

**Real Estate Development Exactions in Boston:
Implications for Linkage and Planning
In the South Boston Seaport District**

by
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Bachelor of Architecture
North Dakota State University, 1986

Submitted to the Department of Urban Studies and Planning
In Partial Fulfillment of the Requirements for the Degrees of

Master of City Planning
and
Master of Science in Real Estate Development

at the
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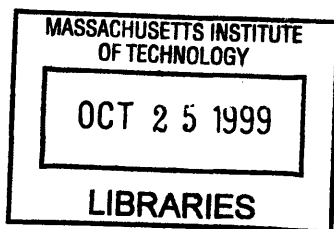
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Abstract

After several years of planning, Mayor Thomas Menino, the Boston Redevelopment Authority (BRA), and the Boston Real Estate Development community are poised to begin the build-out of the South Boston Seaport district. This area is considered by some, the most desirable urban property in the country, with estimates of 20 million square feet of buildings and nearly 44,000 new jobs to be created in the next 30 years. The only thing standing in their way is the politically powerful South Boston community. The people of South Boston are not necessarily against the development of the Seaport, but after almost 200 years of feeling abused by the business interests in Boston, they are going to exact a high price, and it will come in the form of linkage.

On March 11, 1998, the BRA signed a Memorandum of Understanding with three South Boston leaders, paving the way for City Council approval of a new Convention Center in the South Boston Seaport. By taking advantage of good timing and influential leaders, the South Boston community managed to wrestle away at least half of the linkage money from the Seaport into the newly formed South Boston Betterment Trust. In addition, the South Boston community gained significant control over building heights in the Seaport, which will have a lasting impact on the aesthetic and economic future of the City.

This thesis will review the 16 year history of Real Estate development linkage in Boston, particularly the way it has been leveraged to create affordable housing, in order to learn what is legal, what is appropriate, and what is currently happening with the linkage program in Boston. I will focus most of my attention on the Neighborhood Housing Trust (NHT) as the current vehicle for awarding linkage payments to the neighborhoods, and evaluate the impact of the new South Boston Betterment Trust (SBBT) on the planning process. I will conclude with recommendations for how the City and the South Boston Community can best utilize these Trusts to move the planning process forward in the South Boston Seaport District. With over \$66 million in linkage expected from the Seaport development over the next three decades, it will be imperative for the South Boston community and the City that linkage money be spent wisely, to provide affordable housing for its citizens, and ensure the future of the linkage program for the City of Boston.

Thesis Supervisor: Langley Keyes, Professor of Urban Planning

Dedication

This thesis is dedicated to Laurie

For your willingness to take risks while I chased a dream; for your constant support during those seemingly endless weeks of group meetings and late night studying; and for your excellent editing skills that helped make this thesis readable.

And to Alec and Madeline

For constantly reminding me what is really important in life. A good game of freeze tag should not be missed no matter when the next thesis review is scheduled.

Acknowledgements

This thesis brings to a close two challenging and fulfilling years at MIT. Both the Department of Urban Studies and Planning and the Center for Real Estate have provided a solid foundation for my academic exploration, and I will always think fondly of the faculty, staff and my fellow students that made it such a wonderful place to spend two very busy years. Thank you to the Bush Foundation for encouraging me to think big and for making my adventure possible.

This thesis would not have been possible without the information I was able to gather through interviews with dedicated City employees, South Boston residents, and community advocates. I thank the following people who generously shared their time and knowledge with me: Patricia Canavan, John Driscoll, Peter Gelzimis, Shirley Kressel, Martin Nee, Paul Santanna, Aaron Schmidt, and Clayton Turnbull. A special thank you to Samuel Tyler and Elaine Beattie at the Boston Municipal Research Bureau and Tom O'Malley at the BRA, for sharing your time, documents and information that would have taken far longer to find than the eight weeks I had to work on this thesis. I also thank all of the other City employees and South Boston residents who were very informative but did not feel comfortable being quoted in this document.

Thank you to all of the faculty at MIT who helped me make the transition from architect/politician to aspiring academic. In particular, I thank Dennis Frenchman and Larry Vale for sharing the duty as my academic advisors, and John deMonchaux and Tod McGrath for reading this thesis and offering excellent suggestions for making it better. Thank you to Brent Ryan and Laurie Fischer for your editing skills, and finally, thank you to my thesis advisor, Professor Langley Keyes, whose calm demeanor and sage advice helped keep me focused on a moving target.

And most importantly, thank you to my parents, Clarence J. and Helen M. Fischer, for piling your kids into that station wagon every summer and showing us the wonder of big cities.

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Chapter One: Introduction

In November of 1983, a City Councilor named Ray Flynn won Boston's mayoral race, becoming the first South Boston politician to win Boston's highest office. Flynn was a populist leader who understood the need to spread the wealth from the increasingly successful downtown into the neighborhoods that were struggling with rapidly increasing rents and deteriorating housing stock. His method for transferring the wealth was a novel idea borrowed from San Francisco called linkage, whereby developers seeking zoning approvals for a building project would be required to make contributions to the City for affordable housing and job training programs.

Sixteen years later, another City Councilor from South Boston is proposing changes to the linkage program that will have profound effects on the future of affordable housing in Boston. In a Memorandum of Understanding (MOU) signed on March 11, 1998, City Council President James Kelly traded his vote for a new convention center in the South Boston Seaport in exchange for the majority of all future Seaport linkage money deposited into a new "South Boston Betterment Trust". This MOU would change linkage procedures that have been in place for over a decade and could have potential negative impacts on a program that has helped provide the Boston housing market with over 4,800 housing units, most of those affordable. This agreement comes in the middle of a contentious debate between the Boston Redevelopment Authority (BRA) and South Boston leaders over how much housing is appropriate in the new Seaport district. The BRA would like to see up to 8,000 housing units to make this area a lively place to visit and in which to live.¹ South Boston politicians have not welcomed the proposed growth in housing stock, feeling threatened by the potential influx of new residents not sharing the ideals of the traditional neighborhood.

¹ Boston Redevelopment Authority. *The Seaport Public Realm Plan*. February 1999. P. 5.

The demands being made by South Boston are part of a growing trend in Boston where local communities are using linkage as a negotiating tool to shift the balance of power from the traditional business interests back to the neighborhoods. This is done by threatening to stop development unless an appropriate number of concessions are made to the right community organizations. The problem with this new type of political leveraging is that it is no longer clear what the rules are, and the purpose of linkage (building affordable housing due to pressures from commercial development) seems lost in the shuffle. Another serious problem with this new trend is that not all neighborhoods have the political strength and the good fortune to use linkage in this way.

The South Boston Seaport is the best current example of this new method of negotiating with linkage. After several years of planning, Mayor Menino, the BRA, and the real estate development community are poised to begin the build-out of the Seaport, with estimates of 20 million square feet of buildings and nearly 44,000 new jobs coming on line in the next three decades. The only thing standing in their way is the politically powerful South Boston community.

Seaport Context

The South Boston Seaport district has been called the best development opportunity in the country due to its prime location adjacent to Boston's Central Business District with direct connections to Logan Airport. In addition, a new interstate highway and public transit system will bisect hundreds of acres of developable land. The Seaport is bounded by the Fort Point Channel on the west, the harbor and Logan Airport to the north, the deep water port to the east, and the South Boston neighborhood to the south (Figure 1-1).

Much of the recent interest in the Seaport has been a result of over \$20 billion in public infrastructure investment in the area, including the Central Artery/Third Harbor Tunnel project, the Silver Line transit system, and the cleaner Boston Harbor as a result of the Massachusetts Water Resource Authority Sewage treatment plant at Deer Island. In addition, a new Federal Courthouse on Fan Pier and the proposed Convention and Exhibition Center at Summer and D Street are paving the way for many new development opportunities.

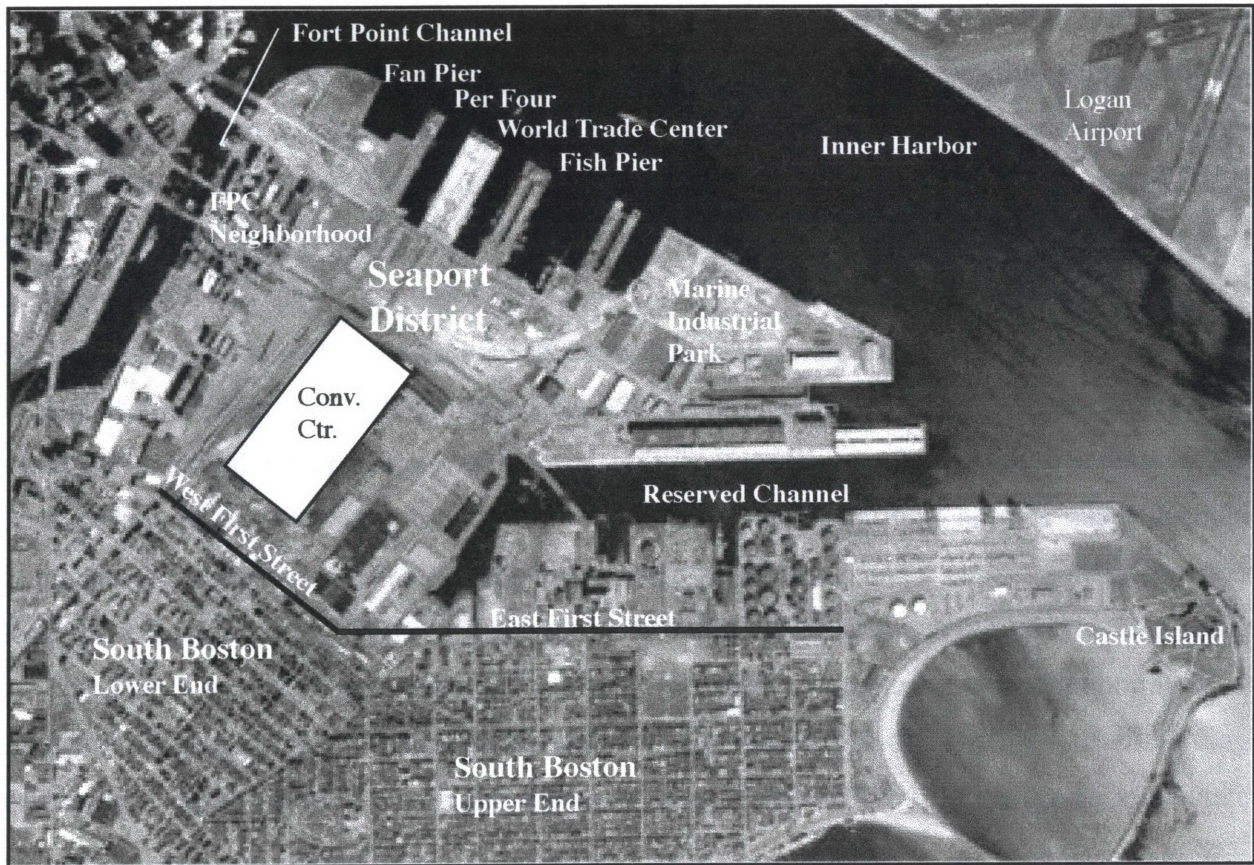
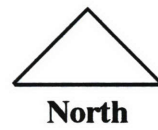
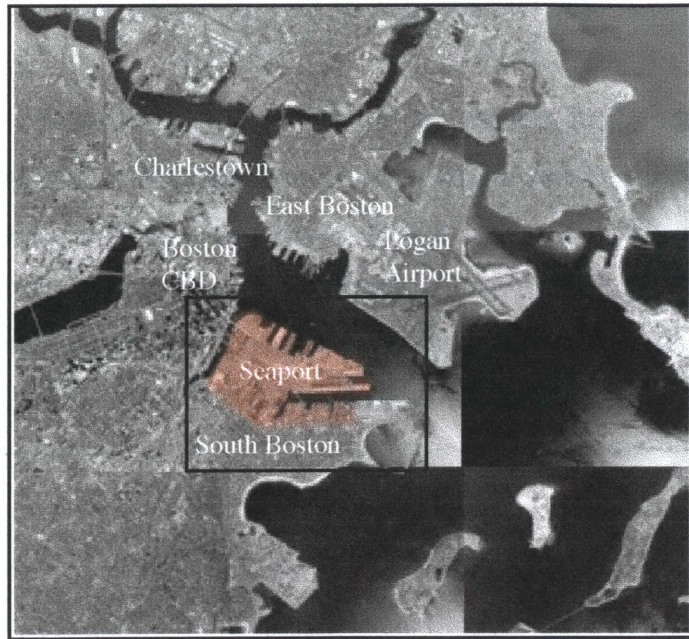


Figure 1-1: South Boston Seaport Context Maps

Base Map Source: MassGIS and MIT

Seaport History

The land north of West First Street and East First Street was originally a tidal marsh adjacent to the peninsula called Dorchester Neck, where residents of Dorchester grazed their cattle and later built large family estates. In 1804, the peninsula was annexed to Boston and the name was changed to South Boston. At the same time, State legislation was passed to allow landfill to create new sites for commercial development as well as a toll bridge connecting the peninsula to Boston and extending the street grid of the South End across Dorchester Neck, with Broadway being the primary artery.

Industrial activity started locating in South Boston around 1810, with the South Boston Iron Company, a glassworks company, and the Wheelright Shipyards leading the way. Brick making companies also started locating kilns on the peninsula around this time. Large numbers of people began moving to South Boston starting in 1828, with the opening of the North Free Bridge, the first free transportation route to the peninsula. Sixty families lived in South Boston at the time of annexation in 1804. By 1830, the population had grown to 2,200 people, and by 1850, the population of South Boston was 13,000. The introduction of the street railway system and the industrial expansion from the Civil War caused the population to triple between 1850 and 1870, to over 39,000 people.²

South Boston continued to increase its industrial base until it ran out of room to grow. In 1833, 75 acres of mud flats were filled in for a new railroad terminus, and speculators started thinking about the potential for creating new land out of swamp. In response to the speculation, the Boston Harbor Commission set limits on development by legally defining how far wharves could be extended into the harbor. In 1836, the newly-formed Boston Wharf Company obtained rights to the mud flats and began building wharves out to the extent of the legal limits. The land along the Fort Point Channel was completely filled in by the 1880's, with some of the fill coming from the debris of the great fire of 1872 (Figure 1-2).³ As the Boston Wharf Company started building sheds for storing imported sugar and molasses, they switched from wharfage to real-estate

² Boston Redevelopment Authority. *The Seaport Public Realm Plan*. Boston, MA. February 1999. P. 9.

³ Boston Public Library. *Fort Point Channel Exhibit*. October 1997.

development and quickly became the most influential developer of the Fort Point Channel. In the 1850s, they invited the railroads to the area, creating a vital sea to railroad link.

After filling in the mud flats in 1882, the Boston Wharf Company decided to take advantage of the booming sea trade and build wharves on the new South Boston waterfront. They began an ambitious construction project with architect M.D. Safford, resulting in the creation of the Fort Point Channel District.⁴ These brick and granite warehouses and factory buildings built around the axes of Summer, Congress and A Streets gave this area a rich architectural fabric that is still in existence today.

By the 1920's, the South Boston waterfront, including the Fort Point Channel, was one of the busiest in the country. In 1900, it employed 50% of Boston's industrial workers.⁵ During this time, the Channel was a major warehousing and distribution center for the City's wool and ice industries. The American Sugar Refining Company was a prominent anchor at the bend of the upper Channel, creating warehousing and distribution for sugar and molasses. Lumber, coal, bananas and leather were other commodities commonly stored and distributed through the Channel.

The Channel's rail and shipping facilities encouraged the development of manufacturing, producing such goods as iron, glass, brick, machinery, wagons, soap, elevators and beer.⁶ The most successful of these manufacturing enterprises was the Gillette Safety Razor Company, which today remains the last remnant of the industrial glory days of the Channel.⁷

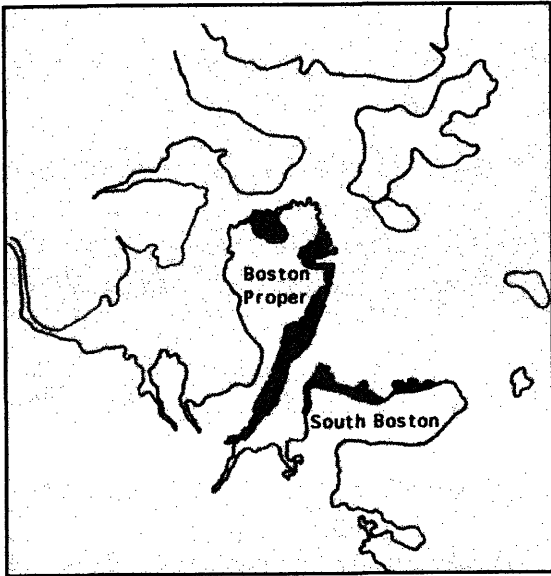
The South Boston Seaport remained an important piece of the Boston industrial economy into the 1930's. After World War One, however, the physical traits that made the port, specifically the Fort Point Channel, a special place became a liability. The large ocean-going ships could no longer sail into the narrow Channel, and smaller ships that could sail into the Channel preferred

⁴ Southworth, Susan and Michael, *AIA Guide to Boston*, 1992.

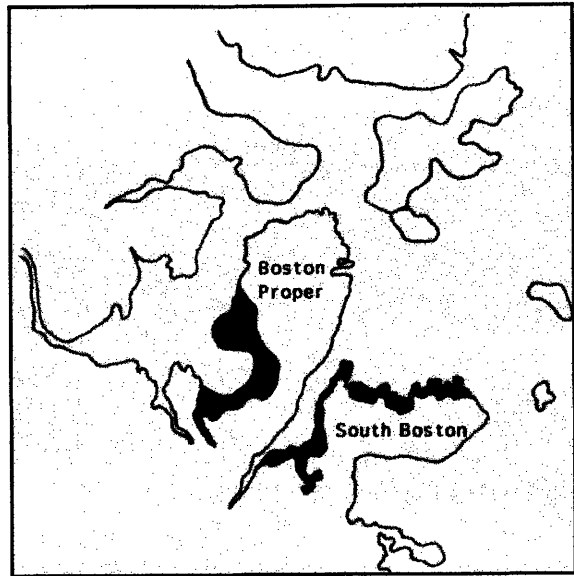
⁵ City of Boston, "Fort Point District Plan Progress Report", March 1989.

⁶ Greater Boston Chamber of Commerce, "Fort Point Channel Project Report", July 1988.

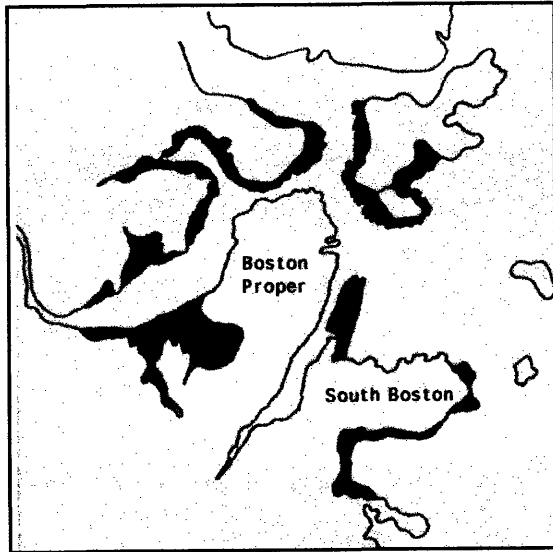
⁷ Boston Public Library. *Fort Point Channel Exhibit*. October 1997.



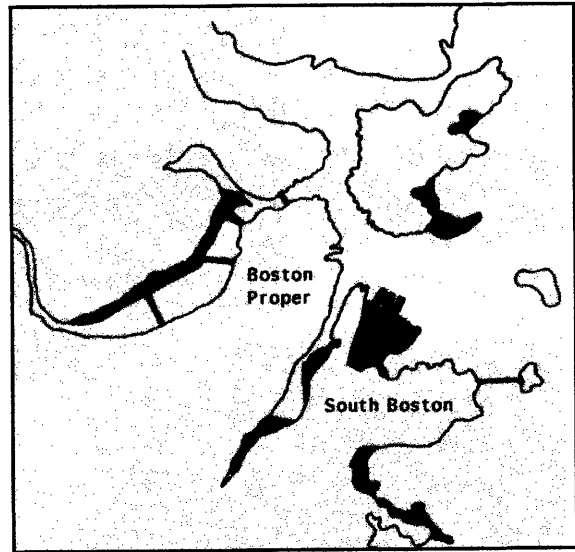
Boston in 1850



Boston in 1870



Boston in 1880



Boston in 1914

■ Filled-In Land

Figure 1-2: The Evolution of Boston by Infill

Sketches by Author, adapted from:
 Kennedy, Lawrence W. *Planning the City Upon A Hill*.
 The University of Massachusetts Press. Amherst. 1992.

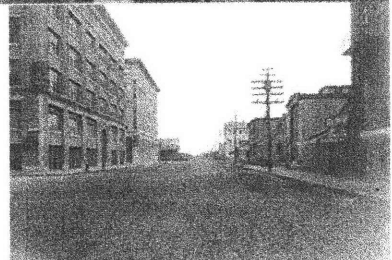
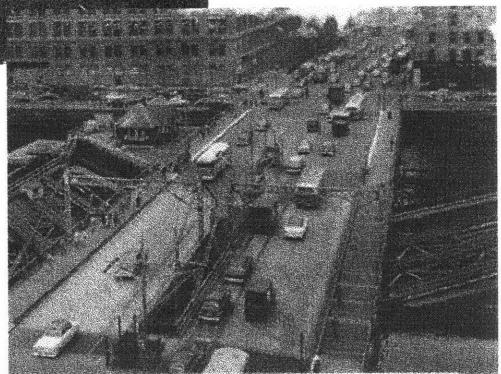
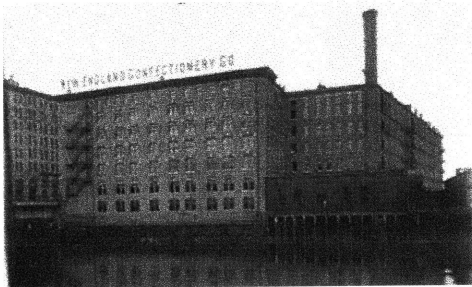
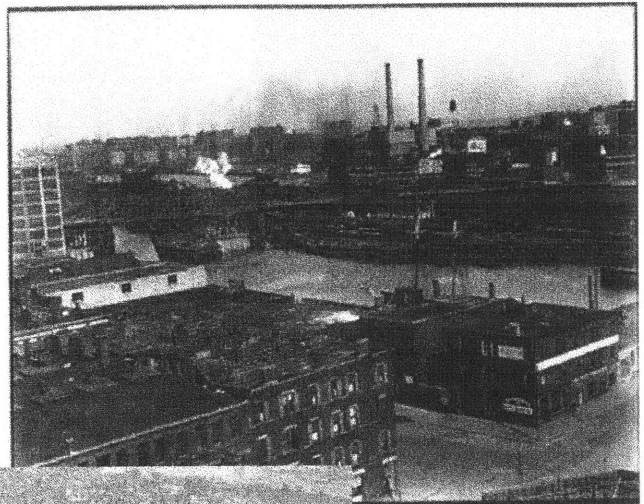


Figure 1-3: South Boston Seaport District, 1920-1930
Source: Boston Public Library Archives, Leslie Jones Collection.

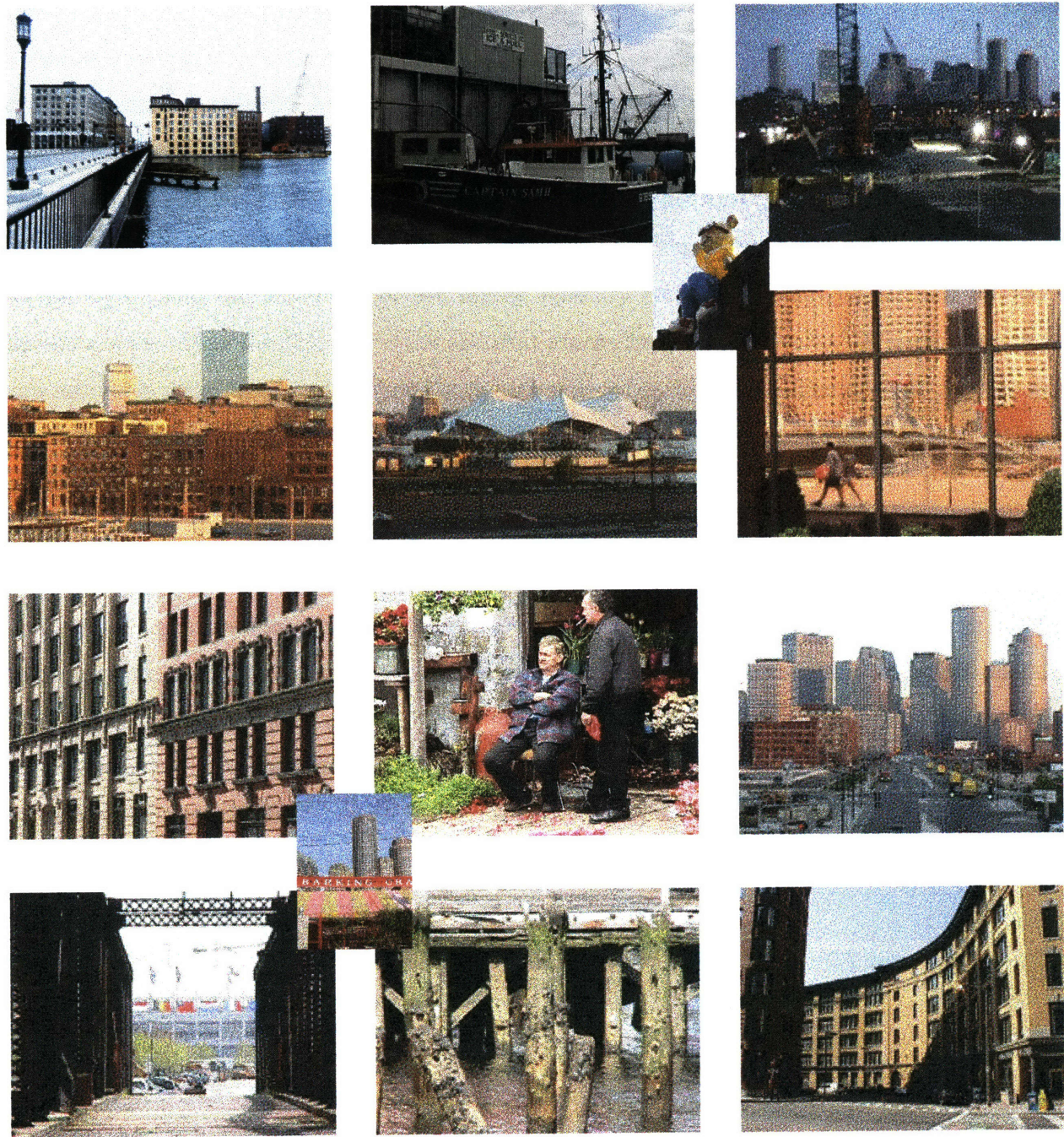


Figure 1-4: South Boston Seaport District, 1997-1999

Source: Photos are from the South Boston Seaport Web Site

Created by Michael A. Fischer and T. Luke Young

not to negotiate the narrow bridge openings. Much of the port's decline was part of the general decline of Boston as an industrial center. An absence of an adequate seaport truck route system hurt the area as railroads were being replaced by trucks on the newly constructed U.S. highway system. Changes in intercontinental transportation patterns, new containerized shipping technologies, and the departure of the textile industry from New England, all led to sharp declines in the use of the Port in general and Fort Point Channel specifically.⁸ Warehouses, piers and rail yards were razed and replaced with vast acres of parking lots. The deepest point in the Port's decline came in the 1970's when the Federal Government decided to close Boston's Navy Yards at Charlestown and South Boston (currently the Marine Industrial Park of South Boston).

In summary, the forces behind the early growth and success of the South Boston Seaport included progressive Government policy, a strong real estate market and investment in the transportation infrastructure. The forces behind the decline of the Seaport included outside market pressures such as industries shifting to other geographic locations, and slow reactions to the changes in transportation technologies. As we approach the year 2000, the same forces are ironically reshaping the future of the Seaport. A strong real estate market is causing the expansion of the Central Business District across the Fort Point Channel into the Seaport, partly caused by the investment in transportation infrastructure (Figure 1-5). At the same time, Boston is making its next transition from an industrial economy to a service economy, causing much discussion about the future of the Seaport with the residents of South Boston, often referred to as "Southies", who have historically depended on the industrial waterfront for their livelihood.

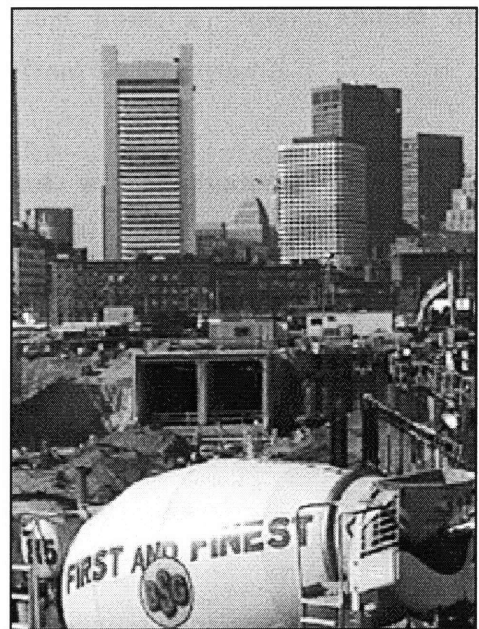


Figure 1-5: Central Artery Construction in the Seaport

⁸ City of Boston, "Fort Point District Plan Progress Report", March 1989.

Political Context

Despite the fact that the Seaport today does not employ as many South Boston residents as it did in the early 1900's, Southies in the 1990's still consider the area their "back yard", and have repeatedly defeated proposals for public facilities such as baseball stadiums and football stadiums which would bring little financial benefit to their community.

All of that changed on March 11, 1998, when South Boston leaders approved a convention center to be located in the middle of the Seaport district (see Figure 1-6). The timing could not have been better for the residents of South Boston. In 1997, the Commonwealth of Massachusetts passed a resolution in the Senate and House of Representatives approving a \$600 million convention center project in the South Boston Seaport, provided the City of Boston give its approval by a certain date. That date was March 11, 1998, and Council President James Kelly knew it. He also knew how much Mayor Tom Menino wanted the Convention Center as the legacy of his administration. Kelly, a South Boston native, controlled enough votes on the City Council to delay the proceedings unless the City agreed to specific terms that were important to the South Boston Community.⁹ At the last hour, a "Memorandum of Understanding" was signed between the BRA and the leaders from South Boston.

Among the terms promised as part of the memorandum were:

- No less than the majority of job linkage from the Seaport will be allocated to the South Boston neighborhood.
- No less than the majority of housing linkage from the Seaport will be allocated to the South Boston neighborhood
- Within 180 days, the BRA shall identify parcels of land available in South Boston for the development of affordable single and multi-family housing.
- The BRA shall use its best efforts to encourage developers to purchase available sites in South Boston on behalf of the South Boston Betterment Trust.
- The BRA shall petition the Boston Zoning Commission to establish in the Seaport District a maximum as-of-right building height of 150 feet. If developers want to exceed 150 feet, they will have to complete a community review process and execute a written agreement obligating them to pay certain benefits to the neighborhood in addition to the base linkage payments.

⁹ Babson, Jennifer. *Boston Globe*. March 5, 1998.

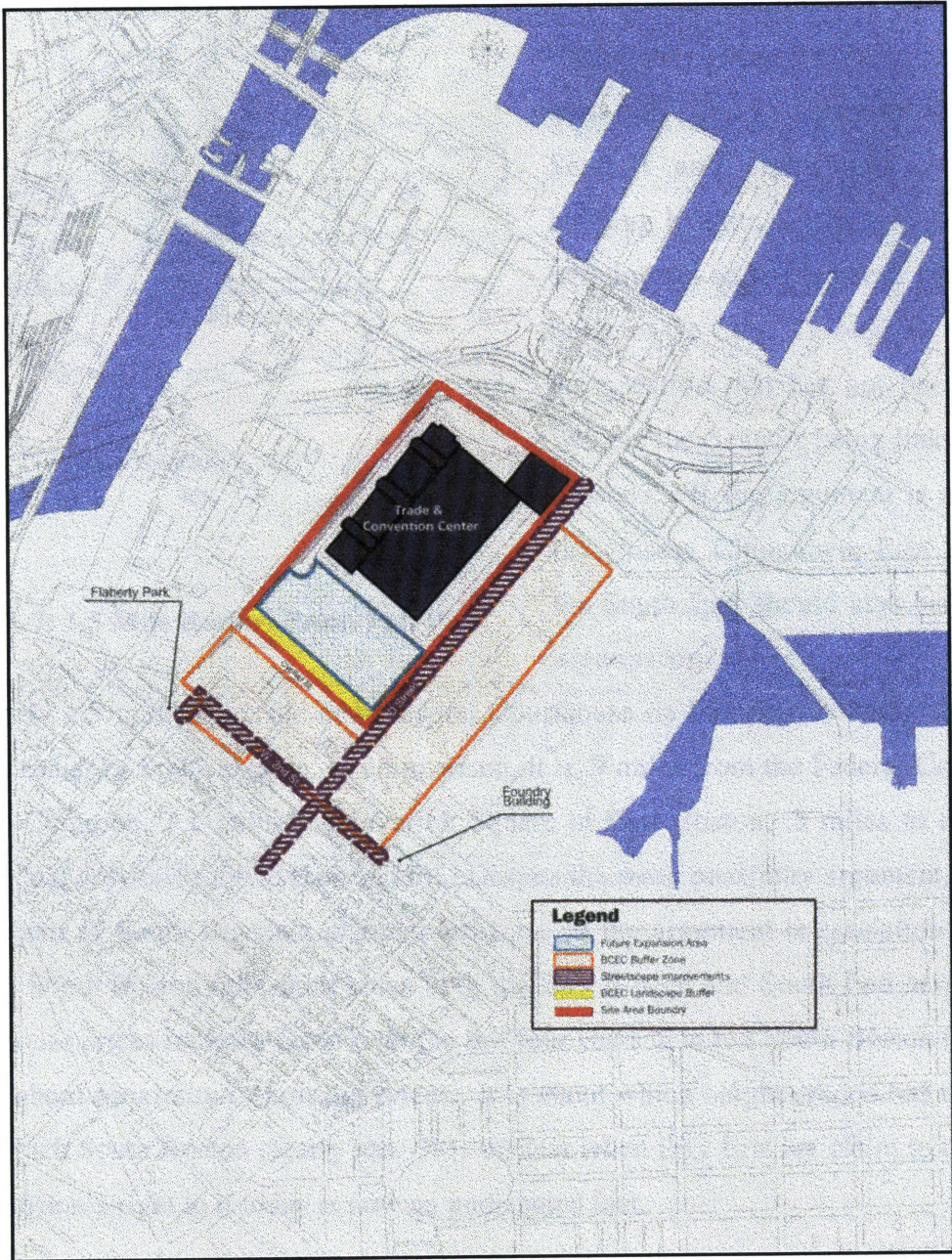


Figure 1-6: Boston Convention and Exhibition Center Site Plan

Source: City of Boston. Boston Convention and Exhibition Center Final Report. March 1997.

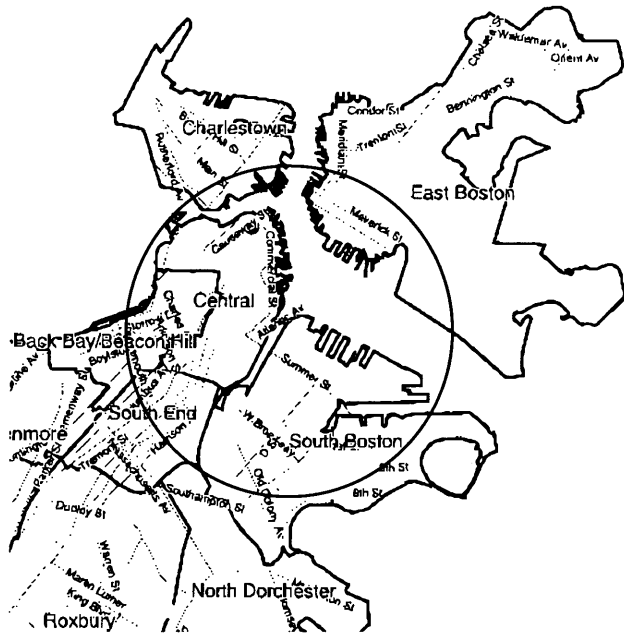


Figure 1-7: 1.5 Mile Radius From Fan Pier

By taking advantage of good timing and influential leaders, the South Boston community managed to wrestle away at least half of the linkage money from the Seaport and significant control over building heights, which will have a long-term impact on the aesthetic and economic future of the City. Throughout the process, the question that has not been asked is, "why is the Seaport being linked to South Boston?" If the argument is about being the closest, Chinatown, East Boston and the South End should also be part of the discussion (Figure 1-7). It is

approximately 1.5 miles from the new Federal Courthouse on Fan Pier to Telegraph Hill, the geographic center of South Boston. In comparison, it is .9 miles from the Federal Courthouse to the Boston Common, 1.1 miles to Maverick Square in East Boston, .8 miles to the heart of Chinatown, and only one mile to Beacon Hill. Despite the weak proximity argument, Fan Pier is considered part of South Boston's claimed territory. If the argument is escalation of housing prices, then South Boston falls short since both the East Boston and South End neighborhoods have seen house prices increase faster over the last four years than has South Boston (Table 1-1). This is not about proximity or housing prices. It is about which neighborhood has the political leverage, which South Boston clearly has. It is unclear when they first lay claim to the Seaport, but South Boston's right to it today is now an undisputed fact.

The political strength of South Boston regarding the Seaport can be attributed to good timing and strong leadership, but the most important factor is that the citizens of South Boston have earned it through their long history of active participation in the voting process. As simple as it seems,

the fact that they actually go out and vote gives them an increased amount of leverage with any elected official that relies on citywide votes to get elected. Lou DiNatale, a senior fellow at the McCormack Institute for Public Affairs at UMass Boston, confirmed that the “disproportionate input South Boston has because of its large voter turnout makes it the literal linchpin in all of city decision-making.”¹⁰

South Boston is the last neighborhood in the City that still votes as a block, which is why they currently have two City Council members, one State Representative, one State Senator and a U.S. Congressman, all from within the South Boston neighborhood. The greatest fear of both the South Boston community and its elected leaders seems to be that the neighborhood might change. People that are different might move in and upset the delicate balance that has existed here for over a century. The residents of South Boston are probably correct in fearing that they will lose political influence once enough newcomers move into the neighborhood. These newcomers might not appreciate or want to accept the "Southie" way of doing business.

Boston Neighborhood	Single Fam. 94-98 % Change	Two Fam. 94-98 % Change	Three Fam. 94-98 % Change	Condos 94-98 % Change	Overall 94-98 % Change
South End	145%	82%	123%	58%	102.0%
Charlestown	85%	115%	121%	29%	87.5%
Roxbury	72%	69%	94%	66%	75.3%
Hyde Park	25%	32%	31%	175%	65.8%
East Boston	23%	69%	105%	62%	64.8%
South Boston	46%	66%	94%	48%	63.5%
Allston/Brighton	42%	61%	73%	62%	59.5%
Dorchester	40%	44%	103%	46%	58.3%
Jamaica Plain	21%	64%	111%	25%	55.3%
Mattapan	34%	55%	125%	-6%	52.0%
Citywide	32%	38%	82%	36%	47.0%
Roslindale	36%	37%	36%	74%	45.8%
Fenway/Kenmore	35%	NA	-31%	63%	
West Roxbury	27%	35%	NA	49%	
Central	92%	NA	NA	39%	
Back Bay/Beacon Hill	NA	NA	NA	12%	

Table 1-1: Residential Sales Price Increases in Boston from 1994-1998

Source: City of Boston Department of Neighborhood Development. *Draft Report at March 4, 1999 NHT meeting.*
Data Source: *Banker and Tradesman.*

¹⁰ Beman, Ben. *The Boston Phoenix*. May 6-13, 1999.

A good example of this type of newcomer would be the members of “Seaport Alliance for a Neighborhood Design” (SAND). This is a group made up of residents, business owners, artists, architects, urban planners, cultural institutions and community groups that are located in or have a connection to the Fort Point Channel. These members of the Fort Point Channel community have technically been a part of the South Boston “claimed territory”, but never part of its inner circle, because these are the newcomers that do not share the common bonds that unite the traditional South Boston community. In fact, it has only been in the past couple of years that a Fort Point Channel representative has been offered a seat on the powerful South Boston Leadership Committee.¹¹

The charter of SAND claims that they want to be a collective voice of the community in the South Boston Seaport development process. They have a web site designed to inform the community of any meetings taking place as well as any late breaking news on the planning process. The new development pressures in the South Boston Seaport district are starting to illuminate the differences between the traditional South Boston neighborhood and the newcomers in the Fort Point Channel area. In 1991, U.S. Congressman Joe Moakley convinced his colleagues in Washington, D.C. to locate the new Federal Courthouse on Fan Pier, conveniently located on the property of his good friend, Anthony Athanas, who netted \$32 million in the deal.¹² Despite the fact that Moakley was renting a summer cottage from Athanas and had other business dealings with him, the traditional South Boston neighborhood saw nothing wrong. After all, they had grown up with ethnic politics as a way of life (see Chapter Two: South Boston). The fact that Joe Moakley was offering this generous “constituent service” to his good friend was completely acceptable, especially since it did not have any obvious negative affects on the neighborhood and he negotiated some new public transit to Fan Pier as part of the process.¹³ The Fort Point Channel neighborhood felt much more threatened by the process, perhaps because of their proximity to the site. They were openly critical of Moakley and the fact that the community was not consulted about the deal.

¹¹ The South Boston Leadership Committee consists of the elected officials in South Boston and the community members they select.

¹² Golden, Daniel. *Boston Globe*. September 29, 1991.

¹³ Vennochi, Joan and Ackerman, Jerry. *Boston Globe*. June 16, 1991.

The South Boston Seaport Planning process will undoubtedly be the source of the liveliest debate between the traditional neighborhood and the Fort Point Channel neighborhood. The traditional community appears to be focused on what it can prevent from happening, instead of providing meaningful input to the planning process. Even after begrudgingly agreeing that some development will have to occur in south Boston, the traditional community is focused on how it will use the linkage money to ensure the neighborhood does not change. James Kelly summed up the neighborhood opinion well in the April 19, 1998 *Boston Globe* article:

“We’re not going to use that money to clean the streets. We’re not going to use that money to build parks. We pay taxes to the city so the city maintains the streets and cleans the parks. We’re going to use as much money as we can to make sure that residents of South Boston are not driven out of the neighborhood.”

The article noted that Kelly wanted to use the linkage funds to keep the enclave just the way it is, by building affordable housing for those born and bred in South Boston and by improving education, particularly in the area’s parochial schools. In Kelly’s view, all of the new development should be in the manufacturing sector which would offer high-paying jobs for the South Boston work force. Linkage money should be used to provide low-cost housing for those same workers.¹⁴

Meanwhile, SAND is promoting the idea of thousands of units of new housing being built in South Boston. They agree with the urban design experts that the only way to achieve a vibrant urban fabric for the area is to create a “24-hour” city, and the only way to achieve a “24-hour” city is to fill it with housing of varying income levels.¹⁵ Obviously, thousands of new housing units are going to provide housing for more than just traditional South Boston residents, and that is where the conflict will arise.

The Seaport Planning Context

The words “planning” and “Seaport district” were rarely used in the same sentence prior to Boston’s economic expansion of the 1980’s. For several decades, Fan Pier, the most desirable real estate in the Seaport, was used as a parking lot by financial district employees and workers

¹⁴ Cassidy, Tina. *Boston Globe*. April 19, 1998.

from nearby factories. The image of the Seaport as a parking lot was shattered in January of 1986 when the Pritzker family of Chicago and local businessman Anthony Athanas teamed up to propose a \$1 billion development on Fan Pier and Pier Four. Athanas had purchased most of the land on Fan Pier in 1969 and was waiting for the right opportunity. That opportunity came with the growth of Boston's financial district in the early 1980's, moving Boston's center of gravity closer to the South Boston Seaport.¹⁶ The plan to transform the 18.5 acre piece of land into four office buildings, an 800-room hotel, three apartment buildings, an art museum and a marina aroused immediate opposition from groups such as South Boston residents, the Boston Shippers Association, Fort Point Arts Community, Massachusetts Audubon Society, League of Women Voters, and the Conservation Law Foundation. Most of the opposition was focused on "downtown-like densities" and building heights that reached 520 feet.¹⁷

Despite community opposition, the Boston Redevelopment Authority (BRA) approved the Fan Pier and Pier Four plans on April 23, 1987, with minor modifications in building heights to be negotiated with the BRA.¹⁸ In response to the community pressure, the BRA commissioned David Dixon and Associates to prepare a set of urban design guidelines for the New Congress Street/Piers Enterprise Zone which encompassed the Fan Pier area. The *New Congress Street/Piers Urban Design Guidelines* plan was issued in March of 1989 outlining guidelines for public open space, public streets, land use and density, street-level activities, massing, scale, height and architectural character (Figure 1-8). The study discouraged a "downtown" quality for the district, suggesting 65 foot height limits along the waterfront, and 300 foot limits for buildings south of the World Trade Center. Within months of its completion, the Dixon study was put on the shelf as the Pritzker/Athanas relationship ended in a bitter court battle while Boston's real estate market started falling apart.

Planning and development discussions were nonexistent in the Seaport between 1989 and 1995 as Boston's real estate market went through a depression and a new Mayor took office. The only

¹⁵ The term "24-hour" city refers to mixed land uses that promote activity in the neighborhood 24 hours a day.

¹⁶ King, John. *Boston Globe*. November 12, 1989.

¹⁷ *New York Times*. February 15, 1987.

¹⁸ King, John. *Boston Globe*. April 22, 1989.

exception was in 1991, when Congressman Joe Moakley convinced his colleagues in Washington, D.C. to locate a new Federal Courthouse on Fan Pier.¹⁹

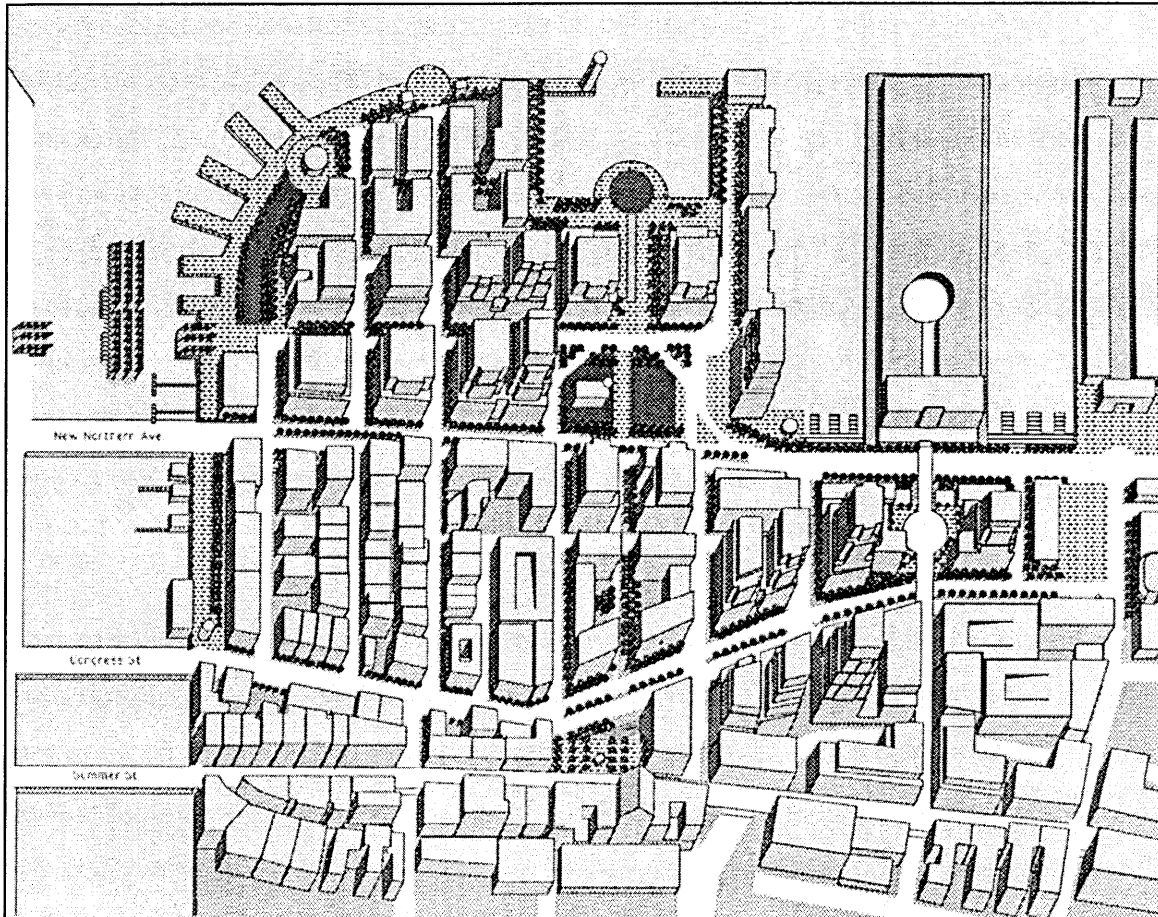


Figure 1-8: Axonometric View of Proposed District From 1989 Dixon Plan

Source: BRA. *New Congress Street/Piers Urban Design Guidelines: Building a New District*

In 1995, developer Frank McCourt, the owner of 20 acres of prime real estate just south of Fan Pier, hired architect Howard Elkis to create his own version of the “public realm” plan for the Seaport. McCourt had owned his property in the Seaport since the early 1970’s, and found the four-year cycles of Mayors and Governors were more conducive to producing proposals for conventions centers and football stadiums than long-range visions.²⁰ McCourt felt that the 1989 Dixon plan was doomed to fail because it lacked vision and its supporters were not part of Mayor

¹⁹ Golden, Daniel. *Boston Globe*. September 29, 1991.

²⁰ McCourt, Frank. Developer. Interview. November 1997.

Menino's new Administration.²¹ His solution was to have the private sector take the lead and create a vision for the public realm of the Seaport district.

In early 1996, as McCourt and other Seaport advocates pressed for a city-wide planning process for the Seaport, Mayor Menino put together a team of 21 people to form the South Boston Waterfront Committee (SBWC). The goal of the committee was to look at the redevelopment of the Boston Marine Industrial Park, located on the site of the former U.S. Army base land. After advising the Mayor to abandon plans for redeveloping the industrial park, the committee continued to meet discussing issues affecting the waterfront.²² In the Spring of 1997, the committee started meeting weekly with the BRA discussing the need for a master plan for the South Boston Seaport. The SBWC continued to meet with the BRA providing input until *The South Boston Seaport Master Plan* interim report was unveiled by Mayor Menino in November of 1997.

The forty-page interim report was really a framework for an anticipated future plan, with very little information regarding a future vision for the Seaport. In fact, the Streetscape plan was almost identical to Frank McCourt's public realm plan from two years earlier (Figure 1-9). The most controversial part of the plan was around the issue of building heights (Figure 1-10). The plan proposed allowable heights of up to 250 feet on parts of Fan Pier with some parcels negotiable up to 350 feet. Harbor advocates such as the Conservation Law Foundation criticized what they considered excessive building heights, suggesting that they did not meet Chapter 91 restrictions.²³

Within days of the interim report being released to the public, the Pritzker family re-surfaced with a new partner, Mortimer Zuckerman's Boston Properties, proposing a revised plan for Fan Pier. The mixed-use proposal was officially submitted to the BRA on December 17, 1997 and included an 800-room hotel, luxury condos and office towers with building heights up to 295 feet.²⁴ The proposal was panned by South Boston residents, community groups and harbor

²¹ Ibid.

²² Silberberg, Susan. *South Boston: Planning in a Reluctant Community*. MIT Thesis. 1998.

²³ Chapter 91 is a Massachusetts state law restricting development on waterfront land.

²⁴ Meyers, Jack. *Boston Herald*. December 17, 1997.

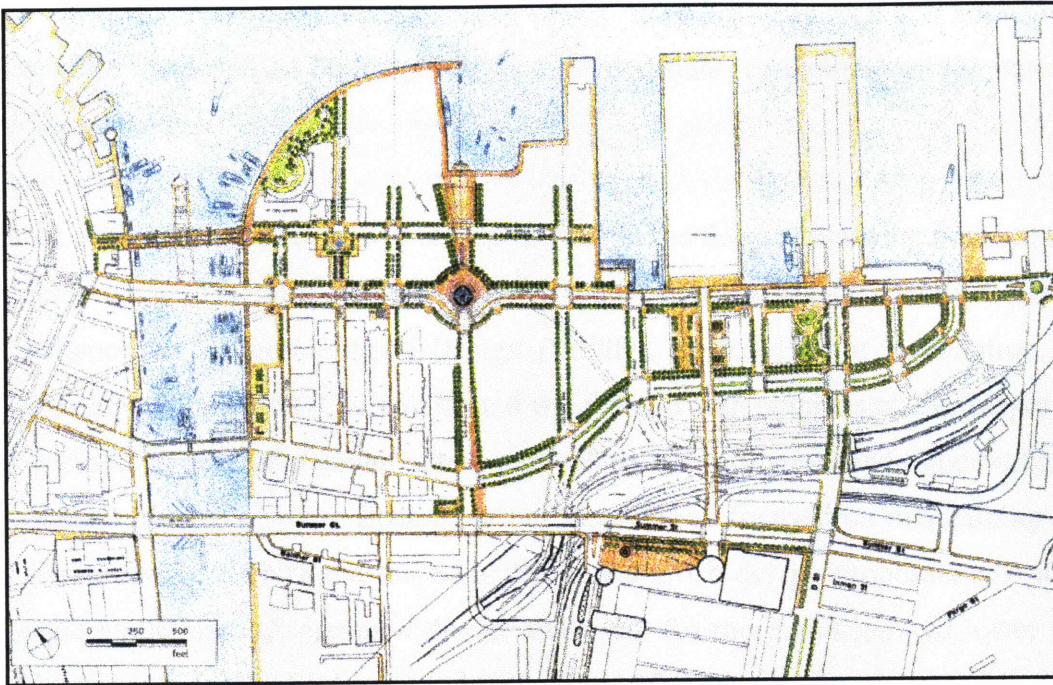


Figure 1-9: Interim Plan Streetscape

Source: Boston Redevelopment Authority.

The South Boston Seaport Interim Plan. November 1997



Figure 1-10: Interim Plan Building Heights

Source: Boston Redevelopment Authority.

The South Boston Seaport Interim Plan. November 1997.

advocates, since the proposed building heights exceeded state regulations and the new *Seaport Master Plan* guidelines.²⁵

If the intent of the interim plan was to stir up interest in the Seaport planning process, it should be considered quite successful. Groups such as the Boston Society of Architects (BSA), the Seaport Alliance for a Neighborhood Design (SAND), Boston Harbor Association, and the Conservation Law Foundation (CLF) all started weighing in with opinions on the Seaport design. The CLF focused on general planning issues, particularly transportation, and sought urban design experts for their opinions.²⁶ The Boston Harbor Association focused on maintaining a viable working harbor, while SAND and the BSA developed urban design proposals complete with drawings and guidelines. A common theme was a call for more housing and lower building heights. As an example, the BSA proposal called for 10,000 housing units and the creation of a “development rights marketplace” allowing developers along the waterfront to sell their development rights to other developers for sites where building higher would not have such a negative impact on the public realm (Figure 1-11).²⁷

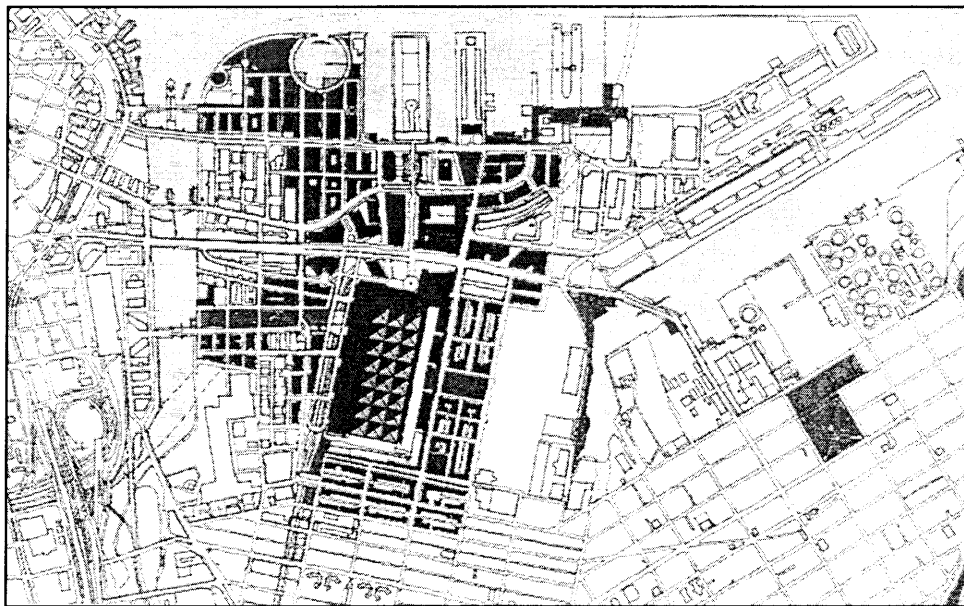


Figure 1-11: BSA Illustrative Plan for the Seaport District

Source: Boston Society of Architects. *A Shared Vision For the Seaport*. June 25, 1998.

²⁵ Ibid.

²⁶ Russell, Robert H. *Conservation Matters*. Spring 1998. P. 9.

²⁷ Boston Society of Architects. *A Shared Vision for the Seaport*. June 25, 1998.

In addition, the Massachusetts Institute of Technology (MIT) and the Boston Globe sponsored the “Boston Harbor Conference” in April of 1998, bringing together a panel of experts to listen to testimony and make recommendations for the future of the Boston harbor. As part of the research for the conference, an MIT urban planning studio also created an urban design vision for the South Boston Seaport, stressing lower building heights on Fan Pier and maximizing opportunities for housing throughout the Seaport district (Figure 1-12).

In March 1998, it became clear to the Fan Pier developers that the community dialogue would prevent any decisions from being made about their proposal, so they declared a “timeout” and the partnership dissolved.²⁸ In August 1998, the Pritzker family formed a new partnership with Boston based developer Spaulding & Slye. Project Manager Daniel O’Connell suggested that the development team would not make another proposal until the City issued its final master plan. O’Connell hoped the BRA would release the master plan by the Fall, but “was not going to waste any time waiting for that”, as he immediately went to work meeting with the South Boston community leaders.²⁹

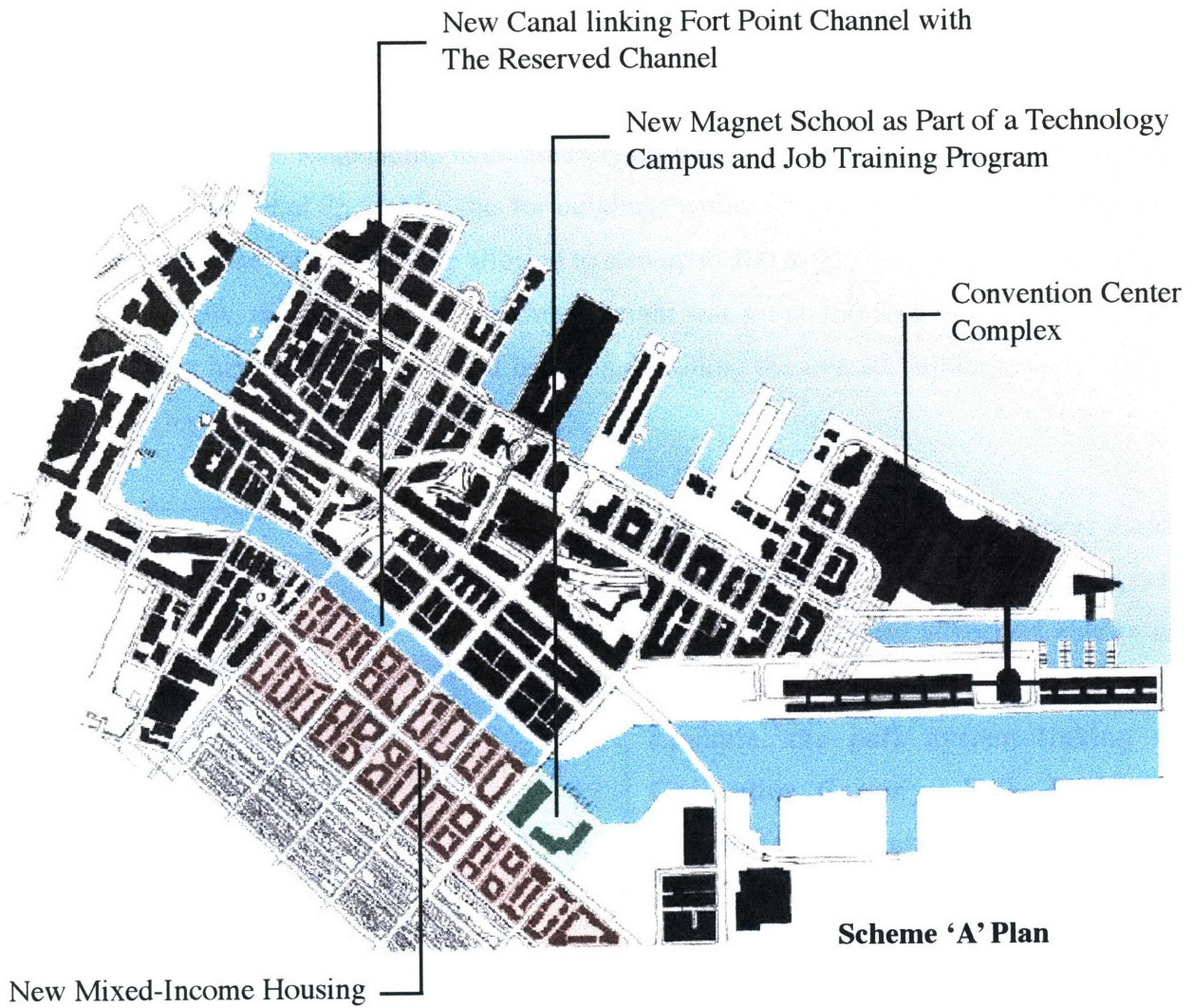
In February 1999, after 15 months of city-wide participation, the *Seaport Public Realm Plan* was released to the public. The five primary objectives of the plan were:

- Promote access to Boston Harbor as a shared natural resource.
- Preserve and enhance the industrial port.
- Plan the Seaport as a vital, mixed-use neighborhood.
- Develop the Seaport as an integral part of Boston’s economy.
- Enhance the South Boston community.

The 116-page document outlined the historical and regulatory framework of the Seaport, followed by an analysis of its physical characteristics compared to other similar districts in waterfront cities throughout the world. After outlining a physical plan for the Seaport, the document gave an overview of the transportation network and concluded with an implementation strategy for the public realm plan.

²⁸ Macero, Cosmo Jr. *Boston Herald*. August 5, 1998.

²⁹ Ibid.



Scheme 'B' Land Use Diagram



Scheme 'B' Street Network

Figure 1-12: MIT Urban Design Studio, Fall 1997

Team Members: Michael A. Fischer, Supapim Gajeseni, Francisco Ortiz, Sebastiano Parmegiani

In response to the extensive community input regarding housing, the *Seaport Public Realm Plan* called for between 5,000 and 8,000 units of housing to be constructed in the Seaport and South Boston neighborhood. Responding to community concerns regarding building heights, the plan suggested a restriction of 75 foot heights for buildings within 200 feet of the bulkhead (Figure 1-13). In the next zone, buildings were allowed to step up to 100 to 150 feet in height. In the areas marked 150' PDA, the predominant maximum height was set at 150 feet, but a developer may propose greater height on an individual building providing the overall building heights in that area average less than 150 feet.

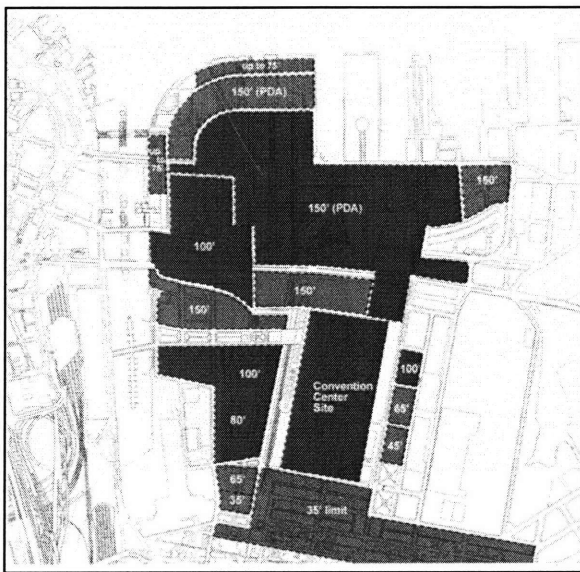


Figure 1-13: Building Heights

Source: BRA *Seaport Public Realm Plan*. 1999

The public reaction to the *Seaport Public Realm Plan* was generally favorable, with many of the Seaport advocates able to see aspects of their ideas in the plan. For example, the park system linking the Convention Center with the Fort Point Channel was an enhancement of an idea from the BSA plan (Figure 1-14). Also, the city-wide call for more housing seemed to have been heard. Columnist David Eisen of the Boston Herald referred to the new plan as offering “common sense”, compared to the interim plan which was “the City

capitulating completely to developer greed”, referring to the apparent reduction of building heights.³⁰

BRA Director Tom O’Brien stated that the plan,

“represents a consensus from hundreds of community meetings and consultations with private urban planners and design professionals. Its something that when you look back , all of us, and anybody who really cares about this area, can really be proud of. We took in a lot of comments that didn’t always match up with each other, and tried to sort it all out.”³¹

³⁰ Eisen, David. *Boston Herald*. March 7, 1999.

³¹ Flint,Anthony. *Boston Globe*. March 1, 1999.

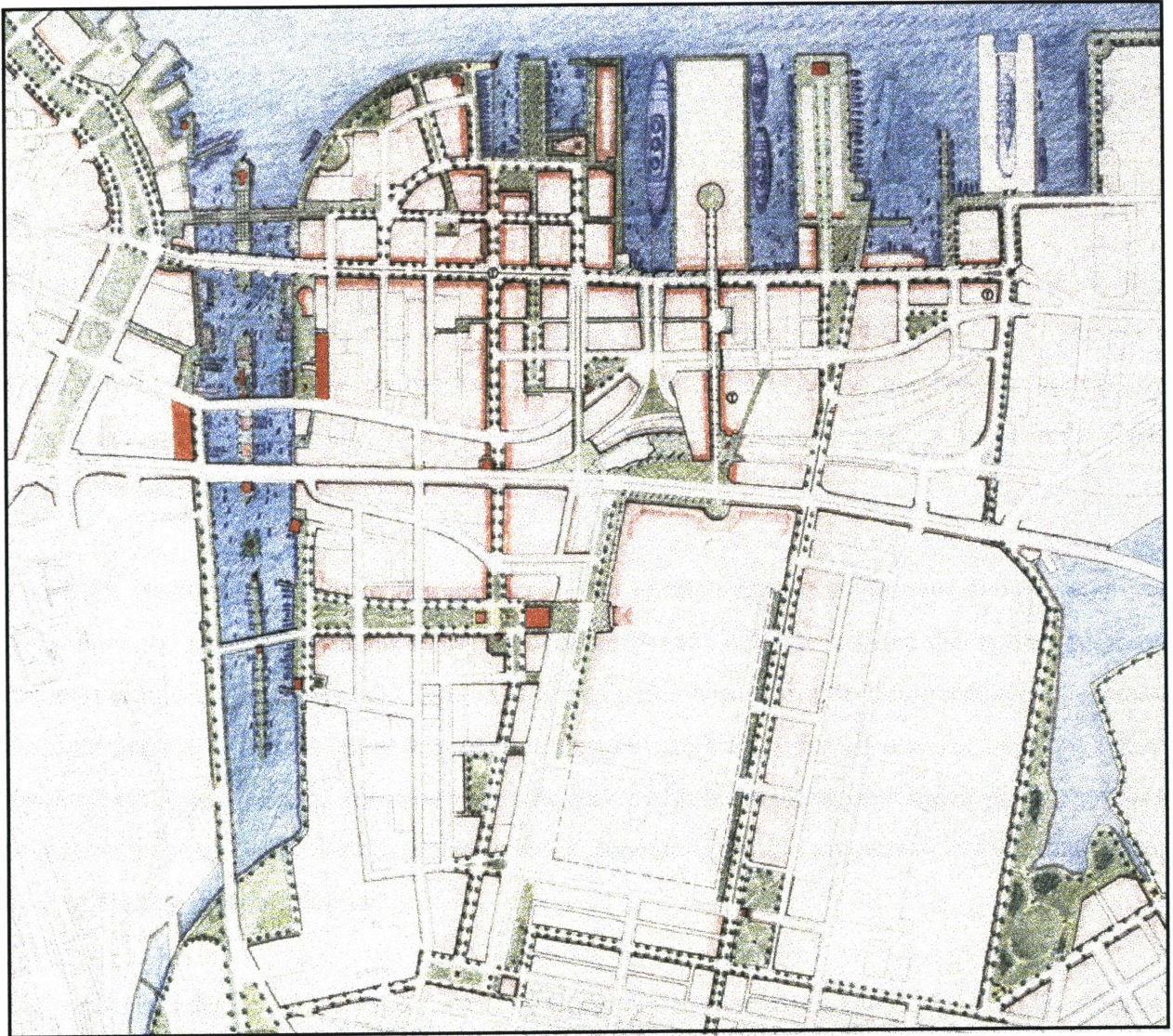


Figure 1-14: 1999 Seaport Public Realm Plan

Source: Boston Redevelopment Authority.
The Seaport Public Realm Plan. February 1999.

Not everyone was happy with the new plan, however. Council President James Kelly was upset that his limit of 4,000 units of new housing in the Seaport was ignored, and the name of the plan was changed, deleting “South Boston” from the title. Kelly suggested that he and the South Boston community could lose over \$20 million in linkage funds if the amount of new housing increased from 4,000 to 8,000 units.³² The idea of losing millions in potential linkage money and South Boston’s identity with the Seaport offended Kelly who vowed to “do anything to stop them from destroying South Boston”.³³

Economic Context

The Boston Central Business District office market is the hottest in the Country with a vacancy rate of only 5.2 percent and a 27 percent median rent increase over the past year.³⁴ Boston’s class A rents (high quality, prime location) are now the highest in the Nation, surpassing Manhattan and San Francisco.³⁵ This hot market combined with a shortage of space in the CBD is why the Seaport looks so good to commercial developers.

The BRA produced a report in December of 1998 entitled *Effects of Seaport Development on Neighborhood Housing Demand*. The report describes the delicate balance that occurs between residential and commercial land uses in order to achieve a desirable neighborhood character. Recognizing the fact that commercial uses can usually outbid residential uses for land, the report developed a *Neighborhood Housing Pressure Index* which can show how much pressure would be put on existing South Boston housing stock depending on the amount of commercial space built in the new Seaport district.

The recommendation of the report was that 8,000 units of housing should be built in the new Seaport area to minimize the impact on South Boston housing stock of affluent newcomers who decide to live in the city.³⁶ Despite this recommendation, the leaders in South Boston are holding

³² Marantz, Steve. *Boston Herald*. April 22, 1999.

³³ Macero, Cosmo Jr. *Boston Herald*. March 2, 1999.

³⁴ Source: Cushman & Wakefield, Inc. study, reported in *Business Week*, July 19, 1999

³⁵ Ibid.

³⁶ According to the report, 39 percent of new workers elect to live in Boston.

firm at limiting new housing in the Seaport to 4,000 units. One of the reasons for their reluctance about more housing is that it does not produce the linkage money for which they have negotiated so hard.

Neighborhood	One Bedroom Median	Two Bedroom Median	Three Bedroom Median	Average of Medians
Back Bay/Beacon Hill	\$ 1,375	\$ 1,900	\$ 2,250	\$ 1,842
Central	\$ 1,200	\$ 2,200	\$ 2,000	\$ 1,800
South End	\$ 1,250	\$ 1,500	\$ 1,800	\$ 1,517
Charlestown	\$ 1,025	\$ 1,400	\$ 1,900	\$ 1,442
Citywide	\$1,000	\$1,350	\$1,550	\$ 1,300
Fenway/Kenmore	\$ 925	\$ 1,350	\$ 1,443	\$ 1,239
Allston/Brighton	\$ 875	\$ 1,200	\$ 1,500	\$ 1,192
South Boston	\$ 775	\$1,200	\$1,500	\$ 1,158
Jamaica Plain	\$ 838	\$ 1,100	\$ 1,400	\$ 1,113
West Roxbury	\$ 750	\$ 1,000	\$ 1,300	\$ 1,017
Roslindale	\$ 800	\$ 900	\$ 1,200	\$ 967
East Boston	\$ 650	\$ 950	\$ 1,150	\$ 917
Hyde Park	\$ 695	\$ 850	\$ 1,150	\$ 898
Roxbury	\$ 650	\$ 838	\$ 1,200	\$ 896
Dorchester	\$ 600	\$ 800	\$ 900	\$ 767
Mattapan	\$ 550	\$ 700	\$ 875	\$ 708

Table 1-2: Median Advertised Rents in Boston Neighborhoods

Source: City of Boston Department of Neighborhood Development. *Real Estate Trends*. March 10, 1999.
Data compiled from advertised rents listed in the Boston Sunday Globe.

For most residents of South Boston, and the rest of the city as well, the question is not how many new residential units should there be, but rather, how can I afford to keep living here? Today, the median price for a home in the Boston area is \$206,400. In the City of Boston, the median price of a single family home was \$158,000, a 17 percent increase between 1997 and 1998. For home owners who can afford their property taxes, the increases represent growth in net worth. For renters, the news is all bad. Rents for a typical apartment in South Boston have increased 68.5 percent from 1991 to 1998. In the same period, rent for a typical two-bedroom apartment in

South Boston has increased 72.7 percent, going from \$695 to \$1200 a month. The good news for South Boston is that its median rents are still lower than the City wide median (Table 1-2).³⁷

In 1986, the BRA commissioned a report on the connection between office development and housing costs in the City of Boston.³⁸ This eventually became the “official” rationale for the linkage program in Boston. While office development is a contributing factor to the shortage of affordable housing in Boston, institutional uses cannot be ignored as a source of part of the problem. A BRA study in 1995 indicated that there are 32 colleges, universities and graduate schools in the City of Boston, and 24 of those institutions are in a growth mode. Sixty-four percent of the students, equaling roughly 85,000 people, live outside of campus housing, competing with other Boston residents for affordable housing.³⁹

The City has been working with the institutions to alleviate the pressure from the student market on the rental stock. In fact, at a Neighborhood Housing Trust meeting on July 1, 1999, \$196,000 in linkage money was approved for an innovative partnership between a private developer, Northeastern University, and the City of Boston, for developing Student dorms and affordable housing as part of the same project. The City had approached Northeastern University with an offer of free land if the University would build a 600 bed dormitory in the neighborhood. As part of negotiations with local residents, the University also agreed to build 60 units of affordable housing for the community. Assuming four students typically live in one house, this innovative program opened up 210 new affordable housing opportunities for the community.

Summary

In summary, a long neglected industrial waterfront in a prime location is springing to life due to billions of dollars in infrastructure investments combined with a hot real estate market. The adjacent South Boston community astutely claims the land as theirs and uses good timing and political muscle to hold the Mayor’s pet project hostage until he advocates the majority of

³⁷ Boston Redevelopment Authority. *Effects of Seaport Development on Neighborhood Housing Demand*. December 1998.

³⁸ Kayden, Jerold and Case, Karl and Pollard, Robert. *The Linkage Between Office Development and Housing Costs in the City of Boston*. Boston Redevelopment Authority. Boston, MA. January 1986.

linkage money coming out of this real estate gold mine. Before the Mayor even realizes what a negotiating error he made, the South Boston leaders set up a new structure for handling the linkage proceeds which threatens to change linkage procedures that have been in place for over a decade. These changes pose a threat to Boston's linkage program at a time when the City desperately needs more affordable housing to stem the tide of rising house prices and rents.

In the remainder of this thesis, I will review the history of South Boston to illustrate how a series of repetitive events have led to the position the South Boston community takes today regarding linkage and affordable housing. I will then review the legal and historical aspects of linkage in Boston as background for analyzing the Neighborhood Housing Trust through two Mayoral administrations. After determining what the City has learned about awarding linkage money over the past 13 years, I will review the South Boston Betterment Trust to determine how it will impact the linkage process. I will conclude with a summary of what I have learned and some recommendations for how the City can move the South Boston Seaport planning process forward while protecting the linkage program for future generations.

³⁹ Boston Redevelopment Authority. *How College Students Impact Boston's Economy and Neighborhoods*. 1995.

Chapter Two: South Boston

Responding to the release of the *Seaport Public Realm Plan* in March of 1999, City Council President and South Boston resident James M. Kelly accused Mayor Tom Menino of trying to create an upscale, Newbury Street-style neighborhood on the waterfront.

“We were told there would be benefits in exchange for the turmoil. Now they’re taking all the opportunities away from us and building a new section, and they don’t want it to be like South Boston; they want it to be like Newbury Street,” Kelly said. “I take that personal. I’m damn mad about it, and the Mayor knows I’m mad about it. I’m going to oppose much of the revitalization of this district.”¹

Much of Councilor Kelly’s anger was targeted to the portion of the plan calling for the construction of 8,000 new housing units in the Seaport district. BRA Director Tom O’Brien responded to Kelly’s statements by reminding him that the South Boston community has had a series of wins over the past two years, including lower building heights, linkage dollars, and the establishment of the South Boston Betterment Trust. The only two remaining items were the amount of housing to be built in the seaport and the name of the district. In response to Kelly’s demands for less housing, O’Brien said,

“We may be the only city in America that is actually proposing to limit the number of housing starts in and around our downtown. Every other city in America is desperate to create housing. This is a foolish argument.”²

Two weeks later, an outraged Kelly publicly threatened O’Brien at a community meeting, saying “so help me God, I’m going to get you,” because he felt the title of the *Seaport Public Realm Plan* showed disrespect to the South Boston community.³

On June 12, 1999, Mayor Tom Menino brought an end to the fighting by ordering the new Seaport District to be officially known as the “South Boston Waterfront.” The executive order also limited the amount of new residential construction in the Seaport to 4,000 units over the next ten years.⁴ James Kelly thanked the Mayor, saying “the important thing is that people from places like

¹ Flint, Anthony. *Boston Globe*. March 2, 1999.

² Flint, Anthony. *Boston Globe*. April 16, 1999.

³ Ibid.

⁴ Marantz, Steve. *Boston Globe*. June 12, 1999.

Lincoln, Wellesley and Dover should not be naming the district.”⁵ The Conservation Law Foundation criticized the announcement as an attempt to dismantle the Seaport plan. The CLF claimed that the South Boston community would start by trying to control the name and amount of housing, and keep going from there until the balance of power was shifted away from the City to South Boston.⁶ When asked why he would oppose more housing in the Seaport when people in his neighborhood were being priced out of their homes, Council President Kelly responded, “I wasn’t hired to look at the big picture, I was hired by the voters to respond to their problems, real or imagined.”⁷

Planners have become accustomed to gathering opinions and suggestions from large diverse groups of people in multiple neighborhoods, and turning those opinions and their implications into comprehensive plans for entire communities. While this is a difficult task, it seems much easier than the Boston Redevelopment Authority’s job of convincing a handful of South Boston politicians to do the right thing for the entire city of Boston. Currently, South Boston leaders and the South Boston Betterment Trust hold the key to planning in the Seaport district. To learn how this has happened, it is important to understand the history of South Boston.

History of South Boston

Boston College historian Thomas O’Connor suggested in his book, *South Boston: My Home Town*, that South Boston has survived with fewer changes in its social, ethnic and religious composition than any other Boston neighborhood. He describes it as “one of the last surviving relics of a distinctive way of life that goes back to the early days of immigrant Irish-Catholic families and old-time political bosses”.⁸

South Boston was not always an Irish-Catholic stronghold. The settlement of Dorchester began in 1630 with the arrival of John Winthrop’s fleet of ships carrying puritans from England trying to escape the religious persecution in their homeland. The captain of the ship *Mary and John*, with

⁵ Marantz, Steve. *Boston Globe*. June 12, 1999.

⁶ Ibid.

⁷ Cohen, Rachele. *Boston Herald*. April 22, 1999.

⁸ O’Connor, Thomas H. *South Boston: My Home Town*. Quinlan Press. Boston. 1988.



Note the Town of Dorchester at the bottom of the map, as well as Dorchester Neck and Castle Island. The area labeled "Dorchester Flats" is the current Seaport District.

Figure 2-1: Boston in 1775

Source: From the observations of Lieu. Page of His Majesty's Corps of Engineers. Reproduced from an engraving in the Cornell University Library.

140 passengers from Devon, Dorset and Somerset in England, decided not to follow the fleet up the Charles River, instead landing on Nantasket.⁹ They eventually moved onto a peninsula which the Native Americans called Mattapan. The Settlers called their new home Dorchester after their native town in England (Figure 2-1).¹⁰

In 1633, the settlers elected 12 “Selectmen” who met monthly to enact laws and provide structure for the colony. This was one of the first town meeting systems developed in the new country. More people and livestock started arriving from England, including the Reverend Richard Mather who arrived in 1635 with 100 people and over 30 livestock.¹¹ The new colony began looking for a convenient location to graze their growing herds, and found a peninsula called Mattapanock, later known as Dorchester Neck (eventually South Boston). It was customary for all Dorchester settlers to graze their livestock on Mattapanock until about 1637, when the town restricted the use of the pastures to only 100 of the most prominent families. In exchange for the right to graze their cattle, these families made a commitment to maintain the infrastructure including fences, roads and the causeway linking Mattapanock with Dorchester. Other less prominent settlers were allowed to graze their livestock in a common pasture in exchange for a small “grazing” tax.¹²

Over the course of the next century, the original 100 Dorchester families broke up their land into varying sizes and shapes as ensuing generations split the property among heirs. By 1650, about a dozen families moved from Dorchester to build permanent residences on Mattapanock, eliminating the common grazing and initiating the first settlement in the area that is now considered South Boston. Dorchester Neck, as the land had come to be known, remained unnoticed by the rest of Boston until the opening shots of the American Revolution rang out on April 19, 1775, turning the peninsula and Castle Island just East of the peninsula into a strategic location for British and American troops.¹³

By the end of the 18th Century, rapid expansion of Boston’s population caused speculators to look to Dorchester Neck for development. In 1803, several well-known Boston businessmen determined that the Town of Boston needed room to grow and figured Dorchester Neck had the best chance of gaining annexation approval from the Commonwealth. They bought a large piece of land on the peninsula and then asked the Town of Boston to petition for annexation of the entire peninsula in an attempt to increase land prices. The inhabitants of Dorchester Neck were opposed to the change,

⁹ O'Connor, Thomas. *South Boston: My Home Town*. Quinlan Press. Boston. 1988. P.7.

¹⁰ Ibid. p. 7.

¹¹ Ibid. p. 7.

¹² Ibid. p. 9.

¹³ Ibid. p. 10.

considering the peninsula as belonging to them. Working through the Town of Dorchester, they held several meetings and eventually voted to oppose the annexation petition. In a memorial sent to the Senate and House of Representatives, the Town of Dorchester agreed to the construction of a bridge linking Boston to the peninsula, but opposed the annexation. The town was offered as much as \$20,000 from Boston's business community to withdraw their opposition to the annexation bill, but they refused all offers.¹⁴ On March 6, 1804, the legislature passed the annexation bill and the citizens of Dorchester lost their jurisdiction over the peninsula as well as any of the money previously offered.¹⁵ If this \$20,000 offering was Boston's first informal attempt at "linkage", the residents of South Boston learned a valuable early lesson.

The passage of the bill officially changed the name of the peninsula to South Boston and initiated the construction of two bridges to the Town of Boston. Land prices increased dramatically with lots that sold for \$40 an acre in 1803, selling for \$500 an acre one year later. At the time of annexation, South Boston consisted of 600 acres of upland and nineteen tax paying land owners who instantly became very wealthy.¹⁶

Boston made the switch from Town to City status in 1822. South Boston was made part of Ward 12, which included much of the South End. South Enders and South Boston residents argued about how many representatives they should have on the newly formed Common Council, and ended up going into the elections supporting four-man slates of candidates from each district. The South Enders successfully elected all four representatives leaving South Boston without a member on the Council, marking perhaps the first and last time South Boston was underrepresented in Boston politics. Within about 10 years, the population of the peninsula grew enough for it to get its own member on the Council. Soon thereafter, city leaders agreed that the peninsula had grown enough to warrant the formation of its own ward. On December 10, 1838, South Boston became Ward 12 and was able to elect four members to the city's Common Council.¹⁷

It did not take long for the new Ward to start flexing its newfound political muscle. In an 1847 memorial sent to the leaders of the City of Boston, South Boston residents claimed:

“That it has not only the capacity, but the actual material necessary for a separate and independent municipal existence. That it has no natural connection with, much less any necessary dependence upon, the City of Boston, being separated from it by a deep and navigable channel. That its municipal union with the city is merely arbitrary and political, for the continuance of which there can be no good reason

¹⁴ O'Connor, Thomas. P. 16.

¹⁵ Simonds, Thomas C. *History of South Boston*. Arno Press. New York. 1974. P. 72.

¹⁶ *Ibid.* P. 77.

¹⁷ O'Connor, Thomas. P. 31.

except reciprocity of advantages. That heretofore most of the advantages of the union have been reaped by the City proper, while the disadvantages have fallen upon South Boston.”¹⁸

152 years later....

“South Boston did not ask for a convention center, but it has resigned itself to the fact that it has a great back yard and now we’re going to get something for it.”

Peggy Davis-Mullen,
City Councilor from South Boston
Boston Globe. March 20, 1998.

The residents of South Boston had good reason to feel that they had reaped the disadvantages of the new "union". Once Boston reached City status, politicians began looking for ways to provide public assistance for the downtrodden and sick members of the city. A smallpox hospital had already been established on the South Boston peninsula, and it was followed by the Perkins Institute for the Blind, the Massachusetts School of Idiots, Carney Hospital and House of Industry. In addition, city leaders purchased 53 acres of land on the peninsula which became known as the City Lands, where they built the House of Industry, a poorhouse, a house of correction for adults and one for children, and a lunatic asylum.¹⁹ The large number of institutional uses being built on the peninsula made the residents feel as though they had gone from the picnic grounds to the dumping ground for the City of Boston. The feeling of not being respected by the City of Boston became a constant source of resentment for the neighborhood that continues today.

150 years later, the City of Boston was once again proposing large institutional uses for the South Boston Seaport that other neighborhoods did not want, such as sports stadiums and convention centers. This time, the South Boston community had political strength on their side and easily crushed the plans for a football stadium. To the residents of South Boston, there wasn't much difference between the Massachusetts School for Idiots in the mid-1800's and a convention center for tourists in the late 1900's, except now, they were going to be reap some of the "advantages of the union" with the City of Boston.

City Council President James Kelly's remarks at the Boston Harbor Conference on April 16, 1998, where he blasted the City of Boston for once again neglecting the needs of the residents of South Boston, were eerily reminiscent of the wording in the 1847 memorial to the City of Boston. Again,

¹⁸ Simonds, Thomas C. P. 300.

¹⁹ O'Connor, Thomas. P. 30.

on March 2, 1999, he was quoted in the *Boston Globe* regarding the City's plans for the South Boston Seaport area:

"I and the people of South Boston have been shown a tremendous amount of disrespect. Someone put it into the mayor's mind and Tom O'Brien's mind that history will say they created a new Seaport District. Well, I am personally offended by that, and I'll do anything to stop them from destroying South Boston."

It is interesting to note that the disadvantaged South Boston resident of 1847 was very different from the predominantly Irish-Catholic resident James Kelly is trying to protect in 1999, though the message has not changed appreciably over 152 years. The South Boston residents of 1847 described themselves as:

"a class of intelligent and respectable persons of narrow means, but independent spirits, who wished to dwell in their own houses and elbow room about them, and pure air to enjoy." They went on to say: "In the whole of the population there is not a single colored family, and not so many foreigners as in several other wards of the City. The foreigners who reside here, are, for the most part, of that better class who will not live in cellars, or congregate together closely in order to keep each other warm".²⁰

The reference to a "better class" of immigrant was an attempt to demonstrate that the immigrants residing in South Boston were not a drain on the system like some of the others coming to Boston at the time. This was all about to change with Ireland's potato famine of the late 1840's.

While the peninsula was predominantly composed of native Bostonians in 1847, the complexion of the district began to change as early as the 1830's when a few Irish immigrants moved to the peninsula. Generally, these immigrants were displaced artisans and well-to-do farmers from the northern portions of Ireland, and contributed immediately to the growing economy of Boston.

The Irish tended to settle in the North End and the South Cove Fort Hill neighborhood, since they could not afford to pay the tolls to cross the bridges and needed to stay close to their low-skill, low-paying waterfront jobs. The original residents of these neighborhoods moved out to avoid the drop in status that was associated with the new Irish immigrants.²¹

Prior to 1830, immigrants landing in Boston, including the Irish, disbursed relatively quickly around the Boston area with many of them heading west almost immediately upon setting foot on Boston's shores. During the years of the potato famine in Ireland, beginning in 1846, the Irish immigrants landing in Boston could not go anywhere else because they were too weak from hunger

²⁰ Simonds, Thomas C. P. 308.

²¹ Handlin, Oscar. *Boston's Immigrants*. Harvard University Press. Cambridge, MA. 1959. P.88.



Figure 2-2: Boston in 1842
Source: Branch, Melville C. *An Atlas of Rare City Maps*.
Princeton Architectural Press. New York. 1997

and malnutrition. Immigrant landings increased from 3,936 in 1840 to 28,917 in 1849, with the vast majority being impoverished Irish.²² The Irish were Catholics in a Protestant city. This fact, along with the desperate nature of their flight from poverty in Ireland, and their large numbers, marked them as a different kind of immigrant group, looked down upon by the rest of the city. It did not help that Boston was a city based in finance and the professions, and was unable to make use of all of this new unskilled labor. As a result, the Irish offered little to the Boston economy and remained mostly unemployed, or worked as menial laborers.²³

Not long after the Memorial of 1847, a transition started occurring in South Boston. The South Boston docks and new manufacturing industry started drawing more working class and poor Irish looking for common laborer jobs, particularly after the Dorchester railroad and Broadway railroad arrived around 1857, making the peninsula more accessible.²⁴ Despite a small influx of Italian and Jewish immigrants, by the end of the nineteenth century, the life and society of South Boston had become completely dominated by the patterns and customs of Irish-Catholic culture.²⁵

Over the years, these immigrants started settling in and began taking great pride in the beauty of their neighborhood, especially Marine Park, which became the final link in Frederick Law Olmsted's Emerald Necklace park system. As part of the Emerald Necklace plan, a causeway was built from Marine Park to Castle Island in 1890, drawing people from throughout Boston. Soon South Boston residents were complaining that the park was attracting too many undesirables to their neighborhood, citing the large number of Cambridge people being arrested on Sundays.²⁶

110 years later.....

“Complaints are coming in by residents that the Castle Island parking lot is becoming a hangout by large numbers of teens late at night into the early morning hours. We have talked with State Police who have told us that funding has been made available to bring in extra troopers to patrol the area and clear out any trouble makers....These are not local kids who gather here at night, they are coming in from other parts of Boston as well as surrounding suburbs.”

John Cicconne, SBBT Trustee
South Boston Herald
Circa 1999

²² Handlin, Oscar. P. 52.

²³ Handlin, Oscar. P.51.

²⁴ Ibid. p.98.

²⁵ O'Connor, Thomas. P. 71.

²⁶ Ibid. p.110.

The early 1900's brought World War I and the infamous Boston Police strike of 1919. The police strike was significant because of the rioting that caused two deaths in South Boston. After the strike, South Boston's Irish-Catholics once again felt singled out from the rest of Boston as a disproportionate number of Irish-Catholic police officers lost their jobs and were never allowed back on the force. Residents also felt bitter about Harvard students who were hired as strike breakers and were assigned to patrol the streets of South Boston. This dramatized for local residents the class differences that still existed between them and the upper class establishment in Boston.²⁷

One positive result of the police strike was the binding together of the poorer people of the lower end district with the more well-to-do community east of Dorchester Street. The us versus them attitude towards other Bostonians helped bind both neighborhoods together for a common cause. In addition to varying economic conditions, South Boston was developing very distinct ethnic and national groups including Irish, Germans, Italians, Poles, Lithuanians, Czechs, Armenians and Albanians. At work and in political affairs, these groups learned to work together, but in private and personal affairs, each group was expected to "stay with its own kind".²⁸ Mixed marriages were out of the question and lines were clearly drawn where each ethnic group would live in the neighborhood. It was understood that Jewish people did business in South Boston but did not live there. Black people, many of whom now lived in the South End of Boston, rarely came into the neighborhood except for occasional visits to the beach. Because many of the young white residents had no reason to leave the neighborhood and young blacks had no reason to come into the neighborhood, it was not unusual for South Boston whites to grow to adulthood without having seen or spoken to a black person.²⁹

The post World War II era brought significant changes to South Boston. A number of the old institutions that bound people together began to weaken, families were getting smaller, and the Catholic Church was slowly losing the influence it had before the war. Many of the young men and women who left for the war lost their attachment to the old neighborhood. Even those that wanted to remain in the old neighborhood after their return from the military were discouraged by banks that did not want to grant mortgages in what they considered a blighted neighborhood. As a result, many young veterans and their families moved into the suburbs, causing the population of South Boston to begin a decline that would continue for several decades.

²⁷ In one of my interviews with a South Boston resident, he admitted that he does not openly admit that he works at Harvard because he would lose respect in the neighborhood.

²⁸ O'Connor, Thomas. P. 173.

Public housing was another powerful force in the changing character of South Boston. Because of Congressman John W. McCormack's influence, South Boston was chosen as the site for Boston's first public housing project under the Public Works Administration program. In 1938, Old Harbor Village (later renamed the Mary Ellen McCormack Project after Congressman McCormack's mother) was open for new residents. The rents were set high enough that a family without at least one full-time wage earner could not afford to live there.

In 1939, The Boston Housing Authority started constructing the Old Colony Project. To live in this project, families had to be Boston residents for at least one year, and preference was given to South Boston residents that were displaced by the construction of the project. These first two housing projects were generally accepted in the South Boston community because they were built on the outskirts of the district and occupied primarily by family and friends from the neighborhood. In fact, with the help of the local housing managers, units were often handed down to family and friends when the older residents moved out, maintaining a very homogeneous population for several decades.

The construction of the D Street Project in 1949 brought with it a new neighborhood dynamic. Its 676 apartments were isolated economically and socially from the rest of South Boston. The Urban renewal of the 1950's and 60's displaced many of the chronically poor from throughout the city at a time when the courts were making it impossible for housing managers to orchestrate which families would be accepted into the project. Families without fathers and public welfare cases began to dominate the D Street Project, causing long-time South Boston residents to not consider it part of their community.³⁰

According to Thomas O'Connor, opposition to the D Street Project was not because seventy-one families were black or because a large group was Hispanic. According to South Boston residents at the time, the resentment was directed at the newcomers because they were "poor, dirty and slovenly."³¹ Families from Dorchester, Roxbury and the West End were "riffraff" or "project rats".³² They were never regarded as true residents of South Boston. The older inhabitants of the neighborhood were afraid that the whole neighborhood would be labeled as "lower class" as a result of the newcomers. It is ironic that these are the exact things that were being said about many of these same South Boston residents back in the 1840's when they were the new immigrants to Boston.

²⁹ O'Connor, Thomas. P. 173.

³⁰ Ibid. p. 200.

³¹ Ibid. p.200.

One of the defining moments in the 300 year history of South Boston was the busing war of the 1970's. The Massachusetts State Legislature passed the Racial Imbalance Act in August of 1965, stating that any school which was more than 50 percent black was racially imbalanced. At the time of the Act, Boston was about the only city in the Commonwealth that had enough black students to make it an issue. Many city residents were bitter that liberal, upper class, suburban lawmakers were placing the demands of segregation on the city while effectively stopping minorities from locating in their communities through their own creative zoning. Nowhere were city residents more outspoken against the Act than in South Boston. South Boston leaders like Louise Day Hicks and Ray Flynn worked with the Boston School Committee to fight the implementation of the Racial Imbalance law. After dragging on for years, the NAACP finally filed a class action law suit against the Boston School committee, and on June 21, 1974, Judge W. Arthur Garrity ruled that the School Committee had "knowingly carried out a systematic program of segregation" and went about developing his own plan for how to fix the problem.³³ Busing children from their neighborhood schools to other schools throughout the city was the primary way the judge planned to fix the problem. South Boston High School and Roxbury High School were chosen as "Sister schools" in the Garrity plan, with many critics suggesting that it was an attempt to humiliate the leadership of South Boston who fought so bitterly to stop the idea years earlier.

For the next several years, people throughout the country turned on the nightly news to hear about violence and racism in South Boston, painting a picture of the neighborhood that residents felt was unfair. They claimed that it was not an issue of racism as much as the desire to control the educational choices and safety for their children, and that they had been "singled out" from the rest of the city.³⁴ At a rally in Washington, D.C., Senator William Bulger denounced the "public contempt" to which the people of South Boston had been subjected, and condemned the portrayal of Southies, in the local and national media, as racists.³⁵

25 years later.....

South Boston High School, once a source of pride for a tightly knit neighborhood but in the last quarter-century a symbol of turmoil in Boston's struggle with busing, is on its way to being closed and replaced with a new facility outside of the neighborhood.... The old facility, built in 1901, would be turned into affordable housing for residents feeling the crunch of a red-hot real estate market, with assisted living quarters for seniors and an adult education and job training center possibly included as well.

³² O'Connor. P.200.

³³ Ibid. p. 216.

³⁴ Ibid. p.224.

³⁵ Ibid. P.224.

"The high school has been the source of problems since September of 1974 [the first day of busing] . If it's not going to be the neighborhood's high school, let's use it for other purposes," said City Council President James M. Kelly, of South Boston. Like most high schools in Boston, South Boston is mostly composed of minority students who are bused in from other neighborhoods.

"It's become a symbol of trouble rather than . . . tradition," said state Representative Jack Hart, a South Boston Democrat. "There are larcenies along G street. Things get stolen from in front of houses. And we don't know who these kids are." Meanwhile, Hart said, "There is a crisis in housing in the neighborhood." He and others said the renovation project for the old high school could be delegated to the South Boston Betterment Trust, which was set up to create affordable housing with funds from development of the waterfront.

Anthony Flint
Boston Globe, June 9, 1999

One outgrowth of the busing crisis was the unification that it brought to the South Boston community. As many other neighborhoods were losing their ethnic character, South Boston residents started encouraging their children to study their ethnic origins. The Irish, in particular, became very vociferous with their cries of "green power" while displaying t-shirts, bumper stickers and signs proclaiming the attributes of the Irish.³⁶

Another effect of the busing crisis was the changing relationship between the Church and the community. For hundreds of years, the Catholic Church and South Boston residents, especially the Irish, spoke with one voice. In fact, much of the life of the community centered directly on the church. During the busing crisis, however, the church took a more tolerant stand than most residents cared for, causing many to stop looking to the local priest for answers and instead, turning to the local politician.³⁷

The busing crisis was the launching pad for the political careers of anti-busing advocates. Jim Kelly started the South Boston Information Center as a clearing house for "the correct news" that Southies could trust. This was an attempt to avoid what was seen as a biased local and national media towards South Boston. Kelly used the Information Center as a forum for his successful City Council campaign in 1983.³⁸ Ray Flynn ran successfully for Mayor in 1983, and William Bulger became President of the Massachusetts Senate in 1979. With Joseph Moakley in the United States

³⁶ Ibid. p.225.

³⁷ Gelzimis, Peter. Interview. July 1, 1999

³⁸ Ibid.

House of Representatives and Michael Flaherty as a representative in the state legislature, residents felt certain they were headed for a brighter future.³⁹

The Role of the Parish Priest and the Catholic Church

If there was one thing that drew the people of South Boston together, it was the Catholic Church. Everything revolved around the Church, and the Church, in turn, became an integral part of almost every aspect of family life. Most of the Irish who came to America retained an intense faith in their religious beliefs and looked to their priests and the Church hierarchy for guidance and support.⁴⁰

The role of the Catholic priest in South Boston went far beyond saying Mass every morning and hearing confessions every Saturday evening. The parish priests would operate small clubhouses close to the church, where they held activities during the week. They organized choirs, plays, minstrel shows and operettas, where members of the parish could display their talents. The priests also encouraged sports, with every parish in South Boston having its own baseball team that drew large crowds on Saturday afternoons at Commonwealth Park.⁴¹ The Irish-Catholic community of South Boston developed a culture very different from the larger community of traditional downtown Boston. Its people clung tight to their church and revered their priests. “It was as if your church, your parish church, was your extended family,” one nun recalled, “and the priest was the father, with all the patriarchal connotations.”⁴²

The Catholic Church in South Boston was important in the way that it defined the role of authority figures in the lives of the average “Southie”. It also formulated a way of thinking for many of the politicians that would later come out of South Boston. As an example, in the April 19, 1998 Boston Globe article on linkage funds related to South Boston development, City Council President and South Boston native James Kelly, listed improving parochial schools as one of his top choices for what to do with over \$60 million in expected funds. He was quoted as saying, “my pet charity is the parochial school system, I am a product of the parochial school system. I see the enormous good they do and the great education they provide.”

³⁹ O'Connor, Thomas. P. 236.

⁴⁰ Ibid. P. 78.

⁴¹ Ibid. P. 80.

The Role of the Politician

Denied access to political power in their native Ireland for centuries, the Irish were determined to achieve personal security and ethnic solidarity in their newly adopted home. In a city with a tightly controlled financial establishment like Boston, newcomers, especially the Irish Immigrants, found most opportunities for economic advancement were closed to them. Politics provided a road to power and influence for those who were shrewd enough and tough enough to seize the opportunity. “Those who took the leadership in Irish politics were strong men who ruled their wards with gentle smiles and iron fists.” Known as “bosses,” these men established themselves as centers of patronage and influence.⁴³ For many of them, politics was more than a chance to gain personal power or social advancement. It was an opportunity to provide assistance to his own people at a time when they could not easily obtain many of the essentials of life on their own.⁴⁴

In *South Boston: My Home Town*, Thomas H. O’Connor quotes John William Ward’s definition of the two major strains in Boston’s approach to political policy and public interest. The older strain, coming from traditional Puritan-Yankee-Brahmin sources, he called “rational politics”. By this he meant a coherent system of bureaucratic politics designed to work in the “public interest”, tending toward a political leader who steadfastly pursued the “general good” and resisted selfish interests, pressure groups or single-issue constituencies. The second strain, the newer strain in Boston history, Ward called “ethnic politics,” a political culture that celebrates the personal, emphasizes family and friendship, and rejects the notion of affection earned only by achievement and performance. The emotional appeal of the ethnic politician, he said, is in a realm of “human values,” with little or no legitimacy in the rational bureaucratic world.⁴⁵

South Boston has been fortunate over the years to have powerful political leaders who have understood the art of wielding that power for the good of the local community. The community has been comfortable with its system of “ethnic Politics” because it has historically worked to its advantage. South Boston’s trust in its political leadership could also be a result of the strong Irish Catholic culture of the community. It was a natural progression to rely first on the Parish priest, then the ward boss, and now the local politicians. Much of the strength of South Boston’s political representatives comes from the deep mistrust the community has for outsiders. If South Boston residents have a choice between trusting bureaucrats at the Boston Redevelopment Authority, or James Kelly and Steven Lynch, who attended the local schools and are members of the local trade unions, the decision is easy.

⁴² O’Connor, Thomas. P. 78, 126.

⁴³ O’Connor, Thomas. P. 83

⁴⁴ Ibid. P. 83.

In *Boston's Immigrants*, Oscar Handlin wrote that, “the Irish felt obliged to erect a society within society, to act together in their own way. In every contact, the group became intensely aware of its peculiar and exclusive identity”. Thomas O’Connor, however, makes the point that it was native Bostonians who encouraged the attitudes in various ethnic groups that they would do well to “stay with their own kind” in their own neighborhoods.

“Well into the twentieth century, people in neighborhoods such as South Boston grew up with the knowledge and the reassurance that this was the way it ought to be – the way that was natural to Boston’s ‘city of neighborhoods’. They would live in separate neighborhoods designed for different people, different nationalities, different races, different religions – all living together happily, peacefully and harmoniously – but always separately.”⁴⁶

In his book, *The Uses of Disorder: Personal Identity and City Life*, Richard Sennett claims that cities in America have grown in such a way that ethnic areas have become homogeneous, with the fear of outsiders growing to the extent that these ethnic communities have been cut off from the larger community. He states that if the permeability of these neighborhoods were increased, working class families would become more comfortable with people unlike themselves. Ironically, he uses South Boston as his classic example of the "homogeneous ethnic neighborhood".⁴⁷

In Sennett’s view, integrating a neighborhood in this fashion would be introducing a sense of disorder which is important for the health of the city. He believes that communities made “disorderly” along these lines will be more likely to see a broadening of people active in city leadership. Also, political “image” or personality would become a less important factor in choosing elected officials, since charismatic “image” leaders appeal most to people who are relatively passive in city affairs. City politicians would become “middlemen”, balancing the needs of the City with the desires of their constituents, instead of the gatekeepers that South Boston currently has.⁴⁸

⁴⁵ Ibid. P. 84.

⁴⁶ O’Connor, Thomas. P. 127.

⁴⁷ Sennett, Richard. *The Uses of Disorder: Personal Identity and City Life*. P. 194.

⁴⁸ The concept of South Boston politicians “guarding the gate” of public participation was articulated in a thesis by MIT student Susan Crowl Silberberg in 1998. This thesis is an excellent reference for case studies of planning interventions in South Boston.

Summary

Throughout its history, three themes are associated with the geographic area now known as the South Boston community :

- Development pressure threatening to redefine the community.
In 1804, development pressure from Boston resulted in annexation and 1200 percent increases in property values in one year, yet the residents of Dorchester neck did not have the political muscle to fight the development wave . There have been consistent cycles of development pressure over the years in South Boston, with varying levels of ability to fight them off.
- Reluctance to accept outsiders into the community.
There has always been a reluctance to accept outsiders into the South Boston community, starting with the reluctance to accept the Irish Immigrants, to the Irish reluctance to accept Blacks. Perhaps the isolation of Dorchester Neck played a role in fostering this attitude among its inhabitants over the course of three centuries.
- Reliance on a small group of leaders to define the community's agenda.
From electing their first selectman in 1633, to parish priest, to ward bosses, the community has always felt most comfortable relying on a small group of leaders to make decisions for them. As South Boston's elected officials started gaining influence in Local, State and Federal offices, they used ethnic politics as a tool for building personal power while making sure the district got its share. Once the days of the Public Works Administration and Urban Renewal were over, it became more difficult for South Boston's politicians to come home with money that did not have rules and regulations attached, and ethnic politics started losing some its appeal.

After learning about the history of South Boston and its people, it is no longer a mystery why achieving a "consensus" over the amount of housing to be built or even the name for the Seaport district is such a struggle. This is a community that has a 160-year history of feeling like the dumping ground for the city of Boston. What makes 1999 so unique is that once again there are development pressures threatening to redefine South Boston, but for the first time, at least part of the community is in a position to turn it to their advantage. South Boston has the good timing and good fortune to have their political leaders in the right positions to capitalize on development this time, and some members of the community see linkage money as the "pot of gold" with no strings attached.

Chapter Three: Linkage In Boston

In Rachelle Alterman's 1989 paper entitled *Evaluating Linkage, And Beyond*, linkage is defined as "a mechanism of land use regulation that requires or entices development of affordable housing as a condition for permission to build or to obtain some 'bonus'. From a developer's point of view, linkage is a requirement that a builder who intends to build x, must also build y".¹

Linkage is an outgrowth of two earlier types of land use controls; exactions and inclusionary zoning. Exactions have been around for decades, requiring developers to help finance the construction of public facilities or amenities made necessary by a proposed development. For example, if a new shopping mall made an additional stoplight necessary on a nearby intersection, the developer would be asked to pay for that stoplight. Other examples include infrastructure, parks and schools. Linkage has become an extension of this responsibility, with the major difference being that linkage is not just about public facilities, but rather housing and job training. Inclusionary zoning is a response to the "exclusionary" zoning that has taken place in many communities for several years.² Instead of zoning low-income people out of communities, inclusionary zoning requires a certain percentage of all new housing to be set aside as affordable housing for lower income residents, and for the developer to subsidize them for a period of time.³

In her paper, Alterman identifies five types of linkage programs including mandatory linkage, quasi-mandatory, incentive-based, negotiated, and reverse linkage. Mandatory linkage is best identified with San Francisco, where linkage was first established in 1980. This type of linkage requires all commercial buildings over a certain floor area (currently 50,000 s.f. in San

¹ Alterman, Rachelle. *Evaluating Linkage, And Beyond*. Lincoln Institute of Land Policy. February 1989. P. 3.

² Examples of exclusionary zoning include minimum lot and minimum house size requirements that are effectively large enough to exclude lower income groups.

³ Ibid. p. 5.

Francisco) to pay a linkage fee. The developer can choose to develop the housing himself, or pay an in-lieu fee. Linkage in San Francisco has evolved to include payments for public art, open space, child care, and transit, totaling \$13/s.f. for all fees.⁴

Quasi-mandatory linkage applies to any developer requesting some form of zoning relief such as a variance, conditional use permit, or zoning change. In theory, if a developer does not require any zoning relief, they do not pay linkage. As I will note later in this thesis, in a city like Boston, it is easy to write zoning laws where almost every project will require some form of relief, and therefore, have to pay linkage.

Reverse linkage is an interesting twist used in cities that do not have healthy Central Business Districts such as Boston and San Francisco. With reverse linkage, fees are exacted on development projects outside the downtown target area and targeted back to the central city neighborhoods.

Incentive-based linkage allows developers to choose to apply for greater densities, more height, or other relief in exchange for linkage paid. In this way, at least theoretically, both sides win, since the developer gets more than zoning would allow and the community gets additional affordable housing.

Negotiated linkage does not have a pre-set formula. It is usually negotiated on a case-by-case basis. Though many express legal concerns over this type of linkage, it seems to be the most popular with community groups, especially those with the most bargaining power.

History of Linkage in Boston

San Francisco pioneered the concept of linkage in 1980 with the *Office/Housing Production Program*. It was a mandatory linkage program created through an administrative decision by the City in response to the California Environmental Quality Act (CEQA).⁵ CEQA called for

⁴ Alterman, Rachelle. P.10.

⁵ Alterman, Rachelle. P.8.

mitigation measures to be imposed whenever an adverse physical environmental impact from development was anticipated. To insure that their new linkage program would not lose if legally challenged, the City authorized two studies, one in 1979 and another in 1984, to document the link between construction of new office space, and an increased need for housing.⁶

In December of 1983, Boston joined San Francisco by implementing an affordable housing linkage policy that could be considered “Quasi-Mandatory”. Linkage in Boston was first introduced by a coalition of citizens and public officials (including City Councilor Ray Flynn) in 1982. In early 1983, Mayor Kevin White vetoed a linkage proposal that had already been approved by the City Council. After the controversy surrounding the veto, Mayor White convened a 30 member advisory panel which conducted hearings throughout the Summer of 1983. Linkage became a major issue in the Fall Mayoral campaign with all but one of the eight candidates endorsing some form of exaction on commercial development. In October, the advisory panel issued a report recommending the establishment of a linkage program and Ray Flynn, one of its biggest advocates, was elected Mayor in November.⁷

At the time, Boston had one of the strongest local economies in the nation. Between 1975 and 1988, developers added 17 million square feet of office space, three times the amount built in the previous 35 years, and over 82,000 new office jobs in Boston.⁸ Boston's economic growth helped to reverse a 30-year population decline, with a ten percent population growth between 1980 and 1988.⁹ Unfortunately, the news in Boston wasn't all good. While the downtown was booming, outlying neighborhoods suffered from poverty, abandonment and neglect. A shortage of affordable housing forced many residents into unsafe and overcrowded conditions. In addition, the Public Housing Authority was operating under receivership and the City's finances were dismal as a result of Proposition 2-1/2.

Despite Boston's booming economy at the time, the city was limited in its ability to raise revenues. Over 51 percent of the City's property was tax exempt due to the expansion of

⁶ Ibid. P. 8.

⁷ Boston Redevelopment Authority. *Linkage: Building Bridges of opportunity, Affordable Homes and Jobs*. Winter 1988.

⁸ Ibid.

government institutions, hospitals, universities, colleges and cultural institutions. In 1984, total property value in the City was valued at \$23.6 billion, with \$12.1 billion exempt from taxation. Proposition 2 1/2, a statewide law enacted in 1979, further restricted Boston's revenue stream, by limiting the overall property tax levy each year. This had a serious impact on Boston which had previously relied heavily on property tax revenue to finance municipal services. The city was unable to enact local option taxes such as sales and income taxes without state approval, and the Commonwealth was not filling the gap for Boston as it lost one-third of its property tax revenue between 1981 and 1984. To make matters worse, the Federal government began its urban policy cutbacks in 1981, especially in low-income housing and jobs programs.¹⁰

With these economic realities as a backdrop, and after much heated debate, Mayor White signed an amendment to the zoning code on December 29, 1983, incorporating Article 26, providing that any downtown project requiring a zoning action and involving new, substantially enlarged or substantially rehabilitated office, hotel, retail, or institutional development pay a linkage fee. The linkage policy required developers of "Development Impact Projects" either to build affordable housing or to contribute money to build such housing. The amount was set at \$5 for every foot over 100,000 square feet, payable over 12 years.

It is ironic that Mayor White, known as the "friend of big business and downtown", finished his last few weeks in office by signing a document transferring money from downtown to the neighborhoods. It was Ray Flynn, the City Councilor from South Boston, who took the Mayoral office in January of 1984, that really put together the linkage program we know today.

By the end of 1984, nine Development Impact Project (DIP) plans were approved by the BRA, totaling \$20.5 million in housing obligations. According to Article 26, the developers were to make 12 equal annual installments to the Neighborhood Housing Trust. The first payment was due upon the issuance of a certificate of occupancy for the project building or 24 months after the granting of the building permit, whichever came first. Anticipating the influx of DIP funds,

⁹ Ibid.

¹⁰ Ibid.

the city passed an ordinance in June of 1986 officially establishing the Neighborhood Housing Trust.

According to the ordinance, the Collector-Treasurer of the City was to establish the Neighborhood Housing Trust (NHT) which,

"shall be established in the form and manner of the attached Declaration of Trust; and that, subject to approval by the City Council and the Mayor, the Neighborhood Housing Trust be and hereby is authorized to accept and expend any and all funds contributed to it consistent with the purposes of the Declaration of Trust attached hereto and filed herewith."¹¹

Prior to the ordinance authorizing the NHT, in February of 1986, the zoning ordinance was once again amended with Article 26A modifying the time frame for developers of "downtown" projects making linkage payments from 12 years down to seven years. Article 26B was also added specifying that an additional \$1 per square foot linkage would be collected for job training, bringing total linkage exactions up to \$6 per square foot. Both articles specified that a certain percentage of linkage money should be reserved for the neighborhood(s) adjacent to where the project is located. The amendment specifically suggested ten percent be set aside for neighborhoods adjacent to downtown projects and 20 percent for neighborhoods adjacent to projects located outside of downtown.

On August 21, 1986, the Massachusetts Supreme Judicial Court (SJC) gave the linkage program new life as it set aside an earlier ruling of the lower court that said linkage legislation exceeded the City's zoning powers and was therefore invalid (see Legal Issues section). In its decision, the SJC observed that the legality of Article 26 should be addressed through legislative action rather than litigation. The City took the advice and by September 30, 1987, the State Legislature approved Chapter 371, officially giving the city permission to impose linkage fees.

Earlier in September of that same year, the NHT finally adopted its Declaration of Trust, making official its rules and regulations. The Declaration of Trust was filed with the City of Boston and the Commonwealth of Massachusetts. Also in 1987, in anticipation of the job training money, the City passed an ordinance establishing the Neighborhood Jobs Trust (NJT). As with the

Neighborhood Housing Trust, the NJT was intended to be operated in accordance with its "Declaration Of Trust" which outlined the rules and operating procedures.

Linkage was "officially" incorporated into Article 80 of the Boston Zoning Code on April 17, 1996, resulting from an effort by the City to streamline all zoning requirements into one document. This "user-friendly" Article 80B-7 outlines the linkage requirements for developers and includes the provisions of Articles 26, 26A and 26B.¹²

Two years after the rules were finally clear to all of the players, a new agreement was signed that could potentially change them once again. On March 11, 1998, a "Memorandum of Understanding" between the BRA and South Boston political leaders established a charitable organization called the "South Boston Betterment Trust" (SBBT) to receive over 50 percent of all linkage money from the Seaport District, in exchange for the passage of the Convention Center financing package. The agreement was validated by the BRA again in February 1999, when the *Seaport Public Realm Plan* indicated that the SBBT was formed to "provide a vehicle for housing funds to flow to South Boston".¹³

Currently, there is not a clear answer for how money will be funneled to the SBBT. City Hall insiders suggest that nothing will change with the linkage process in Boston and the SBBT will simply become the vehicle for "community benefits" in the neighborhood.¹⁴ Linkage money will flow into the NHT and then 51 percent will be funneled to projects in the South Boston neighborhood. South Boston insiders have a different opinion, which is that more than half of the required linkage money from the South Boston Seaport is going to be funneled directly into the SBBT. What is clear is that people are not discussing this issue publicly. Perhaps because the politicians are still fighting over the correct name for the Seaport area, or more likely, everyone knows this will be a thorny issue, and it is easier to avoid defining the topic too clearly before the linkage money starts flowing.

¹¹ City of Boston Code, Section One, Ordinances, Title 10. June 6, 1986.

¹² Boston Municipal Research Bureau, Inc. *Boston's Linkage Program: A New Approach To Managing Linkage Funds For Housing And Job Training*. October 1998. P.3.

¹³ Boston Redevelopment Authority. *The Seaport Public Realm Plan*. February 1999. P.8.

¹⁴ "Community benefits" is a term referring to the additional exactions negotiated beyond those required in the city ordinance.

Linkage Timeline

1980	Linkage established in San Francisco.
December 29, 1983	Article 26 amended to the Boston Zoning Code establishing affordable housing linkage in the City of Boston.
February 12, 1986	Article 26A amended to the Boston Zoning Code modifying some of the linkage regulations previously established in Article 26. Article 26B amended to the Boston Zoning Code establishing jobs linkage in the City of Boston.
June 6, 1986	Boston City Council passes an ordinance establishing a Neighborhood Housing Trust.
August 21, 1986	<i>Bonan v. City of Boston.</i> The Massachusetts Supreme Court gives new life to linkage as it sets aside an earlier ruling of the lower court.
1987	Boston City Council passes an ordinance establishing a Neighborhood Jobs Trust.
June 18, 1987	The Neighborhood Housing Trust adopts a set of Rules and Regulations.
Summer 1987	<i>First English Evangelical Lutheran Church v. Los Angeles County.</i> Establishes a new threshold of government liability if it is found that regulations/exactions went too far.
Summer 1987	<i>Nollan v. The California Coastal Commission.</i> Nexus, Proportionality and advancing the State Interests.
September 3, 1987	The Neighborhood Housing Trust adopts a <i>Declaration of Trust</i> .
September 30, 1987	In response to <i>Bonan v. City of Boston</i> , the Massachusetts State Legislature approves Chapter 371.
1989	The BRA develops securitization of linkage in an effort to speed up the production of affordable housing.
April 17, 1996	Linkage is officially incorporated into the Boston Zoning Code as section 80B-7, entitled <i>Development Impact Project Exactions</i> .
March 11, 1998	Memorandum of Understanding signed between the BRA and South Boston Politicians.
February 1999	The <i>Seaport Public Realm Plan</i> is published by the BRA.

Legal Issues

It did not take long for the first legal challenge to Boston's new linkage program. One of the City's first DIP agreements, signed on June 28, 1994, was with Massachusetts General Hospital (MGH), for demolition of several existing structures and the construction of high-rise towers along Charles Street. Seon P. Bonan, representing the commercial interests of the Charles River Park development group, commenced a Civil action in the Massachusetts Superior Court on June 11, 1985. The Plaintiffs sought judgement declaring Article 26 of the Boston Zoning Code to be invalid. They were essentially claiming that the zoning commission's approval of higher density for the project was improperly influenced by the linkage requirement set forth in Article 26. The complaint also asserted that the City lacked authority under its special zoning enabling legislation to adopt Article 26, and therefore, the article should be nullified.

On April 11, 1986, the Massachusetts Superior Court entered a declaratory judgement, ruling Article 26 of the Boston Zoning Code invalid. Bonan's victory was short-lived as the City immediately appealed to the Massachusetts Supreme Court where on August 21, 1986, the Superior Court decision was reversed. The reason the Supreme Court reversed the decision was that the Plaintiffs failed to state why this development would have any direct adverse impact on them. They also failed to prove that MGH, by virtue of their ability to contribute large sums of money to unrelated projects in the City, was able to "unduly" influence the Zoning Commission.

The following quote came from the Court's decision:

"In particular circumstances, the existence of a potentially distracting, irrelevant influence on a public agency's decision making process may cast doubt on the fairness of the process and warrant careful judicial scrutiny. Here, however, the plaintiffs have not alleged facts warranting such scrutiny. Unless and until the plaintiffs make such allegations and prove them, they will not have established an actual controversy with any defendant concerning the lawfulness of Article 26. Article 26 may or may not be within the authority of the city to adopt, but is not a question on which the plaintiffs are entitled to an answer until they can demonstrate that they have been or will be substantially, adversely affected by reason of the influence of Article 26 on the zoning commission's treatment of MGH's 1984 development plan."¹⁵

¹⁵ Supreme Judicial Court of Massachusetts. 398 Mass. 315; 496 N.E.2d 640; 1986 Mass. LEXIX 1460. This information was found at web.lexis-nexis.com.

In its opinion, the Court stated that there may very well be material facts that were not presented that would make a good argument that Article 26 is not legal. The Court went on to suggest that the Article 26 problems could be fixed more promptly and more fully through the legislature, rather than the courts. The City of Boston took the hint, and submitted a Home Rule Petition to the Commonwealth of Massachusetts. On September 30, 1987, the State Legislature approved Chapter 371, granting the City of Boston permission to impose linkage fees. Today, some employees of the BRA suggest that the 1986 Massachusetts Supreme Court decision was a "free judicial review" of linkage in Boston. The suggestion is that linkage in Boston met its challenge and won. In a static world, that may be true, but it is not a static world, and in the summer of 1987, the United States Supreme Court handed down the *Nollan* and *First English* decisions casting at least some doubt on the future of linkage.

Since linkage has not really faced a direct challenge in the courts, some advocates rely on analogies to other existing policies where a body of law has already been established, such as inclusionary zoning and exactions/impact fees. Some legal scholars view linkage as a "downtown" inclusionary zoning policy, knowing that inclusionary zoning has been upheld in several court decisions.¹⁶ The flaw in this argument is that inclusionary zoning resulted because housing developers and local authorities failed to supply mixed-income housing on their own initiative. Since most downtown office developers are not in the housing development business, it is difficult to pin blame on them for the lack of affordable housing in the city. Requiring them to supply affordable housing is a much different issue than asking housing developers to ensure a better income mix in their projects through "inclusionary" zoning requirements.¹⁷

Exactions and impact fees have been debated at length in the courts, gaining acceptance in the area of U.S. land-use regulation.¹⁸ As a result, advocates of linkage feel most comfortable categorizing it as another form of exaction. Officials in San Francisco and Boston commissioned studies to prove a connection between office development and housing demand, which gave them the data to prove that "linkage" exactions were warranted.¹⁹ Assuming the studies are

¹⁶ Alterman. Op. Cit. p.30.

¹⁷ Ibid. p. 32.

¹⁸ Ibid. p.33.

¹⁹ Boston's paper on linkage was published six months after the beginning of the *Bonan v. City of Boston* Court case.

correct and building downtown office buildings do cause a shortage of affordable housing, than linkage is probably correctly categorized as a form of exaction, which makes the Supreme Court's *Nollan* and *First English* decisions of 1987 all the more interesting.

Nollan v. The California Coastal Commission

The *Nollan* decision raised the bar on the court's scrutiny of exactions, asking the question, "Is there a reasonable connection (rational nexus) between the need created by the new development, and the exaction? If so, is the exaction "substantially advancing" a legitimate State interest?"

In addition, several State courts have developed the following tests for judging the legality of exactions: Is the exaction a land use regulation or a disguised tax? Does the tax have the appropriate authority? Is there rough proportionality between the amount the new development is asked to bear and its share of the burden? Is there a rational relationship between the expenditure of the funds and the benefits accruing to the donor?²⁰

First English Evangelical Lutheran Church v. Los Angeles County

In the *First English* decision, the Court not only invalidated the Los Angeles County ordinance as a taking, but awarded compensation to First English Lutheran Church for the entire period the taking was effective. Prior to this decision, compensation was always calculated from the date of the claim. This decision raised the risk level for any government entity implementing programs such as linkage, that could be ruled as takings in the future.

The point of this section is not to debate the legality of linkage, but rather to recast the light on linkage as a valuable housing tool that should not be treated as Boston's birthright. Legal scholars have done an exemplary job of drawing lessons from court cases similar to linkage, but the fact remains that a linkage program similar to Boston's has never been tested in the Courts. Any city, Boston included, that uses linkage as a means for building affordable housing has the duty to run a program of the highest standards, to avoid the potential for a legal challenge which

²⁰ Alterman, Rachelle.

would ultimately endanger the future of affordable housing and the economic well-being of the City.

The Housing Linkage Process

Boston's Housing linkage process begins with the BRA's large project review determining that a development project is in need of zoning relief and involves more than 100,000 square feet.²¹ Following the initial BRA administrative and design review, the staff requests the BRA Board hold a public hearing on the project. If all goes well at the public hearing, the Board takes a vote authorizing the BRA Director to enter into a standard DIP agreement between the BRA and the developer containing the DIP requirements articulated in the Zoning Code. Once the DIP agreement has been executed, the BRA Director certifies to the Boston Zoning Commission or the Zoning Board of Appeal, depending on the project, that the developer of a DIP project has signed a DIP agreement. At that point, the regulating Board or Commission votes to grant the zoning relief. The executed DIP agreement is also sent to the Treasury Department which is responsible for collecting the payments due to the NHT. After obtaining zoning relief, the developer of a DIP project can request a building permit from the Inspectional Services Department (ISD). Before a building permit can be issued, the BRA must issue a Certificate of Compliance confirming that the DIP project has complied with all of the applicable sections of Article 80, including the DIP agreement.

The issuance of the building permit is supposed to trigger the Treasury Department to bill the developer for linkage payments.²² Currently, the first payment is owed two years after the issuance of a building permit or at the issuance of the Certificate of Occupancy, whichever comes first. Eventually, the developer's payments are sent to the Treasury Department where the money is invested until requests are made from the NHT (see the City's diagram of the process in Figure 3-1).

²¹ Boston's zoning code is written so almost every project over 100,000 s.f. requires some form of zoning relief.

²² This has been a flaw in Boston's linkage process, which I will discuss later.

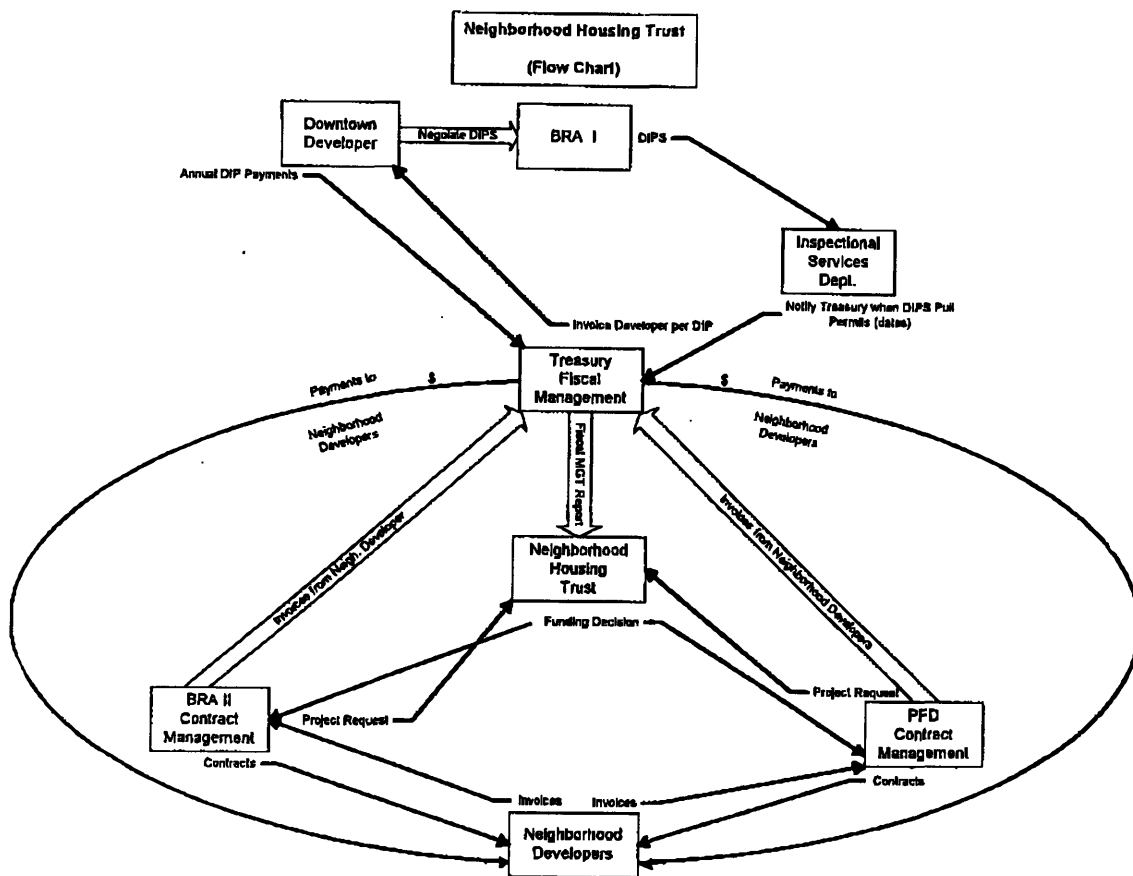


Figure 3-1: Neighborhood Housing Trust Flow Diagram
 Source: City of Boston

The Impacted Neighborhood

Once a neighborhood is determined to be “impacted” by a commercial development project, it has three possible sources of housing relief available through the linkage process. Most communities have sophisticated neighborhood associations that negotiate directly with the commercial developers and local politicians for “community benefits.” These benefits are not officially sanctioned by the City, but have been a part of development in Boston for decades. Examples of contributions, in addition to the jobs and housing payments required by ordinance, include everything from improving public parks, contributing to schools, and programs for

youth, to building new streets and sidewalks. These community benefits are usually negotiated on a case by case basis, with the value of benefits depending largely on the negotiating skills of the community (Figure 3-2).

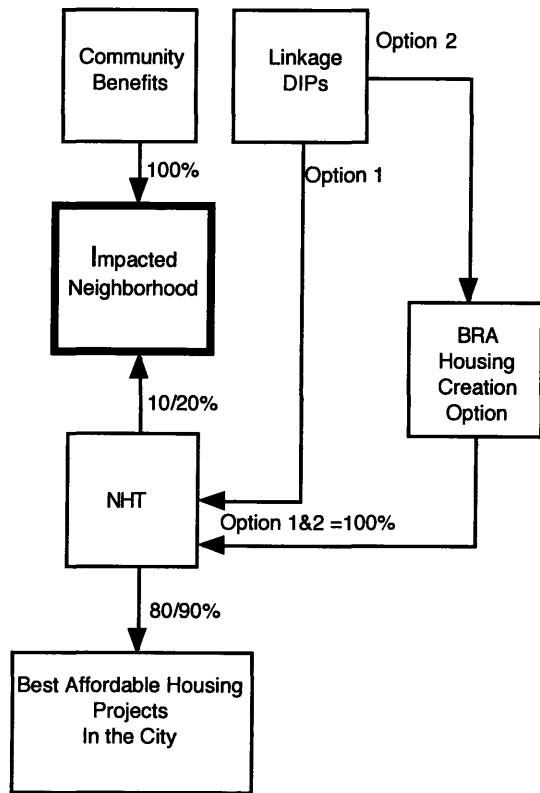


Figure 3-2: Typical Sources of Linkage Relief to Impacted Neighborhoods

The second source of relief through linkage is the standard linkage payment for housing and job creation. Developers make their payments to the NHT which is then obligated by Article 26A of the Boston Zoning Ordinance to contribute “at least” 10 or 20 percent of the linkage money to projects in the impacted neighborhood. If the commercial development is downtown, the impacted neighborhood gets ten percent; if outside of downtown, the impacted neighborhood gets 20 percent. The remaining 80 or 90 percent of linkage money is distributed throughout the city by the NHT according to their specific criteria (Figure 3-2).

The third source of relief is “Housing Creation” which is an option developers can choose by creating, or causing to be created, affordable housing units in lieu of paying the housing contribution grant. The amount of housing the developer must create is determined by calculating the net present value of the stream of annual linkage payments he would make under the traditional plan. The significant aspect of this option is that the BRA is responsible for negotiating housing creation agreements under its own set of rules and regulations, and the NHT acts only in an advisory role.

Neighborhood Housing Trust I (1986 – 1995)

The NHT was established by a City of Boston ordinance on May 21, 1986, and confirmed by the Massachusetts Legislature with Chapter 371 of the Acts of 1987. The first Trust which I will refer to as “NHT I” was formed in 1986, with Mayor Flynn making the appointments of Trustees. The form of the Trust was determined by the Mayor and the City Council, with an agreement that there would be five trustees in addition to the City Council President (then Christopher Iannella) and City Collector-Treasurer (then Lee Jackson) acting as ex-officio members.²³ Mayor Flynn and BRA Director Coyle knew that the Trust would not only be making decisions on linkage expenditures, but setting rules that would define the future direction for the NHT. As a result, they made an effort to fill the Trust with City employees and people loyal to the Mayor. Some of the early Trustees included the Mayor’s Development Advisor, Deputy Directors from the DND, the Parks and Recreation Director, Fair Housing Commissioner and BRA Board members.²⁴

The first Chair of the NHT I was South Boston community activist Larry Dwyer. He was among the first to join Flynn’s mayoral campaign in 1983, and was rewarded by becoming one of the first department heads appointed when Flynn took office, as executive director of the Community Schools program. He went on to become Parks and Recreation Commissioner, spent 18 months coordinating the integration of public housing for the Boston Housing Authority, and was ultimately named the Commissioner of Health and Hospitals just before Flynn left Boston for his position as U.S. Ambassador to the Vatican.

The NHT Ordinance of 1986 specified that the Trust would function under the rules and regulations of the Declaration of Trust which was to be attached to the ordinance. In reality, the Declaration did not get attached until one year later. Many of the rules and regulations were set up with the intention of keeping control of the Trust closely held in City Hall. When asked about control issues in the early NHT, one BRA employee recounted the story of Steve Coyle driving to New Hampshire with his family for a much-needed vacation, having a brainstorm regarding the rules and regulations for the newly formed NHT. He called his secretary from his cellular

²³ Boston Redevelopment Authority. *Linkage: Building Bridges of Opportunity, Affordable Homes and Jobs*. Winter 1988. P.3.

phone and started dictating what would become the official rules and regulations for the Trust. After several miles driving as slowly as he could on the freeway, he drove out of range, immediately taking the next exit and starting to drive back to Boston to finish the memo, to the consternation of his understanding family in the back seat.²⁵ This story seems to typify the hands-on approach Steve Coyle took in setting up the Trust for Ray Flynn.

On September 3, 1987, the NHT filed a Declaration of Trust outlining its set of rules and regulations. In the Declaration, the purpose of the Trust was stated as:

“Mitigating the extent to which Boston’s low or moderate income households are unable to afford decent, safe and sanitary housing within the City of Boston. Towards that end the trust shall help to create and retain the supply of housing for low or moderate income residents of the City of Boston...”

The NHT was to consist of seven Trustees: a City Councilor appointed by the President of the City Council, the Collector-Treasurer and five Mayoral appointees. The Collector-Treasurer serves as Managing Trustee and is responsible for maintaining the financial records and administering the Trust. In addition, the Trustees appoint a Secretary, who cannot be one of the five Trustees. The Secretary and any other employees the Trust deems necessary, work under the supervision of the managing Trustee, with the only caveat that the Trust not spend over \$100,000 annually for salaries and administrative expenses, including the cost of an annual independent audit.²⁶

The limited budget for the Trust was a fiscally sound decision, but more importantly, was a way for the Flynn administration to avoid building another large bureaucracy in City Hall. By limiting the administrative budget, the Trust was forced to utilize existing City staff from the BRA, PFD (now the DND), and Treasurer’s office. Having City staff closely involved ensured that the decisions being made were heavily influenced by City Hall. On several occasions, the BRA discouraged developers from pursuing the housing creation option, urging cash payments instead, enabling the BRA to work with housing developers of their choosing in order to craft

²⁴ O’Malley, Tom. Boston Redevelopment Authority. Interview. June 9, 1999.

²⁵ O’Malley, Tom. Interview. June 22, 1999.

²⁶ The \$100,000 number was to be adjusted periodically with the approval of the Boston City Council to account for inflation.

proposals for submission to the NHT. The projects that were submitted in this fashion had the blessing of the City staff and usually received approval from the NHT with very little problem. On the surface, it would seem that this system (referred to as the “wink and a nod” system by current City Hall employees) would have a high potential for abuse. In reality, the BRA and DND staff were highly skilled professionals with maximizing quality affordable housing as their primary goal. The reason they tried to control the proposal process was to maximize the probability of accomplishing this end result. By guiding the process, not only did they achieve quality affordable housing (several of the projects won awards for quality of design), but they were able to craft partnerships that helped minorities gain access to the development community.

In order to formalize a working agreement between the NHT and the City departments, a “Memorandum of Agreement” was signed between the DND, BRA and NHT on October 10, 1987, just a few weeks after the Declaration of Trust was approved. The memorandum outlined the roles and responsibilities of the parties including:

- The Collector-Treasurer shall be responsible for management of the Trust funds, including monitoring the repayment of funds from developers.
- The Trust shall designate either the BRA or DND to act on its behalf as Administering Agency to oversee and carry out all aspects of the projects, except those responsibilities specifically reserved for the Collector-Treasurer acting as Managing Trustee.
- The Administering Agency shall enter into housing payment agreements with developers consistent with approvals granted by the Trust.
- The Administering Agency shall be responsible for seeking redress against any developer that breaches their agreement.
- The Administering Agency shall be responsible for notifying the Collector-Treasurer of any repayment plan for Trust funds.
- The Administering Agency shall be responsible for reporting annually on project activity for both housing payment and housing creation options to the Trust.

The problem with the agreement was that it never identified which department would act as the Administering Agency. Over the years, many of the tasks such as annual reports and

communication with the Collector-Treasurer were not completed, raising the possibility that the Trust did not formally select an Administering Agency, and if they did, certainly did not demand much from them.

Poor record keeping and organizational structure plagued the NHT I throughout its existence. After Mayor Tom Menino took office in late 1993, BRA and DND staff started putting together reports so the new BRA Director and other administrative heads could better understand the linkage program. One of those reports, written in 1994, indicated that the NHT had not met for over a year, which was in violation of the City Ordinance. In addition, all five of the Trustees terms had been expired at the time of the report.²⁷

In 1995, the BRA Director and Chief Financial Officer of the City of Boston initiated an internal study of the NHT and NJT in order to review past management practices and recommend new policies and procedures. They were anticipating the reduction of federal funding for job training programs and the elimination of rent control in the City, which they believed would result in increased demands, and therefore, increased scrutiny on the Trusts.

The final draft of the two-phase report was presented to BRA Director Marisa Lago on December 23, 1996. Among the problems identified in the report was the fact that six separate City departments were involved in the administrative and financial management of both funds, yet communication and coordination were “sporadic at best”, and had actually deteriorated over the years.²⁸ The report suggested that contributing factors to the decline in communication and coordination were a change in mayoral administration, government restructuring, workforce reductions and staff turnover. It also suggested that administrative policies and procedures were apparently never formalized, which confirms my earlier statement about the Administering Agency not being formally named in the Memorandum of Agreement. The study also discovered that some key financial data and other trust-related documents were missing, making the report difficult to complete, and further illuminating the difficulty of managing the NHT under these conditions.

²⁷ Memorandum to BRA Director Marissa Lago. May 23, 1994.

²⁸ NHT/NJT Project Report. December 23, 1996.

In Phase I of the report, an audit was conducted on the NHT and NJT, identifying potential delinquent linkage payments on 24 projects totaling as much as \$4.03 million in housing linkage alone. It was impossible to determine exact amounts, due to missing bank statements, building permits and certificate of occupancy data. It was discovered that the NHT notes receivables account had not been properly monitored due to a lack of formal procedures. The Phase I audit concluded with the following recommendations:

- The Treasury Department must assume full financial management responsibility.
- Immediately start collection of past due payments.
- Take legal action against all developers who refuse to pay.
- For future payments, recommend that Treasury send invoices to developers at least two weeks before linkage payment is due and follow-up with late notices and interest charges.
- All funds should be held and managed by City's Treasury Department. Treasury staff should prepare invoices, follow-up with collection calls and prepare all NHT and NJT fiscal reports on a quarterly basis.
- Trustees should not commit funds until cash is on hand.
- Reconcile NHT notes receivable, develop notes-related reporting procedures and establish regular monitoring/review schedule.
- Initiate new management procedures.

Phase II of the report focused on operating policies and procedures of the Trusts. A step by step review of existing procedures was performed, tracking a typical DIP agreement from inception to the point when the developer began making the first linkage payment. They found that the first breakdown in communication occurred after the BRA board approved the DIP agreement with the developer. Because staff were not formally assigned to this area, nobody communicated to other departments the fact that a DIP agreement had just been signed. If someone in the Treasury office did somehow find out about the DIP agreement, there was nobody in that office assigned the responsibility to invoice developers and collect linkage payments. The Treasury office could not send out an invoice until the developer got an approved building permit from the

Inspection Services Department (ISD). Unfortunately, ISD staff were not aware of DIP agreements and did not have a system in place for making sure developers were up to speed on their linkage payments before issuing occupancy permits.

Phase II of the report also indicated that the NHT had not had an official meeting for several years. Without any one department in charge, and a Trust that was not meeting regularly, it is easy to understand how these organizational problems could occur. It should be noted that the NJT did not have as many organizational problems because they contracted annually with the Jobs and Community Services (JCS) Department of EDIC to administer and staff the NJT.

The Phase II review concluded with the following recommendations:

- Appoint a NHT and NJT Linkage Management Team, selecting staff persons from Treasury, BRA/EDIC, DND, JCS and ISD. The team will meet quarterly and be led by a Treasury Department representative.
- Initiate a NHT meeting, fill vacant Trustee positions and establish formal Trustee protocol, including: meeting minutes, votes and financial reports.
- Revise the “standard” DIP agreement package so the terms and conditions clearly state the developer responsibilities for linkage. One suggestion was to include a Treasury Release Form which must be completed by the developer and presented to Treasury prior to applying for building and/or certificate of occupancy permits.
- The BRA representative on the Linkage Management team shall be responsible to communicate executed DIP agreements and amendments of DIP agreements to the rest of the management team within two weeks of the BRA board vote.
- The Treasury representative shall be responsible for collecting linkage payments, signing off on Treasury Release Forms, invoicing for future linkage payments, and preparing NHT and NJT financial status reports. Treasury will continue to pay invoices from affordable housing developers.
- The DND representative shall be responsible for staffing the NHT and preparing all neighborhood affordable housing disbursement packages. This person would be responsible for preparation of NHT minutes, votes, correspondence and working with Treasury to prepare NHT financial reports.
- The JCS representative would continue to be responsible for staffing the NJT.

- The ISD representative would be responsible for verifying receipt of the Treasury Release Form, signed off by Treasury, before issuing building and/or certificate of occupancy permits on all DIP projects.

In addition to these recommendations, the report suggested three other options including managing the communication through the city MIS infrastructure, assigning all NHT and NJT administrative responsibilities to one department, and requiring developers to make all of their linkage payments up front to avoid the extensive paperwork the current system requires.

Despite these problems, The NHT I managed to approve \$40.5 million in linkage money towards the creation of 3,278 units of affordable housing between 1986 and 1995. The philosophy of the Trust seemed to be geared towards being the first money into a project, giving incentives for the State and Federal agencies and other private finance sources to follow suit.²⁹ This fits the model described earlier where the BRA staff crafted development projects with the housing developers, using linkage as an incentive. Over the ten year period, the average subsidy per affordable unit was \$17,097 which represented 13.9 percent of the total development costs on those projects (Table 3-1).³⁰

Year of NHT Approval	Number of Projects	Total Dollars Awarded	Number of Affordable Units	Subsidy Per Unit	Total Development Costs	Percentage Of Development Costs	Notes
1986	1	\$ 450,000	18	\$ 25,000	\$ 4,000,000	11.3%	
1987	7	\$ 7,810,138	1,339	\$ 5,833	\$ 139,920,672	5.6%	
1988	11	\$ 8,560,274	343	\$ 24,957	\$ 50,541,299	16.9%	
1989	14	\$ 10,211,625	689	\$ 14,821	\$ 81,249,135	12.6%	
1990	5	\$ 3,814,800	198	\$ 19,267	\$ 22,465,320	17.0%	
1991	12	\$ 4,517,020	355	\$ 12,724	\$ 96,763,213	4.7%	
1992	4	\$ 2,639,900	119	\$ 22,184	\$ 19,947,945	13.2%	TDC were not available for 2 projects
1993	2	\$ 225,000	21	\$ 10,714	\$ 712,108	31.6%	TDC were not available for 1 project
1994	2	\$ 1,325,871	45	\$ 29,464	\$ 7,200,000	18.4%	TDC were not available for 1 project
1995	2	\$ 907,000	151	\$ 6,007	\$ 10,974,784	8.3%	
Totals	60	\$40,461,628	3,278	\$ 17,097	\$ 433,774,476	13.9%	

Table 3-1: NHT I Linkage Housing Awards by Year

Source: City of Boston, Department of Neighborhood Development and Boston Redevelopment Authority

²⁹ Canavan, Patricia. Special Assistant to the Mayor for Housing Policy. Interview. June 24, 1999.

³⁰ These numbers must be treated as rough estimates since records from this period are incomplete. Total development costs are missing from four projects between 1992 and 1994 which would lower the average percentage of development costs below 13.9 percent.

1989 was the most active year of linkage awards for the NHT I. One of the approved projects was Parmelee Court in the South End neighborhood. The BRA designated York Bay, a newly formed minority developer in Boston, to develop 74 units of mixed-income housing on two adjacent BRA parcels within the guidelines of the SENHI program.³¹ The design of the Parmelee Court Homes responded to the historical context of the site while maintaining 51 affordable units, ranging from one-to four-bedrooms, with some handicap accessible. The \$1,057,000 linkage award, linked from Gerald D. Hines' development at 500 Boylston Street, represented 8.9 percent of the total development cost for the project. Initially, the linkage award was approved at \$815,000, but after the linkage securitization process through Met Life and Prudential Insurance companies, additional money was made available for several affordable housing projects. The Parmelee Court project was typical of NHT I awards in the way it was carefully crafted and led through the process by the BRA. In addition, the BRA was able to promote the involvement of a minority developer.³²

The NHT I approved three linkage awards in South Boston between 1986 and 1995, including O'Reilly School, Monsignor Lyons, and South Boston CDC. The renovation of the John Boyle O'Reilly School was the third linkage award given out by the NHT I on June 18, 1987. The 32 unit elderly housing project was developed by the National Association of Government Employees (NAGE). The original school was a classical revival style brick building, built in 1905. All of the units were designed to be either studio or one-bedroom, and were affordable to low-income, elderly tenants. The \$305,000 linkage award, linked from the Druker Company's Heritage on the Garden project in downtown Boston, represented 10.9 percent of the total development cost for the project.³³

The NHT I was not particularly good about producing annual reports for many of the reasons outlined above. On two occasions, however, the BRA produced documents that were a cross between an annual report for the NHT and a public relations tool ("Mayoral Fluff Piece" according to one BRA staffer) selling the idea of linkage to the masses. One of the reports was

³¹ The South End Neighborhood Housing Initiative was a grass roots effort to develop affordable housing on vacant city-owned land acquired during the Urban Renewal Program.

³² Boston Neighborhood Housing Trust. *Linkage: Building Affordable Homes*. Special Report. 1989.

³³ Ibid.

produced in 1988, the other in 1989.³⁴ The most interesting feature of these documents was the attempt to make a connection between the commercial development project that created the linkage money, and the affordable housing project that received the money. The BRA used aerial photography and mapping to illustrate the "link" between development projects, and every affordable housing project description mentioned the building from which the linkage money came. After the real estate economy tanked in late 1989, there was little incentive to produce documents on linkage. By the time annual reports started being produced again in the late 1990's, the idea of linking the commercial development with the housing development was gone. For example, the NHT annual report for 1998 has detailed descriptions of the affordable housing projects being created, but no mention of the commercial development that made them possible.

Neighborhood Housing Trust II (1996 – Present)

In December of 1995, Patricia Canavan was hired as Special Assistant to the Mayor for Housing Policy. One of the first tasks assigned by Mayor Menino was the job of getting the NHT running smoothly once again. In contrast to Ray Flynn, Mayor Menino wanted the Trustees to be from outside of City Hall. Canavan wanted Trustees with housing experience and a concern for Boston's neighborhoods. She expected to find a number of candidates from within the numerous neighborhood Community Development Corporations (CDC) with which she had previously worked. To her surprise, the boards of those development corporations did not want their staff or board members to become Trustees on the NHT because they feared conflict of interest problems. They preferred to be the developers of projects requesting funding from the Trust rather than influencing which neighborhoods the money would be spent in.

After changing her focus from requiring housing experience to requiring people with a track record of community involvement, a shortlist of names was presented to Mayor Menino, and the following five Trustees were selected:³⁵

- Watchen H. Barker, Dorchester. Currently a home loan officer with Fleet Bank and actively involved in her Dorchester neighborhood.

³⁴ For some reason, many documents from the NHT I era were not dated, so 1989 is my best guess based on what was written in the report.

- Reverend Craig W. McMullen, Dorchester. Currently a Minister at Dorchester Temple Baptist Church. He helped reinvigorate the congregation of the Church and has a reputation for reaching out to people in need. He is also active in several community groups.
- Mary R. Soo Hoo, Chinatown. She is a restaurant owner and very active in her community.
- Clayton Turnbull, Dorchester. He owns several fast food restaurant franchises. He is a member of the Dudley Street Neighborhood Initiative (currently President of the organization) and is very involved in his community.
- Jose A. Vincenty, Jamaica Plain. Jose ran for City Council a few years back and was seen as a potential “up-and-comer” in Boston politics. He is very active in Boston’s Hispanic community, and works as a staff member for a State Representative.

The Trustees were brought on board in the Fall of 1996, and elected Clayton Turnbull as their Chair. They proceeded to have several visioning meetings where they attempted to find a focus for the expenditure of linkage money. For the first year, they decided to focus on stabilization of the existing stock of affordable housing by investing in rehabilitation and preservation projects. If NHT I was the first money into projects, NHT II’s first round of linkage distributions could best be characterized as the last money into projects. Working with DND, the Trust issued a request for proposals from housing developers and approved seven projects in 1997 for a linkage award total of \$2.68 million. Six projects eventually were completed generating work on 820 units of affordable housing for a linkage subsidy of \$3,262 per unit, or 4.8 percent of total development costs (Table 3-2). After its first two years of operation, the NHT II has contributed an average subsidy of \$31,131 per affordable unit, representing 18.3 percent of total development costs.

Year of NHT Approval	Number of Projects	Total Dollars Awarded	Number of Affordable Units	Subsidy Per Unit	Total Development Costs	Percentage Of Development Costs	Notes
1996	0	\$ -	-	\$ -	\$ -	0.0%	No NHT activity in 1996
1997	7	\$ 2,675,000	820*	\$ 3,262	\$ 55,633,723	4.8%	95 New Units Created
1998	3	\$ 1,593,000	27	\$ 59,000	\$ 4,997,651	31.9%	Beginning of Home Again
Totals	10	\$ 4,268,000	847	\$ 31,131	\$ 60,631,374	18.3%	

Table 3-2: NHT II Linkage Housing Awards by Year

Source: City of Boston Mayor’s Housing Advisor and Boston Redevelopment Authority

³⁵ The information about the Trustees was provided by Patricia Canavan and Clayton Turnbull.

In evaluating the first two-year term of the NHT II (all five Trustees were re-appointed for a second two-year term ending January 1, 2000), Patricia Canavan thought the lack of housing experience on the Trust caused a few minor problems, but they worked through them. In her opinion, the Trust was very design conscious and concerned about community input and the impacts of development on adjacent neighborhoods. Clayton Turnbull reiterated Canavan's opinion about design quality, saying that just because it is affordable, does not mean it has to be poor quality. In Turnbull's opinion, the Trust is pickier about design quality than the DND staff, which at times can create tension when a developer thinks they have a completed deal because DND gave a preliminary approval, and the Trust starts requesting changes to the design.³⁶

The number of "new" affordable units created under the 1997 program was only 95, with most of the effort on rehabilitating existing affordable units. For example, the Mishawum Park Apartments project in Charlestown was a 337 unit, 20 building development built in 1973. It was considered an "expiring use" development, meaning that the original developers received funding in 1973 that required them to keep the apartments affordable for 25 years. In September of 1997, the Mishawum Park Tenants Association, Inc. acquired the property from the original owner and became one of the only tenant organizations in the country to purchase an expiring use property without the benefit of a non-profit sponsor. The \$500,000 in linkage money, representing just 1.6 percent of the total development cost, was one out of ten sources of funding that the tenants association received. It was primarily used for addressing numerous structural and code deficiencies and ensuring more efficient future operations.³⁷

Another of the \$500,000 linkage awards for 1997 went to the South End Tenants Housing II project located in the South End neighborhood. It is a 184 unit, scattered site development including 25 historically significant brick row houses. The buildings were all subsidized after renovations in the early 1970's. The linkage money was the only significant source of outside funding and was used for updating mechanical and roof systems, replacing kitchens and bathrooms, and bringing the development up to current building and health codes.

³⁶ Clayton Turnbull. Chair of NHT II. Interview. July 1, 1999.

³⁷ City of Boston Neighborhood Housing Trust Annual Report. 1998.

The 1997 round of linkage awards highlighted parts of the linkage process in City Hall that were still not working smoothly.³⁸ As a result, the NHT leadership and City staff started focusing on operational issues. According to the NHT 1998 annual report, they “improved the operations of the Trust by taking the time to update documents, establish clear lines of communication with City agencies, and refined accounting procedures to improve the tracking and collecting of payments due the trust”. According to Chair Clayton Turnbull, it was very difficult sorting through the records and trying to piece together what really happened. "It is not even clear that the NHT I voted for several of the projects completed with linkage money between 1986 and 1995".³⁹

Paul Santanna, a Senior Project Manager for DND and liason to the NHT II, suggested that the biggest improvements in the linkage process so far have been in the documentation. The process has become more organized with forms and requisitions designed specifically to make the linkage process flow more smoothly. The process is working much better in the areas of linkage collections from developers and linkage awards from the NHT to affordable housing developers. Paul felt there was still room for improvement on inter-departmental communication and process issues. For example, ISD is still not integrated into the linkage loop within City Hall. When asked about the linkage management committee suggested as part of the 1996 report, Paul indicated that a group of people from various departments meet occasionally to discuss linkage issues. In addition, Tony Marinello, the BRA finance officer who co-authored the report, has been informally acting as the linkage coordinator by virtue of the fact that he is aware of DIP agreements and attends NHT II meetings.⁴⁰

After the completion of linkage awards in 1997, the Trustees had another round of visioning meetings to determine their next focus. In those meetings, they expressed a desire to see more tangible evidence of their investments than, for example, a new mechanical system. They also determined that they wanted to maximize their impact by looking for projects that would "spark" other development in troubled neighborhoods. About that time, Mayor Menino approached the Trust with an idea for creating new home ownership opportunities on vacant city-owned lots.

³⁸ Santanna, Paul. Department of Neighborhood Development. Interview. July 8, 1999.

³⁹ Turnbull, Clayton. Chair of NHT II. Interview. July 1, 1999.

After much discussion, the Trust approved an allocation of \$3 million for the "Home Again" program for developing single family homes on vacant city lots. In addition to the linkage money, Mayor Menino committed the City's support to Home Again developments including technical assistance, environmental site assessments, and discounted land acquisition.

The first project approved under the Home Again program was the Bowdoin/Geneva project sponsored by the Dorchester Housing Action Team (DHAT). A community planning process in the Clarkson/Coleman/Hamilton area of Dorchester identified seven city-owned lots that could best complement rehabilitation work underway in the community, and also determined the best housing development alternatives. The linkage award will help provide seven three-bedroom, energy efficient, single-family homes with wrap-around porches. The \$400,000 linkage award represents the only grant money the project will receive, representing 32.7 percent of the total development cost.⁴¹

The Woodward Park II development was a partnership with the Dudley Street Neighborhood Initiative (DSNI), involving the new construction of eight single family homes and four duplexes on vacant city-owned land and some private land in the Dudley Triangle. This project represented the fifth development in the buildout of the Dudley Triangle since 1990. The \$780,000 linkage award represents the only grant money the project will receive, representing 32.5 percent of the total development cost.⁴²

The last Home Again project approved in 1998 was the Goodale Road New Housing Initiative, resulting from the efforts of the Mattapan Civic Improvement Association (MCIA). The City and the MCIA, working with the community, chose sites for affordable housing that they thought would generate maximum neighborhood benefit. They focused on several vacant parcels in the Wellington Hill area of Mattapan. A total of five three-story modular buildings are being developed with an owners unit and rental unit in each one. The \$423,000 linkage award

⁴⁰ Santanna, Paul. Interview. July 8, 1999.

⁴¹ City of Boston Neighborhood Housing Trust Annual Report. 1998.

⁴² Ibid.

represents the only grant money the project will receive, representing 30 percent of the total development cost.⁴³

Total linkage expenditures on the Home Again program for 1998 were \$1.6 million, creating 27 units of affordable housing, a subsidy of \$59,000 per unit, leaving approximately \$1.4 million for use in 1999. At the NHT meeting of July 1, 1999, most of the remaining Home Again fund was allocated to the Mission Hill New Housing Initiative for the construction of 16 homeownership units and six rental units located on vacant city-owned parcels in the Back of the Hill neighborhood of Mission Hill. The Trust invested \$1,220,267 for a subsidy of \$55,466 per unit, equaling 34 percent of total development costs.

Typical NHT II Linkage Award process

After the Home Again concept was approved on May 13, 1998, the NHT worked with the BRA and DND to identify ten sites owned by the city, which would be appropriate to construct several single family, two family, and/or duplex style homes. As noted earlier, the NHT also required that these sites be in locations that would potentially spur further development in the surrounding neighborhood. One of the sites on the list was especially easy to identify since the Back of the Hill neighborhood had already been meeting for months in an effort to determine what to do with the City's vacant lots in their neighborhood. DND staff had been working with the neighborhood and knew there was support for an affordable housing project.

DND prepared a "boiler plate" request for proposals (RFP) and submitted it to the Back of the Hill neighborhood for review. With community approval in hand, DND issued the RFP in February of 1999, asking for-profit and non-profit developers to submit proposals for the development of high quality, affordable housing on previously identified vacant, city-owned parcels in the Back of the Hill neighborhood of Mission Hill. Two developers responded to the RFP including the joint venture of Back of the Hill Community Development Corporation/Neighborhood Development Corporation of Jamaica Plain and a for-profit developer, Baran Partners, LLC.

⁴³ City of Boston Neighborhood Housing Trust Annual Report. 1998.

Five DND staff members reviewed the proposals and scored them according to the department's criteria. DND then hosted a community meeting with both developers making their best pitch to the neighborhood. The community preference and the DND scoring both pointed to the non-profit joint venture as the developer of choice. DND put together a packet of information and sent it to the NHT Trustees in advance of their July 1, 1999 Trustees meeting, marking the first time Trustees got directly involved with the process. At the NHT meeting on July 1, a DND staff member assigned to the project introduced the development team and recommended approval of the \$1,220,267 grant request. After a brief presentation by the developer, the Trustees approved the project without discussion. After the meeting, the DND representative to the Trust recorded the vote and sent an award letter to the grantee, formally ending the Trust's involvement with the project.

As part of the NHT vote of approval for the development, the Trustees formally recognized the DND as Administering Agency for the project. According to Paul Santanna, DND staff person for the Trust, DND was officially recognized as the Administering Agency in 1996, but the Trustees clarify that fact with every linkage award vote. This is another example of the administrative changes that have been made since the 1996 internal linkage report was released.

Relationship to South Boston Betterment Trust

When asked about control issues between the Mayor and the Trust, Patricia Canavan indicated that the Trustees had to be supportive of the Mayor to get on the Trust, but once on, have been very independent thinkers.⁴⁴ As Clayton Turnbull describes it, "We are volunteers spending time away from our families, doing something that we hope is good for the entire city. Some day, I want to be able to drive by these housing projects with my son and say, this is why I spent those nights away from home, and feel good about it."⁴⁵ The fact that they are all volunteers without strong connections to City Hall gives the Trust a special license to go about its tasks and let the politics swirl around it, yet remain unaffected.

⁴⁴ Canavan, Patricia. Special Assistant to the Mayor for Housing Policy. Interview. June 24, 1999.

⁴⁵ Turnbull, Clayton. Chair of NHT II. Interview. July 1, 1999.

While Turnbull was disappointed at not being informed about the Memorandum of Understanding between the BRA and South Boston leaders, he shrugged it off as something that does not really affect the NHT. In fact, none of the Trust members, including secretary Canavan or DND representative Paul Santanna, had even seen the MOU document. To Turnbull, the question for South Boston shouldn't be how much are we going to get, but rather where are we going to put it?⁴⁶ This was in reference to the repeated demands that more than half of all linkage money from the Seaport go to the traditional South Boston community, when in reality, there are very few developable sites in South Boston. He pointed to the Millennium project in Chinatown as an example of how the Trust looks at linkage proposals from impacted neighborhoods. Earlier this year, the Millennium development group came to the NHT II requesting that its linkage money be earmarked specifically for Chinatown. Despite the fact that one of the Trust members was from Chinatown and it was very aware of the impacts the neighborhood was feeling, the Trust voted no to the request, insisting that the developer or neighborhood have an actual project in hand when requesting linkage money.

Turnbull's biggest concern about the MOU is that somehow the SBBT will expect a certain amount of money to be "set aside" for future projects instead of allowing money to be spent today on good projects that are ready to be built. He is afraid that if the City waits too long, the very people they are trying to help will have moved out of the city because it is unaffordable.

Lessons Learned

The NHT II is in its fourth year of operation since Mayor Menino gave it new life in 1996. Separated from NHT I by a major real estate collapse, a new administration, an internal audit, and an external review by the Boston Municipal Research Bureau, NHT II might be seen as the second round of linkage in Boston, making it a good indicator of what lessons the City learned (or not) about linkage in the first round.

⁴⁶ Turnbull, Clayton. NHT II Chair. Interview. July 1, 1999.

Management

One of the most important lessons the City learned is that when the economy is good, people start paying attention to linkage. The Boston Municipal Research Bureau (BMRB) published a study in October of 1998, following 16 months of research, highlighting many of the management problems with the linkage program.⁴⁷ Prior to the release of the BMRB report, several procedural changes were in progress, such as improvements to linkage documents, collection procedures, payment procedures and inter-departmental communication. Ed Collins, Managing Trustee of the NHT II and CFO of the City, apparently determined that much of the management problem with linkage centered around the housing creation option and linkage loans. As a result, he has been a proponent of avoiding the housing creation option whenever possible and eliminating linkage loans in favor of grants.⁴⁸

Control

One of the major differences between NHT I and NHT II is the issue of control. NHT I was controlled by the BRA, with most of the Trustees being City Hall insiders. NHT II, on the other hand, is a diverse group of people representing a broad cross-section of Boston's neighborhoods and ethnic communities, being "guided" by the DND. This change in strategy between the Flynn and Menino administrations could be the result of an overreaction to the internal report of 1996, indicating problems in the operation, organization and management of the linkage program. Instead of fixing the parts of the linkage vehicle that were not working, the Menino administration apparently decided to replace the engine.

Another reason for the shift in control between administrations could have been the result of a perception in City Hall that the NHT I was not a fair system of awarding linkage money. The majority of linkage funds were allocated to the South End and Roxbury where the BRA owned the most land, resulting in a feeling that not everyone had equal access to the housing funds (Figure 3-3). As one City Hall employee stated, "Openness did not exist in the BRA system." It is interesting to note that DND now plays the role that the BRA played, putting together

⁴⁷ The Boston Municipal Research Bureau is a nonprofit, member-supported research organization established in 1932 to study Boston's fiscal, management and administrative problems.

affordable housing projects and bringing them to the NHT II for approval. Although, the NHT II plays a bigger role in defining a “vision” for how to spend the linkage money, some of the Trustees still complained after the 1997 funding round that the DND was “controlling” too much of the process. One DND employee stated that “the Trustees seem to act independent of city housing issues, trying to set their own agenda.” This statement is probably the best indication of how the NHT has changed under the Menino administration.

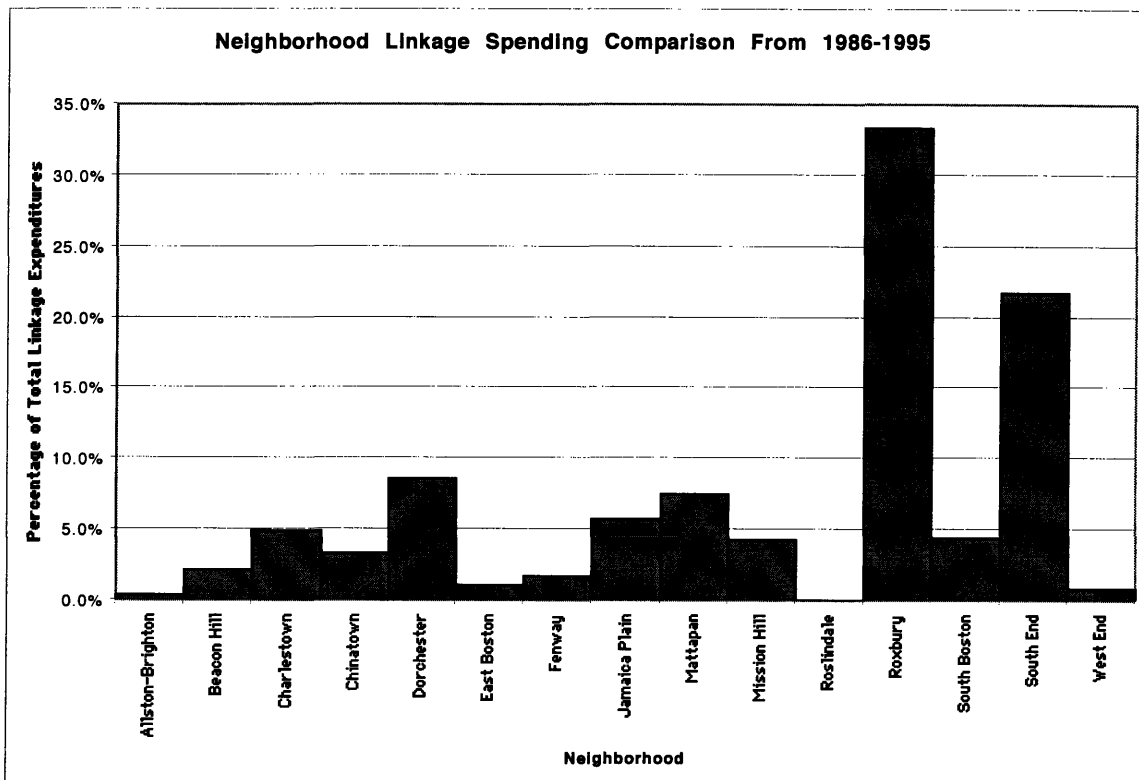


Figure 3-3: NHT I Distribution of Housing Linkage Spending

Source: City of Boston Mayor’s Housing Advisor, Department of Neighborhood Development, And the Boston Redevelopment Authority

⁴⁸ Santanna, Paul. Department of Neighborhood Development. Interview. July 8, 1999.

Geographic Distribution of Linkage Funds

On February 6, 1986, Article 26A was amended to the Boston Zoning ordinance adding (among other changes) the idea that with every commercial development where linkage money is created, one neighborhood will be impacted more than others. The assumption was that areas adjacent to commercial development would be the most “impacted neighborhoods,” and therefore should be guaranteed a small percentage of the linkage money taken from the commercial development. If the commercial development was taking place in the downtown area, ten percent of the linkage award was to be set aside for the “impacted neighborhood.” If the commercial development was taking place outside of downtown, 20 percent was set aside for the “impacted neighborhood.” In both cases, the money reserved for the impacted neighborhood was dependent on the NHT finding feasible affordable housing projects in that area.

It is not evident from past records that the NHT I made linkage awards with Article 26A in mind, but there was a very clear link made between the commercial development and the housing development beneficiary. NHT II seems to have dropped any connection between the commercial and housing developments. In addition, there has been no focus whatsoever on the issue of geographic distribution. According to Paul Santanna and Patricia Canavan, the Trust has been busy focusing on other priorities, and at some point will have to deal with the issue of geographic distribution. NHT II Chair Clayton Turnbull has taken the approach that geography does not matter when it comes to affordable housing. He is just as happy at a ribbon cutting in Charlestown as he is in his Dorchester neighborhood. He is aware of the Article 26A rule, but also believes that the priority has to be creating affordable housing projects now, not waiting several years until land becomes available in an “impacted neighborhood.”

Leveraging Linkage

One of the surprises of my research is the fact that linkage money has been leveraged less in 1998 and 1999 than in the past 14 years. I expected that with the BRA tightly controlling the process during the first ten years, there would have been a tendency to throw large sums of linkage money at pet projects. In fact, the City did quite well over the entire NHT I span, leveraging linkage money with many other funding sources. Between 1986 and 1995, the

average percentage of development costs paid from linkage funds was 13.9 percent.⁴⁹ NHT II is a little more difficult to analyze because it is only on its third year of granting linkage awards, and has taken two different approaches. In 1997, Trustees were still getting their feet wet, and decided to fund various rehabilitation and preservation projects where there were several other sources of funding as well. Projects funded in 1997 received on average 4.8 percent of their total development costs in the form of linkage grants. The Home Again program, which the NHT II adopted in 1998, has taken a new approach towards leveraging linkage money. The Home Again projects are receiving on average, 32 percent of their funding through the linkage program.

It is not an accident that the linkage subsidy has gone from \$3,262 per unit to over \$59,000 per unit in one year. The Trustees were looking for a way to put their “stamp” on something original, the Mayor had vacant lots strewn about the city, and neighborhoods wanted single family homes on those lots. The DND staff were encouraging the Trustees to take ownership of an idea, but at the same time, reminding them that they need to support the Mayor’s housing goals. When all of those pieces were put together, the Home Again project became a logical choice, regardless of the cost in linkage dollars. When asked about the \$59,000 per unit subsidy, Paul Santanna explained that the value of linkage is its “flexibility.” For example, if they used DND funds, the contractors would have to pay prevailing wage, but with linkage money, no such strings are attached. Even though the City promotes the payment of prevailing wage, when it comes to building affordable housing, keeping cost down is the primary concern.

Ironically, it is the “flexibility” of linkage funds that the South Boston Betterment Trust is banking on as it eagerly awaits its first payment from the South Boston Seaport development. When asked recently about building affordable housing in South Boston, Council President Kelly stated:

“I don’t want the BRA building this housing. I don’t want the City building this housing. I don’t want the state or federal government building this housing, because I don’t want the strings that are attached to those subsidies. What I want is housing for South Boston people. That does not mean I intend to exclude anyone. But let’s get our house in order.”⁵⁰

⁴⁹ This number would actually be smaller, but four projects between 1992 and 1994 were missing total development cost numbers in the City records that I reviewed.

⁵⁰ This quote was taken from an article published on the www.Southbostononline.com web site.

Chapter Four: South Boston Betterment Trust

“I’ll be honest with you, I work for the people of South Boston. I don’t want to see them displaced. I’m not sure there’s a mechanism in place I could trust as much as the South Boston Betterment Trust.”

James Kelly, April 22, 1999
Boston Herald

Background

On March 11, 1998, the Boston City Council approved the construction of a Convention Center in the heart of the South Boston Seaport district. Leading up to the vote, the discussion focused heavily on what mitigation would be provided for the impacted South Boston neighborhood. Council President James Kelly and his contingent of South Boston leaders, including State Senator Stephen Lynch and Representative Jack Hart, knew they were in a position of power since the State had placed a March 11, 1998 deadline on the vote. They also knew how much Mayor Menino wanted that Convention Center as the legacy of his administration. Kelly controlled enough votes on the City Council to delay the proceedings unless the City agreed to specific terms that were important to the South Boston Community.

After weeks of posturing and negotiating, a deal was struck that would give Mayor Menino his Convention Center and the South Boston community their claim to linkage money from the Seaport development. Article 5.2 of the March 11, 1998 City Council Order states:

“Notwithstanding the developer of, or the location of, the headquarters Hotel, all of the housing and jobs linkage deriving from the development of the Headquarters Hotel shall, through the Neighborhood Housing Trust and the Neighborhood Jobs Trust respectively, be for the benefit of

residents of the Impacted Neighborhood, to be expended for the purposes of developing affordable housing in, and promoting the job training and employment for the residents of, the Impacted Neighborhood.”

Through Article 5.2, the City Council took the job of allocating linkage money from the Convention Center headquarters Hotel out of the direct control of the NHT. This happened at the same time the NHT was articulating to other developers in other neighborhoods that they would not approve “geographic linkage commitments” unless there were specific project proposals on the table.

In addition to the specific requirements outlined in the Council Order, a Memorandum of Understanding (MOU) was signed between BRA Director Tom O’Brien and South Boston leaders James M. Kelly, Stephen F. Lynch and Jack A. Hart, Jr. on March 11, 1998 (see appendix). As Article 5.2 articulated the linkage process for the Convention Center hotel, the MOU articulated what would happen with all of the remaining development in the entire Seaport for an indefinite period of time. As with the Council Order, the NHT was not consulted about the details of this agreement.

Among the terms promised as part of the memorandum were:

- No less than the majority of job linkage from the Seaport will be allocated to the South Boston neighborhood.
- No less than the majority of housing linkage from the Seaport will be allocated to the South Boston neighborhood.
- Within 180 days, the BRA shall identify parcels of land available in South Boston for the development of affordable single and multi-family housing.
- The BRA shall use its best efforts to encourage developers to purchase available sites in South Boston on behalf of the South Boston Betterment Trust.
- The BRA shall petition the Boston Zoning Commission to establish in the Seaport District a maximum as-of-right building height of 150 feet. If developers want to exceed 150 feet, they will have to complete a community review process and execute a written agreement obligating them to pay certain benefits to the neighborhood in addition to the base linkage payments.

Article 3.1 of the MOU states:

“The BRA, working with the Neighborhood Housing Trust, shall establish an annual aggregate goal of allocating no less than a majority of housing linkage deriving from development within the Seaport District pursuant to Article 26A of the Boston Zoning Code, as a community benefit to residents of the impacted neighborhood, for the purposes of developing affordable housing in the impacted neighborhood and assisting senior citizens, first time homebuyers and others who are residents therein with their housing needs.”

Article 3.1 is relatively clear in making a reference to Article 26A of the Boston Zoning Code, which suggests that the only change to the regular linkage procedure is that the agreement would increase the “Housing Contribution Grant” to the Impacted Neighborhood from the required 20 percent to more than 50 percent for this special case.

Of course, it is not this simple because in the eighth WHEREAS of the MOU, it states:

“WHEREAS, the parties hereto have deemed it to be in the public interest that there shall be established a charitable organization to be known as the South Boston Betterment Trust (the “Trust”) pursuant to Massachusetts General Laws c. 180 and Section 501c(3) of the Internal Revenue Code, the directors of which shall be residents of South Boston (including but not limited to its elected officials and other neighborhood leaders), selected by such officials and leaders, which Trust shall, in perpetuity, be the beneficiary of community benefits established pursuant to this MOU or to any agreements related to development in the Seaport District.”

This paragraph brings about a sense of ambiguity and mystery that the South Boston Betterment Trust (SBBT) has thrived on since its inception. Although Article 3.1 of the MOU makes it clear that the NHT will be approving linkage awards for South Boston, this paragraph suggests that those linkage awards as well as any other agreement related to development in the Seaport will be dedicated directly to the SBBT to distribute according to their wishes.

Trust Membership

The SBBT consists of 15 Trustees, with three each appointed by Council President James Kelly, State Representative Jack Hart, State Senator Stephan Lynch, U.S. Congressman Joe Moakley, and Mayor Tom Menino. Despite the confidentiality surrounding the

Trust, I was able to determine the identity of the Trustees through third-party sources. They are Bill Bailey, John Ciccone, Debbie DiMaggio, Bill McDonough, Tom Tinlin, Mary Binda, Mary Ann Crush, Arthur Fritch, Brian Miller, Harry Uhlman, Fr. Richard Cannon, Fr. John Cullory, Manny Gregorio, Joe Nee, and Susan Woods.

Mary Ann Crush has been elected (or appointed) the first Chair of the Trust. She is a supporter of Councilor Kelly, but is best known as the person who redefined real estate in South Boston by marketing the area to “outsiders.” According to some community residents, Mary Ann helped people realize the value of converting triple-deckers into condos, which changed the longstanding tradition of Southies only renting or selling to other Southies.¹

At least three members of the Trust have direct ties to the South Boston Information Center, founded by James Kelly during the busing crisis in the mid 1970’s, and the majority are residents of the “Upper End” or City Point area of South Boston. Keeping with tradition, two members of the Trust are Catholic priests. Other than Father Cannon, a new priest at St. Vincent’s Church, it is unclear if any of the Trustees live in either the St. Vincent’s, Andrew Square or Fort Point Channel neighborhoods, despite the fact that these are the neighborhoods most impacted by Seaport development, and have the poorest population. Several residents I spoke to expressed a concern regarding the makeup of the Trust being so heavily in favor of the Upper End of the community. Others are concerned about the lack of transparency on the SBBT. As one St. Vincent’s neighborhood resident put it,

“I know what the rules are for the NHT, but what are the rules for the SBBT? They are supposedly speaking for the entire South Boston community, yet we do not know who the Trustees are.”

Role of the South Boston Betterment Trust

Sixteen months after the MOU officially announcing the formation of the SBBT, ambiguity over the role of the Trust seems to linger. In fact, members of the NHT,

¹ Gelzins, Peter. Boston Herald Columnist and South Boston resident. Interview. July 1, 1999.

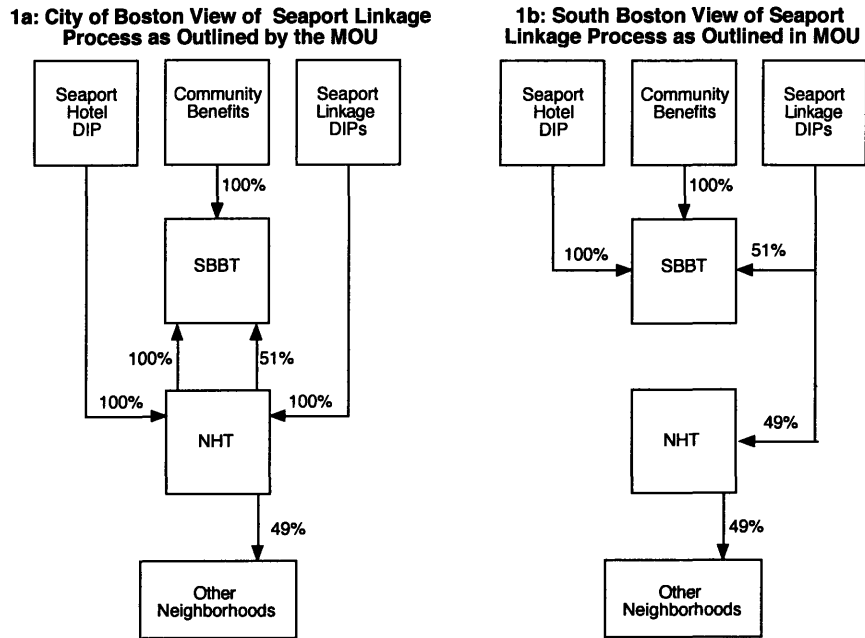


Figure 4-1: Linkage Process Diagrams

including the Chair, the Secretary, and the DND representative, have not even seen the MOU relegating the majority of linkage money away from the NHT to the South Boston community. Some City officials shrug off concerns about the SBBT and suggest that it is just another form of a community group organized for the purpose of negotiating “community benefits” or “linkage on top of linkage” beyond the amount required in the City Zoning Ordinance.² In their opinion, nothing will change other than the percentage of linkage allocated by the NHT to the South Boston community (Figure 4-1a). Some City officials imagine 100 percent of the linkage generated from the Seaport Hotel construction being funneled through the NHT directly to the SBBT. In addition, 51 percent of linkage from Seaport DIPs would be funneled through the NHT to the SBBT. Finally, the SBBT would “unofficially” negotiate for community benefits directly with

² “Community Benefits” and Linkage on Top of Linkage” are both terms used to describe exactions from developers beyond what is required by the City Zoning Ordinance.

the developers of Seaport projects. This scenario is legal under the current City Zoning Ordinance, but the likelihood of the current NHT voting to allocate money to the SBBT without specific projects in hand is very low, based on Trustee comments and past precedent with the Millennium project in Chinatown.

The South Boston community has a much different opinion about how the SBBT will be utilized. During the recent debate over the amount of housing to be built in the Seaport area, Councilor Kelly explained that

“half the linkage money from commercial development in the district goes to the South Boston Betterment Trust, which could build its own housing in the neighborhood... There’s no linkage money in residential, so the Betterment Trust gets more if there’s more commercial development.”³

In an earlier conversation, Kelly expressed his unhappiness with the way the BRA would go about picking sites and securing funds from developers for affordable housing. He insisted that all payments for housing and job creation be administered only through the SBBT.

“The responsibility of building housing (in South Boston) falls on the Betterment Trust, not the BRA. And I wish the BRA would understand that,” Kelly said. “They risk alienating the whole neighborhood.”⁴

These statements make it seem that Councilor Kelly expects money to go directly into the SBBT without ever passing through the NHT (Figure 4-1b). It appears Kelly wants 100 percent of the linkage from the Seaport Hotel dedicated directly to the SBBT, 100 percent of community benefits negotiated with the developer going directly into the SBBT, and 51 percent of linkage from Seaport DIPs going into the SBBT. Even though this is an enticing scenario for South Boston, it cannot happen without legislative change, and therefore, is not likely to happen.

It is not surprising that City officials remain aloof about the SBBT. After all, the Trust has been formed by the President of the City Council, who is typically not challenged. One person that did question the role of the SBBT was Boston Herald columnist Peter

³ Cohen, Rachelle. *Boston Herald*. April 22, 1999.

⁴ Macero, Cosmo Jr. *Boston Herald*. November 12, 1998.

Gelzinis. In his April 13, 1999 column, Southie native Gelzinis suggested that James Kelly has never been concerned about affordable housing in South Boston because “affordable housing equals subsidized housing and subsidized housing equals a few mandated ‘set asides’ for low-income people who may not look like Jimmy, or have SOUTHIE stamped on their birth certificates.” He went on to suggest that the SBBT was a “phantom” Trust set up so that a chosen few could dole out the money just like the old days of ward bosses in South Boston.⁵ SBBT Chair Maryann McLeod Crush sent a letter to the Herald suggesting that “one of Southie’s own” was trying to undermine the good work of the SBBT and its mission to provide opportunities for residents of South Boston. In her letter, she took exception to the term “Phantom Trust” used by Gelzinis.

I am not in a position to determine who is correct in this debate, since during the course of my research, it has been very difficult getting any information regarding the SBBT. According to the MOU of March 11, 1998, the SBBT was to be set up as a charitable organization pursuant to Massachusetts General Laws c. 180 and Section 501c(3) of the Internal Revenue Code. As late as July 12, 1999, the Massachusetts Attorney General’s office has no record of the South Boston Betterment Trust, even though they appear to be negotiating with developers regarding housing creation. When I called Councilor Kelly’s office to get clarification, I was told by his staff person that “they can not give out any information on the SBBT.” Several weeks worth of calls and emails to SBBT Chair Maryann McLeod Crush have resulted in more mystery. Perhaps Peter Gelzinis was harsh in calling the SBBT a phantom Trust, but it appears he wasn’t entirely incorrect. Several of the people I interviewed, both inside and outside of City Hall, did not believe linkage was “public” money, and therefore, the SBBT has no obligation to provide information to the general public. Others, myself included, believe that anytime money is collected for a public good (i.e. linkage money for affordable housing), it is public money and must follow all of the pertinent rules and regulations.

Although it is difficult to get information directly from the SBBT, a review of recent newspaper and internet articles gives a good indication of what the newly formed Trust

⁵ Gelzinis, Peter. *Boston Herald*. April 13, 1999.

will be spending their time on. On June 9, 1999, the *Boston Globe* reported that Mayor Tom Menino and South Boston City leaders were proposing to close the South Boston High School and build a new one in Dorchester. Southie leaders proposed turning the High School over to the SBBT for renovations into affordable housing for seniors. Commenting on how few South Boston youths attend the high school under the current assignment plan, Council President Kelly suggested that if it wasn't going to be South Boston's school, it should not be located in South Boston.⁶ South Boston State Representative Jack Hart echoed Kelly's comments by suggesting that the school had become a symbol of trouble rather than tradition, and outlined a plan for the old high school to be delegated to the South Boston Betterment Trust for conversion into affordable housing for seniors.⁷

Seven months earlier, Harborlights developer Don Law pledged an unsolicited \$1 million over ten years to South Boston's newly formed South Boston Harbor Academy Charter school. State Senator Stephan Lynch was a founder of the school and is a current board member. Law also pledged donations to local parochial schools, one of Councilor Kelly's favorite causes.⁸

Based on these unrelated news events, it appears that one of the goals for the SBBT will be to use linkage money to enhance the "neighborhood" schools, unless of course one of those schools houses children from other neighborhoods, is in need of repair, and can be replaced with affordable housing for people from the South Boston community.

The SBBT has also been very active negotiating community benefits with the developers of Fan Pier. Hyatt Development Corporation (the Pritzker family) has been trying to develop Fan Pier since 1987, with the latest attempt abandoned last year after the Menino administration withdrew its support due to community pressure. In an effort to finally win over the South Boston community, Hyatt hired local developer Spaulding and Slye to negotiate community benefits. According to a June 2, 1999 article in the *Wall Street*

⁶ Flint, Anthony. *Boston Globe*. June 9, 1999.

⁷ Ibid.

Journal, the development team conducted hundreds of meetings trying to absorb the demands of the community, politicians and environmental advocates.⁹ Many community benefits have already been negotiated including: a Boston Police Memorial for City Councilor Roache, a Cardinal Cushing Memorial for State Senator Lynch, a public plaza for U.S. Congressman Joe Moakley, and a water shuttle from Fan Pier to the Kennedy Museum for U.S. Senator Ted Kennedy. In addition, Fan Pier developers are promising to provide space for South Boston retailers in their buildings at the request of Councilor Davis-Mullen, and fishing pole rentals for South Boston residents.¹⁰ There will undoubtedly be more of these agreements made as the Fan Pier project nears the DIP approval stage with the BRA.

The most interesting negotiations between Fan Pier developers and South Boston community leaders appear to be in the area of housing creation. Councilor Kelly wants Hyatt to invest in “a substantial amount of housing” in the neighborhood and sell it below market prices. Kelly thinks this will be possible because the SBBT will acquire the land and donate it to Hyatt to keep the company’s costs down. According to Kelly, they are talking about more than 100 units of affordable housing (more than twice as much as the Home Again program will produce in two years), but are not revealing any of the information publicly. Apparently, no one in City Hall, including BRA Director O’Brien, has any idea what is happening in the negotiations between the SBBT and the developers.¹¹

On May 24, 1999, the Hyatt development team made a presentation to residents at the Tynan school in South Boston. The developers presented the Fan Pier project as an opportunity for the SBBT to get “off and running in creating below-market rate housing for long-time South Boston residents threatened with displacement.” Not missing a step in impressing the audience, the developer acknowledged the SBBT as the vehicle to “ensure that South Boston remains a vibrant neighborhood community providing

⁸ Cassidy, Tina. *Boston Globe*. April 19, 1998.

⁹ O’Donnell Anand, Geeta. *The Wall Street Journal*. June 2, 1999.

¹⁰ Ibid.

¹¹ Ibid.

opportunities for home ownership.” Dan O’Connell, from Spaulding and Slye, acknowledged that he had met twice with the SBBT and had “made a commitment in writing to get some affordable housing built now.”¹²

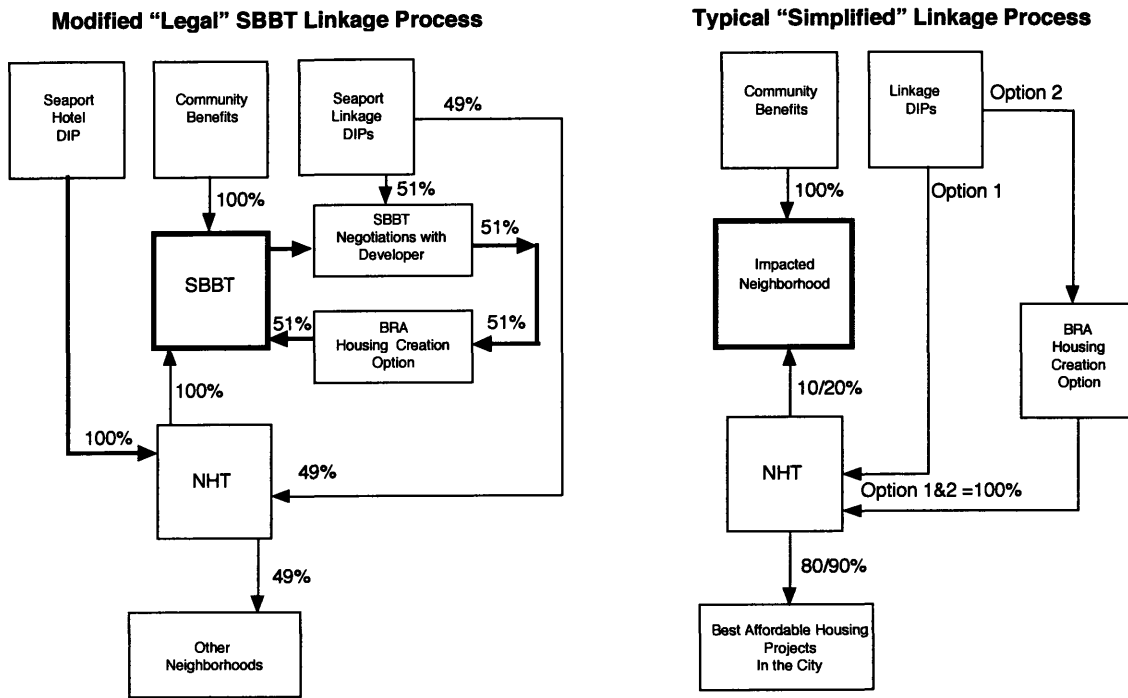


Figure 4-2

Based on these public statements made by the developers and South Boston leaders, it is clear that they have no intention of going through the standard linkage route with money flowing through the NHT (Figure 4-2). Assuming that the South Boston leadership has figured out or will soon figure out that they cannot legally receive housing contribution grants without going through the NHT, they must therefore be considering using the housing creation option. The unusual thing about the way negotiations appear to be taking place is that the BRA is uninvolved. As mentioned earlier, housing creation is an option run under the rules and regulations of the BRA, and can only be approved by that agency. My conclusion is that the SBBT is attempting to “customize” the linkage

¹² Dwyer, Kevin. www.Southbostononline.com.

process in order to better serve its needs (Figure 4-2). In this customized model, the SBBT negotiates directly with developers over housing creation opportunities. It will be very careful about putting together projects where the developer is determining who will live in the affordable housing in an attempt to keep it entirely for existing South Boston residents. After a deal is documented in writing, the developer will approach the BRA with a request for using the housing creation option in lieu of the housing contribution grant. Of course the BRA will approve the deal because it has a signed agreement with South Boston leaders.

The flaw in the SBBT plan is that building affordable housing in the City of Boston, especially using linkage money, requires the use of Federal Fair Housing guidelines. Any affordable units made available in South Boston will have to be advertised throughout the entire City, with tenants selected in an equitable manner. In the past, the South Boston community has gotten around this problem by targeting most of their affordable housing to Senior Citizens, who tend to stay in neighborhoods in which they are familiar. At some point, James Kelly and the SBBT are going to have to build housing for more than just seniors, and that is when the discussions will get interesting.

The other role the SBBT seems to be playing is urban designer for the City of Boston. As part of the March 11, 1998 MOU, South Boston leaders convinced the BRA to hold building heights in the Seaport to 150 feet, with the opportunity to negotiate additional height with the impacted community. Since the MOU also defined South Boston as the impacted community, Southies would gain the most from increasing building heights in the Seaport.

The developers of Fan Pier are currently negotiating with the SBBT, exchanging community benefits for additional building height as though a city-wide process for envisioning the new Seaport neighborhood had never taken place. Not only is this process unfair to the citizens of Boston who helped pay for over \$7.35 billion in infrastructure in the Seaport, it is unfair to South Boston's own residents in the Fort Point Channel neighborhood. At the Tynan School presentation, the Fan Pier developers

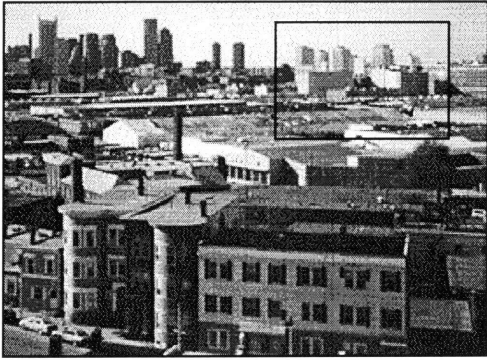


Figure 4-3: Future Fan Pier Skyline

Source: www.southbostononline.com

displayed a photo image of the future skyline as viewed from the Upper End of South Boston (Figure 4-3). The significance of the photo is that it clearly shows where the power is in South Boston, since the Fort Point Channel neighborhood, which will be living in the shadows of these office towers, is not involved in the negotiations.

Summary

There is a good reason for James Kelly to trust the SBBT as the mechanism for bringing linkage money home to South Boston. He invented it, he influenced the selection of its Trustees, and he appears to be closely involved with the negotiations it conducts and decisions it makes.

The SBBT has the potential to act as a unified voice for the community at a time when South Boston will be dramatically impacted by Seaport development. Unfortunately, the Trust does not appear to be truly “representative” of South Boston, and runs the risk of tearing the community apart instead of holding it together, which ironically was the original goal of the linkage program.

Because of South Boston’s long-standing mistrust of outsiders, the SBBT has been operating in a semi-secret mode, creatively negotiating closed-door deals with developers in the hope that the deals will not face the public regulations and scrutiny that other linkage awards in other neighborhoods routinely face. When a group of 15 people are given the opportunity to negotiate the design parameters for 1,000 acres of the city, and will be spending millions of dollars in taxpayer money, the larger community deserves to know who they are, where they meet, and how they make their decisions.

Chapter Five: Summary and Recommendations

Summary

After reviewing the history of South Boston, the history, legality and process of linkage, the NHT I and NHT II, the SBBT, and the planning process in the South Boston Seaport, the key issues can be summarized into the three P's: Power, Planning, and Purpose. In my summation, I will discuss how the decentralization of *power* within the Menino Administration at the very time South Boston leaders are centralizing power within their community has compromised the *planning* of the South Boston Seaport district. As the SBBT steps into the void left by City Hall, exchanging community benefits for zoning restrictions, the original *purpose* of linkage is subverted, leaving Boston's linkage program vulnerable to a legal challenge.

Power

Boston has a long history of vocal neighborhoods that demand their fair share when impacted by development. There is an equally long history, going back to the \$20,000 offered to the residents of Dorchester Neck in 1803, of the City negotiating with cash. When Mayor John F. Collins and BRA Director Ed Logue were in charge during the early 1960's, they had access to a seemingly endless supply of Federal money because of Logue's connections to bureaucrats in the Urban Renewal Program. At one community meeting, someone questioned if Ed Logue had a large enough budget to follow through on his promises to the local neighborhood. In response, Logue said that if he ran out of money, he would "take his wheelbarrow to Washington D.C. and get more".¹

¹ O'Malley, Tom. Boston Redevelopment Authority. Interview, June 9, 1999.

The important lesson from the Collins/Logue era is not only the amount of money they had, but equally significant, how they used it to centralize power within City Hall. Ed Logue came to Boston in 1959 to help newly elected Mayor Collins build Boston's urban renewal program. The first thing he did was to reorganize the two-year old BRA, which was the real estate arm of the city, and the Planning Board, into one organization. As Development Administrator, Logue used his political skills to build the new BRA into the city's largest and most influential agency. Though his staff reached over 500 in number, Logue kept control of the decision making process in the BRA, while forming partnerships with the neighborhoods.² If a neighborhood did not have a committee of people representing the interests of the community, the BRA would help set one up with the idea that it would not hold a public hearing on a rehabilitation plan unless the neighborhood committee had given its formal approval.³

Through the new BRA structure, Logue had managed to centralize an enormous amount of power. In *The Rehabilitation Planning Game*, Langley Keyes rationalized the importance of centralizing power in the Development Administrator's office in order to give it back to people in the neighborhoods. By working closely with the BRA, each neighborhood would have the ability to shape the plan for their area. In an interview with Keyes, Ed Logue said, "I don't think the people of West Roxbury have any right to decide what goes on in the South End. That is for the people of the South End to decide."⁴

If Ed Logue were still in charge of the BRA, he might think the South Boston Betterment Trust was a good vehicle for garnering South Boston's support for the development of the Seaport (assuming the SBBT represented all of the critical interest groups in the South Boston community, which it does not). Logue might also have used linkage money as a negotiating tool with the SBBT. If the SBBT wanted its share of linkage money, it would be accountable to him, and play by his rules.

² Keyes, Langley Carleton, Jr. *The Rehabilitation Planning Game: A Study in the Diversity of Neighborhood*. The MIT Press. 1969. p. 29.

³ Ibid., p.30.

⁴ Ibid., p.31.

Mayor Flynn and BRA Director Steve Coyle did not have Federal Urban Renewal money to negotiate with in 1984, so they found the next best thing, which was the newly formed linkage program. By filling the NHT I with City Hall insiders, the BRA was able to control the activities of the Trust, making linkage a viable negotiating tool for the Mayor. As an example, Steve Coyle ran into community resistance over his plans to close out the Urban Renewal Program in the South End in the late 1980's. He was able to negotiate his way out by agreeing to 70 percent affordable housing and backing it up by offering linkage contributions as incentives for developers to build that housing. When the BRA figured out that it had committed money at a faster rate than it was coming in to the NHT, it had the ability and the power to craft a creative linkage securitization process to receive the linkage payments faster and fulfill its commitments to the South End neighborhoods.⁵

In retrospect, the problem with the NHT I era of Flynn/Coyle was that the BRA controlled the linkage process, but did not “manage” its execution, causing all of the organizational, accounting and managerial problems described earlier. After Mayor Menino took office and the internal linkage report was completed, there was a change in the management of the linkage program, with the Treasury Department taking overall management responsibility and the DND taking on the Administering Agency role for the NHT. In an effort to fix the management problems, it appears that the Mayor reduced the BRA's role, eliminating his control mechanism for linkage. In addition, at Mayor Menino's direction, the NHT II Trustees were selected in 1996 based on their broad-based community representation instead of their affiliations with City Hall, creating the most diverse and independent Trust since the inception of linkage in Boston.

The transition from NHT I to NHT II marked a radical change in the Mayor's ability to negotiate with the neighborhoods, with the decentralization of the NHT II taking away one of his best negotiating tools. Ironically, just as Mayor Menino was relinquishing some of his negotiating power to the neighborhoods, one of the most important bargaining opportunities in the history of development in Boston was taking shape in the

⁵ Poston, Paul R. *Context and Strategy for Local Housing Initiatives: The Boston Linkage Program*. MIT Thesis. 1991. P. 53.

new South Boston Seaport, as the South Boston community gained impressive negotiating leverage around the proposal for a new Convention Center.

After decades of being the most prolific voters in the city, the big payoff for South Boston came on March 11, 1998 when its own Jimmy Kelly, City Council President, was in a position to stop Mayor Menino from realizing his dream of a new Convention Center in the South Boston Seaport District. Considering its long history of feeling taken advantage of by the City of Boston, South Boston's leaders were strategizing for much more than the location of a Convention Center, they were negotiating for the respect and independence they felt was long overdue.

Mayor Menino and BRA Director Tom O'Brien instinctively did what the Flynn administration had done before them: to use linkage as a bargaining tool. O'Brien negotiated a deal using the \$60 million in projected linkage money from the future development of the Seaport district, not once consulting with the newly formed "independent" NHT. Perhaps in anticipation of the NHT resistance to the deal, or as another form of expressing Southie's independence, the MOU provided for a new "South Boston Betterment Trust" to negotiate and receive additional "community benefits." By restricting building heights in the new Seaport to 150 feet and designating them as "Planned Development Areas", the BRA gave the SBBT another negotiating tool, effectively turning the planning of the Seaport over to South Boston.

Planning

One result of Mayor Menino's decentralization of power in the City is that neighborhoods become mini planning agencies, negotiating with developers over the parameters of every project. To enhance the neighborhood's negotiating ability, the City routinely under-zones and then looks the other way as "community benefits" become the center of the negotiation game. Of course, it is not a fair game, because developers are skilled negotiators with a keen awareness of their bottom line and an eye toward their

long term goal, while the neighborhoods are blinded by the short term allure of linkage.⁶ South Boston is not the only community in which this is occurring, but with 1,000 acres of land available for development, it is certainly the most obvious.

After the release of the much maligned *South Boston Seaport Master Plan* interim report in November of 1997, the BRA spent 15 months soliciting opinions and ideas for the new Seaport district. The entire city got involved, with organizations like the American Institute of Architects and the Seaport Alliance for a Neighborhood Design spending considerable time designing optional schemes, and advocacy groups outlining their concerns over the future of the Seaport, with building heights being one of the critical discussion items. In February of 1999, the BRA issued the final *Seaport Public Realm Plan*, a nicely rendered compilation of the combined vision for a mixed-use neighborhood on the waterfront. Any developer of land in the Seaport should have to read this 116 page document to get a good understanding of what will be expected of them. In fact, they will stop at page seven and know exactly what is expected of them. Several paragraphs describe in detail that the community of South Boston has set up the SBBT to negotiate community benefits in exchange for relaxation of zoning requirements.

South Boston will be determining building heights in much of the Seaport through a mechanism called a Planned Development Area (PDA). According to the *Seaport Public Realm Plan*,

“a PDA designation allows for a more comprehensive balancing of the impacts and benefits of a project. PDAs provide for both greater flexibility and additional controls for project development. Through the use of a PDA designation, the City may be able to achieve, to a greater degree, certain public policy goals for a particular area, such as more affordable housing or public improvements.”⁷

This is another way of saying that building heights are negotiable if you are willing to pay the price. PDA's might be defensible if the negotiations were being done by a

⁶ Kressel, Shirley. President, Boston Alliance of Neighborhoods. Interview. July 16, 1999.

⁷ Boston Redevelopment Authority. *The Seaport Public Realm Plan*. February 1999. P. 19.

professional Planning agency with the overall interests of the city in mind. Unfortunately, in this case, 15 months of city-wide discussion over building heights has been reduced to closed-door meetings between the SBBT and developers. The most obvious problem with this situation is that the SBBT is understandably looking out for its own interests and will consequently, most likely approve development in the Seaport that is the most rewarding from its financial point of view, regardless of what is best for the city as a whole.

Purpose of Linkage

When it was being proposed in 1983, the purpose of linkage was to mitigate the loss of affordable housing resulting from commercial office growth. Reluctant at first, developers soon learned that the advantage to linkage was that the rules were known and the deals were brought from under the table to above the table. Because Boston's linkage program was quasi-mandatory, "under-zoning" became common practice in order to maximize the number of projects requiring zoning relief, and hence the ability to negotiate community benefits. This process worked effectively when the BRA tightly controlled the negotiations. Now the neighborhoods have replaced the BRA at the negotiation table (as exemplified in South Boston), where the rules of linkage are getting less clear, and certainly less under the aegis of City Hall.

In 1998, the NHT approved the construction of 27 units of affordable housing throughout the City of Boston using linkage money. When those units are completed, an open process will allow every eligible family in the city a fair opportunity to purchase or rent one of the units. By contrast, the SBBT is negotiating privately with developers about hundreds of units of affordable housing, searching for creative ways to keep that housing in the hands of Southie residents.

While abdicating its linkage negotiations to the SBBT, the City is ultimately responsible for the decisions that get made. If at some point, the SBBT crosses the line of appropriateness, Boston's linkage program could be challenged in Court. Given the

City's track record with past management difficulties and poor record keeping, a legal challenge could be problematic.

The complex strategy issue then is: how can the City restore its control of the linkage program, fulfill its promises to the South Boston community, and still achieve the goal of creating a vibrant mixed-use neighborhood in the South Boston Seaport district?

The tendency in trying to answer a challenge like this is to panic and think it has to be solved before the next building rises from the earth in the Seaport district. It is important to realize, however, that this situation, in all its complexity, is one that took hundreds of years to develop. The residents of South Boston are not just negotiating about the development of the Seaport district, they are negotiating about generations of not feeling respected by the City of Boston. The linkage program has evolved for 16 years through two administrations to get to the point it is at today, while planning in Boston is still reacting to its failures during urban renewal in the West End.⁸

The good news is that it will take 30 years or more to develop the Seaport district, so there is still time for a thoughtful, methodical approach to the three seemingly contradictory goals. The important thing is to start now. To that end, I have outlined a series of recommendations for Mayor Menino using the following criteria:

- Those responsible for collecting and distributing public goods should do so with city-wide equity in mind.
- When dealing with public goods, transparency in decision making and intent is essential.
- The complexity of Boston's linkage program requires a sophisticated and rigorous process.
- If linkage is a form of exaction, there should be a "nexus" between where money is collected and spent.

⁸ The West End urban renewal project involved the bulldozing of a vibrant neighborhood for luxury apartments. It is commonly referred to as Boston's greatest planning disaster. Herbert Gans describes it well in his book, *The Urban Villagers* (New York:Free Press;Collier Macmillan Publishers. 1982).

- Zoning should be a serious planning tool, not simply a means for starting a negotiation.
- Decision-making power should be centralized within City Hall before being allocated to the neighborhoods.
- Elected officials are accountable to the voters and should exercise their policy intentions through appointed bodies that are in turn, accountable to the elected officials.

Recommendations

The first thing the Mayor should do is stabilize the linkage program. He can start this process by **assigning one person as the Linkage Coordinator for the City of Boston**. The Linkage Coordinator would be responsible for making sure that City staff, developers and neighborhoods utilize the linkage process as intended by City Ordinance and State Law. This person would ideally be in the Mayor's office, perhaps as "Special Assistant to the Mayor for Linkage Policy." The other departments and agencies would maintain their responsibilities such as the BRA controlling the DIP process and the DND working with affordable housing developers. The difference is, one person would be responsible for the smooth operation of the entire process and make sure coordination between the departments and agencies actually happens.

The first task for the new linkage coordinator should be to **address management issues that have not been resolved since the 1996 internal report**. While many improvements have been made, there appear to be some problem areas that are still not resolved. The *Boston Municipal Research Bureau* report of October 1998 appears to have solid recommendations that could be implemented, such as developing a policy manual clearly outlining the roles and responsibilities of all the departments and agencies involved with the linkage process. The Bureau also recommends a process for exchanging building permit and occupancy permit data between the BRA, Treasury

Department and ISD, by customizing the City's computer system for the linkage program.⁹

At the same time the management issues are being addressed, the Mayor should **strategically think about the membership of the NHT**. On January 1, 2000, the terms of all five NHT Trustees expire, which has traditionally meant that the Mayor gives every Trustee another two year term. In this case, I suggest he think very carefully about selecting Trustees that are closely aligned with his goals for the linkage program. He should begin staggering the terms of the NHT Trustees so there is a process for replacing members every year while retaining institutional memory on the Trust. This recommendation is not meant as a negative reflection on the current Trust, but recognizes the political reality that Mayor Menino is ultimately responsible for the linkage program during his term in office, and as such, needs to have more control over the process.

After the new Trust is in place, it should **start formally recognizing the 10/20 percent rule articulated in Article 26A of the Boston Zoning Ordinance**.¹⁰ Article 26A specifies a "minimum of 10 or 20 percent" of linkage money be allocated to the impacted community, but does not rule out allocating a higher percentage under special circumstances. A system should be developed for officially designating the impacted community and earmarking linkage money for it through the 10/20 rule. This will bring the issue of "nexus" back into the linkage picture, further solidifying the linkage program in Boston.

Once a clear system is in place for allocating money to impacted neighborhoods through the 10/20 rule, the Mayor should **publicly announce that the 51 percent linkage agreement as part of the MOU with South Boston is a modified version of the 10/20 rule**. It was probably not a good idea to negotiate 51percent of linkage away to the impacted community, and the Mayor will not want this to be a precedent setting event.

⁹ Boston Municipal Research Bureau, Inc. *Boston's Linkage Program: A New Approach To Managing Linkage Funds For Housing And Job Training*. October 1998. P.16.

¹⁰ The City Zoning Ordinance does not refer to it as the "10/20" rule. I am using the term for my convenience.

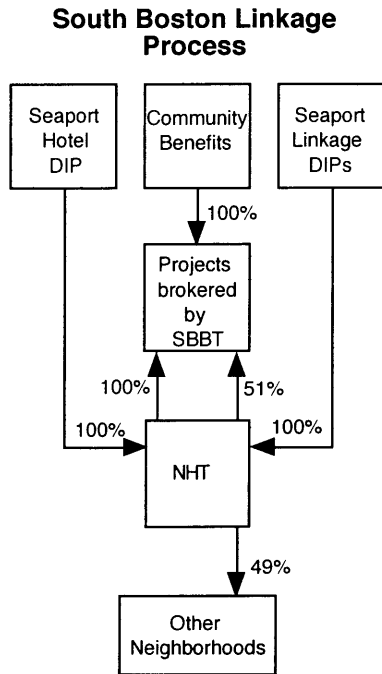


Figure 5-1

He can attempt to justify the rationale for giving South Boston 51 percent of the linkage money because this is the first time this volume of development is occurring directly in the impacted community, not just adjacent to it. In addition, he can argue that after the affordable housing opportunities are exhausted in the traditional South Boston neighborhood, the linkage money will be allocated to affordable housing opportunities in the Seaport transition zone creating a new vibrant mixed-income neighborhood which will benefit the entire city.

Today, the idea of convincing South Boston leaders that part of their linkage money will be spent in the Seaport is unthinkable. However, in one or two years, the first affordable housing projects will be built in South Boston, and the politicians will learn that they cannot legally choose who will live in the units. The appeal of the housing being built within the traditional neighborhood will be lost and they will probably be more agreeable to units being built in the Seaport.

At this point, the mechanism will be in place for funneling 51 percent of the housing contribution money and 100 percent of the Seaport Hotel linkage money to the South Boston community (Figure 5-1). To get the designated money from the NHT, the community will have to have affordable housing projects that meet the criteria set by the Trust.

Mayor Menino should **encourage the SBBT to take on the role of neighborhood broker**, working between the housing developers and the NHT, making sure the projects fit the goals of the neighborhood and the criteria of the NHT. This is really just a political move since the SBBT is not likely to go away after the linkage process is refined. For the broker plan to work, Mayor Menino should **encourage the SBBT to**

become more representative of the South Boston community. The SBBT will have no incentive to listen to Mayor Menino, but he could set an example at the next annual meeting of the Trust by using his three selections to place one person each from St. Vincent's, Andrew Square, and the Fort Point Channel neighborhoods on the SBBT.

The biggest problem left at this point would be the SBBT still negotiating directly with developers, exchanging zoning relief for community benefits. Somehow, Mayor Menino has to separate planning from linkage by eliminating the "community benefits for building heights" negotiations that are taking place between developers and the SBBT. His biggest challenge will be replacing the loss of community benefits that South Boston leaders negotiated so hard for in the MOU of March 11, 1998. He could start by convincing the City Council to change some key aspects of the linkage ordinance, which would also need to be approved by the State Legislature. These changes to the linkage program would have city-wide benefits in addition to appeasing South Boston. They include **changing Boston's quasi-mandatory linkage program to mandatory linkage, similar to San Francisco.** The biggest benefit to mandatory linkage is that it makes zoning a planning tool again. Instead of under-zoning the Seaport and having the SBBT negotiate linkage for building height, the City would zone based on the city-wide input it received during the planning process. If the public process determined that building heights should be a maximum of 150 feet on Fan Pier, it would be written into the zoning and changed only after further public hearings. As mentioned earlier, there are situations where negotiable zoning is appropriate, but only when orchestrated by a professional planning agency, not the neighborhoods.

In order to placate South Boston and other neighborhoods that rely on the community benefits they receive by negotiating zoning, **housing linkage fees should be raised to at least \$8 per square foot in February of 2001, and the exemption number should be reduced from 100,000 to 50,000 square feet.**¹¹ This will increase the cost to the developer, but should be balanced out by reducing the amount of community benefits

¹¹ The City Zoning Ordinance specifies that the linkage rate can be raised every third year with the next date being February 1, 2001.

they pay, once again bringing negotiations above the table. The City Zoning Ordinance specifies that the linkage rate can be increased every third year, but despite a 76 percent cost of living increase in Boston between 1983 and 1999, the City has chosen not to increase the fee.¹² I recommend leaving the linkage payment periods at seven and twelve years to reduce the financial burden on the developers.

My final recommendation is for the Linkage Coordinator to set up a special steering committee after the linkage program is running smoothly, in order to **evaluate methods for maximizing the effectiveness of the linkage program**. There are already dozens of promising ideas that have been generated by City employees over the past ten years, including a linkage revolving loan fund, letters of credit, and a buyers assistance program.¹³ Most of these ideas have not been implemented, and should be reviewed as possible ways to maximize the impact of Boston's linkage program.

Conclusion

Sixteen months after the signing of the MOU, the purpose and even the legality of the South Boston Betterment Trust remains a mystery that neither the Menino Administration nor the South Boston leaders seem anxious to clear up or even discuss. It could be that it is in the best interests of both camps to keep the role of the SBBT and the Seaport linkage process a mystery for as long as possible. Two years from now, when the linkage money starts coming in and someone from another neighborhood points out the illegalities of the negotiated agreement, Councilor Kelly can blame Tom O'Brien for not keeping his promises, and Mayor Menino can point to the Federal Fair Housing Regulations as the reason he can not live up to his end of the bargain. This might get the politicians out of hot water with their constituents, but it will only exacerbate the longstanding negative feelings in the South Boston neighborhood. After all, the South Boston neighborhood is

¹² I utilized the Consumer Price Index for Urban Wage Earners and Clerical Workers in Boston from 1983 to 1999, found on the Bureau of Labor Statistics web site.

¹³ These ideas and many more were outlined in an internal memo from Tom O'Malley and Tom McColgan to BRA Director Marisa Lago on May 23, 1994.

being impacted and there is a deal on the table that should be honored as much as possible within the legal confines of the linkage ordinance.

I have tried to lay out a complicated issue in as clear a framework as I could muster. I do not pretend to have all of the answers, but I do know that moving toward clarification and re-framing of the process before it turns into a political battle is important. By taking action sooner rather than later, as outlined in the previous recommendations, the City can restore its control of the linkage program, protecting its viability for future generations. In addition, it can fulfill its promises to the South Boston community while creating a vibrant mixed-use neighborhood in the South Boston Seaport district.

Appendix

MEMORANDUM OF UNDERSTANDING

by and between

Boston Redevelopment Authority

and

James M. Kelly, Stephen F. Lynch and John A. Hart, Jr.

This Memorandum of Understanding ("MOU") is entered into as of March 11, 1998 by and among the Boston Redevelopment Authority, James M. Kelly, Stephen F. Lynch and John A. Hart, Jr. regarding benefits to the residents of South Boston in connection with future development in the Seaport District, as hereinafter defined.

WHEREAS, pursuant Chapter 152 of the Acts of 1997 entitled "An Act Relative to the Construction and Financing of Convention and Exhibition Centers in the Commonwealth" (the "Act"), the Massachusetts Senate and the House of Representatives in General Court have authorized, among other things, the financing and construction of a new convention and exhibition center in the City of Boston (the "Convention Center"); and

WHEREAS, pursuant to the Act, the Boston Redevelopment Authority ("BRA"), a public body politic and corporate organized and existing pursuant to Chapter 121B of the Massachusetts General Laws and Chapter 652 of the Acts of 1960, is responsible for undertaking certain activities related to the establishment of the Convention Center, including without limitation, the acquisition of land required as and for a site for the Convention Center, and is further responsible for completing a master plan for zoning in the Seaport District (the "Master Plan"); and

WHEREAS, James M. Kelly, Stephen Lynch and John Hart (the "Representatives") are individuals residing in South Boston and are elected officials representing the citizens thereof, and have listened to the concerns of their neighbors and constituents regarding the impacts on South Boston of development in the Seaport District; and

WHEREAS, pursuant to Section 13(a)(1) of the Act, the Boston City Council (the "City Council"), a public body politic and corporate organized and existing pursuant to Chapter 452 of the Acts of 1948, must vote on or prior to March 11, 1998, on (i) whether to approve the Convention Center project as provided in Section 4 of the Act, and as defined in Section 2 of the Act (the "Project"), and (ii) on whether to authorize pursuant to Section 6(a) of the Act indebtedness or appropriate sums in an aggregate amount not exceeding \$157,800,000 for the Project; and

WHEREAS, further pursuant to Section 13(a) of the Act, neither the BRA nor the Massachusetts Convention Center Authority (the "MCCA") shall have the authority to proceed with the Project without the approval of the City Council; and

WHEREAS, the Representatives have deemed it to be in the public interest of South Boston to have this MOU signed by the parties hereto prior to the City Council taking the aforesaid votes; and

WHEREAS, the parties hereto acknowledge that the neighborhood of South Boston will be most impacted by development in the Seaport District; and

WHEREAS, the parties hereto have deemed it to be in the public interest that there shall be established a charitable organization to be known as the South Boston Betterment Trust (the "Trust") pursuant to Massachusetts General Laws c. 180 and Section 501(c)(3) of the Internal Revenue Code, the directors of which shall be residents of South Boston (including but not limited to its elected officials and other neighborhood leaders), selected by such officials and leaders, which Trust shall, in perpetuity, be the beneficiary of community benefits established pursuant to this MOU or to any agreements related to development in the Seaport District; and

WHEREAS, the BRA and the Representatives intend to cooperate and to coordinate their joint efforts with regard to the provision of benefits for the residents of South Boston in connection with future development in the Seaport District; and

NOW, THEREFORE, with this MOU, the BRA and the Representatives agree as follows:

Article 1

Definitions

As used in this MOU, the following terms shall have the definitions set forth below:

- a) "City" means the City of Boston.
- b) "Commonwealth" means the Commonwealth of Massachusetts.
- c) "Impacted Neighborhood" means South Boston.
- d) "Project" shall have the meaning set forth in Section 2 of the Act.
- e) "Seaport District" shall mean that portion of South Boston extending from the Fort Point Commercial Area to Industrial Port, situated Northerly and Northeasterly of the South Boston residential neighborhood, as more particularly described in the Interim Report dated December, 1997, entitled "The South Boston Seaport -- a Master Plan for the Fort Point and South Boston Waterfront -- Interim Report" issued by the City of Boston and the Boston Redevelopment Authority.
- f) All other terms not defined herein, but defined in the Act, shall have the meaning set forth in the Act.

Article 2

Employment and Job Training

- 2.1 Jobs Linkage. The BRA, working with the Neighborhood Jobs Trust, shall establish an aggregate annual goal of allocating no less than a majority of job linkage deriving from development within the Seaport District pursuant to Article 26B of the Boston Zoning Code, as a community benefit to residents of the Impacted Neighborhood, with the intention that such job linkage promote the job training and employment for residents of the Impacted Neighborhood and provide employment-related education scholarships for students from such Impacted Neighborhood.
- 2.2 Annual Linkage Monitor. A designee of the Mayor of the City from either the Neighborhood Housing Trust or the Neighborhood Jobs Trust, the Director of the BRA, a designee of the City Councilor of the district encompassing the Impacted Neighborhood (which designee shall be a resident of the Impacted Neighborhood), and the State Senator, State Representative and City Councilor representing the Impacted Neighborhood, shall meet once annually to monitor the progress of achieving the goals set forth in Sections 2. 1 and 3.1 herein and the administration of linkage deriving therefrom.

Article 3

Housing

- 3.1 Housing Linkage. The BRA, working with the Neighborhood Housing Trust, shall establish an annual aggregate goal of allocating no less than a majority of housing linkage deriving from development within the Seaport District pursuant to Article 26A of the Boston Zoning Code, as a community benefit to residents of the Impacted Neighborhood, for the purposes of developing affordable housing in the Impacted Neighborhood and assisting senior citizens, first time homebuyers and others who are residents therein with their housing needs.
- 3.2 Affordable Housing Sites. Within one hundred and eighty (180) days hereof, the BRA shall identify parcels of land available in South Boston for the development of affordable single and multi-family housing.
- 3.3 Encouragement of Site Purchases. The BRA shall use its best efforts, through cooperation agreements or otherwise, to include as a component of community benefits deriving from the Seaport District development a requirement that sites in the Impacted Neighborhood be purchased by the developer on behalf of the Trust for the development of affordable housing in the Impacted Neighborhood.

Article 4

Zoning and Design

- 4.1 Height Limitation. The BRA shall petition the Boston Zoning Commission to establish in the Seaport District a maximum as-of-right building height of one hundred fifty (150) feet. The BRA shall include a height limitation of no more than one hundred fifty (150) feet in its final Master Plan for Seaport District zoning, to ensure the residents of the Impacted Neighborhood that no developer (including, without limitation, the MCCA) may construct a building in the Seaport District in excess of one hundred and fifty (150) feet in height without such developer first (i) completing in the Impacted Neighborhood a public community review process; (ii) executing a written agreement obligating said developer to deliver certain benefits to the Impacted Neighborhood as discussed during the community review process; and (iii) either filing a Development Area development plan or master plan with and acceptable to the BRA (if such plan is required pursuant to Article 80 of the Boston Zoning Code or the Seaport District Master Plan, in which case the aforesaid benefits agreement shall be incorporated therein), or obtaining a variance or a conditional use permit from the City of Boston Board of Appeal which shall incorporate the aforesaid benefits agreement.
- 4.2 IPOD Extension. The BRA shall petition the Boston Zoning Commission to extend, as necessary, the new IPOD which affects, among other land, the land upon which the Convention Center is proposed to be built, and the surrounding buffer zone, so that such IPOD is effective until the Seaport District Master Plan takes effect; the Seaport District Master Plan shall, among other things, make permanent the said buffer zone.
- 4.3 Dorchester Avenue. The BRA shall use its best efforts to encourage the United States Postal Service to make Dorchester Avenue a public way.
- 4.4 Ongoing Traffic and Environmental Review. The BRA shall keep the Representatives apprised of the status and results of all traffic and environmental review of development projects in the Seaport District.

Article 5

Miscellaneous

- 5.1 MASSPORT. The Massachusetts Port Authority ("MASSPORT") hereby acknowledges that it is completing a Memorandum of Understanding with the BRA (the "MASSPORT/BRA MOU") whereby with respect to Seaport District Development, MASSPORT will complete a community and a BRA review process similar to that set forth in Article 80 of the Boston Zoning Code, as more particularly set forth in the MASSPORT/BRA MOU, and will keep the residents of the Impacted Neighborhood informed of MASSPORT's prospective development plans by holding no fewer than two public meetings annually in the Impacted

Neighborhood, all as evidenced by the letter from MASSPORT, which is attached hereto as Exhibit A incorporated herein.

- 5.2 Binding Effect. This MOU is a legally binding document having the full force and effect of the law between the parties and their successors in office, assignees and agents, and shall be enforceable by the signatories hereto in a court of law by equitable relief, but shall create no rights hereunder in any party not a signatory hereto.
- 5.3 Applicable Law. This MOU shall be interpreted in accordance with the laws of the Commonwealth of Massachusetts.
- 5.4 Captions. The captions to the various Articles and Sections hereof have been inserted in this MOU for convenience only and shall not affect the meaning of the language therein.
- 5.5 Entire Agreement. This MOU sets forth the entire agreement of the parties hereto with respect to the subject matter contained herein, and no amendment of this MOU shall be effective unless it is in writing and signed by the parties to this MOU.

IN WITNESS WHEREOF, on this 11th day of March, 1998, the Director of the Boston Redevelopment Authority, and the Representatives have executed this Agreement.

BOSTON REDEVELOPMENT AUTHORITY,



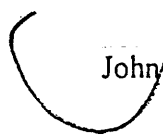
Thomas N. O'Brien
Director



James M. Kelly, in his capacity as District City Councilor, District 2



Stephen F. Lynch, in his capacity as State Senator, 1st Suffolk District



John A. Hart, Jr. in his capacity as State Representative, 4th Suffolk District

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In addition to the interviewees listed above, I interviewed several South Boston residents and City employees that asked to remain anonymous.