PRIVATE SECTOR SUBURBAN LAND ASSEMBLY
IN THE BOSTON AREA:
Analyzing Strategies and Factors in the Process
by
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Submitted to the Department of Urban Studies
on May 15, 1987 in partial fulfillment of the
requirements for the Degree of Master of City Planning

ABSTRACT

The purpose of this thesis is to analyze the strategies
and techniques used by development companies for suburban
land assemblage in the area. With a current strong land
market and increased growth predicted, the strategies and
techniques used will have impacts on town land use and cause
growth management concerns for the region.

Because so little has been documented about the assembly
strategies as they affect the developer, the owner and the
community, one of the goals of the paper is to bring together
the experiences of suburban developer in the Boston area and
determine whether developer have a systematic way of
approaching the assembly process and the logic behind
developing a strategy for suburban assembly.

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INTRODUCTION

Acquiring the site on which a development project will take place is one of the most critical phases of the development process. Many times, a suitable site must be assembled from diverse parcels with different owners and buildings must be vacated and demolished. Parcels of land often have several owners, sometimes in highly fragmented estates with remote heirs. Some property may only be purchased subject to restrictions or their obligations. Cutting through this pattern of land holdings can be a difficult, time consuming task. The purpose of this thesis is to describe and analyze the process in view of what strategies and techniques are used to achieve the goals of the land assembler.

The process of acquiring individually owned parcels of land by one owner for the purpose of constructing a project on the site is not a new idea. Thousands of acres of land has been assembled by the public sector. Through urban renewal cities and towns acquired land and assembled sites for a many of types of projects to benefit the community at large. Up until the mid 60’s and 70’s the public sector lead the way in large scale land assembly. But with increasing urban sprawl and the development of the regional shopping malls to serve the growing suburban population, the private sector began to become more active in assembling land in suburban areas for project and residential sites.
As the size and diversity of suburban projects increased so did the need to assemble larger sites. The emergence of the large mixed-use development projects in the late 60's and 70's created a greater need for large sites. As the demand for land for living and working space continued to increase developers began to turn their sights toward the larger expanses of land available in the suburbs outside the cities.

Although much attention and study has been given to the process of public assembly, very little has been studied and written about private sector assembly. Just as in the case of public assembly, the process of bringing separately owned parcels of land under one owner by the private sector has many economic, legal, and social implications for region or town in which it occurs. Despite the large number of assemblages attempted each year generally very little information is shared between those in the profession. Because land assembly strategies have not been documented, assemblers do not benefit from the experiences of other companies.

Realizing that this situation exists, I chose to study the process of private sector suburban land assembly, focusing on the strategies and techniques used by developers who assembled land for project sites. Because the process of land assemblage has many different factors and obstacles to overcome I feel it is important to examine how developers deal with the process, analyzing what kind of logic is used
given certain opportunities or obstacles.

Because so little has been documented about the assembly strategies as they affect the developer, the owner and the community, one of the goals of this paper is to bring together the experiences of suburban developers in the Boston area and determine whether developers have a systematic way of approaching the assembly process, and the logic behind developing a strategy for suburban assembly.

Although this thesis focuses specifically on development companies whose main goal is to assemble land for projects that they themselves will build, there are many people involved in land assembly for the sole purpose of selling the land after it has been assembled. These include real estate brokers, development companies, large corporations and financial institutions. Because the process of assembly can be a difficult and time consuming task, some development companies would rather have someone else do the assembling and then purchase the site completely assembled. But the companies interviewed for this thesis all have persons within the company who have developed the skills and expertise to assemble suburban land.

Although suburban land assembly is occurring across the country, for the purpose of this thesis I have isolated the study area to the suburban towns near Boston, Massachusetts. I have selected to focus on the Boston area for the following reasons:
1. Among all of the 50 states, Massachusetts has one of the strongest economies in the nation. Because of the large number of institutions of higher learning, bio/high tech and defense industries, the state has been a breeding ground for new companies. Many of these companies have located in the surrounding towns of the city of Boston. To respond to the growing need for residential, industrial, office and commercial space in the suburban areas, developers have increased assembly activity to assemble sites for future development. Because of demand for working and living space this growth has created, the number of developers who are assembling land is increasing and presents a wide range of possible interviewees for this thesis.

2. With the increased growth in suburban areas, towns located in the "growth corridors" have responded to the impacts of increased development activity. Many towns in the state have adopted strict growth control measures and development guidelines to preserve the character of the towns and constrain development. For the land assembler the process of getting approval for a development project can be a long and tedious process. Looking at how land is assembled in these areas then creates opportunity to examine how codes and restrictions placed on developers creates an opportunity to examine how do zoning codes and growth control regulations affect the assembly process.
3. Because of the strong demand for suburban space, the once weak suburban land market is experiencing a dramatic increase in prices. Although land in suburban areas is not scarce, because of the increased amount of development occurring, the quantity of suitable acres is decreasing and the price is increasing. For the developer this presents a challenge to be responsive to market changes and assemble land under changing conditions and land use controls which also inflate the price. Strategies used by companies to operate in this market as compared with weaker markets will also be described.

DESCRIPTION OF THE STUDY AREA

The major study area for this thesis is the Route 128, and Route 495 area west of the city of Boston. Opened in 1958 to ease traffic in Boston, Route 128 developed first into a high technology corridor and then became the starting point for development that stretches from the Rhode Island border into southern New Hampshire and Maine, and from Boston and Cambridge to interstate 495, a newer ring highway about 15 miles beyond Route 128.
Nearly all of the current companies of growth in the region are based on high technology, ranging from Fortune 500 companies such as the Digital Equipment Corporation, and Raytheon, a leading military contractor, to a myriad of newer computer software companies, medical technology and service companies geared to high technology based business. 

Although some of the business in the region have experienced economic hardships, the strong performance of neighboring companies has kept unemployment figured as low as 2 percent in some parts of the region and at just about the national average overall.

The Massachusetts Division of Employment Security expects employment in high technology-based industries and services to expand 30 percent by 1990, with the service sector leading the way. Most of that will occur in the Route 128 and 495 region.

Between Route 128 and 495 lie thousands of acres of undeveloped land. Land that has caught the attention of local and national development companies alike. With the growth of the suburban areas of Boston has also come the expectation of future growth in the region. This region as emerged as one of the fastest growing high tech regions in the country. And it is that growth that developers have capitalized on.
It is in the context of this suburban environment that the study of strategies for private sector suburban land assembly was conducted. For the purpose of obtaining information for this thesis, 10 developers, who had over ten years of experience in assembling suburban land, were interviewed concerning their experiences, first to develop assembly strategies and second to address how obstacles and opportunities were addressed within the context of a strong market.
SCOPE OF THE STUDY

The purpose of this thesis is to analyze the strategies and techniques used by development companies for suburban land assemblage in the Boston area. With a current strong land market and increased growth predicted, the strategies and techniques used will have impacts on town land use and cause growth management concerns for the region. To analyze and document the information gathered will be of use to assemblers and planners alike.

The assemblage process has many different phases, the phase of the land assemblage process this study will focus on is the period after the site has been identified for assembly and specifically on two types of development companies, those who assemble land and sell it and those who assemble on which to develop projects. Information collected for this thesis came from developers how assembles land with the intention of developing projects on the site.

This thesis examines the process of analyzing the factors involved in developing successful strategies for suburban land assemblage in the Boston area and the factors involved in the process.

Within this phase of the land assembly process I will examine four major areas:
1. The development companies — in this section profiles of the types of companies interviewed will be discussed. I will discuss how companies analyze the possible constraints in the process. This includes analyzing market, company and financial risks.

2. Developing a strategy for the assembly process — in this section issues regarding different methods of approaching development company strategies will be examined. The components of the strategies will be analyzed in view of the techniques used in assembly strategies and the elements that affect them.

3. Public policy issues — this section will examine the impact of amassing large areas of land can have on a town or region, specifically analyzing growth impacts, growth control measures and land use issues.

4. Section four will examine how development companies deal with changes in the initial assembly strategy and evaluate concessions during the process.

5. I will conclude by examining the differences between issues affecting how land assembly is being done in Houston and Boston comparing the two markets and the prospects for the use of assembly techniques. Also analyzed will be
differences in urban and suburban land assemblage in the Boston area and how public and private assembly can be used.
CHAPTER 1.

ANALYZING THE COMPANY

For the purpose of this thesis I randomly selected ten developers who have experience in assembling land in the Boston suburban area. All of the developers have offices located in and around the Boston area and are currently active in large scale real estate development on large scale development projects. Of the ten developers four are from national development companies having offices across the country. All of the participants in this study had been involved in residential, commercial, office and industrial development projects. All of them have as one of their development goals land assemblage and on site project development. Two of the companies could be classified as "town or community developers", those who doing several development projects in one town. The other eight do development through the route 128, 495 region of the state of Massachusetts. These companies were randomly chosen, any similarities in companies is strictly coincidental and does not reflect and attempt to select one particular group of developers.
Goals

After talking with developers it became apparent that not all companies have the same goals or even the same definition of successful land assembly. There seem to be four types of goals for the developer that can be combined differently in each project:

1. Assemblage for the purpose of developing a project.

2. Developing a good reputation and relationship as being professional developers.

3. Responding to priorities in relationship to community needs.

4. Achieving a short and or long term profit from the project.

I must mention that there is also a possible fifth goal for some developers, that of assemblage for the sole purpose of selling the land to another developer, but none of the developers interviewed has this thesis had this as one of their goals.
Assemblage and Development

The first type of goal is assemblage for the purpose of project development. In this case the developer is committed to seeing that two things are achieved. First that the land is assembled and second that the project for the site is approved for construction. These two components together would be considered successful land assemblage. For the developer who has this criteria as the goal, the process of getting approval for the project requires a considerable amount of time and effort over and above the time it would take to assemble the property.

The second type of goal is that of developing a good reputation and relationship as being a professional developer. All of the companies interviewed had this as one as their goals. Being able to show that past negotiations and projects were carried out in a professional way, provides new opportunities for other projects. Also it builds respect and confidence in the development company as a working partner. Developing and maintaining good working relations lays the foundation for long lasting friendships between property owner, public officials and respect from citizens of the town.

The third type of goal is setting assemblage and development priorities that are in keeping with the growth and development goals of the town in which the site is located. Because many towns in suburban areas are concerned
about growth and development issues, for the developer to be sensitive to the needs of the community and the impacts the assemblage will have on the town is essential for moving through the entire process without facing opposition to the project.

The fourth type of goal is to make short and or long term profits from the process of land assemblage and project development. The bottom line of any development project is to make some level of profit. Depending on the situation in which the project development and preceding land assemblage occurs profits could be realized at the beginning of the process or be realized several years after development has occurred. This all depends on the way deals are structured and the timing of the land assemblage.

For the developers, who have the goal of assemblage and project development, there are two routes to take. One route is to assemble land then determine the highest and best use of the site. The other route is to acquire land with a specific use in mind. Both routes achieve the same goal but require different approaches to the process.

Non specific and specific assemblage

The developer who assembles land then determines what type of project is to be built can be classifies as non-specific assemblage. In this case the developer is expecting an
increase in land value based on growth patterns and market expectations. These developers usually target a region or town in the path of growth. Of the 10 the developers interviewed for this report 7 of them stated that they had used this reasoning in assembling sites in the route 128 area. One assembler recounted that he was given the assignment to go and assemble a 30 acre site along a specific section of 128, so he drove along until he found an area that looked as if it would be a good location for a project. After the area was chosen he began to develop a strategy for the assembly process.

Areas of growth like the route 128 area are numerous in suburban areas surrounding Boston for the developer who is familiar with growth patterns and projected economic and population increases locating a town or region to target for land assembly is not difficult. As the need for more living and working space increased developers who have assembled sites in growth areas can respond to the market demands in choosing the time an type of project to be constructed. Once control of the land is obtained then the developer determines the best use of the site based on zoning and land use restrictions that may apply to the property.

The other route used in acquiring land is assembling with a specific use in mind. Some companies specialize in the development of specific types of projects. Through years of developing the same type of product developers know what size
and type site is needed to construct a particular project. The assembler in this case would look for a site that met specific requirements for the construction of those kinds of projects. Not only would he look a particular amount of land, but also look for land that was currently zoned for the construction of the type and density of the desired project. Having the matter of right to develop a specific type and size project would be the primary criteria for choosing a particular site. Acquiring a site for a project without the matter of right will require a zoning change on the part of the local zoning or planning board. This is not in most cases easy to get and usually will require a great deal of time and energy to do so. By choosing a site that is currently zoned for the desired project he could reduce the time it takes to get the project approved.

Though assemblage and assemblage for project development are the two basic goals of developers, I have found that they tend not change or isolate between the two. Although incidents do occur when the developer after he has assembled a site, will find that it is in his best interest to sell the land. This issue is discussed further in chapter 5. But developers do tend to isolate between specific and non specific use when assembling sites. They approach each attempt on a case by case basis. One assemblage may be based on finding a site in a particular area. The next assemblage may be for a project specific site. But all of the developers
interviewed for this thesis had as their goal assemblage for project development.

Analyzing the Company’s Investment Capacity

One of the first steps in developing a strategy for land assembly is to analyze the internal factors of the company constraints as it relates to the process. The company constraints are those internal factors that influence the mobility of the company during the process. The internal factors are those originating from inside the company, which includes the method by which a company sizes up the amount and types of risk it can bear, the time limitations regarding how much time can be expended to negotiate an agreement and the financial constraints the process must operate within.

Sizing up risk

In analyzing the risk situation many developers tend to look at the following items, assemblers calculate risk based on one or all of these findings.

1. The market conditions
2. The property value in the area
3. The probability of obtaining zoning
Market Conditions - In analyzing the market conditions, the developer looks at how long it will be until the market will support the development project and what are the possible consequences of acquiring and holding the property or proceeding with development. Buying land at the beginning of predevelopment stage will pay off with the highest and most handsome profit when the assembler can acquire control of the land through a lengthy option agreement or a low down payment. Suburban areas tend to have an ample supply of land. Developers use the strategy of putting up as little capital as agreeable and take advantage of maximum leverage.

In the suburban areas of Massachusetts there tends to be no shortage of land in the predevelopment stage, meaning the land is generally in its natural state but finding land that is suitable does take some looking. Large expanses of land are covered with rocks, cliffs or poor soil which could pose some considerable problems for construction and environmental concerns for the site. When risk for land acquisition is being assessed the assembler analyzes the condition of the land, and what can be constructed on the site, can zoning approval be obtained.

In analyzing the market conditions to assess risk the developer also takes into consideration the holding period of the land before construction is to begin. For the project to succeed there must be a market for the product. But also calculated into the risk is how long will it be before the
market will support the development project. If the land is in an area in the path of growth, or near a major highway or business corridor there is a good possibility that the land assembly will yield good returns, so the risk in this case would seem small.

Property Value

One indication of the market's ability to support new development is the rate at which property values increase. In strong markets such as Boston's the value of the assembled land will also increase. The fact that a sizable tract of land assembled is valued higher than the sum of the individual parcels, the value of assembled land will be considerably higher because of its increased utility to the developer. So from the standpoint of risk, there is little liability in assembling the property, even if the development plans are not carried out, the property could be sold at a profit.

But in areas where land values are increasing, prices usually is increasing as well. Property owners are also aware of this fact and will expect the price offered for the land to reflect this fact. When budgets are being made for funds allotted for acquisition of land, developers make a decision on the price they can afford to offer per acre and still operate within the budget.
The assembler must decide how much can be spent on acquiring the property before the cost of the land becomes too expensive for the type of development project proposed. This involves close adherence to the project pro forma or making concessions in the project.

Also included in the property valuation process is the use for which the land is being assembled. Single family residential development or industrial uses generally have the lowest value of any other type use for the site. First class office or luxury hotel uses generally tend to sustain higher land prices. So the land is valued not for the fact that it is available but for its location and the use proposed for the site and the type of return the development is expected to render.

Obtaining Zoning

Another consideration in sizing up risk for suburban land assemblage is the issue of obtaining zoning approval for the project. I have found that one internal risk that is affected externally is the issue of the project obtaining zoning approval. Even though the issue of zoning approval does not directly affect the actual process of land assemblage. It is one of the risk the developer includes in looking at internal factors constraints. If the developer does not feel that the project will get approval, then assembling the land becomes a futile exercise. In analyzing
the risk the company has to have some indication that a project will be built on the site to assemble the land or that holding the land over a period of time will have significant rewards.

After doing some research on the zoning code for the town it becomes clear what are the stated acceptable uses, densities and heights for the property. All of these issues are factors that affect the risk level of the project and must be taken into consideration when developing a strategy for successful land assemblage, partially when the assemblage is tied to a specific project.

Financial Constraints – In analyzing the companies capacity another factor that is part of the analysis is the financial constraints of the developer. Most developers develop an idea of how much money can be spent on the land assemblage phase of the project before the actual process of assembly starts. Development companies seem to use two basic methods for developing a budget for assembly, I have classified them as a mental budget and a physical budget.

A mental budget is one in which the company makes no financial limits as to how much can be spent for assembly. Because of years of experience the assembler has a "feeling" of about how much should be spent, and this can change as the assembly process progresses. He keeps tabs of the mounting cost and makes some mental projection of how much can be
spent before the project will be affected by the cost of acquiring the land. A limit is arrived at when the assembler arrives at the point where increasing cost becomes a cause for concern. Once it reaches this point the decision must be made to:

1. Offer less money for the remaining parcels.

2. Halt the assembly process and use the land already acquired for the site of a project.

3. Drop the options on the land and the assembler looks for land elsewhere.

These issues are discussed further in the chapter 4, dealing with changes in the initial strategy.

In addition to the mental budget is the physical budget. This is a budget arrived at by calculating the cost of the land as it affects the entire cost of constructing the project. Assembler run projections on is the highest price that can be paid to acquire the land and still allow the project to have the desired profit margin. Once this is determined it is used as the gage as to how much can be spent to acquire all of the desired parcels for the site. As in the
case of the mental budget once the limit is reached the assemblers must make the decisions stated above. The budget generally includes:

1. What price the assembler can afford to pay per acre

2. How long the acquisition period is expected to take and time -cost of money, the personnel and other cost (i.e. lawyers engineers, etc) involved in the process.

3. Funds for concessions and the project approval process to make the land assembly and the development project work.

The parameter of the budget is not a thing that is cast in stone but serves as a guide so that the costs don’t go overboard. This is usually based on the location of the property and the type of project that is proposed for the site along with the amount of available capital for the project.

In making the acquisition profitable developers give constant attention to guard against paying too much for the property in relationship to similar properties. This is a very critical point when analyzing the companies financial constraints, if the assembler overpays for the property, this could affect the cost of the development project and also could warrant a change of use on the site.
Another financial constraint for the development company is the availability of capital for the project. For larger development companies capital available for each project is generally greater than for the smaller companies. National companies tend to have large reserves and fund project across the country from that reserve. So a subsidiary company could draw from those funds. On the other hand a smaller company generally does not have access to large reserves of capital to pour into a project. Therefore smaller companies tend to be more limited in how much they can spend on acquiring property before the project is put in jeopardy.

Underlying the issue of risk is what developers tend to call "that gut feeling". This is something that cannot be quantified but is more of an intuition that comes from past experiences working with projects. If that gut feeling is present then there is the strong possibility that the project is worth attempting, if it not then the project may be analyzed with future projections of what the project will yield over time and whether the market will support the project. Depending on what the numbers reveal the risk is then accessed and a decision is made about the assembly. Because the feeling is based on past experiences and human feelings it is subject to failure, there are times when it feels right but once the assembly process has begun unforseen factors can effect the outcome of the project and the project has to be abandoned or reevaluated as to the use of the land.
This will be discussed further in chapter five. But even with an undetermined factor of error the "gut feeling" plays one of the most important factors is determining whether the assembly is too risky.

Analysis and Summary

In analyzing the types of development companies and the types of goals mentioned, some parallels can be drawn between what type of developer would have specific types of goals.

All of the developers interviewed all stated as one of their goals assemblage for the purpose of developing a project. These were companies who were committed to assembling and building projects in the town. For the developer who is committed to assembling and building in the town, there seems to be no distinction between national and local companies.

The determination of specific or non specific use also had no direct impact on the decision to assemble and build. Whether a developer had a specific project in mind or not did not seem to influence the decision of development.

The thing that did influence that decision was that the developers felt that they had enough experience to be able to carryout the entire process. The developers spoke as if they had more to gain by going through the process of land assemblage and project development, rather than just doing one portion.
At the center of the decision is the other goal of profit. By assembling the land, the companies could acquire land more cheaply than if they bought it already assembled. So if they can get the land cheaper the cost of doing the project could be reduced and have less of a financial burden. So both the national and local companies have something to gain by assembling the land and developing the project.

But with the commitment to assemble and develop comes the issue of developing projects that are in keeping with the development priorities of the local community. Particularly in the suburban towns of Massachusetts the issue of growth controls and opposition to development is strong. A developer has to show some concern and commitment to the concerns of the community or he could be in for tough approval process.

For the company that has as a goal developing a good reputation and relationship as professional developers this is a critical issue. The way the developer responds to the owner, planning officials and town citizens will play a major role in how the developer is perceived. All 10 of the companies interviewed mentioned that it was important to develop a reputation for being responsive to individual and community needs. Local and national developers wanted to be viewed in a good light.
One important issue is the intention of the developer. Among the 10 developers interviewed there were 2 who considered themselves as having a commitment to doing concentrated development in one town. Both of these were local developers. Because they wanted to be known as community developers they were extremely committed to making friends throughout the town. They wanted to develop a reputation for being a community minded developer. For them this would mean two things. They could outline a development turf and the members of the public officials would them as one of the home town people rather than outsiders. This could possibly result in a much smoother assembly and project approval process.

The other developers were also concerned about their reputations and public perception of them, but approached the issue from a different angle. Because they had done projects all over the region and country, they based their reputation on the way they conducted themselves in each town. Each place was a new opportunity to show that they were conscienceous developers who were committed to working with the community and also developing a quality product that would stand alone as a testimony of the professionalism of the development company.

One developer stated that "the word will get around, people talk and if they respect, you sooner or latter others will hear the word, but if you do a bum job in a town and are not willing to work with the zoning board, the word will
spread about that too."

So far national and local developers alike the four goals of assemblage for the purpose of developing a project, fostering a good reputation and relationship as being professional developers, setting priorities in relationship to community needs and achieving a short and or long range profits, are shared by all. Though focuses may differ the same result is desired.

There are two possible routes to achieve the goal of assemblage and development, non specific and specific project assemblage. There is no one type of company that falls into the category of a non specific assembler. The decision is made as to which route to take with each assemblage opportunity. Developers using this route generally target a region or town and look for land that is in the path of growth and buy it knowing that someday they will build a project on the site.

For the developer who uses this route a key issue is the potential for long range profit. To assemble and hold land for extended periods of time can be a costly venture. But developer who recognizes that the long range profitability of the project is worth the short term expenditures this could be a wise decision.

But the costs of holding the land also comes into the picture because the developer may not have a clear sense of when and what project will be built, there has to be ample
funds to cover the cost of carrying the land. One would think that the national companies would have more money to support the land costs, but surprisingly this is not always the case. One national company that is a subsidiary of an international company stated that the company had to support each project on its own merit and costs so no funds came from the parent company in this situation it would operate as a local company on its own resources. Another national company interviewed conveyed that his company was subsidized by the parent company but it was up to the company to make sound judgments about the prospects of land. So the decision to hold the land is on that is based on availability of funds based on the companies resources.

The other route is specific use assembly. I found that developers who chose this approach tend to be experienced in a specific type of development, rather residential, office, industrial, or commercial buildings. One interesting point to be noted is that all of the developers except one had experience in several different types of uses. The market is so broad in the state that it seems everyone is trying his hand at whatever opportunity presents itself. But all of the developers I interviewed had year of experience in doing different types of development. This is a key component when locating project specific sites. The developer must have the experience to know what kind of site is needed for a particular project. Or else a site could be chosen that is
too small or too large for the project to profitable on the site.

Because national and local companies at times chose project specific sites at the core of the decision lies the expertise to know what type and size of sit would be needed to satisfy the requirements for the project on the site. To the extent that the company are successful at assembling a site to meet there needs the concept will have an awaiting site.

In analyzing the company’s capacity, the first things to be done is size the risk of doing the assembly and development project. Once the company is aware of its limitations it can recognize possible opportunities. For both the local and national companies there is always some degree of risk involved. One developer stated "the higher the risk, the higher the possibility for profit." One way developers analyze risk and the possibility for profit is by analyzing market conditions.

I did not notice any difference in the way different types of developers analyze market conditions. In making a decision to assemble land, developers look at how long it will be until the market will support the development project and the possible consequences of acquiring and holding the property of proceeding with development.

For the non specific assembler, this is a critical issue because at the time the land is assembled there may not be a
clear timetable for project development. One assembler told of a site that was assembled and it will be approximately ten years before a project is built on the site. In a case such as this developers have to have a clear sense that in ten years there will be a market for something to be built on the site. In instances such as this case clearly the goal of assemblage and development is expected to be achieved but also the goal of a short and or long term profit. In this case it is obvious that long term profit is expected for the project. But who can be really sure that in ten years the economy of Massachusetts will still be booming and the suburbs a place that attracts people? For any developer there is no absolutely positive way for forecasting the market that far in advance, but it is part of the risk that all developers talk at one point or another. The possible consequences of misforecasting the market can be costly.

Because the developer would have to still pay the holding costs on the land, over a seriously extended time period, large sums of capital that could be used for other projects will be poured into the land with out a return on the investment. Also the company could be restricted in the kinds of future projects it could do because of over extended borrowing and not enough capital. The developers goal of achieving long term profit may not be realized, especially if land values start to decrease. In the case where a developer would start to see an decrease in land value as a last resort
the possibility of selling the land before too much value is lost may be an option.

In areas where the exact opposite is occurring developers have to deal with increasing property values. One developer told of the incident of where he had obtain control of a site for condominiums, agreeing to pay the property owner a certain price for the land. The developer ran into zoning complications and had to resort to building single family homes on the site. The profit to be gained for the condo’s could not be gained with single family homes. The developer had to go back to all of the owners and renegotiate lower selling prices for the land to make the project marginally profitable. In this case the developer also was concerned about the public perception and reputation of the firm. The new use of the site was in keeping with the plans and concerns of the community. Even though the developer was not a "Town developer" it was very important not to allow any bad feelings and misunderstandings develop between all of the parties involved.

This example points out another consideration in analyzing risk, that obtaining zoning. For developer whose goal is to assemble and develop a project on the site, the issue of zoning approval is paramount.

Eventhough the issue of zoning approval does not directly affect the actual process of land assemblage it does have far reaching effects on the non specific and specific project
development. The non specific assembler usually does not have a specific project in mind at the time of acquiring control of the land. He may have some ideas of what may possibly work on the site, since nothing is specifically planned the site has to be acquired with the expectation that the project will be approved. By not being prepared to seek what are the possibilities of zoning approval rezoning the site, the developer could be in a stressful situation in seeking proper zoning approvals once the land is acquired. The developer may not get to needed densities or uses to make the project profitable, and then he is stuck with a site.

For the developer who has a project specific site, one way to avoid unnecessary obstacles is to do the homework before class begins. By knowing what the zoning and height and density requirements are before hand the assembler can have an idea of whether the specific project will be approved or the site and under what conditions would approval be given.

The issue of zoning is interwoven with the goal of setting priorities in relationship to community needs. For the developer who is concerned about public perception of the company it is crucial that the developer be viewed as someone who is willing to work with the town officials in doing as much as possible to conform the regulations of the municipality and the concerns of the community. Many times for the developer it will mean scaling down the project, to reduce negative impacts of the project such as building
shadows, set backs, creation of open space and traffic congestion. Those who are willing to make change will win approval, those who want don’t. Sometimes the approval process could continue for years having serious impacts on the administrative costs of the project. All of the developers interviewed had gone through some type of lengthy approval process at some point in a development project. For both local and national developers in the suburban towns of Boston this is common place.

Another point of analysis is the risk or opportunities associated with the financial situation of the company. In analyzing the companies financial status, one question is how are companies funded. Of the developers interviewed 4 were from national companies. Two out of the 4, companies received funding from national sources other than there own. The rest of the developer both local and national received funding based on the success of presently operating project and built up cash reserves. One would think that for the national the amount of support for the parent company but of this group of developers the majority of them stand or fall on their own. This fact creates an even greater desire for the developer to achieve the goal of making a profit. To what ever degree the company’s ability to take on projects is constrained are propelled depends on the success of past projects.
Because this is the case I think that it makes a company more serious about what type of project it attempts to do. As is part of the development profession, risk is always a part of the equation. For the companies to go after project that are less likely but yield smaller profits must be balanced with those opportunities to take a chance to make it or break it.

One of the determinants of what type of project a company is able to take on is the availability of funds for the project budget. For developer starting the assemblage process, some form of budget must be used. The developers in this study have diverse methods of arriving at a budget and the price per acre for the assemblage. I would have thought that the national companies, presuming that they are more sophisticated at development, would use long spread sheets and charts and graphs to come up with some guideline for budgeting acquisition. But I did not find this to be the case. Among those I interviewed I could draw no definitive conclusions about what kind of developer uses what kind of method for preparing an budget. The methods are as varies as the companies. Some do use spread sheets others use the "gut feeling" until they start feeling like their spending too much. But one thing is certain in all the minds of the assembler, that if you pay too much for the land, the project could become unfeasible and achieving the goal of short or long term profit could be severely threatened or never

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realized.

In this chapter, I have discussed the profiles of the 10 development companies interviewed for this thesis. I have identified four goals of the developers interviewed and analyzed them in relationship to specific and non specific routes of assembly and the company capacity. An analysis of risk and opportunities based on market analysis, financial constraints and the amount of land and capital available have been included. All of these issues must be analyzed before the developer can prepare to develop the strategy for the assembly process.
CHAPTER 2.

DEVELOPING A STRATEGY FOR THE ASSEMBLAGE PROCESS

After the developers goals, assembly route and company constraints have been established the next step is developing a strategy for the assemblage process. The strategy is the game plan for the best most efficient way, to achieve the developers goals in terms of risk, time, and money. The strategy is composed of methods and technique used to achieve the assemblage goals.

Of the 10 developers interviewed for this thesis none of them had a standard strategy that is used repeatedly for suburban assemblage. Each assemblage is different with different issues involved. The assemblage process is described as a pandora's box, you never know what will happen until you open it. Although they did acknowledge that though every assemblage is different, there are some common elements in the strategy that are consistently part of every assemblage these elements will be discussed and examined in the following sections of this chapter.

The process of developing a strategy has been approached by two general methods. One method is to do exhaustive research about the land, the property owners, attitudes of people in the town towards development, and examine the
zoning restrictions before anyone is approached about acquiring the land. The other method focuses on acquiring the land and then doing the exhaustive research to analyze if what is proposed for the site will work or develop a project in accordance to zoning for the site.

Doing the exhaustive research first requires a great amount of time and leg work. Information about every aspect of the property owner, and governmental regulations regarding development on the site is gathered. This requires getting a real feel for the town and the people in it, and sizing up issues that will likely be raised about the project and deal with them before hand. Also looking at past precedents set by developers who have assembled land and developed in the town can give the assembler some indication of what the process may be like. This method gives the assembler valuable information on which a strategy can be developed, but also there is the risk of the word spreading that there is someone planning to build something on land in the area. This could result in the price of land increasing based on the speculation that the assembler is willing to pay top dollar to obtain control of the land. The implications of public knowledge of private land assemblage will be discussed later in this section.

The assembler who chooses to gain control of the property first is faced early on with the decision of when and how the property owners will be approached. To make this
decision the assembler will need to do research on the property owners and their land. This issue is discussed later in this section. But the major concern in this method is the risk of obtaining control of land and then finding what you want to develop is not acceptable for the site or is in someway restricted by the zoning codes. Generally in cases where this method is used the assembler tries to negotiate an option for the purchase or lease of the land that will be contingent on the developer getting zoning and permit approval for the project. In other cases the developer may negotiate an option to purchase the property for a specific length of time, ranging from between 6 months to sometimes years, in order to do all the exhaustive research on the land to decide if the proposed project will be approved for the site.

Depending on the goals of the developer, whether before or after he has control of the property, there will be the need to do exhaustive research. First for hard data, and second or project approval. For the developer new to the area, information generally considered essential to developing the strategy would be: What is the size and the population mix? What is the local form of government? What is the status of the local economy? What is the economic base of the Town? What are the growth patterns in and around the town? Is the town attracting or repelling development? What type of development has been done in the
town? What type of impacts has development had on the town? What is the current use of the land? What has been the history of the land use, what are the zoning restrictions for the site, and what utilities are accessible to the site.

The developer who has done projects in the town before is more familiar with information regarding the town and general development issues. Familiarity with the town may also influence the strategy approach. The experienced developer acquires information about zoning and soil conditions of the proposed site, utility access and the impacts of the development on the surrounding area.

Suburban developers in the Boston area tend to oscillate between the two methods depending on their experience or lack of experience with development in a particular town. In Massachusetts each town has its own personality and zoning ordinances. What will be a successful strategy in one town may not work in the neighboring town. At the heart of the strategy must rest a working knowledge of the town's attitude toward development, and not just development in general but specific types of development as it relates to the matter as of right for the site, highest and best use for the site and the goals of the developer in assembling the site. In the town of Westford, Massachusetts there is limited opposition to the construction of single family residential developments but the town has a zoning ordinance banning the construction of condominiums.
For a developer who has done projects in Westford this restriction is common knowledge, but for someone who has never attempted residential development in the town it is essential to have this knowledge before land is acquired for the purpose of developing condominiums.

The land assemblage process is dynamic, there is always motion. The purpose of the assemblage strategy is to provide a guide to control the speed and the direction of the motion.

When analyzing how to develop a strategy assemblers find it necessary to keep track of all the different aspects of the project. This would include items such as like owners profiles cataloging, who they are, where they are, how much they own, how much they are willing to sell, conditions of the land. Also the dates and times and location of meetings, and the out comes of the meeting would be documented. Because an assemblage can have a multitude of different issues involving different individuals or groups, many developers find every individual element must be monitored, to forget or lose track of something could cause havoc for the success of the project. With the entire project being constantly analyzed and updated the assembler can make some immediate judgments concerning how to approach the project. Although I have not found that there is a standard strategy, the most common priorities used by developers interviewed for this thesis is to:
1. Identify those that will cost the least to buy out.

2. Go for the largest land owners or access easements first.

3. Tie up all property with the longest options with as little money down as possible.

Each of these points is discussed later in this paper.

When developing a strategy for the assemblage process there are no faultless formulas to follow, but gathering all available information, and doing as much preparation as possible about all of the issues that may be involved, does give the developer a better chance of making a good start out of the gate. When more work is done at the beginning of the entire process in analyzing the situation you are about to enter into, the better the possibility of developing a strategy will address the issues. But there are no guarantees about any thing except that the process of land assemblage is like putting together a gigsaw puzzle, and before you start its better to have all of the pieces on the table. Doing the fieldwork first is fundamental to developing a good strategy for the assemblage process it gives the developer an idea of whether he’s dealing with a 100 or 1000 piece puzzle.
COMPONENTS OF ASSEMBLY STRATEGIES

The assembly strategy is comprised of different components that provide the assembler with the proper techniques to achieve a successful assemblage and have the ability to analyze elements that could affect the success of the strategy. The strategy techniques are methods and agreements to achieve specific results under different assembly conditions. The elements that affect the strategy are those issues that arise to which the developer must respond before or after the assembly process begins. The right combination of techniques and the ability to analyze and address the elements that affect the assembly process are the heart of the entire process.

Developing Priorities for Approaching Property Owners --

Because a developer might be operating under time and financial constraints one of the decisions that have to be made before actual approaches are made, is deciding which technique will be used to develope priorities for approaching property owners. This is a very important decision because it could effect the continuity and the pace of the entire assemblage process. If the criteria for establishing the priority of the owners is flawed, owners could hold out for higher prices, the most essential land need for the assemblage could be over looked until the end of the process and then be too costly to buy. Having the owners prioritized
is especially important when the developer is dealing a large number of land owners. To make the decision of which owners will be approached first, a developer will need to do some general research on the owners of the land and analyze the individual properties in light of which are most important pieces of property to the assemblage, which ones may be the easiest to buy.

Analyzing which properties are most important to the assemblage is usually measured three ways, in terms of:

1. The number of acres held by one owner

2. The topography of the site

3. Access to the site

Suburban land assemblages in the Boston area tend to include a sizeable number of acres ranging from ten to several hundred acres. To identify who the major land owners are and target them first is one way to attempt to get control of the most land dealing with the smallest number of owners. Once the developer had the largest parcels he has a foot hold on the site and is in a better position to negotiate with the other owners. Developers using this strategy report that when the smaller land owners are aware
that the larger land owners have agreed to sell or lease their property sometimes this acts as a catalyst for the others to hop on the band wagon. This logic of thinking, while has been proven to be successful in some cases, also carries with it the problem of the smaller land owner wanting a higher price for his property. But those who have used this approach recognize that it is a risk they take to complete the assemblage and if the project can absorb the cost they may be willing to pay the higher price.

The developer approaching the larger land owners must be ready to bargain for the land. Depending on the attitude and the financial position of the owner, the assembler cannot get discouraged by a "no" answer but be persistent but yet polite. To be able to tie down the larger holdings essentially can be the hub of the entire assembly. The assembler must be willing to ride out any apathy or fears the owner may have, this is true for the smaller land owners as well.

The topography of the land can also be a factor that influences which owners are approached first. Because suburban land in the Boston area has such varied characteristics, gaining control of the land with the most desirable topography could be a strategy chosen. Land that has marginal to undesirable topography such as large rock beds, exposed cliffs, steep hills wetlands or poor soil conditions would not take precedent over more gentle
qualities. Land that is relatively flat or land with trees or a stream may be desirable because of issues of construction costs or to make use of the natural amenities.

Access to the site is also critical. If the land is not bounded by an access road, then access to the site may have to be obtained by crossing other property abutting the site. This could require the assembler negotiate an agreement with the owner to obtain and easement through adjacent property.

Another angle to analyze which owners to approach first is to identify which owners might be the easiest to convince to sell their land. There seem to be three categories of owners to identify:

1. Land owned by absentee owners

2. Owners with small pieces of land

3. Owners of land locked property.

Land owned by absentee land owners may be more easy to acquire because the owner is not directly connected to the land. Owners that live in other towns or other states may not be as sentimental about selling property they do not use or see. Eventhough these owners may be prime candidates to sell, dealing with them also comes the problems of negotiating with someone who may not be easily accessible.
These negotiations may require traveling to other states or dealing with a representative of the property owners.

Owners of small pieces of land should also be targeted. Because their holdings are small in relation to larger parcels owners may be less willing to hold on to the smaller parcel. The owners is limited in what he can do on or with the land so for many owners to sell the land is not a bad option. For the developer smaller pieces of land can usually be purchased for a lower unit price. One strategy that is used is to buy out the cheapest land first, if this logic is used then the smaller parcels would generally fall into this category.

The term land locked refers to property that is surrounded on all sides by land owned by someone else. Land that falls into this category may also be easier to gain control of. The owners of land locked property are restricted in the use and access to the property. An easement across another property owners land may be to only access point to the property. Also the land locked property owner has limited control as to what the other owners do with their property. So the land locked property owner may very well want to get out of a boxed in situation and selling the property is one way to do that. A point of caution when using this strategy is the developer who acquires control of land locked property must also acquire access to the property or find himself in the same situation as the former property owner.
A developer recounted an instance where a developer assembled a site in Woburn. It was office and industrial zoned land located in Woburn but the access was through the town of Reading in an area that was zoned residential. By Massachusetts state law access can not be obtained to enter office and industrial zoned land through residential zoned areas. The developer took the town to court to gain access. The argument was based on the fact that the town of Redding Municipal Light Department had high voltage lines running under an easement on the property. He argued that the electrons in the high voltage line served industrial, commercial, and residential users on the same piece of land. If the electric lines could serve all users, why could not a driveway over the easement serve the same purpose. The judge ruled in the developers favor. The town appealed and the developer won a second time. Finally the town gave up the battle and granted him the matter of right to construct the road.

Developing criteria for establishing the priorities for approaching the property owners is crucial to making sure that the most important property to the assemblage is secured first. For every project the priorities may be different, but having them already established before the first property owner is approached will give a sense of direction to the entire process. Also the developer will be able to monitor
the progress of the assemblage by the number of most important parcels that have been acquired. Even if all the land desired for the assembly is not obtainable, if the most important parcels are secured there may still be the possibility that something could still be developed on the assembled land.

METHODS OF APPROACHING PROPERTY OWNERS

After the criteria have been established the next decision to be made is, what is the best way to approach the parties involved in the assemblage process. Although every assembly is not the same, in almost every assemblage attempted there is the same core of parties involved: the property owners, abutter land owners, town officials, town citizens. The kind of interaction conducted among these parties and the assembler will significantly influence the success of the assemblage.

By choosing to approach the owners first, the assembler must decide how will owners be approached. There are several different methods being used. The first is to approach all the property owners at one time, this is usually done in a meeting of all the land owners called by the assembler. The second method is to meet with the owners individually. This approach also carries with it the need to determine if the owners will be approached directly by a person from the development or real estate company or through brokers from...
"dummy corporations" controlled by a company whose name is concealed from the owners.

Approach all the owners collectively - In making the decision to approach all the property owners at the same time, usually the assembler is going for an all or nothing situation. Either all of the property owners will sell their property or the assemblage will not take place. This method is most often used when property in a residential development is being bought out. All of the property is valued the same way or at the same price. For the assembler in this situation the value of the property is based on the land rather than the structures on the property. The homes are usually destroyed or removed for the construction of the development project. So all of the owners with the same size lot or same number of acres will be offered the exact same price for their property.

One of the surprising aspects of using this approach is developers have found that property owners in the subdivision will encourage other reluctant property owners to join in and sell their land so the assembler will not walk away from the deal. The owner induced peer pressure to sell the property greatly relives the assembler of having to deal with each individual property owner. The property owners are dealt with as a group, but every property owner must agree to sell under the assemblers stated conditions or the assembler walks
away and knowone gets anything.

This approach also alleviates the problem of owners holding out for a higher price for the land. Everyone is aware of what value is being placed on all property to be acquired. There are no secret deals or under the table concessions to individual property owners that all of the owners will not receive. This is usually viewed as a fair and clear method of approaching land owners.

For the assembler, this is an excellent way to determine if an assemblage is possible without spending a lot of time and money. In the space of two or three meetings the assembler is aware of whether the deal will work or not. Meanwhile very little money has been spent to determine if the assemblage is possible.

But there is also a draw back to this approach. If all of the land owners do not agree to sell the assembler cannot deal with the remaining owners who would like to sell. The deal is ended and the assembler is left with nothing and has to find another site which may not be available.

Approach the owners individually - The other approach is to discuss the issues of purchasing land with property owners individually. This approach seems to be the most often used approach by suburban assemblers. There are two ways this is currently being done in Boston suburban towns. The first and most widely used is the direct approach. The other and less commonly used approach are "dummy corporations". In
developing a strategy the developer must decide which approach would best facilitate a successful assemblage.

Direct Approach - When using the direct approach method the assembler would approach the property owner by mail or in person and be straightforward about discussing with the owner the possibility of purchasing the property. One developer outlined his basic procedure as follows: "So what happens is that we approach the land owner directly and say heres who we are, heres my card, I work for this company and we do this kind of development. Here are some examples of work we have done before. We understand you to be the land owner of so many acres and we would like to talk to you about purchasing your property." Before the developer approaches the owners information is usually collected on who he is, his financial status, does the owner need cash or possible tax shelters, what is his financial picture relative to the land, and what is his age. "After the initial introduction we basically start the conversation off by asking how the weather and proceed from there to determine what he has and what he is willing to sell." This is the general procedure used by most suburban assemblers when using the direct approach method.

Most of the developers consulted during this study had worked on assemblages ranging from three to ten property owners. The direct approach method seems to work well under these conditions but one of the questions that presented the
most critical point of analysis is which property owner do you approach first? One of the benefits of using the direct approach is the assembler can use the name and reputation of the development company to convince the owner that the proposition is a legitimate one. In the last six years more national developers have began to move into the suburban areas of Boston to develop. Their names and tract records can sometimes ease concerns as to whether the developer can actually come deliver the money for the property. But many local firms have tracts records in suburban areas because of doing development projects in neighboring towns and developing a reputation of working with local officials and citizens to provide a quality product on a consistent basis.

Another selling point of the direct approach method as a way of approaching property owners if there is the opportunity for the assembler and the owner to develop a working relationship. The seller has the opportunity to meet the company representative and work together to come to an agreement if possible for selling the property. The seller can have the assurance that the company is willing to work with the seller and that it respects the owner as a client and is willing to recognize that fact and carryout the negotiations in a professional manner.

Conversely there are some potential drawbacks to this approach. The first drawback is that once the word begins to spread that a developer is attempting to assemble property,
there is the possibility that owners will expect a higher price for their land. Often this notion is not based on the property's market value, but on its perceived value to the assembler. Depending on the number of property owners and the level of owner expectations, paying those increased prices could seriously affect the budget of the development project.

The other drawback to the direct approach method is the property owners approached last can ask a higher price for their land and the developer is put into a situation where too much time and money has gone into the deal to not pay the price to complete the assemblage. Meanwhile those who agreed to lower prices earlier on in the process can then feel as though they sold out too soon. And in instances where the property is under an options agreement that expires before the process is complete and has to be renegotiated the owner may ask a higher price for the land.

**Dummy Corporations** - The other method of approaching the property owners is through the use of dummy corporations. Using this method the assembler treats each transaction separately, going to great extremes to disguise the fact that the buyer in each case is assembling the site. Dummy corporations are created with the expressed purpose of acquiring land within the assemblage boundaries. These corporations, though formed as individual private companies are managed by the company for whom the land is being
acquired. Each corporate entity has different officers, expressed purposes, identities, addresses, lawyers, and agents.

This approach is used more in urban areas where the price of land is sky rocketing or there are a large number of property owners and in situations where if the word leaked out that the company was assembling land property owners would expect to be paid inflated prices for their land. Which incases where the property is already expensive or there are twenty to fifty property owners this could be a real problem. Although this approach is used more often in urban settings, it is used from time to time in the suburban areas around Boston. When used in the suburban setting the assembler is usually faced with a large number of property owners involved in the assemblage. To guard against paying inflated prices and to shorten the times it would take to deal with each individual property one at a time, this approached is used.

In the cases where this approach is used there are some significant benefits to this strategy. The first benefit is that the project has less chance of failing because of inflated prices. Because different companies are acting as brokers it is difficult for the word to spread that something is underway. All of the land owners are not approached at the same time in the same manner, so the element of secrecy is maintained.
Just as there are advantages to the use of dummy corporations there are also disadvantages associated with them. The first disadvantage associated with the use of dummy corporation's is the cost of establishing and maintaining them. Each corporation has its own location and staff that must be supported as long as they are acting as brokers for the developing company. Depending on the number of corporations formed and the length of time they are in existence the price of maintaining them could be very expensive. For the developer with plenty of capital this may not be a problem. But to the developer that has a thin budget, this method could be too costly.

Using dummy corporations also places the development company in a very venerable situation. If the word leaks that the company is actually assembling land under cover, this casts a dark shadow over the public perception of the company. This could have negative impacts in other deals the company is involved in and willingness of business partners to trust the integrity of the company. Owners who have sold their land to dummy corporations may feel tricked or mislead. Those property owners who were still negotiating with brokers may stop negotiating or ask more for their land.

When one employee of a development company who had been involved in land assembly with dummy corporations was asked about the ethics of using this method of approach he replied "Although it is legal, the fact that the true identity and
intentions of the assembler is concealed raises a few eyebrows, if the process had not been kept secret it would not have been successful. Once the owners know that a large assemblage is being attempted, they think the assembler has deep pockets and will expect 2 to 3 times what their property is worth."

Analysis and Summary

The purpose of the different methods of approaching property owners is so the assembler will be able to respond to different assembly situations and chose the method that will best aid in achieving the goal of the assemblage. Through analyzing the four approaches discussed in this thesis some correlations can be made between the goals of the assembler and the method of approach used.

The collective approach, is a method which has as its core equality for all involved in the process. All of the owners are approached at the same time and offered the same value for equal size properties. This method is best used in situations where property in residential subdivisions is being acquired. In areas where the land is not divided in an easy identifiable pattern this method would be difficult to use because a value per acre are lot could vary depending on the topography and the size of individual holdings. In subdivisions basically all of the lots are similar in size and topography, the property owners are concentrated in one
general location. This method lends itself to bringing all of the owners together and dealing with them as a group.

For the local and national developer who has as a goal developing a good reputation and relationship as being a professional developers, this method of approach requires that the entire group of owners feel that the developer is trustworthy and will be honest in his dealings with the home owners throughout the entire assembly process.

On the other hand individual method its two component of direct approach and dummy corporations is most effective when dealing with owner on a individual basis. Through talking with suburban developers the direct approach is the most used, but also seems to be very effective. Perhaps this could be to the small town attitude of being friendly and personal has something to do with the success of this method. For the assembler who assumes the responsibility of developing working relationships with all of the property owners, depending on the number of owners this could be a large task.

The direct method is one that depends on the owners feeling that the developer is a trust worthy or that the development company is a reputable company who can be expected to carryout any contractual agreement made.

This method also has draw backs because the owner is made aware of the plan of the development company, there may be the chance the owner will want a higher price for the land. The developer places trust in the owner that he will also be
honest and reasonable. In most instances this is the case but in situations where the owner begins to expect more out of the developer than the property is worth, the developer may have to reexamine the angle of approach. If one of the assembly goals is to achieve a short and or long term profit, too many over ambitious property owner can seriously affect the realization of the goal of making a profit because the price of the land could be too expensive for the type of project to be built on the site.

For the developer who is assembling the site without specific project in mind this may not be as big a problem, because hopefully a project could be designed for the site that will be reflective of the price of the land. But for the developer with a specific project designated for the site, increasing land costs could present a real threat to the profitability of the project.

For this reason some developers, none of whom are suburban developer in the Boston area, chose the dummy corporation approach. This approach is usually used when the developer is funded or in partnership with institutions that for whatever reason do not want to be associated with the assembly process.

This is a very costly approach, administratively, but could save time and money depending on the speed the process is carried out. Developers who use this method clearly have as a goal achieving maximum profit. One of the proven
benefits to using the dummy corporation is that it reduced the risk of developers having to pay over inflated prices for the land.

But with the use of the dummy corporation comes the question can a developer use this method and still be respected by the property owners and the community, when it is clear the developer was not completely open in the way he chose to assemble the land? I would argue that a developer can be respected and even supported by the town once the process is complete. I base my argument on the fact that if the purpose the land is being assembled for is of direct benefit to the citizens of the municipality, the developer could be seen as someone who has priorities in relationship to community needs. For the developer who has this objective as one of his goals I think in the end he will gain respect and develop a good reputation for the company in the area and even develop some long lasting business relationships.

An example of this is would be the how the town of Columbia, Maryland was assembled in Howard County, Maryland by the Jim Rouse. In the course of a nine month period through the use of dummy corporations he assembled over 14,000 acres of land assembled from approximately 75 owners. When it was made public that the land had been assembled for the purpose of building a town, and that the entire county would benefit from the increased revenue of the town, the development was viewed as something good. But I think it is
important to mention that, Jim Rouse was indeed committed to insuring that the county did benefit for the development. That one development project improved the entire character of the county.

But I am also aware that there are those developers who would use this method without any commitment to developing a good relationship with the people of the town and try to use this method of approach not only as a tool to combat increasing price expectations, but also as a tool of exploitation of the good faith of honest property owners, by trying to get the land for less than its worth.

The question of ethics is deeply woven through the logic and the situation for using different method of approaching the property owners. In chapter 6 I address this issues in more detail. But it is correct to state that in developing a strategy for land assemblage the assembler must analyze each individual attempt and chose the method that will allow him to achieve the goal of the assembly.

Regardless of the method of approach chosen for the assembly one component that developers site repeatedly in dealing with individual property owners is the importance of the assembler to be honest and pleasant when approaching the property owner. The owner must not feel that he is being swindled out of something of great value. Before a sales price is offered the assembler should try to assess the specific needs or future expectations of the land owner. By
talking with the person on a personal but business like manner, the assembler may have the opportunity to see how the owner could be persuaded to sell the property. After the present and future aspirations of the property owner have been discussed then a purchase price that is reflective of the owners needs can be offered and negotiated.

In developing a strategy the developer must decide which approach would yield the most property in the shortest amount of time. This takes careful analysis of the situation surrounding the assemblage. Again there are no clear cut rules to follow.

RANGE OF AGREEMENTS FOR CONTROLLING LAND -- Another component of the assembly strategy is the selection of land assembly techniques to incorporate into the process for gaining control of land. After the land assembly strategy has been developed and analyzed the next step is to decide what type of agreement techniques should be used. Just as each assemblage process is different so are the techniques used to assemble the land. Because different owners have different needs and expectations and developers also have different opportunities and obstacles to respond to, all of the negotiating parties constraints and expectations must be taken into consideration when selecting techniques that will best satisfy both parties. When talking with developers
about the different techniques used to control of suburban land in the Boston area the following techniques were most often mentioned.

Fee Simple Acquisition — Fee simple ownership represents the most complete form of private property ownership recognized by law. A fee simple interest creates an absolute and a complete right of ownership for an unlimited duration of time with an unconditional right of disposition and use.

Consequently, fee simple ownership is the most desirable interest in the land. ¹ Fee simple acquisition is the most straight forward and easiest to execute of all the techniques used in suburban land assemblage. It basically involves a straight forward purchase and sales agreement between the owner and the developer. Where the developer pays the full price for the land on a specified date and the deal is closed.

Very few of the developers interviewed, cited using fee simple acquisition alone as a technique for land assembly, it was used with an option over time. When the land was reasonably priced and in less demand this would work. But as the market for suburban land continues to increase and the number of acres of developable land decreases, straight forward fee simple acquisition will be the most often used method of acquiring property.

¹ Wurteback, Mike E., Miles E. Mike "Modern Real Estate", 1984, pp 82.
For the developer this will mean having to have the full cash price up front to offer the owner. This could put a tremendous financial burden on developer, and also limit the number of projects that the company will be able to start because of limited leverage. The level of risk to the developer will also be greatly increased because he will generally have to purchase the land and then do the research as to what will be approved for the site. Because the price of land is not related to zoning density, the developer may be a risk of not being able to achieve a level of density to make a project profitable on the site in relationship to land costs.

For the owner fee simple acquisition has always been the least agreement. It guarantees that the agreed upon price will be delivered on a certain day and the deal will be finished.

Option to Purchase -- An option to purchase real estate is an agreement by the owner grants to the developer the right to buy a designated piece of property for a specified price within a specified period of time. 2 The option period is the period designated in the contract granting the option during which the developer has the right to decide whether or

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not he will exercise the options. Under a preemptive option, the owner must, if he desires to sell the property, offer to sell it to the developer for the price designated.

A purchase option or a right of first refusal may take the form of an independent agreement between the parties or be part of an existing agreement between them.4

Common Types Of Options

Fixed Option -- This is the simplest form of option; it entitles the developer to buy property at a fixed price during the option period. Fixed options are beneficial to developers because the price can be locked in at the beginning of the negotiations. In the Boston suburban market where land prices are beginning to increasing at a rapid pace, this option provides a buffer against rising prices.

This option generally works against the owner because it locks him out of taking advantage of the property value appreciation and getting a higher purchase price. To guard against this the owners would need to settle on a price that include the expected value increase, and agree to a time limit for the option that would reflect the agreed upon price. 4

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3 Id. 40.
4 Id. 40.
Full-Credit Option — Under this type of option, the price paid for the option is credited fully against the purchase price of the real estate if the option is exercised. This option is one that has been used often in suburban land assemblage. This option insures that all the money the developer pays for and option will be subtracted from the purchase price of the property. The developer is not penalized as long as he operates within the agreed upon time limits.*

The owner has nothing to lose or gain from agreeing to this option. The owners concern generally lies in the length of the option. By limiting the length of time of the option the owners can put pressure on the developer to act with speed. In a market where the land is in demand, this could put the developer in a situation where he has to buy the land before all of the research is done, and take a risk with the property.

One developer cited using this option when seeking approval of a site for a health care facility. A site was chosen for the facility, but the period for receiving licencing and zoning approval was about two years. The developer negotiated with property owners to take control of their land for two and a half years. This gave the developer time to determine if the facility would be licenced and if it

* Id. at 41.
* Id. at 40.
would be approved by the zoning board for construction.

Declining - Credit Option -- Under this type of option, as an inducement to the developer to act promptly, the percentage of the option price that may be credited against the purchase price of the property declines as time goes by.

This option places the developer in a position to act quickly on deciding about the property. For the developer in the Boston area this has a draw back. If the developer is planning on building a specific project on the site, he will need to get project approval before he buys the land comprising the site. The process of project approval in small suburban towns can take months and even years. If the developer is caught in a long extended process, he will be penalized. Depending on the length of the approval process he could suffer the penalty of the entire option payment not being credited to the purchase price of the land. 7

For the owner this option has the benefit of encouraging the developer to act swiftly in purchasing the property. In a sellers market any length of time the land is off the market the owner may be at risk of loosing a potential buyer for the land.

So regardless of the approval process the owner wants the assurance that the property will be bought in a reasonable

7 Id. 41.
time period or the developer will pay the additional time he uses to make a decision about the property.

**Shotgun Option** — Under this option, the developer must, within a specified period of time, purchase part of a parcel of land at a designated price; he then has the option to buy the remainder of the parcel at a specified later date. The developer acquires not only the land that he purchased initially but the right to purchase additional land in the future, and the owner has made a sale at least part of his parcel.

This option works well in situations where the developer has a site composed of several small to medium sized parcels and one large parcel. The developer can acquire all of the smaller parcels and acquire only a portion of the largest parcel with the expectation that as the project expands he will have the opportunity to buy land as needed. Under this option the developer is not legally bound to acquire additional parcels but has the right to do so within an agreed upon time period. For developers in the route 128, 495 area, which is expected to continue to expand for the next ten years, this option is useful for phased industrial and office projects.

For the owner his option means he has committed himself to one developers expectation of what the future will be.

* Id. 44.
This could be good or it could have negative effects. If the market stays strong and the project plans move ahead smoothly, the owner has not lost anything. But if the project approval is delayed the entire development schedule could be slowed. Also the approval process of the expanded project may meet resistance or even be denied. So the developer will want to negotiate the longest build out option. The owner is taking a risk that the developer will be able to carry out his plans. Meanwhile the land is off limits to other developers who may have one project that will occupy the remaining parcels and want to purchase the site.

Time-and-Release Option -- This is a straight option containing specific release provisions. For example, a developer pays $25,000 for an option to purchase a $250,000 track of land divided into five parcels; the price for each parcel is to be $50,000 and the developer has the right to purchase the first parcel at that price within one year, the second two years, and so forth. If the developer fails to purchase the next parcel in line, the option lapses with respect to all the remaining parcels. ^

This option is similar to the shot gun option and for the developer carries the same benefits and disadvantages. But with this option the developer is in control of not just the remaining piece of a parcels but the option to acquire

^ Id. 45.
individual parcels of land. Also he is aware of what he will have to pay in the future for the additional land. This allows him to plan financially for the future acquisitions.

For the owner, if the market value of the property increases more than the agreed upon price the property owner suffers a loss even if the developer meets the time restrictions. This option locks in the price of the land over an extended period of time based on the total number of parcels. With this option the owner would have to protect his interest by including a escalating formula for the increased value of the property. Persons interviewed for this study all had used some type of option to gain control of the individual parcels until they were purchased fee simple. The suburban land market is quickly changing. The demand for land is quickly increasing. Developers are finding it harder to get long term options at prices acceptable a year or two ago. Options work well for developers in buyers market but as the market continues to change to a sellers market options will be harder to negotiate and be for shorter lengths terms at higher prices.

Ground leases — Ground leases make possible flexible financing arrangements well suited to the development of both urban and suburban areas. In the suburban areas of Boston a situation that would necessitate the use of ground leases is when land is owned by a town or large company that is not
willing to lose ownership of the land. In these situations developers would agree to lease the property from the owner to complete the assemblage.\textsuperscript{10}

The ground leasing also benefits the developer because he need not make capital investment in the property and his yearly rental payments are deductible business expenses. For developers, long term ground leases keep necessary investment to a minimum and offer a practical method of acquiring the use of land under which annual rental payments take the place of mortgage payments.

The owners benefit from easing by receiving rental payments for their land. The payments can be standard monthly payments with an escalating clauses built in or they can be tied to the income and profit increases of the project.

\textbf{Swaps or Two - Party and Multiple Exchange agreements} -- The most important question to answer in setting up an exchange is: "What do you want to accomplish?" The size and success of the transaction will depend on how specifically this question is answered and understood as the transaction evolves.

The underlying requirement of any exchange is that all participants get the same in value as they give. If this

rule is followed, there can and should be as many winners as there are participants.\textsuperscript{11}

There are several methods that can be used to balance equities in and exchange. The methods used should be selected according to their possible contribution to meeting the objectives of the parties in the transaction. When equities are balanced in a way that meets the requirements of the owners, by definition, economic feasibility has been determined. \textsuperscript{12}

Occasionally, exchanged are completed with unequal dollar equities. A successful transaction involving equities that are not balanced is an indication that another form of value was received that was not measurable in dollars.\textsuperscript{13}

Realizing the extent to which variables can be controlled is essential to understanding that structuring a transaction is a process of changing the circumstances surrounding property ownership. This controlled structuring is effective because of the large number of techniques and formulas available for use in an exchange. Techniques which can be used to customize an exchange increase the chance of success. They provide the tools for flexible action and allow you to choose and create circumstances using real estate as the supporting structure. When an awareness of alternatives is

\textsuperscript{11} Tappan, supra to 36
\textsuperscript{12} Id. at 41
\textsuperscript{13} Id at 41.
combined with a flexible attitude, real estate becomes a vehicle for moving from one position or investment circumstance to another.\(^\text{14}\)

Value calculation in a real estate exchange is incomplete without consideration of the improvement the transaction will make in the owner's life. No exchange can be completely analyzed out of the context of the participants' unique personal circumstances. Relying on a mathematical analysis alone is inadequate.\(^\text{15}\)

The heart of exchanging is the application of sound economic practice within the limitations of tax law. Knowing the tax consequences of your transaction is essential. But to make an exchange work financially, to make it fit the requirements of the participants, it is necessary to have a full range of formulas and techniques from which to draw. Each exchange demands unique solutions for the problems that inevitably arise before closing. These formulas and techniques are simply solutions that make an exchange work.\(^\text{16}\)

One of the frequent stumbling blocks in a two-way exchange is the refusal of the parties to accept the property offered. The direct solution is for the reluctant party to

\(^{14}\) Id at 41.
\(^{15}\) Id at 41.
\(^{16}\) Id at 42.
accept the exchange offer, provided other suitable property is located and substituted for the property he doesn’t want. This conditional acceptance is the beginning of a three-way multiple exchange. The mechanics can be easily set up by inserting one clause establishing the contingent acceptance of the initial exchange offer. The clause can be worded many ways. The following is one approach:

This offer to exchange is irrevocably accepted provided that different property, satisfactory to me, is located and conveyed to me instead of the property offered. If acceptable property is not located within 180 days from this date, this agreement will be null and void and all deposits will be refunded.

This technique is designed to keep an exchange alive and provide the motion to locate satisfactory property and close the exchange. With an accurate understanding of the objectives of the parties involved, competition of the exchange can naturally follow. It may even be possible for a third party to purchase acceptable property and put it in the deal.

One developer used this technique to exchange land in an assemblage for adjacent land owned by the local town. The

17 Id at 42.
18 Id at 42.
19 Id. at 43.
town for several years had made plans for a ten acre orchard to be used as a public park but the land was over priced. A developer obtained an option on the land form the owner and included it in a site for a residential development. The town offered to swap the 10 acres of land with the developer or a 14 acre site adjacent to the assembled site and they struck a deal. Both parties were satisfied.

Analysis and Summary

The different land assembly techniques are the means by which the assembler can overcome obstacles or seize opportunities to gain control of property. After talking with developers who had used different techniques it was clear that the success of the process hinged on the type of agreement that was made between the owner and the assembler.

Techniques are used to achieve the goals of the developer and the owner. The techniques allow in most cases the developer to get an option on the land, as with the use of the many option agreements or gain control of the site for development by leasing the land, as in the case of ground lease agreement. But in either case the developer is allowed to control property without paying the full purchase price. This is very important point because in the case of suburban land assemblage most developers could not afford to pay the full cost of the land at the beginning of the assembly process. Besides the risks are so great as to how the
approval process will proceed or if getting rezoning for the land is possible, that to purchase property fee simple without knowing what he is up against may not be in the assemblers best interest. These techniques allow the developer to save money and in most cases by time to analyze the prospects of completing the process.

Without the use of these techniques the assembler would have to put out large sums of capital to pay for land fee simple. This could severely limit the ability of the developer to be engaged in a variety of development activity because of the lack of financial resources. Depending on whether a company was nationally or locally funded could mean that large scale land assemblage would be restricted to only those who had access to large sums of cash. The number of developers assembling land would be greatly reduced which could result in only a few companies developing large sites for projects and the rest of the developers being limited to the size sites they could develop.

The far most used technique is the different types of option purchase agreements. These agreements allow the assembler the time needed to either get approvals or buy land in increments based on a projected buildout period of a project.

I have found that several options seem to have some specific application to the strong market in the Boston suburban area. One is the fixed option. This option fixes
the price of the land at the beginning of the negotiation process. In a market where land prices are increasing this could be a good strategy. For developers who are not sure of what will be approved on the site, to lock in the price may mean that the project may have to be changed to be reflective of the price of the land. If the developer is certain about zoning and project a approval this is a good option to use if the owner will agree.

The shotgun and time-and-release options are well suited for the phased development type projects. Both of these options make provisions for the developer to purchase additional property within a given time period. As the amount of land suitable for development begins to decrease, having the option to acquire more adjacent land is a desirable opportunity. For projects such as mixed use or phased office and industrial parks this would permit the project to grow with the market, and allow the developer to purchase portions at intervals rather than having to put all the capital into the beginning of the project. The assembler still has the commitment that when needed the other land will be available. This would allow the developer the possibility of achieving the goal of long and short term profits based on capital investment.

At a time when suburban towns are becoming more conscience of growth control and preserving land in the public domain, one technique that developers may find useful is the ground
lease. By leasing the land instead of buying it fee simple, the developer receives the benefit of controlling the land with very little money when compared to actually purchasing the property. One way towns as well as developers can benefit from the use of this technique is to lease land to developer who will develop projects in keeping with town land use and physical planning goals. For the developer who has as his goal setting priorities in relationship to community needs, the town may be willing to enter into an agreement. For the developer who wants to be perceived as a local town developer this is also a good way to begin working with the town. The town will also benefit through this type of agreement also, it gets development that is responsive the economic development concerns, in a location that is in accordance with land use plans and still holds title to the land. I am not aware of how many towns or developers have taken advantage of the technique in suburban areas, but is used in the urban areas with much success.

Land swaps or exchanges are agreements that are widely being used in the suburban areas. They allow the developer to gain control of land in many cases with out exchanging large amounts of capitol or as part of other types of agreements. As long as the parties involved can agree on the terms of the swap both developer and owner walk away pleased. The issues surrounding swaps is how the individuals come to determine how equity in value will be determined. The swap does not
have to involve only land but anything the parties agree upon. I have found that many times developers will use swaps as an induce for the owner to sell. Offering to buy the owner a house in a particular location and swap title to the properties. Or swap land and money for land only. One of the benefits of using swaps is that the combinations are endless and depending on the creativity of the individuals in the process almost anything can be worked out.

But sometimes the process of working it out can be mind wrenching. Coming to the point where things exchanged have equal value takes a great deal of negotiating. One developer told of the instance in which negotiations with an owner about the price of land had gone on for months until the idea of a land swap was arranged between he and a property owner. They agreed the developer would buy the owner access to some other land locked property he owned and in return he would give the developer 17 acres adjacent to the developers assembled site.

Deciding which technique is best suited for individual situations comes with experience and knowledge of what type agreements are legally available. Just as with compromises and concessions, the terms of the agreements must be renegotiated. Although the techniques do have basic guidelines to follow, the actual minute details of length of time, rate of increases in price over time, and the penalties for the developer not abiding by the agreement all have to be
negotiated on an owner by owner basis.

The use of these techniques provide the developer and owner with a means of accommodating the different needs and expectations of both parties. They provide a framework on which to negotiate a successful assemblage. Where the success or failure has been affected is in negotiating the details
CHAPTER 3.

ELEMENTS THAT AFFECT THE STRATEGY

The actual assemblage process can be long and tedious or short and relatively simple depending on the number of owners and the internal and external elements regarding the land acquisition and the project to be built on the site. In developing a strategy there are internal and external factors affecting the decisions that will be made about the strategy. The internal elements are constraints the company must operate within regarding sound business judgement. The external factors are those elements which the developer must respond to for which he has no direct control over.

Timing of assembly - The saying that time is money definitely holds true in the case of land assembly. In analyzing the company’s constraints in relation to time limitations, the costs of maintaining negotiations for the land is directly connected with the length of time required to complete the assembly process. The length of time it takes to assemble suburban property could have serious effects on the project that will be developed on the site. As cost increase beyond mental and physical budgets, developers then have to make adjustments in the project to cover the
costs. This could be to change the use, increase density, or increase the price of the product offered. Most developers in the suburban areas of Boston base their development projects on the current and future demand for the product. Buying land too early can be an expensive mistake because holding land can cost the developer 10% of its price per year. The earlier developers buy in advance of the development stage, the higher the holding costs. Depending on the size and the capital of the company, holding land for extended periods could create a financial strain on the developer.

For the developer with less financial constraints, buying land and holding it over a period could also yield sizable profits. One of the assembly strategies of larger development companies is to find land in future growth corridors and along route 128 and 495, assemble the land and wait for growth to come their way. They site that the liabilities of holding land in future growth areas is worth the holding costs, because of the increase in value of the property.

If the land is bought too far in advance the developer runs the risk of having to carry the cost of the land by paying property taxes, liability insurance, and such things as finance charges on money borrowed to buy the land. Over an extended period of time this could accrue to a sizable investment made without a return, thus tying up money that could be used on other projects, or draining the company of
its reserve funds.

Community Context – One of the first external factors the developer encounters is the attitude of the town towards development. As stated earlier not all Massachusetts towns are alike. The spirit of independence and self rule still runs deep in the suburban areas surrounding Boston. Once an area has been selected for assemblage, the assembler should be aware of the kind of territory he is entering. It can be a hostile or friendly environment. The attitude of the town in general is usually replicated in the individuals the assembler will have to interact with. In developing and analyzing a strategy, the towns attitude toward development must be taken into consideration.

Because most Massachusetts towns are familiar with the effects of development, many of the citizens have and are putting pressure on town officials into enacting laws that are not necessarily conducive to development, as in the case of Brookway. Many towns are becoming more sophisticated at mounting opposition to development. Towns such as Weston, Lincoln, Lexington, Concord, Andover, West Burrow, and Wesley are towns that tend to have a substantial amount of wealth and people who have professional backgrounds. These type of towns tend to be more astute as to the issues involved in the development process. The more familiar they are with the process the better they are in mounting
opposition. Other towns like Burlington, Woburn and Waltham are not as sophisticated in stopping development but the process of getting approval for a project can be long and drawn out because they want to be sure that the development that does occur is the best it can be. And the "best" is usually defined as least impact, most attractive, and most benefits for the citizens of the town.

Then there are the towns that encourage development such as Bellingham, Franklin, Stoughten, Bridgwater, Tauton and other towns in south eastern Massachusetts. These towns are more receptive to development. They are in an area of the state where unemployment is higher compared to the rest of the state and they want something that will boost the economy and provide jobs attracting business into the area.

ANALYZING ACTORS IN THE ASSEMBLY PROCESS -- The process of developing a strategy for suburban land assembly encompasses analyzing every element that could affect the process. Include in the strategy and analysis is the way all parties involved in the process will interact. Land assemblage for the site of a development project can have many issues associated with it. Although the act of bringing land under the control of one developer in itself is no threat, the project for which the land is assembled can have major ramifications for the abutters and the town in general.

During the course of interviewing developers for this study
it became clear that many times the act of land assemblage can not be divorced from the project that will be built on the site. For this reason it is important is analyze all of the players who may have some impact on the success or failure of the assemblage process.

Property Owners - At the heart of the private sectors ability to assemble land is the issue of developing a strategy to deal with suburban land owners. For additional discussion refer to chapter 2.

Abutters - In the land assembly process one group of players in the process are those owners whose property abuts land that an assembler is seeking control over. The abutter plays a significant role in the scope of the entire development project. Many times suburban areas easement agreements will need to be negotiated with abutters. And in those cases they can be friend or foe. When access is needed to across an abutter's property to get to the site, the assembler must view the abutter as another owner in the process and deal with them accordingly. In instances where abutters refuse to grant easements, other ways to access to site must be explored, or the site be reevaluated.

Those abutters whose land is not directly involved in the assemblage process are often consulted after the assembler has agreements for the land in the assemblage. Before a development project can be approved the abutters will have an opportunity to comment on the proposed project. It is
important that the developer already have a feeling for how the abutters respond to the proposed project so possible impact mitigation measures could be considered beforehand. Otherwise if opposition is mounted after the land is purchased, the project could be denied approval and the assembler is holding land without a project.

Town Officials - Town officials also play a significant role in the success of the assemblage process. In most suburban Massachusetts towns the developer has to interact with the planning, zoning and environmental departments in order to get a project approved. Because much research is needed to get all of the necessary information about the land to develop an acquisition strategy, all of these departments will play some role in the process before its finished. Being on good terms with the town officials is essential for the process to flow smoothly. As with the abutter, the town official can be the friend or foe of the assembler.

Some developers chose to present the proposal to the planning department as soon as they have an unofficial agreement with the land owner about the possibility of controlling the land. The town officials can give the developer some idea of what will be needed to get the project approved or whether the project will be declined because of governmental and environmental restrictions or unfavorable political climate towards development.
Town Citizens - tend to be not involved in the land assembly issues but more in the development project issues. The reason I have chosen to mention them in this study is because citizen participation many times plays a vital role in affecting the final project. I what is proposed on the site receives strong opposition from the citizens in the suburban towns, the project will be declined by the town officials and there will be no need for assembled land. Many projects have sailed smoothly until they were shipwrecked by public opposition. Developers are beginning to pay close attention to the issues raised by coalitions of private citizens to the idea of what is being proposed. This is not to say that before the land assembly process begins the developer has to have public meeting to discuss something that doesn’t have a site to be built on.

Developers must learn to deal the changing attitudes toward development. There was a time when the developer needed to know only what type of development would sell. Today, the developer must know not only what will sell but he must also know what will be approved and he must know what the community will accept. He can no longer convince only the members of the planning and zoning boards and feel that his development will gain approval. He must sell the community at large or they will pack out public meetings, write letters, picket the developer, haunt the officials and even file costly law suites.
In developing a strategy for successful suburban land assemblage one can never lose sight that the public will have its say concerning the project and the town officials will support the consensus opinion.

The developer must be perceived as someone who has the concerns of others in mind. The stereotype of the developer whose only interested in the amount of profit he can make at the expense of others is still deeply ingrained in the minds of many people and to a certain degree that stereotype is often reflected in the way the assembler carries his own. Whether it is the property owner the abutters, Town officials or the citizens, just as the developer is analyzing them they are analyzing him. And the reaction the assembler generates will be reflected in the corresponding attitudes of those involved in the process.

The assembler must be aware of the concerns of all parties involved and be willing to respond in the most positive way possible to the concerns. The purpose of analyzing the actors in the assembly process is not is to keenly responsive to the issues that will effect the assemblage process.

Analysis and Summary

Analyzing the elements that affect the assemblage strategy before the actual process of land assemblage starts essential to the success of the assembly attempt. Although the developer cannot control the external factors, he can have
some knowledge of what they may be and thereby plan to counter them. Analyzing the elements that affect the assemblage strategy gives the developer some parameters to operate within. Unless the developer is aware of what these elements are the process could experience some serious obstacles, some of which could mean the end of the assembly process.
CHAPTER 4.

PUBLIC POLICY ISSUES

Once residential development creates a sufficient market and labor force, commercial and industrial growth takes place. Major industrial development usually occurs in planned industrial parks, where accessibility is good and utilities and other services are available. Commercial development often located in diversified shopping centers. This growth seldom follows an orderly, steady wave pattern, but rather skips around, often taking place some distance from existing development. One is that most scenic and attractive areas for residential development are often located some distance from existing development.

Second, land located away from existing development usually is cheaper, which interest developers. Once developers own land, they can appeal to local officials to rezone it for residential, industrial, or commercial development, which inflates its value. When sporadic or leapfrog development takes place on a large scale it presents a number of problems for communities in suburban areas. A pressing problem is how to provide services as fire and police protection when property tax base is low. Even if a community is able to contract with an adjacent, more
established community for these services the cost is high.

In many cases leapfrog development also results in the permanent loss of valuable land for parks or open space because its value increases so much that it becomes too expensive for local governmental agencies to acquire.\textsuperscript{20} Another by-product of sporadic development is the large amount of vacant land that results from speculation and overzoning for industrial and commercial development. Many communities zone large areas for industrial use because of pressures from developers and overoptimism on the part of community leaders in their ability to attract industries. This land tends to remain vacant since down-zoning from industrial to residential use is almost unheard of.\textsuperscript{21}

Future growth policies.--- A variety of development patterns or structures is possible in suburban regions. One purpose of urban planning, at least that portion dealing with land use, is to develop and adopt goals, and programs to achieve a certain development pattern or growth structure.

The purpose of growth management regulations is to guide development in a manner consistent with the preservation of critical resource areas, existing current capacity, socioeconomic factors, community objectives, and regional


\textsuperscript{21} Id at 30.
concerns. In essence, this is the traditional zoning ordinance, developed within a comprehensive planning process, but based upon and explicit current-capacity determination.

The legal instrument of the growth management plan is the growth - management regulations adopted in ordinance form and designed to allow growth which cannot exceed the current capacity unless capital improvements are made consistent a growth-management plan.22

Since construction of roads and such major utilities as sanitary sewer and water systems has a substantial effect on the timing and degree of urban development, some planners recommend the public utilities be used purposely to shape development rather simply to serve it.23

Practical solutions

One of the best regulatory mechanisms for development review is environmental impact analysis. The great benefits of the process are it focuses on proposed development, its consideration of feasible alternatives, and its replacement with "minimum standards" concept with a concept of seeking among feasible alternatives what is best for the public


23 Id at 30
interest. In the long run, the greatest importance of the environmental impact analysis process may lie in its establishment of a higher standard of conduct for developer and the planning officials.\(^{24}\) A variety of development patterns or structures is possible in suburban areas. One purpose of urban planning, at least that portion dealing with land use, is to develop and adopt goals and policies, and programs to achieve a certain development pattern or growth structure. Few towns, counties and regions have done so. But without an adopted policy on the future development in the town there is no standard method to determine where and when sanitary sewers or development zones should be approved to encourage development or in what areas growth should be discouraged or agricultural and other open space uses encouraged. \(^{25}\)

In some cases I believe that planning officials and town citizens are justified in being aroused by the onslaught of development activity in suburban towns. There may be some benefit to the growing sophistication of opposition to large scale land acquisition and development projects. Seldom is a zoning hearing held in a town without members of the community appearing to oppose the rezoning of real estate.

The development industry has been guilty of using land with little or nor regard for the consequences of the effects

\(^{24}\) Isberg, supra at 30

\(^{25}\) Id at 35.
of usage on neighboring land, the environment, or on the 
problems created for transportation systems, as well as the 
educational, medical and recreational facilities of a 
community. Many developers have been interested in using 
land for one purpose, making the dollar. It is I recognize 
that this does not apply to all developers. There is 
considerable difference between the developer who provides a 
service to the community by constructing necessary homes, 
store buildings, office and other needed business facilities 
and the developers who do not provide a service to the 
community by controlling and cutting virgin land strictly for 
profits sake. Many times developers do not give proper 
attention to the effects their projects will have on the 
community.

So on the part of local planning officials there should be 
a concerted effort not to stop development but to control and 
direct it. By developing city and regional land use plans and 
development criteria, all parties involved in the development 
process could work together to create a better environment.
CHAPTER 5

DEALING WITH CHANGES IN THE INITIAL STRATEGY

The best laid plans of mice and men often go astray even so it is with many initial strategies for land assemblage in suburban areas. Even with the most careful planning and exhaustive research, events and issues arise that could have never been forecast to happen. These unpredictable incidents could necessitate the need to make minor changes in the process or the project, but also unforseen incidents could cause the entire focus of the land assemblage and the project to change. Changes in the initial strategy is viewed as an important part of the land assemblage process. Developers constantly reevaluate the progress of the process and make adjustments and concessions as needed. Because the process is so dynamic one of the problems assemblers face is being able to identify the key to the equations as the equations change. So as different situations arise the assembler must rethink or restructure the priorities to keep the process moving.

Reevaluate land issues - Many times issues concerning the land have to be reexamined in light of a particular obstacle. This could range from an owner wanting a higher price for the
land to the owner not wanting to sell the land at all. As far as reexamining the assemblage process in response to owners wanting a higher price, the critical issue becomes how much is the property actually worth to the developer. And how much can the developer spend before the cost of buying the land is too high for the project use. This goes back to the issue of how the financial constraints of the project are defined. But if the developer can afford to pay the increased price it is in the best interest of the process to do so, so that the process will not reach a stalemate.

If it is determined that the price being asked for the land is too high to be absorbed by the project, the developer then has two basic choices: try to buy another piece of land abutting the assemblage or give up the process. By exploring the possibility of controlling other abutting property, the developer may be able to persuade another property owner to sell or lease the property. For the developer this would mean the site would still remain in the general location. All of the market conditions would still be within the marketing area of the site, and would not affect the marketability of the development project.

But one thing that might be affected is the access to the site. If another parcel of land is substituted, one issue that must be addressed is how does it affect access to the site? If it does not impair access to the site the substitution may work.
Another issue is how does the substituted land relate to the rest of the land for which the developer is trying to gain control? If it fits well into the whole scheme of the site then gaining control of the land would be a good strategy to use.

In the situation where the property owner simply refuses to sell the property, other than finding substitution property there are two strategies to use. One strategy may be to assemble the site without the property owners land. This may require restructuring the projects design, the site will be smaller but the developer will still have the benefit of being in the same location. The other strategy is to abandon the assembly process. This is the least desirable of the two strategies. Abandoning the process provides no return on the time and money previously invested in the assembly attempt. The developer would have to walk away from the site and start the entire process over in another location. But in some instances where owners are set in their decision the developer has no other choice but to walk away. Hopefully the developer will confront this decision early on in the process so as to minimize the amount of time and money expended.

Another reevaluation often must be made, that of lowering the amount of money being offered to property owners based on changes in the development project. Developers are usually willing to pay more for property to assemble a site
for a high density, large profit project. As the size, density, and profit margin decrease, the developer will reduce the amount he is willing to pay. So the project must justify the sales price of the land. To what ever degree that is not the case, owners will need to be made aware of the reasoning behind the need to renegotiate options and sales prices.

Making compromising concessions - Making compromising concessions with parties involved in the land assembly process is a part of reevaluating the assembly strategy. When developing and analyzing the initial strategy the developer has no way of knowing what type of concessions will be asked for by individual property owners or the town board and officials. Developers to a certain degree expect that somewhere in the course of the process they will have to meet some special request to gain control of property or to get project approval.

Property owners generally request the largest number of concessions of any group involved in the suburban land assemblage process. The concessions requested are as varied as the individuals property owners themselves. Request have been made that the developer pay the moving cost of families to vacate the premises, buy the seller a home to relocate to, allow animals to graze on the land until construction begins, and pay the mortgage payments on homes until the owners move. These are only a few of the types of concessions that are
requested and granted to property owners. When concessions are requested or even offered, the developer must decide if the cost of the concession is within the limits of the budget of the assembly. Many of the developers interviewed felt that it was a small cost to grant a reasonable concession to the property owner if it meant the developer could gain control of the property. When asked how do you know which concessions to make one developer commented, "It all depends on the deal and how you size up the owners. You have to determine what they want, what they need, these requirements are directly related to what their concessions will be."

On the other hand the developer must be cautious not to give the impression he is willing to pay any concession to get an agreement. The line has to be drawn somewhere or the property owner may try to take advantage of the developer and the deal will never be settled. On this issue another developer commented "I won't sit there and say the deal has to get done we will give you whatever you want. You always run the risk of him saying, we were just ready to sign this deal up and we were reading through things and there are somethings we would like to ask you. Its like a drug and people get addicted to it. The owner has to be happy at some point or else they will be thinking they can keep asking for a higher price for the land, more money for the option, more down payment on the option, fewer conditions on the option and the agreement will never get signed."
The other request for concessions generally come from the town planning boards and officials. Most of their concerns center around the project itself, how it relates to the site and to the surrounding area. Because the project is directly connected to the site, the concessions made concerning the project could affect the land assemblage.

One case and point in January of 1987 a developer was attempting to develop a 250 unit condominium complex on a site in a suburban town. The Town zoning board stated that condominiums could not be built on the site but single family homes would be approved for the site. The developer had to redesign the entire site for single family homes. He had to go back to all of the owners with whom he had made unofficial agreements and renegotiate lower sales prices due to the change in use and density on the site. In addition to the change of use and density, the developer had an agreement on land which the city wanted to buy and use for a park, and the city owned land adjacent to the site. The developer arranged a land swap with the city and now both parties are satisfied. This is an example of how the project can effect land assemblage. Having a good working relationship with the town officials can cause whatever concessions and compromises that need to be made move a lot smoother.

Another assembler told of a situation in which two development companies sought approval of a low density office park in the same town. Both sites were zoned for office use
with relatively high densities. When both projects were bought before the planning board for approval, the town officials were concerned about the densities and traffic impacts of both projects. One developer chose to scale down his project and work with the planning officials in creating a project that would be acceptable to all parties involved. The other developer demanded that he had the right to build the maximum densities the zoning code allowed and would not consider making concessions to get approval. The company who agreed to work with the town officials got its project approved, the other developer took the town to court and was denied the right to build the project. Both project were basically the same, what made the difference was the developers willingness to make concessions to see the project built.

A developer's negotiations with local governments to obtain project approval are crucial to project viability. Because the Town officials have powers to grant or deny requests for changes in density and zoning, it has a great deal of leverage in such a negotiation.

If a local government believes that a project will impose costs, the town either may not approve the development or may assess substantial fees on the developer. A project imposes costs when the marginal costs of providing the requisite additional police, fire, and other services are not offset by the marginal benefits generated by the project. Only if a
project is perceived to generate net benefits will the local government readily approve the project. The planning officials may be willing to offer the developer inducements to construct the project.

If a town tries to get contributions from the developer before it approves a project, the developer should have some idea of what he can afford to give away during the negotiations for approval. That is, he must know the size of his bargaining margin. The margin is related to the project profitability. The bargaining margin is the calculated net present value of the project. The higher the expected profitability of the project, the more the developer can give away. 26

Making changes in the initial strategy is something that is almost certain to happen. The assembly process has too many variables involved for something not to change. Those who have been successful in readjusting to changes are those who have been most successful to achieving their goals. Making concessions is considered part of the assembly process. Those developers that can negotiate compromises with all parties involved have found that once people see that there is concern for the community on the part of the developer, officials are more willing to work to achieve a compromise that will satisfy all parties involved.

CHAPTER 6.

AN OBSERVATION ON ETHICS in the ASSEMBLY PROCESS

The issue of ethics in the assembly process is like a tread that is weaved into the entire process. All of the developers interviewed for this thesis directly or indirectly made mention of issues and instances where ethics is involved. Ethics is not something the should to be used only by the developer, but all parties involved in the process. For any type of agreement to be made there must be some level of trust on the part of consenting parties.

Throughout the assembly process ethical questions and decisions arise. For the developer one issues that arises is how will he deal with the owner. Will he deal fairly, or try to swindle the owner by not paying the market value for the land. The decision to use the direct approach or use dummy corporations involves making an ethical judgment. One assembler stated that when approaching owners he always used the direct approach because he wanted to be truthful with the owners and try to develop some degree of trust between each other.

Another developer stated that in cases where dummy cooperations were used, the developer could not be straight forward because the owners would have been too greedy and
wanted an outrageous price for the land. In both these cases an ethical decision is involved, the question of exposing yourself to the ambitions of others, or protecting yourself at the expense of not being completely open with those whom you deal with. These are questions the assembler faces daily.

The relationship between the town officials and the developer involves the issues of ethics also. The image of the heartless developer whose only concern is profit, even at the expense of others is a stereotype that has been associated with developers. But under this stereotypical image lies the issues of is the developer concerned about owners or the citizens of the town. Is the developer really concerned about the negative impacts of a project on the town and its citizens, are is he blinded by the dollar signs in his eyes.

Conversely what type of ethics do town officials display when they decide to make the assemblage process difficult not because of what will be built is bad, but they would like to make a developer sweat, just for the sake of being difficult. All actors in the process must be fare and objective when dealing with others.

I think that throughout the negotiation process all individuals involved must answer the questions: Is your actions in accord with the Golden Rule? How would you feel if someone did it to you? To a younger colleague? Would be comfortable advising another to use this same tactic? and
What if everybody bargained this way would the resulting society be desirable? 27

If the answers to these questions is "yes" then most likely sound ethics would be a sure foundation on which to build working relationships with all those involved. If the answer is "no" to any one of these questions, the process could be hindered and possibly halted because of lies, ulterior motives, and the like.

CHAPTER 7.

COMPARING THE BOSTON AND HOUSTON SUBURBAN MARKETS

The real estate market in Boston is the hottest market in the country. Over the last four years there has been a 30 percent increase in residential property values. Because of the booming economy of the state and particularly the city of Boston, there has been a serious housing shortage. The effects of this booming economy have spilled out into the suburbs of the city which has resulted into a development boom. The price of land has increased as the demand for office, commercial, and industrial space increased. The change in the real estate climate has also brought with it a change in the way developers are assembling land for suburban development projects.

Houston is in the complete opposite position in relationship to the market. Within the last four years the state of Texas as experienced its worst economic decline since the great depression. When Houston’s oil industry first began to erode, the event seemed remote to many in the city. Four years later after the oil bust began, eight months after the world oil price went into a steep and devastating tailspin, its ripples have affected every person in the city. People began leaving the city and the
surrounding suburbs by the thousands looking for jobs that Houston could no longer offer. As people left the suburbs neighborhoods began to look like ghost towns. In some neighborhoods there is a 60 percent vacancy rate among once occupied homes. A house that might cost $210,000 in the Boston area can be had for $81,500 in Houston. The average priced three bedroom home with large front and back yards is currently priced between $30 and $40 dollars. And the supply of them is limitless. Rents have decreased also. A nice home in a good neighborhood goes for $700 a month. Many companies, too are moving into better office space. In a typical move, one company moved from an inferior building on the edge of downtown to one of the best buildings in Houston at the same rent, plus moving expenses and one year’s free rent. The suburban vacancy rate among new office buildings is between 60 and 80 percent with absolutely no sign of increasing.

The Houston market is over saturated, so much so that it possibly will ten years or more for the city to fill all of its vacancies. But even though Houston as lost its bustling economy it still is a city with plenty of land. The old saying that everything is big in Texas still holds true for the areas of land in suburbs the surround the urban centers. In Houston land is as plentiful as the mesquitos on a summer night. The problem is, like everything else, there is no market for it. These two markets demonstrate instances that
are on totally different ends of the spectrum. Looking at each is a good way of understanding what the issues are in both markets.

Houston has endless amounts of land available, getting the title to land is the least of any developers problems. Once a site is assembled the developer has the matter of right to do whatever he wants to do because there is no zoning code or restrictions for the city are the surrounding areas. Medium density, high density, high rise, lower rise, commercial, residential, office, in Houston virtually almost anything goes. If the developer has a proposal getting the matter of right is no problem the obvious problem in Houston is there is no market. So there is no skill involved in land assembly in Houston land assembly is not the problem. If the developer has money to put up a building, getting tenants in it would be the problem. Land assemblage in Houston is trivial. The assembler does not have to make detailed strategies of how to approach the property owner and how to avoid public knowledge of a acquisition attempt. There is generally little resistance to development and obtaining zoning approval does not even remotely resemble the long process inflicted on Massachusetts developers.

Massachusetts is the opposite end of the spectrum the market is incredibly strong in the greater Boston area. Housing cost have increased by thirty percent in the last four years. The net absorption for industrial space in the
past year was at its highest level in four years, reaching 2.6 million SF. The highest absorption levels were the markets north of the city Route 128/north, Route 128/northwest and 495/north.

The absorption in the suburbs continues at a high pace, and construction has finally slowed, contributing to a 4% drop in vacant rate. 1986 saw large tenants commit for space in the suburbs, many which have moved from Boston.

The market will continue to support the developed space. But there is no question that in the Route 128 and 495 area of Boston getting and having the matter of right is everything. If the assembler can get the land and have the matter of right to do the project then he can control the opportunity of development. So the strategy of the game is first getting the land and second getting the matter of right once you have the land. In some towns like Lexington, Weston and other places, the developers have found out to the disaster to their companies that sometimes they can get the land but can’t get the right to build a reasonable product on it. The towns have adopted many types of controls for restricting growth and development, either through variances a developer might need to acquire, site plan approval or total refusal of the right to develop. From a developers standpoint dealing with those towns and communities requires skill and endurance, especially those who require a two thirds vote for zoning changes. So in the Boston area the
issues facing the developer are the dwindling number of land assembly techniques applicable in a hot market and obtaining the zoning approval for the project. The developer has to make some quick tests, one is how much should be paid for the land, how much risk is involved, how much will administrative costs be for the next two or three years to get the approval.

Currently what is happening because of the particular state of the market is there is a growing demand for commercial, office and industrial space. There is little a decreasing supply of space in the route 128 region and there is a decreasing supply of land. So as the supply of land continues to decrease developers will find themselves bidding on the same piece of land. If the developer can get the land and If the land can be assembled and a reasonable product is built the market is guaranteed that its going to rent or sell.

New construction starts have slowed significantly throughout the year in response to the over building of the past two years. Construction activity along Route 128 remains modest as land prices and availability limit development. While construction along Route 496 has slowed from last year it is still strong and will be getting stronger.\textsuperscript{28}

The reality in Houston is developers don't have to pay anything for the land they can make a deal that requires little or nor cash until a building is rented. The market is so bad that property owners will agree to almost any kind of deal. Because Houston is a buyers market all of the techniques mentioned in the preceding sections are being used. The owner in most cases would be willing to enter into negotiating with the developer even with 5 and 10 year options on the land with little or no downpayment. Also there is not the problem of the word spreading and prices increase. The problem in Houston is that if the word begins to spread the developer will be swamped with calls from people who want to sell their land. It is easy to see both ends of the spectrum concerning the markets and assemblage of land. Between Houston and Boston exists every other kind of market. The use of different kinds of options and other techniques are being used to some degree between both ends of the spectrum depending on the market conditions.
CHAPTER 8.

DIFFERENCES BETWEEN URBAN and SUBURBAN LAND ASSEMBLAGE IN THE BOSTON AREA

Land assemblage is land assemblage whether you are in urban or suburban areas there are significant differences in the assemblage strategy and obstacles to overcome. The urban environment presents a totally different set of constraints and approaches to assembling property under multiple ownership.

Amount of land available

One of the major differences between the two is the availability of land. In urban areas vacant land urban is a rarity. City dwellers have used every available square foot of land to construct buildings. To assemble land in urban areas generally the developer will have to buy a building and the land under it to get control of the site or assemble land on the outer fringes of the central business district. For the developer the added cost of buying the building with the land will make the price of the site considerably more expensive. Developers of urban sites tend not to acquire them and hold them for an extended period of time. The cost of urban assemblage is so great that in most cases it could
only be justified by constructing a project that will begin to bring in revenue.

The suburban assembler can afford to hold the land and wait for growth to move toward the site. But for the urban assembler, he is assembling in the heart of growth, his problem becomes too much growth and not enough open space. The urban assembler has the benefit of having the city at his doorstep. The suburban assembler must rely on the city to drive past the door. The suburban assembler is not confined to one site or two or three block area for assembly. If one site does not work out he can look for land further down the road or in the adjacent town. The availability of suburban land is far greater than for urban assemblage.

Property values

For urban assemblers price escalation seems to be a bigger problem than for the suburban assemblers. Because urban land owners in many cases think they are sitting on a gold mine, they expect to get high prices for their land. The urban assembler has to be extremely cautious about an assemblage attempt becoming public knowledge.

One example of urban price escalation based on speculation of the potential use of the property happened in the City of Boston in the fall of 1986. Boston Redevelopment Authority Director Stephen Coyle announced that 170 million dollars of public and private funds would be pumped into a
deteriorating neighborhood located less than a mile and a half from the central business district of the city. Within one month of that announcement property values begin to increase. Less than one year later property values were doubling. All of the increases were based on speculation of what would or could be built in the area. Nothing concrete had been planned for the area but property owners were ready and willing to cash in on the hope the community would be turned around economically. This is not an isolated case this same kind of thing happens all around the country. And the urban assembler has to know how to deal in a way as to not get caught in the middle.

For the suburban assembler land price is also a matter of concern. Suburban land prices in the Boston area until the last three years were considered relatively inexpensive compared to urban land. But as the demand for land increases the prices have began to increase also. For the suburban assembler the issue with cost is not that the actual price per acre is too high, when viewed as one individual acre, but because of large quantities of land has to be purchased, the assembler can't afford to pay any more than the project will support in profit returns. The volume of land becomes the heart of the issue for the suburban assembler and the price affects how much he can afford to buy.
Condition of the site

For suburban land, particularly in Massachusetts, the assembler has to be concerned with topography of the land being assembled. Rocks and cliffs along with poor soil are factors that affect the suitability of the site. Urban land usually is not incumbered by natural formations on the site. But may be encumbered by buildings on the site.

Urban assemblers are often faced with the possible added costs of clearing the site of any buildings that are not incorporated into the new development. This would involve obtaining permits for demolition and dealing with the impacts of demolition on the surrounding area. In Boston one point of concern for assemblers is the issue of building having historical significance being acquired in the assemblage. If a structure viewed as being historically or architecturally significant is slated for demolition the entire process could be halted and end up in a court battle against preservationist. Just as exhaustive research is on the property owners and their land, research had to be done on the buildings on the site to see what type of significance they might posse.

The suburban assembler usually is not faced with the issues of historically significant buildings being located on the site. Suburban assemblages in the Boston area tend to be in areas that are along major highways or near residential areas that are not of historical importance. But the
suburban assembler still has to be aware of the possibility of some historical site being located in an assemblage and include researching the history of the site and its past owners.

Access to infrastructure

One of the major concerns of suburban developers is the access of utilities and infrastructure to the site. In many cases suburban sites do not have utility access or infrastructure to support the project and the developer then becomes responsible for providing it. This could be very costly and therefore the cost is passed on to the consumer. But for urban assemblage access to utilities and infrastructure is usually not a problem, the concern then becomes how will the project effect the infrastructure and utilities already in place. Urban projects can overburden sewer, water road capacity. These are problems that have to be accessed by assemblers before the process begins, because whether in the urban or suburban area for the project to be built utilities and infrastructure implications will effect the project. The assembler has to be aware of what these implications will be before the process begins so measures to reduce impacts to the town or the consumer can be minimized.
Size of the site

One of the most pronounced differences between urban and suburban assemblage is the size of the assembled site. Suburban assemblages tend to be considerably larger than urban assemblages. Particularly in the Boston suburbs the office and industrial parks take on a campus atmosphere ranging for ten to several hundred acres of land. It is usually quite difficult for an urban assembler to gain control of sites that large. The cost of acquiring entire blocks in urban areas is staggering. Only a few companies in America could attempt a feat such as that of acquiring acres of land. For those companies who have acquired large urban sites through private acquisition, the price tag has been astronomically high. In some cases where large sites in urban areas were assembled the developer entered into a public private partnership with the city and the city acquired the land under the threat of eminent domain.

Size of parcels

Another distinctive difference between urban and suburban land assembly is the size of the individual parcels making up the assemblage. Urban sites or composed of smaller parcels of land, usually just large enough to contain the pad of the building and possibly a small parking lot. In the suburban areas sites are composed of parcels of land usually consisting of acres of land. In a suburban area one owner
alone may own more land than twenty owners in an urban area.

For the urban assembler this means much more work to amass a site large enough to construct a project. He may have to deal with many owners of small pieces of property. This fact also brings into the picture the issues involving the method of approaching property owners. None of the developers interviewed for this thesis used straws or dummy corporations to assemble suburban land in the Boston area. But depending on the size of the site, and the number of property owners, urban assemblers tend to use this method more often. This is because the price of urban land is much more expensive than suburban land, its proximity to all the benefits of the urban environment coupled with the limited amount of land available has driven prices up as demand for space increases. Because prices are already expensive compared to suburban land, assemblers can not afford for the prices to increase to higher levels because of speculation of an assemblage attempt. Also because every parcel of land in an urban is essential to the entire site. The assembler can not afford to have a property owner refuse to sell a parcel of land. Depending on the location of the parcel the entire assemblage site could be obstructed by the hold out parcel and the entire site would have to be abandoned. So moving fast and quietly in dealing with property owners is a strategy the tends to reduce the possibility of these problems arising and aborting the assemblage process.
Type of ownership

In the suburban areas of Boston most of the land is owned by individual property owners or by large corporations, financial institutions and real estate companies. The suburban assembler has to interact with one or possibly several individuals in companies to negotiate an agreement to control property.

In the city of Boston, in one community alone there are over 1,000 parcels of land owned by the Boston Redevelopment Authority (BRA), acquired during urban renewal. For the developer assembling a site in Boston, instead of buying land from individual property owners, he may have to buy the land from the Authority. For the assembler this means taking on an entirely new strategy for gaining control of the land. The BRA requires a complete proposal package before disposition of land is approved. The developer whose strategy is to get the land and hold it until it reaches a certain value or market level before development begins, would be denied BRA owned property because property is granted based on the project to be built on the site.

Business and tenant relocation

Another issue that urban assemblers are faced with is the issue of tenant and business relocation. Because many of the parcels in an urban assemblage may have buildings that
are occupied by tenants, the urban assembler is faced with the additional problem of tenant buyout and family and business relocation. The issue of relocation is an expensive and painstaking endeavor.

In the city of Boston families that are in buildings that have to be demolished or renovated face the problem of finding affordable housing and in Boston that is almost impossible considering the high cost of housing. Putting families out on the street for the sake of a new development project can have tremendously negative effects for the developer getting community and city approval for the project. For the developer who is faced with this added burden a complete strategy has to be developed for the removal and relocation of all parties involved.

The suburban assembler is not usually faced with the problems of business relocations and tenant buy outs. Other than property owners leaving the site, there generally are very few people directly affected. In the isolated cases where a business may be located on the site usually it does not require large expenditures on the part of the developer to relocated or buy out the business.
Zoning approval

Another difference between urban and suburban assemblage in the Boston area is the process of gaining approval for zoning. In the suburban areas of Boston, developers face a different set of zoning codes and restrictions in every town. Some are more stringent than others but each new town brings new obstacles to overcome. Each town also has its own personality and attitude toward development and growth in the town. The developer who assembles sites in different towns has to become familiar with the zoning codes of every town and have a working knowledge of how to maneuver through the zoning approval process.

For those towns that require a vote of the zoning board to grant a change in use or heights and densities, the developer could be in a ordeal that could last for months with no guarantee the in the end the project could be built. For the suburban assembler the issue of zoning is just as important as obtaining the land. For without obtaining the matter of right to construct the project there is no need to assemble land.

On the other hand the urban developer in the city of Boston faces many obstacles also. Although the developer does not have to wade through different zoning codes in different sections of the city, he does have to deal with antiquated zoning codes. Because the land use patterns are
outdated almost every project that is constructed must go through a zoning variance and appeals process. This process involves submitting a petition for a zoning variance to the zoning board of the city. Because there are basically no set standards for zoning requirements, each project is approached on a case by case basis. The details of the projects height density and massing are negotiated until an agreement is reached. The ordeal of negotiating is a process of give and take on the part of the developer, citizens of the community and the zoning board members.

Analysis and Summary

For both the urban and suburban there are obstacles to assemblage. The ability of the assembler to maneuver through them will mean the success or failure of the process. It is obvious that regardless where land is assembled, the task is enormous. Assembling land in the state of Massachusetts and particularly in the Boston area will require the assembler be well informed of the situation he is entering into before beginning the assembly process. assembling land in one environment does not seem easier that the other. Both require specific knowledge of the market, owners, the town or community and the governmental codes and constraints.
CHAPTER 9.

PUBLIC and PRIVATE LAND ASSEMBLY: WORKING TOGETHER

Measures to make the present suburban land conversion process work better, to improve the functioning of the suburban land market, . If the desired goal is to remedy the major deficiencies in the suburban land conversion process, public and private land purchase must be initiated and coordinated on an adequate scale.

I do not see the solution being found by reducing the issue to which sector is better at assembling property and directing development. Both sectors individually have advantages and disadvantages in assembling land solely on their own merit. The issue facing suburban towns in the Boston area is how can the towns and the developers work together in achieving their collective and individual goals.

For land assembly the public sector has the advantage of the use of eminent domain. But with it also comes the issues of public trust and accountability. I will discuss this issue further in this section. Public land assembly is done in accordance with approved community and regional plans so as to always be in keeping with the land use plans of the planning authority. But because an agency must be open to public scrutiny, the guidelines and procedures for land
acquisition are numerous, and depending on the number of parcels to be acquired can be quite lengthy. But in the end the use of the land must be in the best interest of the municipality.

Advantages and Disadvantages of Assembly

Private land assembly allows the assembler to be more creative in the selection of the location of the site and the method used to assemble the land. But he has no legal authority to be able to deal with owners who will not sell their land or want to too much for the land. The private assembler does not assemble land in accordance with any particular plan. Land is assembled where ever there is a seller who will selling it. And the types of uses of the land is driven by market demands rather than the needs of the municipality. Also the private sector is subject to vast changes in land values and interest rates affecting capital for assembly and project construction. Therefore as land cost increase the cost of the increases are passed on to the consumer through the product produced. Meaning that private sector projects may not be responsive to the needs or the resources of many of the citizens on the community.

Because the public sector has a relatively lengthy history of assembling property for public use, for the developer who has the goal of assembling property for project development, allowing the public sector to assemble the land
for the project, reduces the hardships of going through the rigorous and often lengthy approval process. But then the issue arises as to how the project will benefit the public.

Developers can propose projects that respond to the market demand and also tie the project into economic development plans for the town. Thereby the developer can obtain the assembled land and the town can directly benefit from the project constructed, or benefit from the revenue for the sale or lease of the land. When talking with planning directors across the country most conclude that the private sector is far superior at developing projects than the public sector. For towns to began to develop positive working relationships with developers who are willing to not only make a financial profit but also create social profit, the issue of land assembly and development could work for the betterment of the local living environment.

But for developers who view working with the public sector as a lengthy bureaucratic process, and would rather chance dealing only with the project approval process, there is the issue of the price of private sector assembly as opposed to public/private partnerships. The private sector assembler in the Boston area is faced with increasing land values and decreasing supply of suitable sites for development. As more towns become more sophisticated at mounting opposition to suburban development, the cost of private sector land assembly will become increasing higher.
And as towns began to restrict the areas and types of growth that can occur developers will have less land to chose from and this will complicate the problem even more.

I think that there is room in the suburbs for both private sector and public sector assembly. But I think it is up to the local town and regions to provide the guidelines in which private assembly should take place. And local governments and agencies should become actively involved in the purchase and assembly of property to provide sites and land areas that will be in concert with local and regional plans for land use.

For too long the public sector has taken a back seat to suburban land assemblage in the Boston area. The city of Boston is recognized around the country and the world for its extensive use of land acquisition powers during urban renewal. The days of urban renewal as a national program are gone, but the statutes that made it possible are still in effect. In the suburbs surrounding the city these statutes should be put into use to control growth and preserve land for public use, this is not the responsibility of the private developer, but that of the public officials.

Public purchase, of undeveloped land in advance of suburban development, that will later be used for public purposes, has been shown repeatedly to be sound public administration. But there would also be great advantages to extensive public purchase of land that will be sold or leased
for long terms to private developers for residential, industrial, or other purposes. Acquisition of sites for later public use could have some effect of guiding private land conversion; e.g., the probability of a school or park might enhance the private prospects. 27

In urban and suburban areas, public sector has been used in some instances to directly affect private use of land; purchase of slum areas, clearing the site, and sale to a private builder has been one such use. In the past years, a wide variety of federal programs have become firmly established, by which public funds are used to induce private land owners (usually farmers and forest owners) to carry out land management practices deemed in the public interest. The precedent for the use of public funds to control or influence the use of private land has been accepted, politically and legally, and it could be utilized in suburban land programs far more widely than it has been used. 30

Such a program would have to buy the land from present owners at the present market price, whether the purchase was by negotiation or by condemnation. The present market price of the unimproved land includes a consensus of informed judgement as to its future date of conversion to some other use and as to the price at which such conversion will take

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30 Id at 30.
place. If any unit of government actively began to buy land, even if its purchases were limited to parcels offered to it, this action could push up the average price of land within the general area. Present prices of unimproved land represent a balancing of demands by buyers and potential buyers with offerings by present owners.

Local governments could buy land at the market prices and dispose of it at the market prices without suffering a loss or at best break even, because as compared with the private land dealer, the town might have an advantage. Its interest rate may be lower, hence lower holding costs, especially if the private gains from increases in raw land prices were to be treated as ordinary income rather than as capital gains; it should be in a position to reduce risks of timing and kind of development. The private developer runs the risk as to the timing of the development, the kind of development on a particular tract, and exact land prices at which development occurs. The price he is willing to pay, some years before developments occurs reflects these risk. On the other hand a local government which planned and directed suburban development, would have much less risk. It could designate an area for single family houses or for a shopping center for development within a given time period,

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31 Id at 30.
32 Id at 31.
33 Id at 31.
with far greater likelihood of making this designation come true, than could the private landowner.\textsuperscript{34}

For the public the local public agency in issue that lies at the heart of the discussion of public verses private assembly is the issue of the use of eminent domain powers to acquire property. Most public agencies which buys largely undeveloped suburban land for later sale or lease to private developers have or use the power of eminent domain to condemn tracts that the owner does not wish to sell on a negotiated basis. But the use of the power of eminent domain is not simple. When used against a reluctant seller, it involves at the minimum a court case. The purchasing agency can by no means be sure what price will be awarded by the court; the price may be unreasonably high, and this in turn may become the basis for higher asking prices on other tracts.

The political problems of using the power of eminent domain may still be more serious if adverse public reaction to the whole program is endangered. A taking action based on the power of eminent domain is as much a matter of public relations as law. The public agency, like most developers, is concerned about is relationship and reputation with town citizens.\textsuperscript{35} An agency may be able to enlist public support to acquire one or a few held out tracts that are critical to some popularly supported program, but it runs the grave

\textsuperscript{34} Id at 33.
\textsuperscript{35} Id at 357.
danger of being cast by the press and other media in the role of the grasping and hard hearted impersonal government oppressing the poor citizen. The really important thing that this legal power does for agencies is to make serious negotiations possible. If an agency can point out to a reluctant seller that it does in fact have the power to take his land against his will, then he may be more willing to talk reasonably about a sale.\textsuperscript{36}
CONCLUSION

The purpose of this thesis has been to analyze the strategies and techniques used by development companies for suburban land assemblage in the Boston area. Through interviews with area developers I have synthesized the information gathered and analyzed it with regard to the goals of the developers.

I found that the developers interviewed had four basic goals, assemblage and development, developing a good reputation and relationship as being professional developers, setting priorities in relationship to community needs and achieving a short and or long term profit from the project.

The company’s capacity to take on projects consistent with its goals largely depends on the perceived risks and opportunities the company is prepared to accept. Market analysis and financial constraints all influence the position the company will take in developing a strategy for the assemblage process.

When developing the assemblage strategy the assembler must comprehensive research about the land and the property owner to be able to assess the risks in taking on the assemblage and to develop some priorities for approaching the owners. Doing the research is an essential part of doing the foundation to developing a strategy for the assembly process.
To not have all of the available facts could put the assembler in a situation in which the desired outcome may be difficult to achieve.

Vitally important to the success of the process is the manor in which property owners are approached. Whether collectively or individually it is essential that the assembler make the right decision in which method would be appropriate to achieve the goals of the developer.

The assembly agreements are tools in the strategy that the assembler should use to gain control of property. Having a practical understanding of the advantages and disadvantages of the technique and agreement is basic to the assembler choosing the appropriate agreement for each situation. They are tools to be used to take advantage of opportunities and overcome obstacles.

Not only must the assembler be familiar with the technique agreements he must also be aware of the elements that affect the strategy. By knowing what elements most likely affect the success of the assemblage strategy, the developer can plan to mitigate the impact or totally eliminate the possibility of there being any impacts by addressing the issues before they become a problem. This is made possible by analyzing all of the things that can influence the assembly and project approval process. This would the internal and external factors for the company and the town in which the assemblage is occurring.
Because the assemblage and development will have impacts on the town, the developer as well as town officials should work together to control growth and its impacts on the quality of life in the town, and also the direction and type of development that takes place. The town should develop specific guidelines for land use and the development approval process. Developers have the opportunity to be viewed as friends instead of enemies by be committed to developing projects the are beneficial to the community at large and in keeping with professional standards and ethics in the process.

Apart of every assemblage and development strategy must be the ability to make changes and the need arises and it will. There are very few thing predictable about the process. Developers must be willing to work with all parties involved int the process to achieve a situation where everyone will be satisfied. This requires a lot of give and take, but the developer must be aware of how much he can afford to give away before the assemblage process becomes unfeasible.

The Boston area suburban market is undergoing a major change. The assemblage and development process is becoming increasingly difficult. There is a growing opposition to development in towns along the growth corridors, and the process is becoming more difficult to manage. As the growth continues the price of land will continue to increase while the supply of suitable land will decrease. For the
developer entering the assemblage and development process today, there are significant changes on the horizon.

Outlook for the Future

In analyzing the development strategy of the development companies interviewed for this study, it became very clear that there is no pattern to follow. Every assemblage is approached on a case by case basis. The techniques that were generally used before the market began to increase so rapidly are having to be reanalyzed as the amount of land continues to decrease. It has become clear that unless a strategy that is responsive to the market is developed, the developer could face some unnecessary problems and pitfalls. It is important to do as much research as possible before a decision is made.

As the Boston area market demands continue to increase the most used technique for acquiring land will be putting full cash down. There will be less acceptance of options and long term negotiating. Those who are willing to sell will have developers beating down their door. Owners will state their price and say take it or leave it. And there will be someone to take it. The risk will have to be taken by the land developer because the market demands will be so strong that the owners will be asking higher prices for the land and not willing to make deals that are favorable to the developer, because it will be a sellers market. Developers won’t have time when the market is hot to deal with options,
refundable deposits and nonrefundable deposits, giving them the chance to go through the two to three year approval process, before the deal is closed.

It is generally agreed upon that the industry that the new tax act will work to reduce construction of new buildings. The risk inherent in new development remains high with little or no tax cushion. Developers and their bankers will not readily accept these risks until returns rise significantly. With fewer competitive first-class buildings in the market place, vacancy levels are expected to drop.

But I believe that the suburban areas of Boston will experience this increase in demand until either there is a drastic change in the economy of the state or until the demand and the supply reach an equilibrium. For the Suburban assembler this means a serious restructuring of strategies and approaches to meet the new constraints placed on them by a market that is the hottest in the nation.

Land assemblage in the suburban areas of Boston will continue until there is no more land to assemble. But it is clear that strategies must be responsive to change in the internal and external factors that affect the process. The factors are dynamic and the assembler has to be cognizant of the market and what the foreseeable future holds. As the market changes so must the assemblage techniques. The private sector developer is known for his ability to find creative ways to acquire property, the ability to assemble land in the
Boston suburbs will depend on his ability to be analytical and creative.
Bibliography


Wurkeback, Charles H., Miles Mike, E.. Modern Real Estate, 1983.
Land Assembly Practitioners Interviewed

Public Sector

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