

## ESSAY

### SUBURBS AS EXIT, SUBURBS AS ENTRANCE

*Nicole Stelle Garnett\**

*Most academics assume that suburbanites are “exiters” who have abandoned central cities. The exit story is a foundational one in the fields of land-use and local-government law: exiters’ historical, social, and economic connections with “their” center cities are frequently used to justify both growth controls and regional government. The exit story, however, no longer captures the American suburban experience. For a majority of Americans, suburbs have become points of entrance to, not exit from, urban life. Most suburbanites are “enterers”—people who were born in, or migrated directly to, suburbs and who have not spent time living in any central city. This Essay reexamines current debates about growth management and regional governance in light of the underappreciated suburbs-as-entrance story. The exit paradigm provides a powerful normative justification for policies constraining urban growth. When it is stripped away, proponents are left with utilitarian arguments. Economists challenge these arguments by showing that metropolitan fragmentation actually may be efficiency enhancing—and these arguments may ring hollow with suburban enterers themselves. This Essay sounds a cautionary note in the growth management and regional government debates. The exit story is an outdated rhetorical flourish that tends to oversimplify the case for—and camouflage the complexities of—policies restricting suburban growth, especially when it comes to distributional and transitional-fairness concerns.*

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\* John Cardinal O’Hara, CSC Associate Professor of Law, Notre Dame Law School. I received valuable insights on this project at a University of Chicago Law School Works-in-Progress Workshop and at the 2006 meeting of the Social Science History Association, especially from the program moderator, Andrew Beveridge. I am also indebted to Tricia Bellia, Alejandro Camacho, Richard Dilworth, Lee Fennell, Rick Garnett, Todd Henderson, John Nagle, Mary Ellen O’Connell, Peter Schuck, and Lior Strahilevitz for helpful comments on previous drafts. Eric Babbs provided excellent research assistance.

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#### INTRODUCTION

Most academic discussions assume that suburbs are places of exit. According to the conventional account, suburbanites abandoned cities in favor of an isolated, privatized realm. Municipal incorporation laws shield suburbs from city governments that might otherwise annex them; suburban land-use policies exclude otherwise mobile, poor, urban residents who would like to be their neighbors. The exit story is a foundation of land-use and local-government law. Not only is exit considered a primary cause of intrametropolitan inequality, but proponents of growth management and regional government argue that former urban dwellers who exit for the suburbs remain, in important respects, part of the urban polity. Exiters' historical, social, and economic connections to their center cities are used to justify both growth controls and regional government.

The exit story accurately describes much of the history of American suburban development. From their inception, American suburbs were self-consciously anti-urban. Post-Civil War suburbs reflected the Victorian ideal of the home as a semipastoral retreat both from the cold, calculating world of commerce and industry and from the burgeoning immigrant ghettos.<sup>1</sup> By the late nineteenth century, suburbanites had begun to spurn larger cities' consolidation and annexation overtures and to guarantee political autonomy by defensively incorporating their communities as independent municipalities.<sup>2</sup> This suburbanization-as-exit phenomenon continued apace throughout the twentieth century. It reached its zenith after World War II, when legal and demographic changes spawned white flight from previously stable urban enclaves. In recent years, African Americans and other minorities have become exiters as well. During the 1990s, in fact, minorities were responsible for the bulk of suburban population gains in many major metropolitan areas.<sup>3</sup> A majority of Asian Americans, half of Hispanic

1. See KENNETH T. JACKSON, *CRABGRASS FRONTIER: THE SUBURBANIZATION OF THE UNITED STATES* 46, 56–57 (1985) (noting that, while early-nineteenth century peripheral cities modeled themselves on their urban, industrialized neighbors, late-nineteenth century suburbs self-consciously embodied the anti-urban ideal).

2. See *id.* at 148–50. See generally, e.g., RICHARDSON DILWORTH, *THE URBAN ORIGINS OF SUBURBAN AUTONOMY* (2005).

3. William H. Frey, *Melting Pot Suburbs: A Study of Suburban Diversity*, in 1 *REDEFINING URBAN AND SUBURBAN AMERICA: EVIDENCE FROM CENSUS 2000*, at 155, 163 (Bruce Katz & Robert E. Lang eds., 2003) [hereinafter *REDEFINING*, Vol. 1].

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Americans, and nearly forty percent of African Americans are now suburbanites.<sup>4</sup>

The exit story no longer captures the American suburban experience. For a majority of Americans, suburbs have become points of entrance to, not exit from, “urban” life. The U.S. Census Bureau defines “urbanized areas” as central cities and areas around them that have a population of 1000 or more people per square mile.<sup>5</sup> By this definition, suburbs are the only “urban” areas most Americans have ever known. Most suburbanites are “enterers”—people who were born in, or migrated directly to, suburbs and who have not spent time living in any central city. By the 1960s, more Americans lived in suburbs than in central cities;<sup>6</sup> the employment balance shifted to the suburbs by the 1980s.<sup>7</sup> By 1990, the United States had become a suburban nation, with a solid majority of all Americans residing in the suburbs.<sup>8</sup> As a result, many suburban residents likely are second- or third-generation exiters. Perhaps their parents or grandparents left the old neighborhood, but their own experience is entirely suburban. Other suburbanites lack even this historical connection with the center city closest to their suburban homes. For example, the nation’s fastest-growing suburbs—on the fringes of “New Sunbelt” cities—benefit from domestic migration from other parts of the country<sup>9</sup>: they may absorb more Rust Belt exiters than hometown exiters. Finally, two groups of suburbanites—new immigrants who increasingly bypass city centers for new immigrant gateways<sup>10</sup> and domestic migrants from depopulating rural areas—lack social and historical connections with *any* major U.S. urban center.

This Essay situates the underappreciated suburbs-as-entrance story within current debates about growth management and regional governance. The exit paradigm provides a powerful normative justification for metropolitan solidarity by tying the fortunes of center cities to the selfish actions of surrounding communities and their residents. Demands to remedy the “inequitable” distribution of fiscal resources within a metropolitan area are most powerful if those benefiting from the inequities helped create them by abandoning their former neighbors. Similarly, proponents of regional government can most plausibly assert that a metropolitan region is, in reality, a single polity when the residents of outlying areas share social, economic,

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4. *Id.* at 167–74.

5. ROBERT BRUEGMANN, *SPRAWL: A COMPACT HISTORY* 62 fig.9 (2005).

6. See PETER O. MULLER, *CONTEMPORARY SUBURBAN AMERICA* 4 (1981).

7. See John D. Kasarda, *Industrial Restructuring and the Changing Location of Jobs*, in 1 *STATE OF THE UNION: AMERICA IN THE 1990s*, at 215, 220 (Reynolds Farley ed., 1995).

8. Kevin M. Kruse & Thomas J. Sugrue, *Introduction to THE NEW SUBURBAN HISTORY* 1, 1 (Kevin M. Kruse & Thomas J. Sugrue eds., 2006).

9. See William H. Frey, *Metropolitan Magnets for International and Domestic Migrants*, in 2 *REDEFINING URBAN AND SUBURBAN AMERICA: EVIDENCE FROM CENSUS 2000*, at 13, 25–33 (Alan Berube et al. eds., 2005) [hereinafter *REDEFINING*, VOL. 2].

10. See generally Audrey Singer, *The Rise of New Immigrant Gateways: Historical Flows, Recent Settlement Trends*, in *REDEFINING*, VOL. 2, *supra* note 9, at 41, 56–62.

and historical connections to the region's anchor city and to one another. When the exit account is stripped away, however, regional government and growth control proponents must increasingly fall back on utilitarian arguments: metropolitan fragmentation is inefficient, suburban fortunes stand or fall with the fortunes of center cities, and so on. Not only are these arguments challenged by economists who argue that metropolitan fragmentation is efficiency enhancing, but they may also ring hollow with suburban enterers who have little or no affinity for (or connection to) urban life.

This Essay does not argue that the entrance story requires unfettered suburban growth or obliterates the case against metropolitan fragmentation. Municipal boundaries *are* arbitrary, intrametropolitan inequality *is* troubling, and self-interested suburbanites *do* impose externalities on their neighbors. Rather, the Essay seeks to sound a cautionary note in the debate over growth management and regional government. The exit story is an outdated rhetorical flourish that tends to oversimplify the case for—and camouflage the complexities of—policies restricting suburban growth, especially when it comes to distributional and transitional-fairness concerns.

#### I. THE EXIT STORY

Cities have spawned suburbs throughout history. The earliest suburbs developed primarily to accommodate noxious land uses and provide housing for those too poor to afford the protection of city walls.<sup>11</sup> (Ancient Romans referred to this area as “suburbium.”<sup>12</sup>) The wealthiest urbanites, however, also built suburban homes to escape the evils of city life—congestion, disease, and unrest. Indeed, as early as 539 BC, the emperor of Persia received a letter from a subject extolling the virtues of suburban life: “Our property seems to me the most beautiful in the world. It is so close to Babylon that we enjoy all the advantages of the city, and yet when we come home we are away from all the noise and dust.”<sup>13</sup> By the early modern period, as increasing numbers of city residents could afford suburban life, development beyond city walls exploded throughout the Western world.<sup>14</sup> While industrialization increased population density in cities, it also drove residents with financial means to flee the unpleasant and dangerous aspects of urban life (including city crowding).<sup>15</sup> By the turn of the twentieth century, the latter phenomenon overtook the former. In both Europe and the United States, the

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11. BRUEGMANN, *supra* note 5, at 21–23.

12. *Id.* at 23.

13. JACKSON, *supra* note 1, at 12.

14. *See* BRUEGMANN, *supra* note 5, at 24–28.

15. *Id.* at 26–27 (noting that, in the early years of the twentieth century, densities in the Lower East Side of Manhattan peaked at more than 400,000 people per square mile and further observing that the same area began to empty rapidly as immigrants gained the money to buy housing in less-dense neighborhoods outside the city).

urban form began decentralizing rapidly, as more and more city residents fled to new suburban communities.<sup>16</sup>

### A. *Exit Begins*

By the mid-nineteenth century, American suburban developments began gaining prestige, as city conditions worsened and transportation improvements made daily commuting possible. Even before the Civil War, wealthy Americans began to flee center-city neighborhoods for the first bedroom communities—New York’s Brooklyn Heights, Philadelphia’s Germantown, and San Francisco’s Nob Hill.<sup>17</sup> As historian Kenneth Jackson has observed, however, ideology, as well as technology and economics, fueled the phenomenal growth of American suburbia. Americans fell in love with the suburbs and grew to loathe the city. Flight from the city to the suburbs became the American ideal.<sup>18</sup>

Americans had good reasons to flee nineteenth-century cities. Industrialization made them crowded, dangerous, unhealthy places to live. But the decision to leave the city for the suburbs was, for many, ideological as well as practical. Industrialization had separated work and home for the first time in human history,<sup>19</sup> giving rise to the Victorian-era “cult of domesticity,” which held that home and work were separate spheres of human existence: “[t]he market was a male sphere of competitive self-seeking, while the home was celebrated as a female sphere, a site of spiritual uplift that offered relief from the vicissitudes of market struggle.”<sup>20</sup> The home became an oasis of comfort for husbands returning weary from the daily struggle and, importantly, a fortress that shielded women and children from the corruption of modern economic forces.<sup>21</sup> Scholars have convincingly linked the phenomenal suburban growth in the United States following the Civil War to Americans’ peculiarly strong endorsement of this “separate spheres” ideology. Suburban communities provided protective enclaves for the all-important home. As

16. *Id.* at 25–28.

17. JACKSON, *supra* note 1, at 25–32.

18. *Id.* at 47–61.

19. See Nicole Stelle Garnett, *On Castles and Commerce: Zoning Law and the Home Business Dilemma*, 42 WM. & MARY L. REV. 1191, 1200–01 (2001).

20. Reva B. Siegal, *Home as Work: The First Woman’s Rights Claims Concerning Wives’ Household Labor, 1850–1880*, 103 YALE L.J. 1073, 1093 (1994).

21. See generally NANCY F. COTT, *THE BONDS OF WOMANHOOD: “WOMAN’S SPHERE” IN NEW ENGLAND, 1780–1835*, at 63–100 (1977) (discussing domesticity and the woman’s role in the home); DOLORES HAYDEN, *REDESIGNING THE AMERICAN DREAM: THE FUTURE OF HOUSING, WORK, AND FAMILY LIFE* 68–74 (1984) (discussing three approaches to defining the domestic role of women in light of the industrial revolution); WALTER E. HOUGHTON, *THE VICTORIAN FRAME OF MIND 1830–1870*, at 341–47 (1957) (discussing the role of the family and the home “[a]t the center of Victorian life”); JACKSON, *supra* note 1, at 48–49 (discussing the rise of industrialism and its effect on the American family); GWENDOLYN WRIGHT, *BUILDING THE DREAM: A SOCIAL HISTORY OF HOUSING IN AMERICA* 75–79 (1981) (discussing the American home in the nineteenth century); Frances E. Olsen, *The Family and the Market: A Study of Ideology and Legal Reform*, 96 HARV. L. REV. 1497, 1497–1528 (1983) (discussing the ideology of the family and the market).

Jackson observes, “[t]he suburban ideal offered the promise of . . . retreat from commercialism and industry,” and every suburban home—from the Victorian mansion to the workingman’s cottage—“seemed immune to the dislocations of an industrializing society and cut off from the toil and turbulence of emerging immigrant ghettos.”<sup>22</sup>

By the turn of the twentieth century, abundant land and technological advances in both transportation and construction methods brought suburban homes within the financial reach of more and more Americans.<sup>23</sup> By 1920, “exit” had become a mass phenomenon. Fredrick Law Olmsted’s vision of “ruralizing *all* our urban population” was both within reach and shared by suburban political leaders who spoke of their *duty* to rescue the working man from the evil vicissitudes of city life.<sup>24</sup> In the decades that followed, even big city boosters (and, importantly, their wives) would choose suburban homes for the good of their families.<sup>25</sup> Thus, Gerald Gamm has argued that the true origins of the decline of American cities and the problems commonly associated with that decline began by the 1920s, not, as many historians assert, after World War II. By the 1920s, the urban exodus was well underway.<sup>26</sup> Postwar exit, discussed below, was different in scale, but not in kind, from earlier waves of suburbanization. The postwar economic boom enabled more people than ever before to choose a suburban life.<sup>27</sup> Indeed, while many commentators assume that suburban sprawl is an ever-accelerating phenomenon, the decentralization of urban areas in the United States actually peaked between the 1920s and the 1950s.<sup>28</sup>

### B. “White Flight”

Race and class have long influenced American suburbanization. Early suburban boosters, including luminaries like Frederick Law Olmsted, were

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22. JACKSON, *supra* note 1, at 71–72. *See also* WRIGHT, *supra* note 21, at 107–09 (describing connections between the “separate spheres” ideology and early suburban developments).

23. *See* JACKSON, *supra* note 1, at 136 (“For the first time in the history of the world, middle-class families . . . could reasonably expect to buy a detached home on an accessible lot in a safe and sanitary environment.”); WRIGHT, *supra* note 21, at 99–104.

24. ROBERT FISHMAN, *BOURGEOIS UTOPIAS: THE RISE AND FALL OF SUBURBIA* 129 (1987) (quoting Letter from Frederick Law Olmsted to Edward Everett Hale (Oct. 21, 1869) (on file with the Library of Congress)). *See also, e.g.*, DILWORTH, *supra* note 2, at 121 (2005) (discussing how Hoboken, New Jersey, boosters promoted the town as “a suburban location where one could escape “the trials of the big city”).

25. *See* JON C. TEAFORD, *CITY AND SUBURB: THE POLITICAL FRAGMENTATION OF METROPOLITAN AMERICA, 1850–1970*, at 85–90 (1979) (noting that city business leaders during the expansionist era chose bedroom suburbs for their home life).

26. *See* GERALD GAMM, *URBAN EXODUS: WHY THE JEWS LEFT BOSTON AND THE CATHOLICS STAYED* 24–26 (1999) (arguing that neighborhood change began in the 1920s with the rise of streetcar suburbs and culminated in the 1950s and 1960s).

27. *See* BRUEGMANN, *supra* note 5, at 42–43.

28. *See, e.g., id.* at 67–69.

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convinced that “ruralizing” urban immigrants would Americanize them.<sup>29</sup> These beliefs later were codified in zoning laws promoted by Progressive-era “positive environmentalists,” who “believed that changing surroundings would change behavior.”<sup>30</sup> There is little historical dispute that many early suburban exiters fled cities for a related reason—to distance themselves from urban immigrants. Richardson Dilworth’s recent treatment of early suburbs, for example, includes a colorful account of one suburban community’s opposition to certain “Sunday activities” associated with Newark’s large immigrant population. Annexation by Newark, the Bloomfield paper warned, would be “beer gardens and Sunday baseball galore.”<sup>31</sup> Not surprisingly, race and class lurked just below the surface of legal skirmishes leading to the Supreme Court’s ratification of zoning in *Village of Euclid v. Ambler Realty Co.*<sup>32</sup> In the lower court, District Judge Westenhaver compared the Village of Euclid’s zoning ordinance to the racial zoning law invalidated a few years earlier in *Buchanan v. Warley*.<sup>33</sup> He warned that, just as racial zoning would have “spread from city to city throughout the length and breadth of the land[,] . . . it is equally apparent that the next step [after zoning] . . . would be to apply similar restrictions for the purpose of segregating in like manner various groups of newly arrived immigrants.”<sup>34</sup>

While prewar suburbanization had racial and ethnic overtones—early middle- and upper-middle-class suburban enclaves developed in response to the Protestant elite’s desire to separate from Catholic and Jewish immigrants—resistance to neighborhood integration following World War II sharpened the association between race and suburban exit. Somewhat ironically, descendants of these Catholic and Jewish immigrants fled the stable urban enclaves built by their unwelcome grandparents in earlier decades. Many of these communities were originally suburban: they were built by and for blue-collar workers who themselves sought escape from the perils and discomforts of industrial cities. These denser, poorer suburbs, however, were quickly absorbed by annexation and became “city” neighborhoods.<sup>35</sup> White exodus began prior to the postwar period, and the departure of late exiters from these working-class neighborhoods that had sustained urban life throughout the first half of the twentieth century represented the final unravelling of many center cities.

Historians dispute the extent to which integration pressures, which began to build before World War II, precipitated the urban crisis. Thomas

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29. See FISHMAN, *supra* note 24, at 126–29 (quoting Letter from Frederick Law Olmsted to Edward Everett Hale (Oct. 21, 1869) (on file with the Library of Congress)).

30. Richard H. Chused, *Euclid’s Historical Imagery*, 51 CASE W. RES. L. REV. 597, 601 (2001).

31. DILWORTH, *supra* note 2, at 178.

32. 272 U.S. 365 (1926).

33. 245 U.S. 60 (1917) (invalidating ordinance prohibiting “colored” people from occupying certain houses).

34. *Ambler Realty Co. v. Vill. of Euclid*, 297 F. 307, 313 (N.D. Ohio 1924).

35. BRUEGMANN, *supra* note 5, at 27–28.

Sugrue and Arnold Hirsch, for example, provide the conventional account—that the ultimate nail in the urban coffin was postwar white flight from rapidly integrating city neighborhoods.<sup>36</sup> Others, notably Gerald Gamm, argue that postwar exiters were really the last strands of an already frayed urban fabric.<sup>37</sup> There is no question, however, that race played a major role in the great wave of postwar suburban exit. Gamm may be correct that prewar ethnic enclaves were produced by the same forces that were already pulling cities apart, but their disappearance after World War II was in large part a response to racial pressure. Gamm persuasively argues that religious rules and institutions—specifically the territorial parish—rooted Catholics in urban communities far longer than other white urban dwellers.<sup>38</sup> This “rootedness” slowed Catholic suburbanization and led Catholics to resist neighborhood integration energetically, even violently.<sup>39</sup> Although a few urban Catholic strongholds remain, most white Catholics eventually suburbanized.<sup>40</sup> And while race was not the only factor that pushed them to the suburbs, it was certainly a major factor.<sup>41</sup>

Some historians, most recently Kevin Kruse, have suggested that suburbanization was a form of “massive resistance” to school desegregation efforts, especially in southern cities.<sup>42</sup> Fears about school integration likely drove some white residents to the suburbs even before *Brown v. Board of Education*,<sup>43</sup> particularly in cities without de jure segregation. Becky Nicolaidis, for example, recounts how, as early as 1926, residents in the South Gate neighborhood of Los Angeles County sought to transfer their children from the Watts School District to the wealthier Huntington Park City School District, at least in part to avoid integrated schools.<sup>44</sup> School integration fears were not a factor in southern states prior to 1954. And even after *Brown*, integration of *public* schools was not a major concern for many urban Catholics, who chose (and were required by their church) to send their children to parochial schools. As John McGreevy has observed, “[g]iven that white families tended to abandon a neighborhood when the number of minority students in the public schools increased dramatically, [Catholic]

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36. See generally ARNOLD R. HIRSCH, *MAKING THE SECOND GHETTO: RACE AND HOUSING IN CHICAGO, 1940–1960* (1983); THOMAS J. SUGRUE, *THE ORIGINS OF THE URBAN CRISIS: RACE AND INEQUALITY IN POSTWAR DETROIT* (1996).

37. Gamm, *supra* note 26, at 27.

38. *Id.* at 237–47.

39. See, e.g., *id.* at 276–77.

40. See, e.g., STEVEN M. AVELLA, *THIS CONFIDENT CHURCH: CATHOLIC LEADERSHIP AND LIFE IN CHICAGO, 1940–1965*, at 79 (1992) (discussing the suburbanization of Chicago Catholics); Gamm, *supra* note 26, at 276–78.

41. See generally JOHN T. MCGREEVY, *PARISH BOUNDARIES: THE CATHOLIC ENCOUNTER WITH RACE IN THE TWENTIETH-CENTURY URBAN NORTH* 79–132 (1996).

42. See KEVIN M. KRUSE, *WHITE FLIGHT: ATLANTA AND THE MAKING OF MODERN CONSERVATISM* 167–69 (2005).

43. 347 U.S. 483 (1954).

44. See BECKY M. NICOLAIDES, *MY BLUE HEAVEN: LIFE AND POLITICS IN THE WORKING CLASS SUBURBS OF LOS ANGELES, 1920–1965*, at 156–68 (2002).

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schools also enabled white Catholic families . . . to remain in the city longer than their non-Catholic counterparts.”<sup>45</sup> Catholic schools had their own integration battles, of course, some of which undoubtedly affected white Catholics’ residential choices.<sup>46</sup>

Available data also support the conventional wisdom that pressure from federal courts to integrate public schools fueled suburbanization in many American cities. A number of studies document significant declines in white public school enrollment following the implementation of forced integration decrees. The empirical evidence further suggests that school desegregation efforts also affected whites’ residential choices.<sup>47</sup> It is worth noting, however, that courts did not implement forced integration plans until the 1960s and 1970s, a half century after the urban exodus began and two decades into the wave of postwar suburbanization.<sup>48</sup> Desegregation, therefore, may have accelerated the final stages of exit by driving late exiters away from their urban neighborhoods. Suburbs undoubtedly absorbed and (as discussed in more detail below) extended legal protection to exiters fleeing integration. “White flight” from desegregation decrees, however, probably came too late to be a primary cause of suburbanization.

### *C. Exit Rights (and Responsibilities)*

Two early twentieth century developments had the effect of legally protecting suburbanites who wished to permanently exit the center city. The first was the rise of municipal fragmentation; the second was zoning. These legal developments effectively created “exit rights” by entitling suburban communities to independent political status and endowing them with the legal tools to define an entirely suburban existence.

Throughout the nineteenth century, all major American cities gained territory by annexing unincorporated suburban communities and consolidating with incorporated ones. Given the pressing need for city services, few suburban communities could afford to spurn annexation overtures, which frequently came with the promise of extended infrastructure.<sup>49</sup> Moreover, state legislatures at this time generally favored municipal expansion, going so far as to ratify forcible annexations and consolidations.<sup>50</sup> The rate of mu-

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45. MCGREEVY, *supra* note 41, at 240–41.

46. *See id.* at 88–91, 180–81.

47. *See, e.g.*, CHARLES T. CLOTFELTER, *AFTER Brown: THE RISE AND RETREAT OF SCHOOL DESEGREGATION* 81–96 (2004) (reviewing literature on this topic).

48. *See id.* at 25–29; *see also* Swann v. Charlotte-Mecklenburg Bd. of Educ., 402 U.S. 1, 28–32 (1971) (ordering district to desegregate schools even if it required cross-town busing); Alexander v. Holmes County Bd. of Educ., 396 U.S. 19 (1969) (ordering district to desegregate schools “at once”); Green v. County Sch. Bd., 391 U.S. 430, 442 (1968) (establishing an affirmative obligation to desegregate).

49. *See* TEAFORD, *supra* note 25, at 77 (“During the nineteenth century, suburban residents . . . sought annexation or consolidation because of the superior municipal services offered by the central city.”)

50. *See* JACKSON, *supra* note 1, at 150–53.

nicipal territorial expansion began to decline, however, in the late-nineteenth and early-twentieth centuries, and annexations had screeched to a halt by 1930 (at least with respect to older, industrial cities). For example, between 1850 and 1910, New York City grew by 277 square miles (from just 22 square miles to 299 square miles); between 1910 and 1980, it expanded only 5 miles. Similarly, Philadelphia grew from 2 square miles to 130 square miles between 1850 and 1910; it lost 2 square miles between 1910 and 1980.<sup>51</sup> Scholars have posited several explanations for the decline, all related to suburban communities' desire to immunize themselves against urban acquisition. By the last years of the nineteenth century, technological advances in public infrastructure limited cities' ability to woo suburbanites with the promise of extended city services. Freed from dependence on urban services and infrastructure, political independence became all the more attractive to suburbanites who associated urban governance with immigrant ghettos, high taxes, and corruption.<sup>52</sup> At the same time, state legislatures began to respect suburbanites' desire for self-determination. Forcible annexations and consolidations ceased, and unincorporated communities began using general municipal incorporation procedures to stop their absorption into the urban polity. With the rise of this practice, commonly known as "defensive incorporation," metropolitan fragmentation emerged.

In a 2004 article, William Fischel connected the rise of metropolitan fragmentation with another early-twentieth-century legal development—Euclidean zoning.<sup>53</sup> Residents of early-twentieth-century suburbs, Fischel argues, were anxious about the invasion of residential communities by non-conforming uses. Zoning protected residents from these invasions and therefore guaranteed stable property values and the concomitant tax revenues.<sup>54</sup> Zoning also gave local governments a legal mechanism for preventing the influx of large industries demanding capital-intensive city services. Prior to zoning, the inevitability of "urban uses and urban densities," Fischel hypothesized, made annexation and consolidation overtures attractive to suburban communities. But with the widespread adoption of zoning, suburban communities no longer viewed industrial or urban development as inevitable. Once they could control their land-use densities, suburbs no longer needed access to city services and infrastructure. Instead, they could affordably provide the less-intense services demanded by a residential and commercial citizenry, either alone or in cooperation with other suburban governments. Thus, zoning accelerated the practice of defensive

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51. See *id.* at 140. See also TEAFORD, *supra* note 25, at 76–77 (observing that the expansion of most major cities through annexation ceased by 1920).

52. See TEAFORD, *supra* note 25, at 77–84 (linking suburban political independence to the declining need for city services and rising concerns about urban corruption). See generally DILWORTH, *supra* note 2 (positing a connection between early metropolitan fragmentation and the development of infrastructure technology).

53. William A. Fischel, *An Economic History of Zoning and a Cure for its Exclusionary Effects*, 41 URB. STUD. 317 (2004).

54. *Id.* at 322–25.

incorporation, as increasing numbers of communities sought to guarantee long-term legal control over land uses (and, relatedly, over their tax bases).<sup>55</sup>

Postwar suburbs perfected the arts of defensive incorporation and exclusionary zoning. Some suburban communities, eager to avoid annexation but cautious about the costs of running a local government, became “cities by contract”: postincorporation, they continued to purchase most essential government services from private entities or other local governments.<sup>56</sup> Newly incorporated municipalities used their power to regulate land uses to price out poor and moderate-income migrants through a variety of exclusionary zoning techniques—limiting multifamily housing, mandating large lots, or restricting all new development.<sup>57</sup> Because exclusionary zoning protects past exiters from future ones, it raises serious transitional-fairness questions.<sup>58</sup> It also has racial ramifications, both because low (but improving) income levels and home-ownership rates make minorities the last exiters<sup>59</sup> and because federal constitutional law shields suburban school districts from the reach of urban desegregation decrees.<sup>60</sup>

#### D. *The Last Exiters?*

In a hopeful addendum to these tales, today’s exiters are predominantly minorities, many of whom were precluded by economic circumstances, exclusionary zoning, and intentional discrimination from joining previous waves of exit. Not only were minorities responsible for the bulk of suburban population gains in the 1990s, but the suburbs of many metropolitan areas also lost white residents.<sup>61</sup> There are many reasons to assume that, at least

55. *Id.* at 326. For further discussion, see chapter ten of WILLIAM A. FISCHER, *THE HOMEVOTER HYPOTHESIS* (2001).

56. See, e.g., NANCY BURNS, *THE FORMATION OF AMERICAN LOCAL GOVERNMENTS: PRIVATE VALUES IN PUBLIC INSTITUTIONS* (1994); GARY J. MILLER, *CITIES BY CONTRACT: THE POLITICS OF MUNICIPAL INCORPORATION* (1981).

57. See, e.g., Richard Briffault, *The Local Government Boundary Problem in Metropolitan Areas*, 48 STAN. L. REV. 1115, 1136–37 (1996) (describing exclusionary zoning); Sheryll D. Cashin, *Localism, Self-Interest, and the Tyranny of the Favored Quarter: Addressing the Barriers to the New Regionalism*, 88 GEO. L.J. 1985, 1993–95 (2000).

58. See, e.g., Nicole Stelle Garnett, *Unsubsidizing Suburbia*, 90 MINN. L. REV. 459, 495–96 (2005) (discussing transitional-fairness questions raised by restrictions like impact fees on urban-suburban mobility). See generally Saul Levmore, *Changes, Anticipations, and Reparations*, 99 COLUM. L. REV. 1657 (1999) (discussing transitional-fairness rules).

59. See CARMEN DENAVAS-WALT ET AL., U.S. CENSUS BUREAU, *INCOME, POVERTY, AND HEALTH INSURANCE COVERAGE IN THE UNITED STATES: 2003* (2004), <http://www.census.gov/prod/2004pubs/p60-226.pdf> (showing whites have higher incomes than all minority groups but Asians); HOUS. & HOUSEHOLD ECON. STATISTICS DIV., U.S. CENSUS BUREAU, *HOUSING VACANCIES AND HOMEOWNERSHIP—ANNUAL STATISTICS 2005* tbl.20 (2005), <http://www.census.gov/hhes/www/housing/hvs/annual05/ann05t20.html> (last visited May 15, 2007).

60. See, e.g., *Milliken v. Bradley*, 418 U.S. 717 (1974) (holding that a federal court could not include a suburban school district in a forced desegregation effort absent evidence that the district engaged in intentional past discrimination).

61. See Frey, *supra* note 3, at 159–65; see also Michael Jones-Correa, *Reshaping the American Dream: Immigrants, Ethnic Minorities, and the Politics of the New Suburbs*, in *THE NEW SUBURBAN HISTORY*, *supra* note 8, at 183, 184 (“[T]he suburbanization of immigrants, as well as

with respect to African Americans, many of these new suburbanites are ex- iters, following the century-old pattern of leaving center cities when it becomes feasible for them to do so. (More than twice as many Hispanics and Asians live in the suburbs as do African Americans, although, for reasons discussed below, it is more difficult to differentiate enterers from ex- iters in these groups.)

In 1968, the National Advisory Commission on Civil Disorders, or the Kerner Commission, predicted that virtually all increases in African American populations within metropolitan areas would be concentrated in central cities.<sup>62</sup> This mistaken assumption resulted from a reasonable extrapolation from ongoing demographic trends. While a handful of African Americans suburbanized before World War II (for example, a small subset of those who relocated from the rural South during the Great Migration ended up in suburbs rather than central cities),<sup>63</sup> most did not join the great wave of postwar suburban exit.<sup>64</sup> Contrary to the Kerner Commission's pessimistic predictions, however, African American suburbanization began accelerating in the 1970s. Between 1970 and 1995, the number of African American suburbanites increased from 3.6 million to 10.6 million, and the proportion of African Americans living in suburbs nearly doubled, from less than one-sixth to nearly one-third.<sup>65</sup> During the last two decades of the twentieth century, as many African Americans moved to the suburbs as in the preceding seventy years.<sup>66</sup> Today, approximately 40 percent of African Americans live in the suburbs.

Overall demographic trends suggest that many of these new suburbanites are ex- iters.<sup>67</sup> Importantly, since the 1980s, African Americans have undertaken what some scholars call the second Great Migration. Over the past two decades, a number of highly segregated northern central cities lost blacks to southern metropolitan areas.<sup>68</sup> The vast majority of metropolitan

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that of ethnic and racial minorities more generally, is approaching, and in some cases has surpassed, that of the population as a whole.”).

62. STEPHAN THERNSTROM & ABIGAIL THERNSTROM, *AMERICA IN BLACK AND WHITE* 204–206 (1997).

63. See ANDREW WIESE, *PLACES OF THEIR OWN: AFRICAN-AMERICAN SUBURBANIZATION IN THE TWENTIETH CENTURY* 5–10 (2004). For a demographic overview of African American suburbanization, see STEPHAN THERNSTROM & ABIGAIL THERNSTROM, *AMERICA IN BLACK AND WHITE* 211–13 (1997).

64. The number of African Americans within center cities increased during the period, as ex- iters' departures freed previously unavailable, and higher-quality, urban housing options. See, e.g., Brian J.L. Berry, *Ghetto Expansion and Single-Family Housing Prices: Chicago, 1968–1972*, 3 J. URB. ECON. 397, 417 (1976) (arguing that suburbanization led to a massive chain of moves, which mitigated price effects of racial discrimination in urban Chicago and enabled many families to improve their living situations).

65. THERNSTROM & THERNSTROM, *supra* note 63, at 212.

66. WIESE, *supra* note 63, at 255.

67. *Id.* at 264 (“In contrast to whites, who were most likely to have moved from one suburb to another, African Americans who moved to suburbs in the 1980s and 1990s frequently asserted their hopes in the form of a contrast between the suburbs they imagined and the city they knew.”).

68. See *id.* at 255.

areas gaining African Americans are in the South.<sup>69</sup> Moreover, African American *suburban* gains have also been concentrated in southern metropolitan areas, reversing historical trends.<sup>70</sup> African Americans now compose more than one-quarter of the *total* suburban population in metropolitan Atlanta. (African Americans compose less than 10 percent of the total suburban population in most cities.)<sup>71</sup> Some of the African American suburban population gains are the result of suburban sprawl—the urbanization of previously rural areas with large black populations. Many new African American suburbanites, however, are cross-country exiters from northern cities:<sup>72</sup> not only do African American migrants prefer southern metropolitan areas,<sup>73</sup> but black migrants to the South are more likely to reside in suburban areas than are long-term African American residents, in part because African American exiters tend to be better educated and wealthier.<sup>74</sup> These demographic changes support the promising trajectory toward suburban integration, especially in southern metropolitan areas.<sup>75</sup> While early African American suburbanites frequently settled in majority-black suburbs,<sup>76</sup> black suburban population gains in recent decades have fueled suburban integration.<sup>77</sup> African Americans, especially those who are middle class and well educated (and therefore most likely to be exiters), increasingly are choosing to live in majority-white suburban communities.<sup>78</sup>

69. See William H. Frey, *The New Great Migration: Black Americans' Return to the South, 1965–2000*, in REDEFINING, VOL. 2, *supra* note 9, at 87, 95 (demonstrating that between 1995 and 2000, thirty-three of the forty metropolitan areas with the largest black population gains were in the South).

70. WIESE, *supra* note 63, at 16 (noting that most early black suburbanization took place in southern and midwestern metropolitan areas).

71. Frey, *supra* note 3, at 172.

72. See William H. Frey, *Census 2000 Shows Large Black Return to the South, Reinforcing the Region's "White-Black" Demographic Profile 4* (Univ. Mich. Population Studies Ctr., Research Report No. 01-473, 2001) (noting that 81 percent of black migrants to the South selected a suburban location), available at <http://www.psc.isr.umich.edu/pubs/pdf/rr01-473.pdf>.

73. Frey, *supra* note 69, at 95–98 (noting that, between 1990–2000, the top destinations for midwestern and northern black migrants were all in the South; in contrast, white migrants tended to favor western and southwestern metropolitan areas).

74. See William H. Frey, *Black Movement to the South, and Regional Concentration of the Races 4* (Univ. of Mich. Population Studies Ctr., Research Report No. 98–412, 1998) (noting that migrants are more likely to reside in suburban locations than long-term residents), available at <http://www.psc.isr.umich.edu/pubs/pdf/rr98-412.pdf>; Frey, *supra* note 69, at 99 (noting that migration to the South raised the overall educational attainment levels of southern blacks).

75. See Edward L. Glaeser & Jacob L. Vigdor, *Racial Segregation: Promising News*, in REDEFINING, VOL. 1, *supra* note 3, at 211, 216 (noting that levels of black/white segregation are now at their lowest point since the 1920s).

76. *Id.* at 216–17; Frey, *supra* note 3, at 164–65. See generally Sheryll D. Cashin, *Middle Class Black Suburbs and the State of Integration: A Post-Integrationist Vision for Metropolitan America*, 86 CORNELL L. REV. 729 (2001) (discussing black middle-class suburbs).

77. See Thomas J. Phelan & Mark Schneider, *Race, Ethnicity, and Class in American Suburbs*, 31 URB. AFF. REV. 659, 662–63 (1996) (comparing data on 1773 suburbs in 1980 and 1990 and finding that, of 328 suburbs with “significant” black population—that is, more than twenty-eight percent—only 87 were majority black).

78. See WIESE, *supra* note 63, at 285.

## II. THE ENTRANCE STORY

The exit story may not be over, but it has certainly reached its denouement. Since the 1980s, a majority of Americans have lived in suburbs, but increasingly few of them are exiters—that is, former urban dwellers who left the center city that anchors the metropolitan area in which they live. Indeed, with the important exception of minority exiters, it is more accurate to describe suburbs as points of entrance to, not exit from, urban life. Suburban life is the only “urban” life that most Americans know: many suburban residents are native suburbanites; others migrated directly to suburbs, either from abroad or from nonmetropolitan areas. Increasing numbers, as I suggest above, moved to their current suburban homes from other metropolitan regions. All of these enterers lack a historical connection to—and many lack knowledge of, or affinity for—the center city that anchors their new suburban home.

## A. Native Suburbanites and Domestic Migrants

Population deconcentration in the United States began before World War I and continued apace throughout the twentieth century. By the 1960s, more people lived in the suburbs than in major cities.<sup>79</sup> (The metropolitan employment balance shifted to the suburbs a decade later, in the mid-1970s.<sup>80</sup>) In the 1980s, the United States became a suburban nation, and for over two decades, a majority of *all* U.S. residents have lived in the suburbs, suggesting that most Americans are today—or will soon be—native suburbanites. The number of exiters in the suburbs is thus dwindling rapidly. Suburbanites’ historical ties to the urban center grow more attenuated with each new generation: they live on in grandparents’ memories of the old neighborhood, but most suburbanites have no connection of their own.

Many suburban residents lack *any* historical connection to the urban exit story. These suburbanites are rural exiters and those rural exiters’ children and grandchildren. The demographic changes of the twentieth century did not only affect major urban centers: nonmetropolitan America also underwent a radical transformation, as millions of small-town and rural residents migrated to major metropolitan areas. Between 1900 and today, the percentage of the U.S. population living in rural and nonmetropolitan areas fell from over 60 percent to 17 percent.<sup>81</sup> Since 1920, U.S. urbanized areas (as

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79. MULLER, *supra* note 6, at 4.

80. See Kasarda, *supra* note 7, at 215, 239–40.

81. See GLENN V. FUGUITT ET AL., RURAL AND SMALL TOWN AMERICA 20–21 (1989) (describing the trend between 1900 and 1980); Kenneth Johnson, *Demographic Trends in Rural and Small Town America*, 1 UNIV. N.H. CARSEY INST. REP. ON RURAL AM. No. 1, 2006, at 1–2 (listing current population figures), available at [http://www.carseyinstitute.unh.edu/documents/Demographics\\_complete\\_file.pdf](http://www.carseyinstitute.unh.edu/documents/Demographics_complete_file.pdf). Since 1950, the Census Bureau has defined “rural” areas to encompass the remainder of those areas not classified as “urban.” U.S. Census Bureau, Urban and Rural Definitions (Oct. 1995), <http://www.census.gov/population/censusdata/urdef.txt> (last visited May 16, 2007). Urban areas are defined to include jurisdictions or census-designated places with populations greater than 2500 and to include “urbanized areas.” *Id.* (Prior to 1950, the definition of rural ex-

defined by the Census Bureau) grew by 253 percent. Some of this growth occurred when suburbs consumed previously rural areas, but most of it arose from domestic migration toward cities.<sup>82</sup>

As early as 1957, Donald Bogue observed that “suburban rings are a destination of large numbers of migrants coming directly from nonmetropolitan areas,” leading him to conclude that “the old theory that the metropolitan area grows largely by outward radial expansion from the center is no longer valid.”<sup>83</sup> Bogue found, in fact, that one-half of metropolitan growth between 1940 and 1950 occurred “without benefit of mediation through the central city.”<sup>84</sup> Because the populations of metropolitan areas grew far more rapidly than populations in center cities declined, we can deduce that this pattern of rural exiters migrating to suburbs continued throughout the twentieth century. With the exception of African Americans, who tended (at least until recently) to migrate from the rural South to the urban North, most nonmetropolitan migrants move directly to the suburbs. The suburbs are their entrance to metropolitan America and the closest thing to an “urban” life that most will likely ever know.<sup>85</sup>

Other domestic migrants join these nonmetropolitan enterers in their suburban communities. Edward Glaeser and Jesse Shapiro helpfully summarized much of the 2000 Census as follows: “Warm, dry places grew. Cold, wet places declined.”<sup>86</sup> This pattern, which reflects postwar trends generally, held true for both cities and their suburbs. Western and southern cities and their suburbs grew faster than midwestern and northeastern ones, with western cities and suburbs growing the fastest.<sup>87</sup> The fastest-growing suburbs are what Robert Lang and Patrick Simmons have described as “boomburbs”—municipalities with populations over 100,000 that are not the largest cities in their metropolitan areas but have experienced double-digit rates of

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cluded incorporated areas, regardless of their population. *Id.*) Urbanized areas have a population density of more than 1000 people per square mile and a minimum overall population of 50,000. FUGUITT ET AL., *supra*, at 6. “Nonmetropolitan areas” are defined as urbanized areas with a population of less than 50,000 people. *Id.*

82. Nonmetropolitan areas experienced net emigration from the 1940s through the 1960s and again in the 1980s. Nonmetropolitan areas experienced net immigration in the 1970s and again since 1990. See Johnson, *supra* note 81, at 8–11.

83. DONALD J. BOGUE, COMPONENTS OF POPULATION CHANGE 1940–1950: ESTIMATES OF NET MIGRATION AND NATURAL INCREASE FOR EACH STANDARD METROPOLITAN AREA AND STATE ECONOMIC AREA 35 (1957).

84. *Id.*

85. For information on nonmetropolitan-suburban migration, see MICHAEL J. GREENWOOD, MIGRATION AND ECONOMIC GROWTH IN THE UNITED STATES: NATIONAL, REGIONAL, AND METROPOLITAN PERSPECTIVES 201–04 (1981); Charles F. Adams et al., *Flight from Blight and Metropolitan Suburbanization Revisited*, 31 URB. AFF. REV. 529, 533, 537 (1996); and Reynolds Farley, *Components of Suburban Population Growth*, in THE CHANGING FACE OF THE SUBURBS 3 (Barry Schwartz ed., 1976).

86. Edward L. Glaeser & Jesse M. Shapiro, *City Growth: Which Places Grew and Why*, in REDEFINING, VOL. 1, *supra* note 3, at 13, 31.

87. *Id.* at 13–32; see also Alan Berube, *Gaining But Losing Ground: Population Change in Large Cities and Their Suburbs*, in REDEFINING, VOL. 1, *supra* note 3, at 33.

population growth in recent decades.<sup>88</sup> Most boomburbs are located in the Sun Belt, many are overgrown master planned communities, and some did not even exist a few decades ago. Many boomburbs are also more diverse than smaller suburbs, and many have fairly large immigrant populations.<sup>89</sup> Explanations for these demographic changes vary (as a resident of a cold, wet place, I favor weather), but the trends further unravel the exit story. Millions of suburbanites now live thousands of miles from their ancestral homes—not dozens of miles (as would be the case for true exiters) or hundreds of miles (as might be the case for rural enterers).

### B. *The New Immigrant Gateways*

In the United States, the immigrant experience and the exit story have long been intertwined. Many early suburbs developed partly in reaction to (and revulsion of) immigrant ghettos and their Catholic and Jewish residents. Others developed to enable immigrants to exit those ghettos. Especially during the nineteenth century, many immigrants settled immediately in rural areas.<sup>90</sup> But for most of the past century, immigration to—and eventual migration away from—gateway cities has been the paradigmatic American tale. The path from the city to the suburb was, for many immigrants, a long road that ended decades or even generations after they arrived. Suburban exit was, in some sense, the ultimate act of assimilation.<sup>91</sup>

The vast majority of immigrants continue to settle in major metropolitan areas, especially in traditional gateways like New York and Los Angeles. In the 1990s, 94 percent of foreign-born residents lived in metropolitan areas, and 40 percent lived in the New York or Los Angeles metropolitan areas.

Over the past few decades, however, immigrants have increasingly suburbanized. This trend is one reason why suburbs are becoming so diverse.<sup>92</sup> In 1999, the U.S. immigrant population was evenly divided between urban areas (47 percent) and suburbs (48 percent).<sup>93</sup> Evidence from the 2000 Census suggests that many immigrant suburbanites are true enterers: they move directly to the suburbs upon arriving in the United States. In 2000, forty-eight percent of immigrants who arrived during the 1990s were already residing outside central cities.<sup>94</sup> Suburbs of gateway metropolitan areas also gained more immigrants in *absolute numbers* as well as in percentage

88. See Robert E. Lang & Patrick A. Simmons, “Boomburbs”: *The Emergence of Large, Fast-Growing Suburban Cities*, in REDEFINING, VOL. 1, *supra* note 3, at 101.

89. *Id.* at 101–14.

90. See, e.g., THOMAS J. ARCHDEACON, BECOMING AMERICAN: AN ETHNIC HISTORY 104 (1983) (discussing nineteenth-century German immigration patterns).

91. See RICHARD ALBA & VICTOR NEE, REMAKING THE AMERICAN MAINSTREAM: ASSIMILATION AND CONTEMPORARY IMMIGRATION 254 (2003).

92. Hispanics are driving minority suburbanization trends across the United States, but the most diverse suburban areas are located in “melting pot metros” in the West that have large Asian and Hispanic immigrant populations. See Frey, *supra* note 3, at 174.

93. See Jones-Correa, *supra* note 61, at 184.

94. ALBA & NEE, *supra* note 91, at 254.

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growth.<sup>95</sup> (The suburban immigrant population of the Atlanta and Las Vegas metropolitan areas increased by 283% and 251%, respectively!)<sup>96</sup> The conclusion that many immigrants are suburban enterers also flows from the fact that the most diverse suburban areas are located in “melting pot metros” in the West that have large Asian and Hispanic immigrant populations.<sup>97</sup>

### III. THE CASE(S) FOR METROPOLITAN SOLIDARITY IN A POSTEXIT WORLD

The exit story has long played a central role in the case for metropolitan governance. Regional government and growth-control proponents frequently assert that the current system of local government law unjustly protects suburbanites from their urban neighbors, shielding them from the economic burdens for which they are historically responsible and from social relationships that might challenge their preferences for homogeneity and isolation. This exit-based account provides a strong normative case against metropolitan fragmentation, suggesting that local government law unjustly and artificially divides metropolitan regions. These regions, according to the standard account, are, in reality, single economic and political communities, artificially divided into legally distinct polities.<sup>98</sup>

#### A. *The Exit Story as a Normative Justification for Regionalism*

Suburbanites’ shared responsibility for regional burdens generally, and for urban problems specifically, serves as a primary normative justification for regional-governance and growth-management policies. The two versions of this “responsibility account” are both intertwined with the exit story. First, regional government and growth-control proponents’ objections to intrametropolitan economic inequalities frequently become intertwined with specific historical assertions that suburbanites selfishly fled “their” center cities. Exiters’ collective decision to abandon their former neighbors is cited as the reason that suburbanites should be forced to bear their fair share of regional burdens. This sentiment is reflected in the work of Jerry Frug, who

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95. In the 1990s, the immigrant population in suburbs grew by 66 percent (compared to 43 percent in cities), and by the end of the 1990s, suburbs had 3,000,000 more immigrant residents than did cities. Audrey Singer, *The Rise of the New Immigrant Gateways*, in REDEFINING, VOL. 2, *supra* note 9, at 41, 58.

96. *Id.* at 60.

97. Frey, *supra* note 3, at 155.

98. See, e.g., GERALD E. FRUG, CITY MAKING: BUILDING COMMUNITIES WITHOUT BUILDING WALLS 106–09 (1999) (suggesting regional legislatures as a way of overcoming social isolation); *id.* at 167–95 (arguing for regionally allocating the burdens of city services); MYRON ORFIELD, METROPOLITICS: A REGIONAL AGENDA FOR COMMUNITY AND STABILITY 2–14 (1997) (discussing the interconnectedness of metropolitan regions and asserting that metropolitan problems result from residents moving “up and out” of the urban core); NEAL R. PEIRCE, CITISTATES: HOW URBAN AMERICA CAN PROSPER IN A COMPETITIVE WORLD 291–325 (1993) (arguing that metropolitan regions are, in reality, single polities tied to historical centers); Briffault, *supra* note 57, at 1141–42 (connecting incorporation and race); Cashin, *supra* note 57, at 1995–98 (reviewing the “normative debate” over regionalism).

asserts that “millions of people have escaped city problems by crossing the boundary between city and suburb . . . segregat[ing] many of America’s metropolitan areas into ‘two nations’: rich and poor, white and black, expanding and contracting.”<sup>99</sup> It is also a foundational assumption of Myron Orfield’s influential work on regional government. Orfield argues that “[t]hroughout the United States, people move ‘up and out,’ taking their economic and social resources with them and leaving behind an increasingly dense core of poverty in the city and rapidly growing social needs in older suburbs.”<sup>100</sup>

The second version of the responsibility account holds that suburban and urban residents are, in reality, part of the same metropolitan community. Neal Peirce succinctly summarized this view when he asserted that “metropolitan regions . . . are the true cities of our time.”<sup>101</sup> Edward Rubin has argued, in a different context, that Americans have become “puppy federalists”: although we live in a socially and economically homogenous nation, with stronger national identities than local ones, we maintain nostalgia for our “bygone federalist system.”<sup>102</sup> Although I do not subscribe to Rubin’s general conclusions about constitutional federalism,<sup>103</sup> he undoubtedly captures a truth about the modern American psyche. And if state allegiances are fading, surely our local ones are, for many Americans, nonexistent: whereas just a few decades ago, many urban Catholics (and some non-Catholics) would respond to the question, where are you from? with their local *parish* name, most modern suburbanites likely would respond by naming their region’s anchor city. For example, a migrant to Chandler, Arizona, from metro Detroit or Sonora, Mexico, might well tell relatives back home that she has moved to “Phoenix.” Psychology aside, the continued importance of center cities is supported by substantial evidence linking overall regional health with center-city fortunes<sup>104</sup> and suggesting that commuters to city jobs tend

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99. Jerry Frug, *Decentering Decentralization*, 60 U. CHI. L. REV. 253, 256 (1993); *see also* FRUG, *supra* note 98, at 3–4 (arguing that local government law enables suburbs to “entice[] millions of people to escape the problems associated with America’s central cities by crossing the city/suburb boundary”); Jerry Frug, *The Geography of Community*, 48 STAN. L. REV. 1047, 1066 (1996) (complaining that wealthy suburbanites invoke the danger of center cities to explain their residential choices, despite the fact that “these are the very people who, by moving . . . have been able to escape paying the city taxes that are designed to improve the quality of life in poor African-American neighborhoods”).

100. ORFIELD, *supra* note 98, at 2.

101. Neal Peirce, *Regionalism and Technology*, 85 NAT’L CIVIC REV., Spring–Summer 1996, at 59, 59; *see also* DAVID RUSK, *CITIES WITHOUT SUBURBS* 5 (2d ed. 1995) (“The real city is the total metropolitan area—city and suburb.”); Richard Briffault, *Localism and Regionalism*, 48 BUFF. L. REV. 1, 3 (2000) (“[A] region is a real economic, social, and ecological unit.”).

102. Edward L. Rubin, *Puppy Federalism and the Blessings of America*, 574 ANNALS AM. ACAD. POL. & SOC. SCI. 37, 45–47 (2001).

103. *See generally* Edward L. Rubin & Malcolm Feeley, *Federalism: Some Notes on a National Neurosis*, 41 UCLA L. REV. 903 (1994) (arguing that constitutional federalism is antiquated and unjustified).

104. *See, e.g.*, PEIRCE, *supra* note 98, at 19–20, 131–32, 292, 308–11; RUSK, *supra* note 101, at 72–73; Briffault, *supra* note 57, at 1137–40; Briffault, *supra* note 101, at 13–14 (discussing literature).

to have higher wages than suburban employees.<sup>105</sup> Richard Briffault is certainly right that “[r]egions, not the cities within them, function as labor markets and housing markets . . . . Cultural and educational institutions . . . serve broader regions than just their home cities. Environmental and natural resource questions . . . transcend local boundaries.”<sup>106</sup> Most suburbanites undoubtedly cross municipal boundaries many times a day, and some of them enjoy urban cultural and economic amenities without contributing to the cost of maintaining them.<sup>107</sup>

Yet while these realities press us to question our fragmented system of local governance, the entrance account substantially complicates the claim that metropolitan regions are today’s “communities.” The difficulty is that central cities likely play only a small role in the economic lives of most suburban enterers. The metropolitan employment balance shifted to the suburbs three decades ago: by 1990, the number of suburb-to-suburb or intrasuburb commuters outnumbered traditional suburb-to-center-city commuters by a two-to-one margin.<sup>108</sup> Although some center cities continue to serve as retail and cultural playgrounds, these kinds of amenities are also increasingly found in suburbs.<sup>109</sup> In 1990, for example, over 70 percent of retail and manufacturing jobs were located in the suburbs.<sup>110</sup> Moreover, for the reasons discussed below, *enterers* formed by decidedly antiurban experiences may lack the aesthetic and cultural affinities that would lead them to take advantage of urban amenities.

Of course, the exit account is not the only normative basis for limiting suburban growth, rethinking the current system of fragmented local authority within metropolitan regions, or both. Some scholars, notably Sheryll Cashin, argue forcefully that the current distribution of resources among the various municipalities within our metropolitan regions is unjustifiable.<sup>111</sup> Suburban parochialism is especially unseemly, however, when suburban residents share historic, social, and economic ties to their center city. Absent a theory linking the fortunes of center cities and suburbs—which the exit account often provides—complaints about the wealth of suburbs vis-à-vis

105. Clayton P. Gillette, *Regionalization and Interlocal Bargains*, 76 N.Y.U. L. REV. 190, 241–42 (2001).

106. Briffault, *supra* note 101, at 3.

107. See Richard Briffault, *Our Localism: Part II—Localism and Legal Theory*, 90 COLUM. L. REV. 346, 443 (1990) (asserting that suburbanites routinely deny that “[t]he city was the primary center of jobs and commercial and cultural institutions for the region”); Gillette, *supra* note 105, at 241 (“[S]uburbanites exploit the central city by taking advantage of the cultural and commercial benefits . . . but then retreat without contributing to the services necessary to provide those benefits and without redressing the social problems endemic to cities.”).

108. Craig N. Oren, *Getting Commuters Out of Their Cars: What Went Wrong?*, 17 STAN. ENVTL. L.J. 141, 168 (1998).

109. Cf., e.g., BRUEGMANN, *supra* note 5, at 221 (“[S]ome attractive central cities will become essentially resort areas filled with second homes.”); JOEL KOTKIN, *THE CITY: A GLOBAL HISTORY* 151–54 (2005) (expressing concern that Bruegmann’s prediction may come to pass).

110. See Nicole Stelle Garnett, *The Road from Welfare to Work: Informal Transportation and the Urban Poor*, 38 HARV. J. ON LEGIS. 173, 179 (2001).

111. See Cashin, *supra* note 57, at 2002–10.

their anchor cities sound like a general demand for distributive justice. We can ground a stronger case for suburban responsibility not on exitters' *act* of abandonment, nor on the skewed distribution of metropolitan resources, but rather on the more nuanced claim that local boundaries perpetuate a past wrong. Even if claims of "abandonment" are factually problematic in an era of suburban entrance, there is little question that cities continue to suffer the effects of, and enterers continue to enjoy the benefits of, exitters' past actions.

Consider the long-term results of defensive incorporation. As Cashin observes, "fragmented political borders were . . . the result of economic, social, and racial differentiation—a locational sorting process" that protects the "favored quarter" in our metropolitan areas.<sup>112</sup> These borders also enable local governments to engage in regulatory behavior with significant, negative, cross-border spillover effects. For example, past acts of defensive incorporation enable enterers to enact exclusionary land-use policies that limit economic mobility within metro regions, thereby shielding themselves from the fiscal and social burdens that plague center cities.<sup>113</sup> Especially when the local government's motives—for the original incorporation, for the current land-use regime, or both—are suspect, these policies may become more difficult to defend.<sup>114</sup>

### B. *The Utilitarian Case Against Fragmentation*

Of course, the regionalist critique is grounded on more than exitters' responsibility to and for their urban neighbors. Many scholars argue that the current system of fragmented and overlapping local authority is irrational and inefficient for a number of related reasons. According to critics, the fragmentation of local power among dozens, if not hundreds, of municipalities within a metropolitan region guarantees that local decisions will adversely affect other localities within a region. Arbitrarily drawn local boundaries enable localities to impose costs on their neighbors: exclusionary zoning forces poorer cities to shoulder the burden of housing low-income individuals,<sup>115</sup> competition for new development fuels suburban sprawl,<sup>116</sup> and environmental and natural resource problems transcend mu-

112. *Id.* at 2014–15; see also ORFIELD, *supra* note 98, at 5 (describing the "favored quarter").

113. See Briffault, *supra* note 57, at 1134–36; Briffault, *supra* note 101, at 9; Cashin, *supra* note 57, at 2015; Frug, *The Geography of Community*, *supra* note 99, at 1070–71.

114. See Lee Anne Fennell, *Exclusion's Attraction: Land Use Controls in Tieboutian Perspective*, in *THE TIEBOUT MODEL AT FIFTY: ESSAYS IN PUBLIC ECONOMICS IN HONOR OF WALLACE OATES* 163, 173–77 (William A. Fischel ed., 2006) (discussing the local motives for enacting exclusionary land-use controls).

115. See, e.g., Briffault, *supra* note 57, at 1136–37 (describing the use of exclusionary zoning to maintain high service-to-tax ratios); Cashin, *supra* note 57, at 1993–95 (describing the effects of exclusionary zoning); Fennell, *supra* note 114, at 177 (discussing the use of exclusionary zoning in intermunicipal competition).

116. See Nicole Stelle Garnett, *Trouble Preserving Paradise?*, 87 *CORNELL L. REV.* 158, 163 (2001) (summarizing the literature).

nicipal boundaries.<sup>117</sup> Metropolitan fragmentation also increases the transaction costs associated with interjurisdictional bargaining. According to many observers, this undermines government cooperation in addressing interjurisdictional externalities.<sup>118</sup> Moreover, the proliferation of multiple special-purpose governments with overlapping jurisdictions may reduce political accountability, encourage excessive investment in certain government functions, and enable municipalities to dodge tax and debt limitations.<sup>119</sup>

These efficiency-based arguments share a central difficulty: centralizing authority over local functions might undercut pressures generated by municipal fragmentation that are themselves efficiency inducing. It is generally accepted that suburban localities use a variety of regulatory and taxation policies to compete for Charles Tiebout's "consumer voters,"<sup>120</sup> which leads many economists to argue that metropolitan fragmentation subjects local governments to some approximation of market forces.<sup>121</sup> Smaller local governments also may be more responsive to constituent preferences. Residents of small (and relatively homogeneous) suburban localities may find it relatively easy, to borrow from Albert Hirschman's famous formula,<sup>122</sup> to exercise both exit (the basis for Tiebout's competition) and voice (because constituents can easily monitor the behavior of their local officials and make their dissatisfaction known).<sup>123</sup> Indeed, many empirical studies demonstrate the applicability of the "median-voter model"—which holds that representative government decisions should reflect preferences of the jurisdictions' average voter—at the local level.<sup>124</sup>

117. See, e.g., Briffault, *supra* note 57, at 1132–33, 1147–50; Briffault, *supra* note 101, at 3; Cashin, *supra* note 57, at 2043.

118. See, e.g., PEIRCE, *supra* note 98, at 97–99, 215–16, 317–20; Briffault, *supra* note 57, at 1147–50.

119. Gillette, *supra* note 105, at 204–06 (discussing accountability problems raised by special purpose authorities).

120. See Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416, 417–20 (1956). See generally THE TIEBOUT MODEL AT FIFTY, *supra* note 114.

121. See, e.g., FISCHEL, *supra* note 55, at 207–08; John D. Donohue, *Tiebout? Or Not Tiebout? The Market Metaphor and America's Devolution Debate*, 11 J. ECON. PERSP. 73, 74 (1997) ("Diverse policy regimes can cater to heterogeneous preferences."); Robert P. Inman & Daniel L. Rubinfeld, *The Political Economy of Federalism*, in PERSPECTIVES ON PUBLIC CHOICE: A HANDBOOK 73, 83–85 (Dennis C. Mueller ed., 1997) (arguing that interjurisdictional competition will increase efficiency in the production of public goods); Richard E. Wagner & Warren E. Weber, *Competition, Monopoly, and the Organization of Government in Metropolitan Areas*, 18 J.L. & ECON. 661, 684 (1975) ("[A]n increase in the number of competing and overlapping governments will lead the public economy more closely to perform as a competitive industry."); see also, e.g., MARK SCHNEIDER, *THE COMPETITIVE CITY: THE POLITICAL ECONOMY OF SUBURBIA* 63–69 (1989) (purporting to find that tax rates and government expenditures are lower in more fragmented metropolitan areas); cf. Fennell, *supra* note 114, at 177 ("Tiebout's ideas cannot be fully appreciated without taking into account the place of exclusion both as an attractive item . . . available to consumer-voters and as a constraint on the choice sets that consumer-voters encounter:").

122. ALBERT O. HIRSCHMAN, *EXIT, VOICE AND LOYALTY: RESPONSES TO DECLINE IN FIRMS, ORGANIZATIONS, AND STATES* (1970).

123. See, e.g., Robert C. Ellickson, *Monitoring the Mayor: Will the New Information Technologies Make Local Officials More Responsible?*, 32 URB. LAW. 391 (2000).

124. FISCHEL, *supra* note 55, at 87–88 (discussing such studies).

The ambitious task of weighing the costs and benefits of interjurisdictional competition is far beyond the scope of this Essay. It may be impossible to know whether, within any given metropolitan region, the benefits of fragmentation necessarily outweigh the costs. But it is reasonable to assume that many enterers are (or believe themselves to be) net beneficiaries of interjurisdictional competition. Enterers are, in some ways, prototypical consumer voters: their participation in Tiebout's competition is evidenced by their decision to select their current home from a range of regional, or even national, options. As the probable beneficiaries of fragmentation-driven competition, enterers may also tend to favor cooperative over coercive means of achieving interjurisdictional burden sharing. Thus, at the very least, the entrance account provides another political barrier to regional government proposals, adding enterers' resistance to metropolitan solidarity to the long list of public choice impediments to local government reforms. Such impediments include the reluctance of local officials to relinquish power and the complex constitutional questions that regional elections raise.<sup>125</sup>

### C. Transitional Fairness

Finally, efforts to curb suburban growth and channel new development into center cities and older suburbs raise both distributional and transitional-fairness questions that deserve careful consideration. These transitional-fairness problems are especially acute, because the final chapter of the exit story is a minority success story.

The debate over the distributional consequences of growth-management and regional-governance strategies is familiar. Skeptics' concerns stem from a very simple economic calculus: restricting land for development will increase its price. And if the price of land rises, the price of things built on it—including, importantly, housing—will rise as well. Michael Schill succinctly summarized the problem: “[t]he Achilles’ heel of the ‘smart growth’ movement is the impact that many of the proposals put forth by its advocates would have on affordable housing.”<sup>126</sup> Regional government proponents respond that centralizing control over development policy might actually increase the affordability of regional housing, both by curtailing local governments' exclusionary tendencies<sup>127</sup> and by incorporating planning

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125. See, e.g., FISCHEL, *supra* note 55, at 219–20 (discussing historical opposition to metropolitan government); Garnett, *supra* note 116, at 181 (discussing local government opposition to regional growth management).

126. Michael H. Schill, *Comment*, in GROWTH MANAGEMENT AND AFFORDABLE HOUSING 102 (Anthony Downs ed., 2004) (commenting on Richard P. Voith & David L. Crawford, *Smart Growth and Affordable Housing*, in GROWTH MANAGEMENT AND AFFORDABLE HOUSING, *supra*, at 82).

127. Metropolitan fragmentation undoubtedly permits local governments to dress up exclusionary zoning in a growth-management gown. After all, limits on *all* new development serve the double purpose of excluding disfavored land uses (and questionable new neighbors) and making existing homes a scarcer, and therefore more valuable, resource. See, e.g., Vicki Been, *Impact Fees*

tools (such as housing linkage, inclusionary zoning, density bonuses, and impact-fee waivers) designed to increase the supply of affordable housing.<sup>128</sup>

Still, centralized growth-management policies could exacerbate the price effects of restricting suburban growth. Importantly, *local* growth controls tend to promote, rather than curb, suburban sprawl, because the exclusion of new growth by wealthier inner suburbs tends to push development outward.<sup>129</sup> One benefit of this pattern is that new growth on the suburban fringe may mitigate the price effects of growth controls in inner suburbs. Sprawl, in turn, promotes the housing filtering process by which a wealthier individual moving to a larger house sets off a “chain of successive housing moves” that increases the availability of quality housing for poor and moderate-income individuals.<sup>130</sup> We might therefore expect comprehensive growth management, more than local controls, to increase overall regional housing prices.<sup>131</sup> Moreover, policymakers may lack the political will to implement affordability-promotion tools on a large enough scale to counter the regressive effects of growth management.<sup>132</sup>

While empirical evidence on the price effects of existing regional planning programs is mixed,<sup>133</sup> the transitional-fairness questions raised by

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*and Housing Affordability*, 8 CITYSCAPE: J. POL’Y DEV. & RES. 139, 146 (2005) (discussing the literature).

128. See, e.g., Voith & Crawford, *supra* note 126, at 86–100.

129. See, e.g., WILLIAM A. FISCHER, DO GROWTH CONTROLS MATTER? 55–57 (1990) (arguing that some growth controls “probably cause metropolitan areas to be too spread out”); Q. Shen, *Spatial impacts of locally enacted growth controls: the San Francisco Bay Region in the 1980s*, 23 ENV’T & PLAN. B: PLAN. & DESIGN 61, 86 (1996) (finding that local controls pushed development to unrestricted areas).

130. See, e.g., Berry, *supra* note 64, at 417 (arguing that suburbanization led to a massive chain of moves, which mitigated the price effects of racial discrimination in Chicago and enabled many families to improve their housing situation); John C. Weicher, *Private Production: Has the Rising Tide Lifted All Boats?*, in HOUSING AMERICA’S POOR 45 (Peter D. Salins ed., 1987) (describing the filtering process).

131. See, e.g., Vicki Been, “Exit” as a Constraint on Land Use Exactions: Rethinking the Unconstitutional Conditions Doctrine, 91 COLUM. L. REV. 473, 509–28 (1991) (arguing that competition between municipalities may reduce their ability to exact concessions from developers); Nicole Stelle Garnett, *supra* note 116, at 165–67 (observing that affordable housing advocates in Arizona and Colorado organized to oppose statewide growth-management proposals due to concerns about housing affordability); Arthur C. Nelson et al., *The Link between Growth Management and Housing Affordability: The Academic Evidence*, in GROWTH MANAGEMENT AND AFFORDABLE HOUSING, *supra* note 126, at 117, 127–28 (predicting that regional growth management policies will have greater price effects than will local ones, which permit housing consumers to migrate to uncontrolled jurisdictions).

132. See, e.g., Schill, *supra* note 126, at 102–03 (“[M]ost of the popular support for smart growth is based on a variety of factors that will create strong incentives for municipalities to adopt growth restrictions *without* simultaneously promoting affordable housing.”). Even worse, some of these tools (for example, inclusionary zoning) may backfire and reduce the supply of affordable housing by slowing the housing filtering process. See FISCHER, *supra* note 55, at 257 (connecting rising housing prices in Washington, including units originally set aside as “affordable,” to a statewide growth-management program); Robert C. Ellickson, *The Irony of “Inclusionary” Zoning*, 54 S. CAL. L. REV. 1167, 1184–85 (1981) (arguing that inclusionary zoning will reduce the supply of affordable housing).

133. See, e.g., GERRIT KNAAP & ARTHUR C. NELSON, THE REGULATED LANDSCAPE: LESSONS ON STATE LAND USE PLANNING FROM OREGON 39, 52–58 (1992) (discussing conflicting evidence

suburban growth restrictions are not limited to concerns about regional housing affordability. Even if a regional development strategy succeeded in holding constant the overall cost of housing, most affordable housing will likely continue to be found in center cities and older suburbs.<sup>134</sup> After all, regional growth-management strategies aim to channel new development into built-up areas. Yet as Robert Bruegmann highlights in his recent history of suburban sprawl, urban life has always been most difficult for the poor.<sup>135</sup> Today, smokestacks and overcrowding are no longer poor city dwellers' primary concerns—crime, education, and employment are. As a result, suburbs still represent the urban poor's hope for a better life, as suburbs have throughout the modern industrial age. The reality is that suburbs offer the good schools, economic opportunities, and environmental amenities that wealthy *urban* dwellers can afford to purchase and poorer ones cannot.<sup>136</sup>

Moreover, and, in my view, most importantly, there is something slightly unseemly about dramatically curtailing suburban growth at a time when racial minorities are responsible for most new suburban population gains.<sup>137</sup> For example, anti-immigration groups have jumped on the antigrowth band wagon, some going so far as to run adds linking immigration with sprawl (and suggesting immigration limits might solve the sprawl problem).<sup>138</sup> Efforts to channel development into the urban core could also jeopardize the promising trends toward suburban racial diversity. This risk is especially pronounced, because many of the most diverse neighborhoods have characteristics that draw the ire of sprawl opponents: they are located in low-density metropolitan areas in the West and Southwest and are filled with relatively low cost “starter homes.”<sup>139</sup> It is difficult to avoid concluding that changing the rules of the development game at this time is tantamount to pulling the suburban ladder out from under those late exiters who previously were excluded from suburban life by economic circumstance, exclusionary zoning, and intentional discrimination. A new regime may directly benefit many individuals who have perpetrated, or at least benefited from, this past exclusion: *current* suburban homeowners will enjoy the economic and environmental amenities that attend growth management.

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on the price effects of Oregon's comprehensive growth management program); Nelson et al., *supra* note 131, at 117, 134–58 (reviewing empirical literature suggesting that rising housing prices in Portland are not linked to growth management but acknowledging the risks of such programs). See also BRUEGMANN, *supra* note 5, at 209–12.

134. See Schill, *supra* note 126, at 104.

135. See BRUEGMANN, *supra* note 5, at 26–29.

136. See, e.g., James E. Ryan & Michael Heise, *The Political Economy of School Choice*, 111 YALE L.J. 2043, 2102–08 (2002) (discussing the connection between economic status and educational achievement); Michael H. Schill, *Deconcentrating the Inner City Poor*, 67 CHI.-KENT L. REV. 795, 811–31 (1991) (advocating policies that help the urban poor move to suburbs).

137. See Frey, *supra* note 3.

138. See Jones-Correa, *supra* note 61, at 194 (discussing this controversy).

139. See Been, *supra* note 127, at 164 (“[N]ew neighborhoods of starter homes are more racially mixed than established neighborhoods”).

## IV. COMPETITIVE CITIES AND CONVERGING SUBURBS

In previous work, I have suggested reforms to urban land-use policies as an alternative to legal restrictions on new suburban development.<sup>140</sup> Especially in light of growth controls' possible regressive effects, proponents of intrametropolitan equity should, in my view, seek to maximize city competitiveness without restricting suburban growth. Specifically, I have argued that cities can best compete by capitalizing on urban distinctiveness and have questioned the wisdom of prevailing land use policies, especially zoning laws that prevent mixed use environments. This argument runs counter to the assumptions of the Tiebout model's critics, who argue that cities cannot compete for new development because metropolitan fragmentation systematically disadvantages them.<sup>141</sup> While there is no guarantee that cities will compete successfully with suburbs, they should, in my view, follow the economic theory of comparative advantage and concentrate on what they are *least bad* at doing. As Jane Jacobs observed four decades ago, and today's new urbanists seek to remind us, cities are different—and in some ways better—than suburbs. Importantly, the mix of land uses that characterizes the traditional urban form generates a unique kind of community (what Iris Young has called the “being together of strangers”<sup>142</sup>) that suburbs cannot offer.

My assertion that cities should ensure their land-use policies let them be cities assumes that some people, including some current suburbanites, are energized by the complexities, and occasional disorder, of urban life. Admittedly, the entrance story complicates this argument for the same reason that it partially undercuts the normative arguments favoring regional government: while exiters' memories of the old neighborhood may help them understand the attraction of city life, enterers' vision of the “good life” is entirely formed by the suburbs. And the suburbs have long been decidedly antiurban places. Not only do suburban zoning laws prohibit mixed land uses, which generate vibrant street life, but for decades, subdivision regulations have prohibited suburban neighborhoods from mimicking traditional urban ones. As early as 1936, the Federal Housing Administration (“FHA”) rejected grid street patterns and, backed by the power of the purse (that is, the threat to withhold mortgage guarantees), endorsed subdivision regulations that mandated cul-de-sacs and curvilinear streets.<sup>143</sup> Over the next few decades, with the full support of the building industry (which feared the proliferation of local subdivision standards), the FHA achieved its goal of

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140. Nicole Stelle Garnett, *Ordering (and Order in) the City*, 57 STAN. L. REV. 1 (2004); Nicole Stelle Garnett, *Save the Cities, Stop the Suburbs?*, 116 YALE L.J. 599, 617–29 (2006).

141. See, e.g., Briffault, *supra* note 57, at 1136–37 (“Less affluent localities are nominally free to compete . . . but if they start out having less to offer in terms of high quality services or low taxes there is, in practice, relatively little they can do to attract the affluent or increase their per capita tax base.”).

142. IRIS MARION YOUNG, *JUSTICE AND THE POLITICS OF DIFFERENCE* 240 (1990).

143. See MICHAEL SOUTHWORTH & ERAN BEN-JOSEPH, *STREETS AND THE SHAPING OF TOWNS AND CITIES* 92 (2003).

uniform subdivision regulations. These ubiquitous regulations mandate what is today conventional suburban design: commercial land uses concentrated on major arterial roads, separated from residences that are tucked safely away on cul-de-sacs and curvilinear streets.<sup>144</sup> As a result, even the physical layout of traditional cities may strike enterers as foreign, odd, and incorrect.

But the entrance story does not undercut all hope for city competitiveness. On the contrary, in recent years, many major cities experienced substantial population increases (following decades of losses): the 1990s was the best postwar decade in that regard for those American cities that had previously suffered the most devastating population losses.<sup>145</sup> Moreover, the population growth of many downtowns—the most “urban” areas—outpaced overall population growth in many cities. Some cities saw their *downtown* population grow despite city population losses.<sup>146</sup> The increased preference for urban living is also reflected in the fact that many downtown areas have been gaining white residents, even in cities that continue to lose them.<sup>147</sup>

Enterers’ affinity for urban life may also be informed, over time, by changing *suburban* land use patterns. Contrary to conventional wisdom, the decentralization of urban areas in the United States peaked between the 1920s and the 1950s, and many suburbs are now becoming denser.<sup>148</sup> Not only are bigger houses being built on smaller lots, but suburban development is increasingly characterized by a *diversity* of housing types. Manufactured housing, condominiums, and multifamily apartments are becoming more common.<sup>149</sup> And land recycling efforts—including infill and teardowns—are intensifying suburban land uses.<sup>150</sup> Joel Kotkin recently argued that “we need to look at current suburbia not as a finished product, but something beginning to evolve from its Deadwood phase.”<sup>151</sup> Kotkin expressed his hope that our suburbs can learn from “our ancient sense of the city . . . about the need for community, identity, the creation of ‘sacred space,’ and a closer relation between workplace and home life.”<sup>152</sup> For reasons practical and, perhaps, philosophical, many suburbs are beginning to

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144. *Id.* at 92–104. See generally MARK A. WEISS, *THE RISE OF THE COMMUNITY BUILDERS: THE AMERICAN REAL ESTATE INDUSTRY AND URBAN LAND PLANNING* (1987).

145. Patrick A. Simmons & Robert E. Lang, *The Urban Turnaround*, in *REDEFINING*, VOL. 1, *supra* note 3, at 51.

146. Rebecca R. Sohmer & Robert E. Lang, *Downtown Rebound*, in *REDEFINING*, VOL. 1, *supra* note 3, at 63, 65.

147. *Id.* at 70–71.

148. BRUEGMANN, *supra* note 5, at 65.

149. *Id.* at 58–59.

150. *Id.* at 67.

151. Joel Kotkin, *Suburbia: Homeland of the American Future*, *NEXT AM. CITY*, Summer 2006.

152. *Id.*

incorporate more “urban” features.<sup>153</sup> Moreover, the growing influence of new urbanism is “changing the look, if not the underlying character, of sprawl.”<sup>154</sup> Even in the most far-flung entrance points, suburbia has begun to assume a more urban flavor.

None of this suggests, of course, that all cities can compete effectively with their suburbs (or, for that matter, with cities and suburbs throughout the country). The urban comeback is a decidedly complex phenomenon. For example, the fastest-growing cities are car friendly, sprawling, and (unsurprisingly) located in the fastest-growing regions—the West and Southwest. Many denser, public-transit-oriented northeastern cities continue to lose population,<sup>155</sup> although at a slower rate than in previous decades.<sup>156</sup> Many center cities are gaining wealthy residents but losing the middle class.<sup>157</sup> It is unclear whether the development strategies producing these demographic shifts—particularly efforts to turn center cities into playgrounds for wealthy young professionals—can produce long-term urban success. Over a century ago, H.G. Wells worried that cities were drifting away from their traditional function as centers of economic life and assuming the role of a “bazaar, a great gallery of shops and places of concourse and rendezvous.”<sup>158</sup> Perhaps, as Joel Kotkin has argued, this more “ephemeral” role is unsustainable: to survive and thrive, perhaps cities, like suburbs, must be places where people choose to make their lives and raise their families.<sup>159</sup>

Nor does urban success signal an end to metropolitan inequity. Concentrated urban poverty declined dramatically in the 1990s, but at the same time American suburbs became poorer.<sup>160</sup> These two trends might be either hopeful indicators that poorer residents are overcoming barriers (including exclusionary zoning) to intrametropolitan mobility or harbingers of the inner-suburban decline that concerns many regional government scholars.<sup>161</sup> Indeed, the changing demographics and economics of suburbs may be blurring the traditional distinction between city and suburb. Many older suburbs, including many of those absorbing minority exiters and immigrant enterers, arguably

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153. *Id.* (noting efforts to revitalize town centers of Naperville, Illinois; Fullerton, California; and Bethesda, Maryland); see also Robert Lang & Edward Blakeley, *In Search of the Real OC: Exploring the State of American Suburbs*, NEXT AM. CITY, Summer 2006, at 18.

154. BRUEGMANN, *supra* note 5, at 153.

155. Glaeser & Shapiro, *supra* note 86, at 18.

156. See Simmons & Lang, *supra* note 145, at 54–55.

157. Jason C. Booza et al., *Where Did They Go? The Decline of Middle-Income Neighborhoods in Metropolitan America*, BROOKINGS INSTITUTION LIVING CITIES CENSUS SERIES, June 2006, at 9–11, available at [http://www.brookings.edu/metro/pubs/20060622\\_middleclass.pdf](http://www.brookings.edu/metro/pubs/20060622_middleclass.pdf).

158. KOTKIN, *supra* note 109, at 151 (quoting H.G. WELLS, ANTICIPATIONS OF THE REACTION OF MECHANICAL AND SCIENTIFIC PROGRESS UPON HUMAN LIFE AND THOUGHT 32 (1902)).

159. See *id.* at 150–53.

160. Alan Berube & William H. Frey, *A Decade of Mixed Blessings: Urban and Suburban Poverty in Census 2000*, in REDEFINING, VOL. 2, *supra* note 9, at 111, 117–18; Paul A. Jargowsky, *Stunning Progress, Hidden Problems: The Dramatic Decline of Concentrated Poverty in the 1990s*, in REDEFINING, VOL. 2, *supra* note 9, at 137, 142.

161. See, e.g., FRUG, *supra* note 98, at 156–58.

have more in common with central cities than with their outer-ring suburban counterparts. And as Richard Briffault recently noted, these older suburbs also may lack “the business districts, housing stock, and cultural amenities” that give older cities a chance at competing with suburbs.<sup>162</sup> The decline in these suburbs may result from a new wave of exit—from older suburbs to newer ones—that is morally problematic for the same reasons as urban exit.

#### CONCLUSION

Debate over the current distribution of local government authority frequently fails to note that American suburbs have become places of entrance to, not exit from, urban life. The exit story is historically powerful and rhetorically appealing, but it is a story that has reached its denouement. There remain strong reasons to worry about fragmented local authority, but recognition of the entrance story, and a more nuanced understanding of modern suburban demographics, demands careful reconsideration of both the benefits and costs of metropolitan fragmentation.

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162. Richard Briffault, *Beyond City and Suburb: Thinking Regionally*, 116 YALE L.J. POCKET PART 203, 207 (2006), <http://thepocketpart.org/2006/12/11/briffault.html> (last visited May 16, 2007).