDA designated Millennium Partners as the selected developer, with a large cash payment at stake, did the legal barrier of state shadow law surface. At 775 feet, the tower would cast shadows over the Boston Common and the Boston Public Garden in violation of state law designed to protect these parks and public access.²² Representatives of the BPDA claimed they did not realize that shadows would trigger the need for legal relief, despite the original RFI specifically requiring proposals to be in accordance with that provision of Massachusetts General Law. Proponents argued that the shadows were “worth it” due to the influx of cash that would be coming to the city from this development,²³ and they received the BPDA’s full support. The Mayor filed a Home Rule petition to alter state law to allow the tower to proceed. To facilitate City Council approval and garner public support, the promised \$153 million became tied to specific public uses, and the legislative change was passed.²⁴

MORE INCLUSIVE PROCESSES

People-Centric Planning: Some cities have explicitly redesigned municipal planning processes to ensure that residents remain the focus, such as through a People for Places Program¹⁵⁴ or through adopting a comprehensive, interagency permitting framework to clarify ad-hoc processes. New York City revised its charter in 1989 to allow communities to propose City-funded or developer-funded development projects, known as 197-a Plans, to the Department of City Planning. Among those who can propose 197-a plans are Community Boards, Borough Boards, Borough Presidents, the Department of City Planning, the City Planning Commission, and the Mayor. The Department of City Planning then assesses the proposal’s coherence, and if approved, its sponsor remains involved in the development process to hold stakeholders accountable.¹⁵⁵ The process has had a moderate success rate: according to data from 2010 (the most recent available), 87 community-based plans have been submitted since 1989 and 13 plans have been

adopted—11 of which were proposed by Community Boards.¹⁵⁶ Critics of the 197-a process argue that Community Boards are not sufficiently funded, that the Department of City Planning has unfairly high standards for plan coherence given the lack of professional city planners on these boards.¹⁵⁷ In addition, critics say the current 197-a proposals lack the “teeth” for the city to take them seriously.¹⁵⁸

Customer Service: In 2011, the City of Missoula, Montana, audited its development review process for efficiency to improve customer service.¹⁵⁹ The results included a customer satisfaction survey soliciting feedback from applicants on how to improve the permitting process. The City also created business assistance teams to help applicants navigate the planning and development review process. All stakeholders who offer community input deserve better customer service. Boston should seek to hear directly from these stakeholders about how the City can best remove barriers to participation.

MORE REPRESENTATIVE STRUCTURES

Community Boards: Public opinion on development is primarily communicated to New York City’s Department of City Planning through community boards. Each board represents a district, which vary in geographic size and population.¹⁶⁰ These boards are comprised of up to 50 volunteer members who are active residents of the district, nominated by the borough president and City Council members. In addition, each community board appoints a manager, who is a salaried city employee, to assist the board and prepare its budget. Community board meetings occur regularly and are open to the public.¹⁶¹ Once the formal review process begins for a development project, the Department of City Planning sends out the project plans to the community board representing the district that is impacted by the project.¹⁶² Feedback submitted by community boards leads to substantive changes.¹⁶³

In Philadelphia, public opinion on development projects is primarily communicated to the City Planning Commission via registered community organizations (RCOs). Neighborhood groups—such as neighborhood improvement districts, ward committees, and volunteer organizations—must hold regular public meetings and apply to the City Planning Commission to receive RCO status. When a proposed development project requires a land-use exception such as a zoning variance, the RCO with jurisdiction over the area is informed and must convene a public hearing to discuss the project. The developer must attend this meeting. RCOs can testify in front of the Zoning Board of Appeals, but their testimony is not granted special status over the testimony of individuals and other organizations.¹⁶⁴ As of September 2016, almost every street in Philadelphia is covered by an RCO.¹⁶⁵

Citizens Planning Institute: Philadelphia’s model for resident participation is successful in part due to the Citizens Planning Institute, the outreach and education department of the City Planning Commission. The Institute offers evening classes that teach citizens about land use and zoning and how to get involved in the development process.¹⁶⁶ These courses empower Philadelphia residents to join RCOs and take an active role.¹⁶⁷ Some workshops have been specifically developed for RCOs, endowing these organizations with sufficient planning expertise to effectively contribute to the development process.

MORE ACCESS TO PARTICIPATE

Notification: In July 2017, the Miami Beach City Commission, with broad community support, passed the “Residents’ Right to Know” ordinance, which allows neighborhood associations and individual residents to request a notification about future development projects in the area, both public and private, through the City’s website. This differs from the BPDA’s opt-in email notification process, which only allows residents to request notifications for an individual project already under review. This policy mandates that the City send email notifications for proposed development projects that require a public hearing, and for proposed changes to projects already under review, which are usually not discussed at a public hearing.¹⁶⁸ The policy also contrasts with Boston’s requirements for as-of-right abutter notifications.¹⁶⁹ Property owners seeking to make as-of-right modifications are only required to give notice to the property owners within a 300-foot radius of the site.¹⁷⁰ For example, the ZBA denied Popeyes a permit for a new location in Codman Square in 2016 after community opposition. The restaurant chain refiled an amended application, which dropped its previous request for a take-out permit and reframed its ask as an expansion of existing sit-down restaurant use—that did not require zoning relief or notifications to residents, who were shocked to see construction begin. Starting in 2019, ISD requires applicants for building permits in violation of the building or zoning code to post signs with more information so that residents can inquire about the project.

Childcare: In 2019, Ithaca, New York, became the first city to offer free childcare at all City Council and Commission meetings. Pittsburgh’s Office of Neighborhood Empowerment also launched a pilot program to provide childcare at City forums and budget hearings.¹⁷¹ Given that working families have been among those most impacted by the housing crisis, offering childcare at development review meetings would enable a more diverse range of views to be represented. Several local nonprofits and community organizations already offer this service as the foundation for resident engagement.

Language Access: Extending the City of Boston’s Language and Communications Access program into the planning and development review process would help ensure that public input is representative of the neighborhood affected by a project. The City should make relevant documents available in the most widely spoken languages in Boston, and provide an interpreter in project areas with a high concentration of speakers with limited English proficiency.

5. *Building a City for All*

Moving toward a process built on community engagement and integrated planning would also empower Boston to harness development and growth to address the city’s greatest challenges.

AFFORDABILITY AND EQUITY

Boston needs to set the standard for a planning and development process that centers the way people dream of affording, living, and moving throughout Boston. The City must design spaces for people, especially to be inclusive of the most vulnerable residents—seniors and children. All residents have a right to affordable housing. Every neighborhood should be walkable, with safe streets and access to amenities and civic spaces.



Artists and protesters demonstrate in front of the Piano Craft Guild building in Boston's South End, October 2018.¹⁵

Place-Making: Not only do other cities structure planning and zoning authorities differently, but they also demonstrate markedly different objectives for land use. Instead of pursuing developer-led projects, many focus instead on the key needs of residents and neighborhoods in a planning process called “place-making,” a people-centered approach to the design and management of public spaces. Place-making capitalizes on a local community’s assets to create public spaces that improve the social and economic well-being of residents.¹⁷²

Seattle’s Pike Place Market offers one example of successful place-making. Established in 1907 in response to public demand for affordable fresh produce, Pike Place is now a busy food market, residential community, and tourist destination.¹⁷³ Over the years, neighborhood residents played a significant role in the development and management of the market, ultimately creating a thriving public place that is a landmark in modern Seattle.¹⁷⁴ This outcome is the result of prioritizing the needs of Seattle residents, not accepting the most lucrative private use of the land at Pike Place Market.

Housing: Boston’s affordable housing crisis has dramatically worsened in recent years. Occupancy of housing units in Boston has consistently

“The vacancy rate is low and the rents are high. So it’s really, unfortunately, a perfect storm for people experiencing homelessness in terms of trying to get out of shelter.”

— President and Executive Director of the Pine Street Inn, October 2018¹³

remained at 91% since 2010. In other words, each year fewer than 27,000 units throughout the city were unoccupied for any reason at the time of measurement,¹⁷⁵ despite new construction adding over 15,000 housing units. For occupancy not to change with new housing supply signals both the roaring demand for housing in Boston and the likely unaffordability of the new units.

This housing crisis is compounding the homelessness problem facing the city and state. A shortage of housing keeps rents high and allows landlords to put qualifications on tenants, including salary levels. This in turn makes it difficult even for those with rental assistance vouchers to find housing. From 2017-2018, Massachusetts saw a 14.2% increase in its homelessness population—the largest of any state—and an increase far greater than the national growth level of 0.3%.¹⁷⁶ This is an additional 2,503 homeless individuals—individuals who will now suffer from the various ripple effects of homelessness and the toll it will take on their health and safety.

Boston's Inclusionary Development Policy (IDP) has created only 2,072 units of affordable housing since 2000 and has not at all increased the availability of units to workers making between 60% and 120% of the area median income.¹⁷⁷ Currently, the IDP requires that new developments with 10 or more units must set aside 13% of the units for affordable housing.¹⁷⁸ For comparison, Cambridge requires that for developments with more than 10 units or 10,000 square feet, 20% of the floor space must be devoted to affordable housing units.¹⁷⁹ Somerville's baseline is 17.5% affordable units, with an 8-unit threshold to trigger requirements; but for developments with 18 or more units, 20% must be devoted to affordable housing.¹⁸⁰

Equity Policy: Prosper Portland, the economic and urban development agency for Portland, Oregon, was originally chartered in 1958 as an urban renewal agency, the Portland Development Commission (PDC). However, the PDC has since realigned its programs and investments toward achieving more broadly shared prosperity and more equitable outcomes for all Portlanders. In 2015, the PDC released a five-year strategic plan, which refocused the agency's work on reducing disparities and creating inclusive growth for communities of color and those who have been historically underserved in the city.¹⁸¹ It also rebranded itself as "Prosper Portland" and embraced a mission to "transition to an Anti-Racist Multicultural organization through implementation of the equity action plan."¹⁸² The agency also adopted a formal Equity Policy, which has since been updated in 2016 and 2017.

MOBILITY

To address traffic and congestion, other cities and states throughout the country have implemented requirements for traffic impact studies and mitigation measures to fund infrastructure improvement.¹⁸³ New York City, for instance, utilizes impact fees as a means of funding the updating or construction of infrastructure facilities necessary to mitigate or eliminate the traffic increases that come along with a new development.¹⁸⁴ New Jersey's Mercer County makes use of a Transportation Development District, which shares costs between public and private interests as part of a comprehensive development plan.¹⁸⁵ Just across the Charles River, Cambridge's Parking and Transportation Demand Management program sets mitigation requirements for developers of non-residential property,¹⁸⁶ such as providing "last mile"



Members of Boston Climate Action Network and waterfront residents call on the City of Boston to address climate change concerns, March 2018.¹⁶

connections by shuttle to and from public transit, subsidized transit passes, and preferential parking for low/zero emission vehicles, bicycles, and car/van-pools.¹⁸⁷

CLIMATE RESILIENCY

A more comprehensive and community-driven approach to planning could also transform Boston's ability to act with urgency and scale to address the impacts of climate change.

In Cambridge, a citywide climate resilience task force has been assessing rezoning recommendations in preparation for coastal flooding caused by sea-level rise and increased precipitation.¹⁸⁸ The Portland, Oregon City Council unanimously banned new fossil fuel infrastructure in the city or adjacent waterways by amending the City's zoning code, and the legislation has survived legal challenge.¹⁸⁹ In the spring of 2019, the New York City Council passed a package of 11 bills, dubbed the City's Green New Deal. As in Boston, buildings in New York City are responsible for the majority of the greenhouse gases emitted there each year. The New York law requires buildings larger than 25,000 square feet to conduct retrofits, such as installing new windows and insulation, to improve energy efficiency or face civil penalties for noncompliance.¹⁹⁰

“[T]he fact is that the BRA allows mayors to steer projects to developers who please them and away from those who do not.”

– *Boston Magazine*,
May 2013¹⁴

Other cities provide examples of smaller changes through planning and development to strengthen climate resiliency:

Stormwater Management: Since 2007, New York City’s zoning code has required permeable pavement in parking lots where appropriate. Lots that are 6,000 square-feet or larger must capture stormwater through plantings.¹⁹¹

Green Roofs: While Boston requires large buildings to achieve LEED certification, the City does not explicitly require buildings to install green roofs or solar panels.¹⁹² Green roofs provide numerous environmental benefits: they provide insulation for buildings, reduce stormwater runoff, abate the urban heat island effect, and increase urban biodiversity.¹⁹³ Requiring vegetation and solar panels on Boston’s municipal buildings, as New York City now requires,¹⁹⁴ would immediately help reduce the energy footprint of buildings and make the city more livable.

Urban Reforestation: Boston’s tree canopy has decreased due to the fast pace of urban development. Today, Boston’s tree coverage is at 18%.¹⁹⁵ Washington, D.C. has a detailed Urban Tree Canopy plan to reach its goal of 40% coverage by 2032.¹⁹⁶ Boston should develop a plan to inventory its existing trees, assess where new trees should be planted, and streamline the process of tree care from planning to planting to maintenance.

What’s Next?

Mere reform is inadequate. The existing system was designed to minimize public involvement to facilitate private investment on a massive scale. The myriad failures of this system, paired with the internal issues detailed in recent audits, inspire neither public trust nor confidence in the BPDA’s ability to deliver long-term sustainable development in the face of urgent challenges. Development cannot remain a “top-down” process, as this was the same dynamic at the heart of urban renewal’s worst abuses. Instead, Boston must move toward a more sustainable, equitable, democratic, and accountable process for planning and development.

The City must overcome several obstacles first—most notably, the City’s structural dependence on property tax, which incentivizes constant growth. Because Boston is severely limited in municipal authority to generate new forms of revenue due to home rule legislation at the state level, the City

relies heavily on property taxes for its operating revenue. In FY20, 71% of the city's budget came from these taxes, a figure that has increased steadily year after year—from 52% in FY02, to 64% in FY10, to the current rate.¹⁹⁷ For comparison, property taxes cover just 30% of city operating funds in New York City,¹⁹⁸ 23.1% in Seattle,¹⁹⁹ and 17% in Philadelphia.²⁰⁰

Because Proposition 2½ limits the City's ability to increase property taxes,²⁰¹ Boston relies on new development to grow the tax base.²⁰² About half of the tax levy increase each year since 2002 has come from new growth.²⁰³ Without reforms to diversify municipal revenue streams, slowing the pace of development could impact Boston's budget stability. However, even within this framework, comprehensive, accountable planning processes should prioritize supporting development that benefits the city in the long-term. A more accountable agency would also recover significant resources left uncollected from linkage fees, affordable housing and open space commitments, tax agreements, and other negotiated benefits.

Just as significant is the political barrier to reform. Since its inception as the BRA, the BPDA has intertwined the political fortunes of the Mayor with the financial interests of the most well-connected developers and major corporations, mutually reinforcing these parties' stranglehold over development in Boston. The Mayor's dependence on the extraordinary powers of the redevelopment authority, as well as political campaign contributions from developers hoping to curry favor, present one of the most significant obstacles to change.

Boston has seen many mayoral contenders promise sweeping reforms to the agency in campaign years, only to retreat from those changes after the election. In 1970, incumbent Mayor Kevin White, running for reelection, proposed abolishing the BRA and establishing a standalone agency to focus on planning.²⁰⁴ In 1983, mayoral candidate and then-City Councilor Ray Flynn proposed abolishing the BRA and replacing it with a Department of Planning and Development to "reflect a policy of balanced development between downtown and the city's neighborhoods."²⁰⁵ In 2013, mayoral candidate and then-State Representative Marty Walsh proposed broad and specific changes to the BRA, including replacing the agency, separating planning and development, and seeking City Council oversight over planning and budget.²⁰⁶ These commitments remain unfulfilled.

The transition and unwinding of the archaic BRA/BPDA structure is further complicated by state law requirements and considerations. In the next section, these legal steps are outlined and described in detail to clarify the process for abolishing the agency.

Fixing Boston's broken development process is necessary to empower everyone to take part. The City needs to take a holistic approach that brings in advocates and leaders from all different areas of policy and issue concerns. Planning cannot be used to solve one problem at the expense of others, but needs to encompass all of the crises facing the city. This includes problems beyond the borders of Boston – the city needs to look beyond itself and make sure there is a vision for the region.

ROADMAP TO CHANGE

Boston's residents must take back control of their future and institute a democratic system of planning and development that sets a vision determined by the people, not developers driven by profit. This system should prioritize the elimination of poverty and structural inequality in all its forms and make a city affordable to all. Comprehensive and integrated planning would be the most effective way to address the threat of intensifying storms, increasing high-heat days, and rising sea levels by promoting sustainable and resilient development. It would create livable neighborhoods and a more connected city. In stark contrast to the current state of affairs, this system would provide community members with meaningful opportunities to participate. A community process should determine land use in a way that allows consideration of how this use will impact the city and residents in generations to come, not just in terms of next year's tax bill.

To realize this vision of a more equitable and sustainable system for planning and development in Boston, the anachronistic BPDA must be abolished and its specific functions should be brought back under the control of City agencies and leaders directly accountable to the public.

There are three processes that Boston must carry out to accomplish this transition. First, all BPDA functions, assets, and powers not enshrined in state law should be transferred back to City departments. This includes bringing revenue and assets on to the City of Boston budget and transferring employees to create a Planning Department subject to the same oversight and accountability as other City departments. Secondly, Boston must end all urban renewal areas and the extraordinary power derived from this bygone era. Finally, the City must obtain state approval to restore a City of Boston Planning Board to oversee citywide master planning processes. Throughout this transition, the City should take steps for transparent reporting and proactive protections to ensure economic stability in the interim.

Process 1 - Restore City Control

Although state law delegates Planning Board powers to the BPDA board, and would therefore require state legislation to undo, the rest of the BPDA's powers are derived from the authorities granted by the Mayor and Board. These authorities can be shifted back to democratic control prior to any state action. This will involve transferring personnel and assets.

PERSONNEL

Current BPDA Employees: The BPDA is overseen by an executive director who reports to a five-member board. Members are paid a stipend of \$10,000 a year,²⁰⁷ and serve staggered five-year terms. Four members are appointed by the Mayor subject to City Council approval, and one member is appointed by the

Governor. The BPDA Board is seen as a rubber stamp for the Mayor and high-profile developers—and there’s good reason for this perception. A review of BPDA Board meetings from 2014-2018 found only 22 non-unanimous votes out of approximately 1,708.

In FY19, the BPDA budget listed 252 full time employees (FTE). The largest departments include Planning (53 FTE); the Office of Workforce Development (46 FTE); Real Estate (34 FTE); and Administration & Finance (22 FTE).²⁰⁸

As mentioned above, although the agency has been rebranded as the BPDA, it remains two legal entities (the BRA and EDIC) with separate staff. Public documents do not specify which employees work for the EDIC and which work for the BRA. It appears job function does not determine which entity hires employees, but rather political connections will determine if an employee is hired by the BRA (and receives a pension) or by the EDIC (whose employees receive 401k plans). The recent trend has been to hire employees under the EDIC to relieve pressure on the pension obligation.

Proposed Personnel Changes: BPDA employees would become employees of the City of Boston. The City could also take on employees of the Boston Local Development Corporation (BLDC), the Boston Industrial Development Finance Agency (BIDFA), and Friends of Youth Opportunity Boston (FYOB), as they are all compensated through EDIC payroll—at a cost of half a million dollars a year.²⁰⁹

These employees would be split between staffing new city departments, expanding existing city departments, and supporting expanded functions as supplemental employees in established departments.

BPDA Department	# of Budgeted Employees (FY19)	New City Department
Administration & Finance	22	Administration & Finance Cabinet
Administrative Services	4	Administration & Finance Cabinet
Boston Local Development Corporation	2	Economic Development Cabinet
Board Members	5	Planning Board
Compliance	13	Split between Planning Department; Economic Development; and DND
Development Review	16	Planning Department
Director’s Office	13	Planning Department
Legal	13	Planning Department and Legal Department
MIS	18	Planning Department and DOIT
Office of Workforce Development	46	OWD Department in Economic Development Cabinet
Planning	53	Planning Department
Real Estate	34	DND, Public Facilities, or new centralized department
Research	10	Planning Department
Secretary’s Office	3	Planning Department

Planning and Development: The largest new entities would be a planning board and department. This would encompass the planning division (53 FTEs) and developmental review (16 FTEs), as well as potentially Research (10 FTEs), the Director's Office (13 FTEs), the Secretary's Office (3 FTEs) and certain Compliance, MIS, and Legal staff, as well as eventually board members (5 FTEs), amounting to one-third of BPDA employees. The City would need to review this department to determine potential expansion. Since the 2015 audit, the BRA's Planning Department has added 16 employees, but still lacks a division focused on master planning.

Most of Boston's peer cities house development review in their planning departments.

- Most development in New York City is as-of-right, meaning it complies with existing zoning and qualifies for a building permit. Projects that require special review or approvals or modifications to existing zoning regulations, however, are reviewed by the Department of City Planning (DCP) and the City Planning Commission through a formal public review process known as the Uniform Land Use Review Procedure (ULURP).²¹⁰ Prior to entering public review, DCP works with an applicant on a land-use review to ensure the application and technically accurate and an environmental review to disclose and analyze potential impacts of the proposal.²¹¹
- In Philadelphia, the Department of Planning and Development oversees the development process through the City Planning Commission, which reviews site plans for zoning and land use compliance, and the Zoning Board of Adjustment, which reviews requests for zoning code variances.²¹²
- In the District of Columbia, the Development Review Division of the DC Office of Planning (OP) leads this process, which assesses plans for large, complex, and precedent-setting projects.²¹³

There are a few outliers, however. The City of Portland, Oregon utilizes a Bureau of Development Services, which functions as a one-stop shop for developers to understanding permitting and review from the concept stage through construction. Its roles and responsibilities include land use, plan review, permitting, and inspections.²¹⁴

Once its new Planning Department is established, Boston can begin the process of creating a citywide master plan. Aligning zoning with a master plan will likely involve some zoning changes that Boston can enact directly within municipal authority and other changes that will require state approval. This Department can prepare those state-involved amendments to be incorporated into the steps outlined in Process 3 below.

Workforce Development: The next largest section of BPDA employees are in the Office of Workforce Development (OWD) (46 FTEs). OWD is the City's largest workforce development funder and creates policies and programs to support education and career paths for youth and adults. OWD oversees and convenes the American Job Centers, the region's one-stop career centers; the Adult Literacy Initiative; the Neighborhood Jobs Trust, funded by linkage fees from developers; and the funding allocations of BPDA mitigation funds. This office would be the most straightforward to transfer, as it could remain

essentially intact with its employees officially becoming employees of the City while maintaining their functions and organizational structure.

Boston's peer cities house job creation and training initiatives in departments dedicated to economic and workforce development, making OWD's current reporting structure an anomaly. Outside audits have already recommended shifting OWD to the City, since the division's activities are not core to the existing mission of the BPDA.

Property Management: The Real Estate Department (34 FTEs) is tasked with the management of BPDA assets, including identifying development opportunities and maximizing the value of BPDA's real estate holdings. The department currently has five divisions: Property/Asset Management; Engineering and Facilities Management; Commercial and Industrial Leasing; Capital Construction; and Operations.²¹⁵ The functions could be transferred to one or more of several City departments: Property Management, which oversees City of Boston buildings, or the Department of Neighborhood Development, which handles the sale of property. In addition, the Public Facilities Commission performs all planning, design, construction, and project management of construction and major renovation projects in City-owned buildings. Boston could also commit to centralizing these functions in one department. Regardless of where this function sits, the City should expand the capacity to monitor property and agreements.

Compliance: The BPDA Compliance Department (13 FTEs) has three major components: Developer Compliance (the monitoring of both monetary and non-monetary commitments made for privately funded projects subject to Article 80); Contract Compliance (the monitoring of the Boston Residents Jobs Policy and other wage laws); and Housing Compliance (the monitoring of IDP).²¹⁶

- Given its responsibility to manage, report on, and oversee approved projects, Developer Compliance should shift to the new Planning Department to retain the ability to work closely with Development Review staff, developers, and consultants to ensure ongoing compliance with project documents and prepare public reports for external access.
- Contract Compliance should be folded into the Boston Residents Jobs Policy (BRJP) office within the Office of Economic Development, which already monitors the compliance of developers and contractors on private and public development projects in the City of Boston.
- Compliance for IDP is currently a joint effort between the Housing Compliance team and counterparts at the Department of Neighborhood Development (DND) and the Mayor's Office of Fair Housing & Equity (OFHE). Housing Compliance should sit within whichever department has the capacity to manage and oversee the IDP portfolio and take over public reporting responsibilities.

In addition to these three compliance roles, the city should take a more proactive role in corporate accountability by creating a dedicated team to monitor and report on any financial incentives, such as Tax Increment Financing (TIF), which currently lacks public disclosure.²¹⁷ This team, along with the Financial Services staff, should move to the Office of Economic Development to improve transparency

and accountability and to align incentive programs with goals for economic inclusion and equity. Furthermore, Boston could also establish an Independent Budget Office to monitor the City's use of tax incentives and review quarterly project reports and benefits summaries.

Supplemental Employees: Remaining BPDA employees needed to support the creation of these new departments could be transferred to other existing City departments. For example, the City's Administration and Finance cabinet will need additional capacity to support new departments, which can come from the BPDA's current 22 FTEs.

Related Parties: In addition to supporting their own work, the BPDA staffs and provides all financial support to the BLDC, BIDFA, and FYOB.²¹⁸

BIDFA provides tax-exempt bonds for non-profits, as well as industrial development bonds and enterprise zone facility bonds. BLDC works to increase employment opportunities for Boston residents by providing small business loans with a focus on commercial, industrial and service companies. While both organizations have independent boards, they are both staffed exclusively by members of the BPDA. The City can staff these boards, as it does with many other state-created entities. Moreover, if taxpayer money is being used to support private enterprise, constituents should have much clearer insight and control over how this money is allocated.

FYOB is a workforce development organization that works with young people, ages 16-24, who are court-involved or gang-affiliated, reentering the community from incarceration, or seeking a refuge from poverty or violence. FYOB can maintain its relationship with the OWD after its shift to City control.

Contracted Employees: For additional employees contracted with the EDIC or BRA, the City can take over as party to the contract upon expiration of the current term. For example, the EDIC employs approximately a dozen members of the Industrial Union of Marine and Shipbuilding Workers of America, who work under a collective bargaining agreement and receive different wages and benefit packages from other EDIC employees.²¹⁹

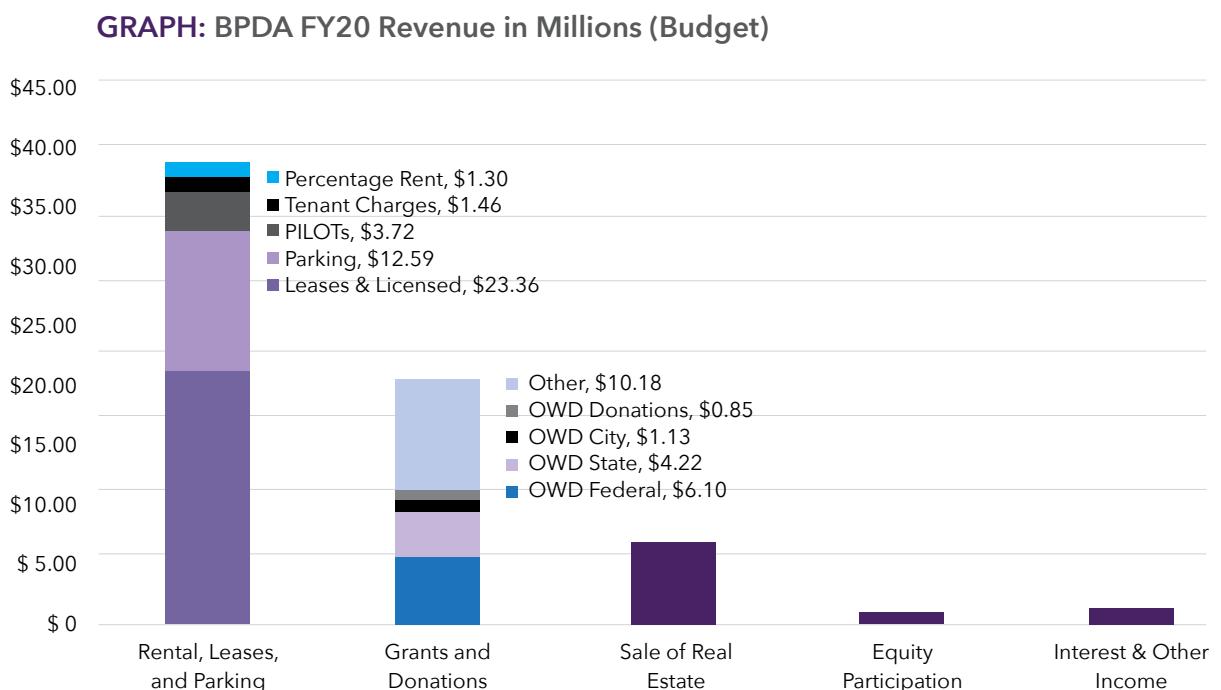
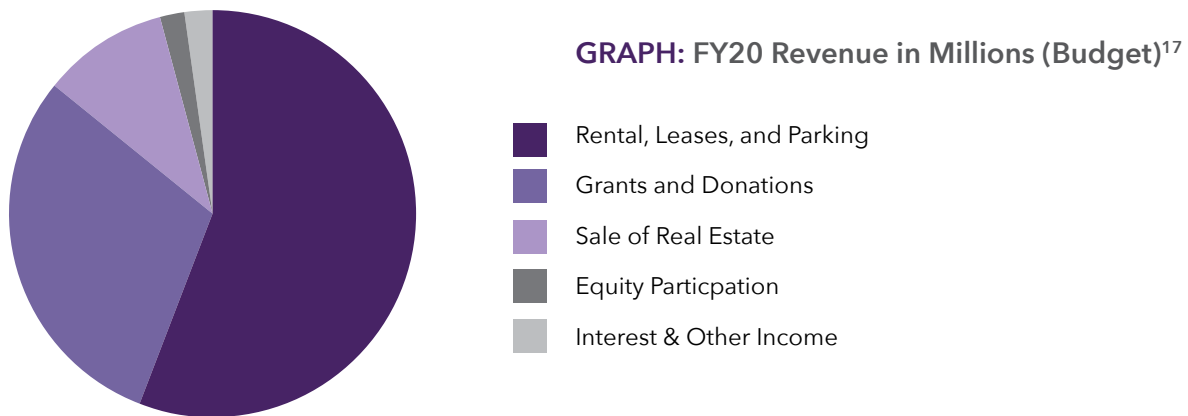
Logistical Issues: The transfer of employees from BPDA onto City payroll and benefits would involve a few logistical issues.

Organizational Issues: The first set of decisions will involve where each new department sits and how it is structured. This would include a review of the most effective reporting structure and groupings of responsibilities carried out in conjunction with community participation. Although this restructuring presents an opportunity to review the structure of all departments, some transitions will be more straightforward than others. For example, the OWD is the simplest transfer, while creating the City's new Planning Department would involve more complex organizational decisions.

The first department that would need to be moved to the City would be Real Estate, as it should be relocated within the City organizational structure to support: 1) cataloging and transferring BPDA assets to City budget and 2) managing this property once the City takes legal ownership. Bringing all of these assets on to the City books would help fund additional new employee transfers.

Funding: The expense of transferring existing BPDA employees to the City budget should be offset by the acquisition of BPDA assets and income sources. In FY19, the BPDA operated on a net positive with a \$1M surplus in its FY19 budget, and the City of Boston could maintain new hiring at a level that balances with new income. Additionally, the 2015 audit noted that revenue from increasing lease and sales revenue, as well as more effective property management, could support an expanded planning mission.²²⁰ However, any land disposition should be carried out strategically and intentionally to balance the public interest and follow policies set out by the new Property Management Department. Similarly, stronger compliance practices could also increase revenue from currently uncollected commitments owed.

A final logistical funding issue would be how to maintain benefits for EDIC employees not on the pension system. According to the 2015 audit, about one-third of employees are part of the BRA legal entity, while two-thirds of employees are part of EDIC.²²¹ The City pension system currently supports 18,000 employees; current EDIC employees represent fewer than 200 employees potential additions.



ASSETS

To support employee transfers, the BPDA should begin immediately redirecting grant money and other revenue. Next, the agency should begin the official process of transferring deeds and leases to ensure this revenue accrues to the City.

Current BPDA Assets: In FY19, the BPDA estimated \$61.92 million in revenue, with a budget surplus of \$1 million. These revenue estimates exclude all pass-through and earmarked funds including mitigation revenue, IDP funds, certain grants, and linkage.²²²

The BPDA controls three major types of property assets that need analysis: 1) property that the BPDA is holding either to keep or for acquisition; 2) property that the BPDA leases; and 3) land that the BPDA has sold, but still has an interest in through deed restrictions, including equity participation. In addition, the BPDA has cash assets from selling and leasing property, intergovernmental transfers, and grants.

As noted above, the best estimate of the BPDA's property portfolio comes from the 2015 audit, which cited an estimated 500 parcels, of which about 100 parcels are larger than 20,000 square feet each. In total these parcels include an estimated 16 to 18 million square feet of land and building area, 10 to 12 million of which are undeveloped or available for sale or lease. The BPDA leases about 5 million square feet through about 50 leases, more than half of them through 2048.²²³

However, these are only the best estimates publicly available on BPDA-owned land. The 2015 audit highlighted inaccuracies in the BRA's public database of land holdings. One parcel, for example, was listed as 1.9 million square feet, which BRA staff confirmed could not be accurate.²²⁴ As of 2019, this South Boston Waterfront parcel was still listed on their public database at 1.9 million square feet.²²⁵ This calls into question the rest of their listed available property, which totals a little over 7.5 million square feet.

The BPDA's public database only includes land available for acquisition. There is no full public database of land owned or leased by the BPDA. This means there is no public information on those lease terms, including rent prices. Perhaps most troublingly, at the time of the audit, the agency did not even have an internal database of this information, meaning leases are not monitored for expirations or renegotiation triggers.²²⁶

Transferring Ownership of Assets: The BPDA would transfer all of its assets to the City of Boston, reversing the asset transfer effected upon its creation. The City would have complete control over the proceeds from development inside its borders to distribute through democratic and accountable processes. In addition, the City Charter requires a City Council vote for the disposal of all City land (except for school lands). This simple yet profound change would restore power granted under Section 17E of the City Charter back to the City Council. Additionally, the City would no longer be able to skirt the requirements found in Chapter 30B, the state procurement law. Currently, the BPDA can accept bids without comports with a plan or acting in the best interests of the City.

Logistical Issues: The primary logistical issue is the BPDA's glaring lack of record-keeping, as well as the resulting lack of clarity about which properties the BPDA holds an interest in. After the audits, the BRA resolved some record-keeping issues, sorting through over 100,000 pages to review the 108 leases that the agency controls.²²⁷ However, more needs to be done to ensure the accuracy of property records.

Transferring BPDA-owned land to public ownership would also lead to greater transparency. The BPDA's lack of accountability to the public and freedom from City Council oversight has allowed the agency to conceal its property holdings from the public. Boston needs a database of all of the land held by the BPDA, with easy public access to review this information. This would include posting the data in a clear, understandable way and in downloadable formats. The public should also be able to see how money raised from public land is being allocated and the benefits provided to the city.

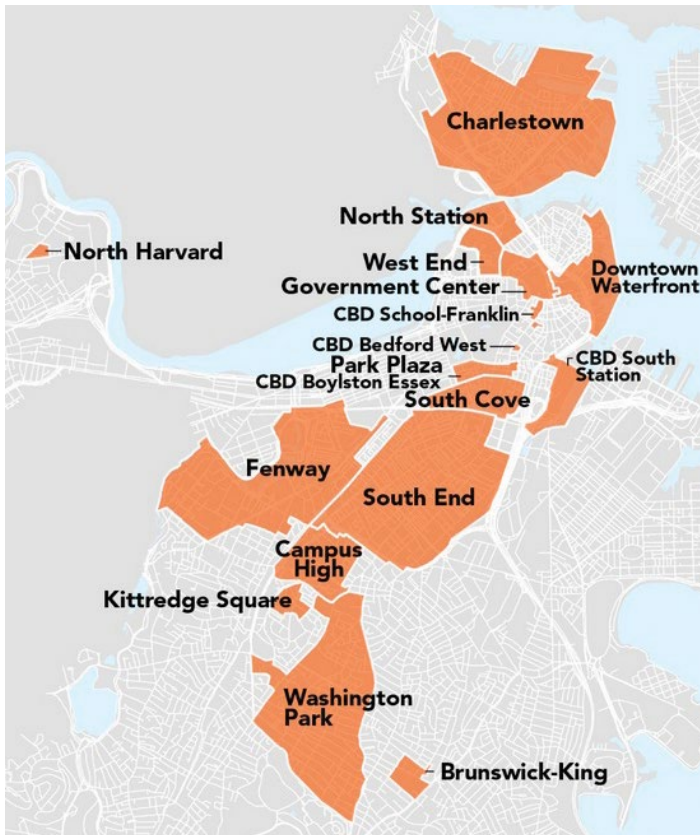
Process 2 - End Urban Renewal Areas

Next, the BPDA must end urban renewal. In 2015, as part of an effort to rehabilitate the BRA's tarnished image, Director Brian Golden issued a formal apology for the Authority's role in demolishing the West End. Golden was correct that "although the destruction happened decades ago, the scars still remain."²²⁸ However, an apology is not enough. Boston must ensure that the power to raze hundreds of homes and whole neighborhoods is never used again. Although the BPDA would retain its urban renewal powers until a change of state law, these powers can be greatly curtailed by ending Boston's urban renewal areas.

In August 2016, the state's Department of Housing and Community Development (DHCD) granted the BPDA a six-year extension of its urban renewal powers, after the City Council negotiated down the BRA's initial proposal for a 10-year extension. As part of the conditions of approval, the BPDA had to submit a filing to DHCD in August 2019 detailing their intentions for the end of the six-year period. Rather than filing to sunset these areas, the BPDA signaled plans to further extend urban renewal powers for 96.6% of the plan areas by acreage. Instead of seeking additional extensions from the State, the BPDA should prepare to sunset these areas and the extraordinary powers stemming from them. The

“Regardless of how well-intentioned federal urban renewal may have been, the ultimate result for the West End was the complete destruction of a vibrant, tight-knit community and the displacement of thousands of families who called that neighborhood home.”

—West End Museum
Curator Duane Luca,
September 2015¹⁵



A map of the urban renewal areas in Boston.¹⁸

BPDA claims that urban renewal provides crucial tools without which development would not be possible, such as site assembly, title clearance, land use, and 30B exemptions.

Site Assembly allows the BPDA to take property for both public and private development projects. The BPDA claims it has not used this type of eminent domain power to take private land since the 1980s, but still needs it for transferring land between City departments. Title Clearance is the ability to create a new record of ownership so that developers do not have to face potential conflicting claims on land. The BPDA has stated that title clearance is necessary to facilitate development as developers will not build without assurance of having title on the property. However, cities across the country—some as historic as Boston—are able to support robust development without this power.

Another tool of urban renewal involves Land Use Controls to restrict development within urban renewal plan areas. These controls are codified in Land Disposition Agreements (LDAs), which are restrictions on properties that are tied to the life of the Urban Renewal Areas. At a recent community meeting on the potential of urban renewal extension, a BPDA employee used the following example to explain LDAs: a Charlestown landowner wanted to rebuild his house to 35 feet in height, something that the zoning code allowed. However, an existing LDA on his property restricted his building to only 25 feet in height. The BPDA relies on these one-off restrictions as a means by which to avoid the process of proper rezoning, which could solve this problem.

Third, urban renewal powers also include the ability to invoke an exemption to the transparency requirements of Chapter 30B state procurement laws, such that the BPDA can select a developer, tenant, or purchaser without public process. The BPDA touts the flexibility of this control as an important way to guarantee a selection based on public interest rather than the lowest bid. However, requirements to uphold a transparent bidding process do not stand in the way of fulfilling public good; factors necessary to support the public's interest can be incorporated into Requests for Proposals so that anyone may bid according to clear, consistent rules.

In compliance with conditions imposed on the latest urban renewal extension, the BPDA completed an inventory of existing LDAs. The City, with input from residents, should determine which restrictions can be allowed to lapse, and which should be enshrined in zoning or through an agreement with the property owner.

The BPDA also owns property within some of these urban renewal areas. The exact property listings are only publicly available for the areas in which the BPDA has held community meetings. Community engagement is necessary to determine what should be included in an RFP to dispose of this property, such as housing requirements or transferring the property to a community group. The BPDA has noted that some parcels have been difficult to sell, and these could be transferred to the City. Once this process is completed for each urban renewal area, Boston should seek approval from DHCD to terminate that area regardless of its expiration date.

The final dissolution would most likely follow the same procedure as any other “major modification” to urban renewal plans, for which state law requires public outreach and a hearing; approval by the BPDA that the change conforms to the community’s general plan; and City Council approval.²²⁹ The state also reserves the right to require additional local approvals or information as deemed necessary.

Process 3 - Obtain Final State Approvals

The last process is the official legal dissolution of the BPDA and the return of Planning Board powers to the city. Both the EDIC and the BRA are creations of state law and only state law amendments can legally abolish them. Changes in state law would require a home-rule petition from the City Council. The Home Rule would request state authorization for Boston to carry out planning, zoning, and development processes that align with what residents’ demand. Boston will likely need to seek subsequent home-rule petitions to further update processes and should not shy away from this process.

To be clear, much of the functional changes can be accomplished even before seeking state legislative changes. The BPDA has authority to transfer properties in fulfilling its urban renewal responsibilities, and could facilitate the transfer of assets as described above.²³⁰ The BPDA also has power to delegate its urban renewal implementation powers to the City.²³¹ For added protection against any legal challenge, the BPDA and the City may enter into a Memorandum of Understanding to allocate responsibilities between the agencies and clarify that the BPDA is authorizing the City to perform its duties in this respect.

Finally, urban redevelopment authorities have the power to vote to dissolve: “Whenever a redevelopment authority determines that there is no further need for its existence, and that all outstanding obligations of the authority have been satisfied, it may by a majority vote of the five members submit the question of its dissolution . . . to the municipal officers. If a city...votes for such dissolution . . . and the department is satisfied . . . it shall so certify to the state secretary and said redevelopment authority shall be dissolved.”²³² The final confirmation would come through state legislation ratifying the transfer of responsibilities, including planning responsibilities.

A Stable Transition

A transition of this scale would not happen overnight, and Boston cannot put development on hold while logistics are worked out. Inevitably this transition will impact decisions about development in the city, and protections should be put in place to preserve stability, to protect residents from a rush on development, and to communicate with developers about projects in the pipeline.

Boston also needs to begin thinking about how state aid and progressive revenue streams can alleviate pressure on development. The City should convene a task force of experts and residents to begin considering this issue immediately.

CONCLUSION AND IMMEDIATE NEXT STEPS FOR THE BOSTON CITY COUNCIL

The City of Boston has a chance to confront the greatest issues facing residents today. From housing affordability, to inequality, traffic, and climate change, Boston could be harnessing development to build shared prosperity for all, but the Boston Planning and Development Agency (BPDA) remains a powerful roadblock to those efforts.

Boston's cost of living is already out of reach for too many who want to call the city home. The lack of affordable housing and the barriers for residents to reliably travel around the city and region is already causing companies to reconsider doing business in Boston and workers to struggle to survive in the city.

Boston must abolish the BPDA if it stands a chance to solve the city's challenges at the scale and urgency needed. Mere reforms will not suffice. The system lacks transparency, accountability, and predictability. Too many residents feel their voices are not heard, while developers are unable to predictably estimate costs and community benefits. The BPDA itself has failed to retain adequate documentation and monitor compliance for its properties and associated agreements. The residents of Boston must utilize the levers of democracy to change a system that functions in the dark, and bring Boston's development process into public, democratic accountability.

From structural racism and poverty, to systematic inequality, to the risks posed by New England's intense climate vulnerability, Boston cannot afford to forgo planning and development as a force to enhance the city's potential. Lifelong residents and low-income communities of color will face accelerating displacement until the BPDA is dismantled and replaced with a community-centered process to set clear rules that meet community needs in building a city for all.

The city is for people. Boston deserves a planning and development process that never loses sight of that.

To begin this process, the Boston City Council can drive progress toward structural change in the City's planning and development structures by requesting information, holding public hearings, and introducing legislation to further define the best pathway and vision for community engagement.

Information Requests

The City Council needs to request information from the BPDA that should be publicly available. This information is needed to inform decisions over the future of planning and development in the city. This includes a list of:

- All property owned by the BPDA—including location, size, whether held by the BRA or EDIC, and a copy of the deed and any other property records;
- All leases held by the BPDA—including location, size, rent price, a list of all lease renegotiation triggers, whether the BRA or EDIC is the leaseholder, and a copy of the lease and any other property records;
- All deed restrictions that the BPDA has a stake in—including location, size, any triggers for the restrictions, whether the BRA or EDIC is named in the deed, and a copy of each deed;
- All tax concessions approved by the BPDA—including location, company name, whether the BRA or EDIC approved the deal, the amount that should have been paid for each year of the concession including all information needed to calculate payments due, what payments were actually made, and a copy of each agreement and other relevant documentation;
- All IAG agreements, current and past—including location of the development, names of developers, a list of IAG members, an assessment of whether each point in the agreements was upheld or not (including what occurred in place of commitments, where applicable), and a copy of the agreements and any other documentation from the IAG, including, but not limited to, presentations given to the IAG and letters from any and all members;
- All current LDA agreements—including location, urban renewal area, restrictions, and a copy of the legal documents securing the LDA, whether in a deed or elsewhere to begin an assessment on which protections need to be preserved and how best to accomplish this; and
- All projects that triggered affordable housing requirements through the Inclusionary Development Program—including location, number of total units, whether a developer chose to build on- or off-site, how much the developer built and/or paid, the number of affordable units actually created and where, and any fines or enforcement actions taken against developers not in compliance.

City Council Hearings

The City Council can begin engaging the public in hearings and working sessions on the details of how to abolish the BPDA and rethink planning and development processes, including:

- Ensuring stability throughout a transition for development projects in the pipeline; and
- Defining how the City would integrate the functions of the BPDA, including creating a new planning department, into existing City agencies or consolidate functions in a new way.

Legislative Action

The City Council can also begin to make concrete changes to City ordinances and processes to pave the way for this transition and to encourage community engagement, including:

- An ordinance establishing a policy for any disposition or lease of City land, including defining priority given to public use;
- A model community benefit agreement or a community benefits ordinance;
- A home-rule petition to amend the Zoning Enabling Act to change the requirements for Zoning Board of Approval seats for a wider representation of community interests; and
- Changes to the state 30B procurement laws to ensure the city can dispose of land and procure services in a way that benefits residents.

ENDNOTES

ENDNOTES

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