

2005

## WILL 9/11 CONTINUE TO TAKE A TOLL ON AMERICA'S CITIES?

David Dixon

Follow this and additional works at: <https://ir.lawnet.fordham.edu/ulj>



Part of the [Human Rights Law Commons](#)

---

### Recommended Citation

David Dixon, *WILL 9/11 CONTINUE TO TAKE A TOLL ON AMERICA'S CITIES?*, 32 Fordham Urb. L.J. 723 (2005).

Available at: <https://ir.lawnet.fordham.edu/ulj/vol32/iss4/2>

This Article is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Fordham Urban Law Journal by an authorized editor of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact [tmelnick@law.fordham.edu](mailto:tmelnick@law.fordham.edu).

## WILL 9/11 CONTINUE TO TAKE A TOLL ON AMERICA'S CITIES?

*David Dixon\**

What are the implications for planning and policing America's cities in the aftermath of September 11, 2001 ("September 11" or "9/11") and Oklahoma City? These events represent terrible tragedies, and planning and the other disciplines represented at the Fordham Urban Law Journal's 2005 Symposium must contribute to preventing future terrorist acts and minimizing the human and economic costs of such acts if they do occur. It is equally important, however, to avoid imposing possibly greater costs, even inadvertently, in the name of fighting terrorism. Unintended but serious collateral damage to American society from antiterrorism policies, such as the potential threats to civil liberties, the benefits of international tourism, and the intellectual and economic contributions of foreign students and scholars, is already the subject of considerable debate.

If not carefully thought through, policies that modify the way in which we plan for growth and change in America's cities in order to fight terrorism, may seriously undermine these cities' ability to *compete* as places to live, work, and play. In the process of combating terrorism, these measures may undermine the general goals of urban planning, such as *enhancing* quality of life and economic opportunity for tens of millions of Americans, *counteracting* the negative environmental and public health

---

\* David Dixon, FAIA, is the principal in charge of planning and urban design at Goody, Clancy & Associates, a Boston-based firm with a national practice in architecture, planning and urban design, and preservation. David writes and speaks frequently about planning and designing downtowns, urban neighborhoods, and Main Streets as building blocks for vital 21st century communities. He is currently directing projects that explore these environments in Baltimore, Boston, Chicago, Cincinnati, Columbus (OH), Miami, and Savannah. He will serve as the 2006 chair of the American Institute of Architects' (AIA) Regional and Urban Design Committee and is one of ten members on the AIA's National Sustainability Task Force. As 2003 president of the Boston Society of Architects, he chaired a National Conference on Density: Myth and Reality. He was asked by the AIA to participate, as a spokesperson for urban design and cities, in a January, 2002, conference, "Building Security through Design." David earned a Bachelor of Arts from Wesleyan University, Master of Architecture from the University of Pennsylvania, and Master of Urban Design from Harvard University. At present, he serves as one of two 9/11 Memorial Design Advisors for the Massachusetts Port Authority.

impacts of sprawl, *promoting* community and diversity in a society increasingly marked by economic and racial fragmentation, and *creating* buildings and public spaces that convey the values of a free and open society.

A number of antiterrorism measures enhance the quality and character of urban life, or at least leave it undamaged. Well-conceived urban design initiatives that add trees, fountains, benches, and well-designed bollards to protect buildings are enhancing Washington, D.C., and other cities. Requirements that buildings be built to better withstand bomb blasts and offer greater protection to inhabitants in the event of fire or potential collapse are making America's buildings safer in the face of a wide range of potential disasters. New technologies that sense threats to air and water quality improve public health.

Nevertheless, a different set of antiterrorism measures represents a serious challenge at a time of potentially historic economic and social regeneration for America's cities. Buildings and spaces that promote the free exchange of ideas and shared experiences provide the bedrock of urban life and play a central role in cities' newfound ability to compete for jobs, housing, and other types of investment. Yet these urban qualities have been among the first casualties across the U.S. of the post-9/11 quest for security that has taken the form of blank walls and locked doors along public streets; large activity-free perimeters around public buildings; jobs transferred out of downtowns to remote locations; parking forced from beneath public buildings into garages that line public streets with cars instead of people; and similar measures taken without regard to the full range of values that should shape America's cities.

#### A RECENT HISTORY OF SINGLE-MINDED URBAN INITIATIVES

Since World War II, single-purpose initiatives to reshape urban environments, each a response to one apparently overriding issue, have repeatedly undermined the character and quality of American communities. One striking example of a blinkered solution that produced a generation of buildings hostile to basic human and community values was the 1973 oil embargo, which created a profound sense of vulnerability in America. A colleague of mine recalls, without fondness, her quaint Connecticut community's response to the embargo: deciding, like hundreds of other communities, to banish windows from new schools.<sup>1</sup> To a society unwaveringly focused on conserving energy, that windowless school

---

1. Interview with Jeanne Pelletier, Planning Manager, Goody, Clancy & Associates, in Boston, Mass. (Aug. 2004).

represented patriotism and civic responsibility.

In retrospect, it also symbolized an aberration, a sense that energy conservation required doing away with the qualities that make schools nurturing places for learning. American cities carry the burdens of such single-issue initiatives—each driven by fear, each now visibly an aberration, and each inadvertently fusing with other dynamics of its time to degrade quality of life and economic opportunity in America's cities, and in the process, weakening our national social fabric.

The legacy of windowless buildings designed solely in response to the oil embargo represented the third assault on cities in three decades.<sup>2</sup> In the 1950s, in the name of national defense, America embarked on a no-holds-barred campaign to build a national highway system that had the effect of cutting downtowns off from their waterfronts, destroying healthy neighborhoods, and flushing residents out of central cities and into suburbs.<sup>3</sup> In the 1960s, responding to a sharp decline in industrial centers, America embarked on an equally aggressive urban renewal campaign that destroyed entire neighborhoods, main streets, and downtowns.<sup>4</sup>

The surge in service-based economies that brought millions of office jobs to America's downtowns in the 1980s and 1990s brought more than renewed prosperity. With new downtown jobs and office buildings came renewed confidence in urban living, and renewed interest in the traditional character and qualities that created great walkable streets, lively urban parks and squares, vibrant waterfronts, and other special qualities that bring a unique vitality to urban life. Most importantly, large numbers of people rediscovered the qualities of community that well-planned and designed urban environments offer.

At the dawn of the 21st century, the war against terrorism threatens to join the responses to the Cold War, to industrial decline, and to the oil embargo as a war against the livability of American cities. In the rush to respond to the threat of terrorism, federal agencies, state and local governments, professional organizations representing security professionals, and others are creating a new generation of planning and design regulations.<sup>5</sup> Their purpose is noble: to make terrorism more difficult and to reduce its human and material toll. The unfortunate indirect impact of these regulations—with their focus on isolating people from

---

2. Jon C. Teaford, *Urban Renewal and Its Aftermath*, HOUSING POLICY DEBATE (2000), available at [http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd\\_1102\\_teaford.pdf](http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1102_teaford.pdf).

3. *Id.*

4. *Id.*

5. WASH. MILITARY DEP'T EMERGENCY MGMT. DIV., HOMELAND SECURITY PUBLICATIONS.

buildings and shutting buildings off from streets—could undermine the vitality, sense of community, and civic quality of much of urban America.

### THE URBAN IMPACT OF ANTITERRORISM MEASURES

The process of economic rebirth and social revival in American cities hinges on public investment in areas that still represent too much risk for the private sector. These are the very areas that will bear the brunt of new regulations focused on decentralizing potential targets, such as courthouses and other public buildings whose construction or renovation often launches revitalization. The desire for extensive vacant perimeters around courthouses and other public buildings, together with concerns that urban locations are somehow especially vulnerable, threatens to undermine efforts to reverse sprawl. A strong sense of community in urban areas—seen in revived streets and squares that are again drawing people together in cities—plays a critical role in building vitality and reversing economic and social fragmentation. The life of streets and squares depends on a lively interplay between buildings and the public realm, one that is undermined by closing entries to major buildings and surrounding them with security perimeters. Civic buildings and spaces shaped in the interest of security become bunkers, not symbols of a democratic and open society that ennoble and enrich cities.

To understand the impacts of antiterrorism measures on American cities, it is critical to understand:

- What are the essential opportunities and challenges American cities face?
- How can antiterrorism measures affect the ability of cities to respond to these opportunities and challenges?
- How can America maximize the benefits, and minimize urban design, social, financial, and other costs, of protecting Americans against terrorism and promoting the livability of American cities?

### PUTTING SECURITY IN CONTEXT: THE CHALLENGES AND OPPORTUNITIES AMERICA'S CITIES FACE TODAY

America's cities are recovering from more than four decades of significant disinvestment and population decline. The transition from an industrial economy to one based on service delivery and technology drained much of the economic life from America's cities.<sup>6</sup> Many older

---

6. Ronald E. Kutscher, *The American Work Force, 1992-2005: Historical Trends*,

cities lost the bulk of their economic base with the departure of industrial jobs and the emergence of new economic activity in suburbs.<sup>7</sup> It has been noted that the value of Detroit's tax base, for example, shrank by more than 75% in constant dollars between 1950 and 1990 as the city's manufacturing economy collapsed (even as the regional economy held its own).<sup>8</sup> Detroit represents an extreme example of urban decline, but major cities across the U.S. lost between one-third and one-half of their population in the last half of the twentieth century.<sup>9</sup> With the loss of population and jobs came a host of economic and social ills, visible in miles of distressed urban neighborhoods and statistics showing that, even today, in a highly affluent region like metropolitan Boston, 80% of children living in poverty are concentrated in urban communities and cut off from their middle-class peers.<sup>10</sup>

Detroit today represents a very different phenomenon, one of a depressed major city poised for economic and social rebirth. Similarly, most American cities have a long way to go—many urban neighborhoods are littered with vacant buildings and lots, the urban poor are relatively less well off than at any point since the Depression,<sup>11</sup> and most cities are plagued by fiscal crises—but the fundamental dynamics that saw investment, jobs, and people leave America's cities are poised to reverse. This situation is being repeated across the United States. While many cities still balance on the edge between regeneration and further decline, others—like Albuquerque, Milwaukee, and Miami—have begun to enjoy the benefits of renaissance.<sup>12</sup> Some cities, like San Diego, Chicago, or

---

1950-92, and Current Uncertainties, MONTHLY LABOR REV., Nov. 1993, available at <http://www.bls.gov/opub/mlr/1993/11/art1full.pdf>.

7. *Id.*

8. Richard Freeman, *Death of Detroit: Harbinger of Collapse of Deindustrialized America*, EXECUTIVE INTELLIGENCE REV., Apr. 23, 2004, at 34, available at [http://www.larouchepub.com/other/2004/3116detroit\\_dies.html](http://www.larouchepub.com/other/2004/3116detroit_dies.html).

9. Kutscher, *supra* note 6, at 4.

10. Interview with Mark Draisen, Executive Director, Metropolitan Area Planning Council (MAPC), in Boston, Mass. (Apr. 2004).

11. See Jas Jain, *Markets & Data Suggest that US Econ Recovery is Artificial*, FINANCIAL SENSE UNIVERSITY (observing that between 2001 and 2004 there was the lowest employment and income growth since 1932), at <http://www.financialsense.com/fsu/editorials/2005/0124.html> (Jan. 24, 2004).

12. See ALBUQUERQUE ECON. DEV., REGIONAL OVERVIEW, REGIONAL ECONOMY, at <http://www.abq.org/regional/overview.html> (last visited Apr. 22, 2005) (listing manufacturing companies based in Albuquerque); Press Release, City of Milwaukee Dep't of City Dev., Mayor Barrett Draws Jobs to Milwaukee: Announces Two Companies Moving to Tower Site (Jan. 16, 2005) (describing redevelopment and creation of new jobs in Milwaukee), available at <http://www.mkedcd.org/news/2005/Jobstower.html>; Press Release, The Beacon Council, Unemployment in Miami-Dade County Drops to Lowest Level Since 2001 (Mar. 30, 2005) (announcing decrease in unemployment rate

Providence, are now entering a second period of growth, and in a few cases, as in San Francisco and Boston, cities are experiencing a third decade of urban regeneration.<sup>13</sup> When measured by rebounding populations, increasing per capita incomes, new construction and restored buildings, renewed economic vitality, reclaimed waterfronts and urban parks, and other reflections of how America is currently investing its economic and social capital, U.S. cities are rebounding.<sup>14</sup>

This resurgence is not accidental. A series of fundamental dynamics are working in favor of urban resurgence:

### A. People increasingly value urban life

In many parts of the country, city-living is “hot.” A recent national poll shows that a substantial majority of Americans—more than eighty percent—consider a shorter commute to be a primary factor in their housing choice.<sup>15</sup> For an explanation why, consider the Boston region. In that area, the total vehicle miles driven have increased fifteen times faster than population since 1970, and one measure suggests that during the 1990s hours spent in congested traffic increased by more than fifty percent.<sup>16</sup> These lost hours translate into growing pressures on households trying to raise children and find time together. In addition, auto ownership per capita rose more than twenty-five percent in the Boston region in the 1990s.<sup>17</sup> At an annual cost of \$5,000 to 10,000 for ownership and

---

corresponding to growth in industry), available at [http://www.beaconcouncil.com/0302\\_details.asp?StoryID=151](http://www.beaconcouncil.com/0302_details.asp?StoryID=151).

13. See, e.g., Andrew Donohue, *Central San Diego: Characterized by Increased Density*, SAN DIEGO DAILY TRANSCRIPT, Jan. 14, 2003, available at <http://www.sddt.com/Reports/2003/01/sbcentral/ta.cfm> (last visited June 19, 2005); Christopher V. Hawkins, *Economic Development*, 71 J. AM. PLAN. ASS'N 221, 221 (2004) (discussing urban renaissance in Providence); Laura Heller, *Urban Growth Revitalizes Retailer Turf War in Windy City*, 25 DRUG STORE NEWS 93, 93-94 (June 9, 2003) (discussing urban growth in Chicago).

14. See *supra* notes 12-13 and accompanying text (providing examples of urban growth and redevelopment); see also *infra* notes 20-22 and accompanying text (providing examples of urban resurgence).

15. NAT'L ASS'N OF REALTORS, HOMEBUYERS FAVOR SHORTER COMMUTES, WALKABLE NEIGHBORHOODS, available at <http://www.realtor.org/PublicAffairsWeb.nsf/Pages/AmericanComntySurvey04?OpenDocument> (last visited Sept. 19, 2005).

16. Interview with Kristina Egan, Executive Director, Massachusetts Smart Growth Alliance, in Boston, Mass. (Oct. 2004).

17. THE BOSTON INDICATORS PROJECT, CAR OWNERSHIP AND VEHICLE MILES TRAVELED, BOSTON AND METRO BOSTON, available at <http://www.tbf.org/indicators2004/transportation/indicators.asp?id=2633&crosscutID=322&crosscutName=Sustainable%20Development> (last visited Sept. 19, 2005).

operation,<sup>18</sup> each vehicle represents a significant economic burden. If anything, these problems are less severe in the slow-growth Boston region than elsewhere across America.<sup>19</sup>

Changing values can be measured in growth boundaries in communities like Seattle, Washington, and Concord, New Hampshire;<sup>20</sup> voter-approved measures in 2004 to raise sales and other taxes to initiate or expand billions of dollars on urban public transit systems in Phoenix, Denver, and Seattle;<sup>21</sup> and perhaps most clearly in the new urban housing appearing across America—lofts in downtown Albuquerque, new mixed-use neighborhoods in San Diego, and residential towers being built not just along Miami Beach but in recently derelict districts in the heart of Miami.<sup>22</sup> The shift in individual values is translating into economic values. Hugh Kelly, an urban economist based in New York, reports a fundamental shift over the last decade in the returns that REITS receive for different types of urban investment: until the late 1980s, newer suburban office parks and “edge cities” represented better investments than office buildings in traditional downtowns; by the 1990s, investments in 24-hour downtowns, where people live, work, shop, and play, have appreciated faster and demonstrated less risk than any other REIT investment opportunity.<sup>23</sup>

### **B. A dramatic shift in the demographics of housing demand drives the resurgence of downtowns and urban neighborhoods**

The demographics of housing demand today favor urban housing and neighborhoods. After more than four decades in which baby boomers with kids dominated the American housing market—and overwhelmingly sought suburban houses with yards and access to more desirable school systems—housing demand is now spread roughly evenly across the twenty-

---

18. Interview with Kristina Egan, *supra* note 16.

19. TEXAS TRANSP. INST., STUDY SHOWS TRAFFIC JAMS NOT JUST A BIG-CITY PROBLEM (Nov. 12, 1998), *available at* <http://tti.tamu.edu/media/releases/1998/mobility.stm>.

20. NAT'L CTR. FOR POLICY ANALYSIS, IDEA HOUSE, STATE AND LOCAL ISSUES, CEI: GROWTH BOUNDARIES, *at* <http://www.ncpa.org/pd/state/slfeb98b.html> (describing attempts by urban planners and business leaders in Seattle to channel new residents into densely packed urban villages) (last visited Sept. 19, 2005).

21. Elvia Diaz, *Transit Tax Will Head to Voters*, THE ARIZONA REPUBLIC, Feb 4, 2004, *available at* <http://www.azcentral.com/news/election/special1/articles/0204transportation04.html>.

22. See Donahue, *supra* note 13; Yeleny Suarez, *Residential Development in Miami Continues to Grow*, MIAMI TODAY, Apr. 14, 2005, *available at* <http://www.miamitodaynews.com/news/050414/story2.shtml>.

23. Hugh Kelly, Address at the Learning from Lower Manhattan Conference (Sept. 18, 2004).



five to seventy-five-year-old demographic.<sup>24</sup> The percentage of households looking for housing that include children has dropped from nearly three-quarters of the market in the 1970s to less than fifty percent and is on its way to less than one-third over the next twenty years.<sup>25</sup> The Urban Land Institute, which documented this shift in housing demand, notes that for the first time in 30 years “we are much more diverse . . . . There is no mass market. We are truly becoming ‘a nation of niches.’”<sup>26</sup>

One direct result of this relatively sudden shift in the nature of housing demand is a dramatic increase in demand for a variety of housing in downtowns and urban neighborhoods.<sup>27</sup> In a September 2004 article, *BusinessWeek* reported that after large national home builders had “spent decades trying to lure folks out of the city . . . those same companies are suddenly making a reverse commute of their own by gobbling up urban properties at a fevered pace.”<sup>28</sup> The article went on to point out that the share of total housing production claimed by row houses has risen forty percent since the late 1990s, a sign that urban sites are gaining importance relative to other sectors.<sup>29</sup>

### C. Regions with lively downtowns and urban neighborhoods are attracting growth and jobs

Peter Kwass, a nationally recognized consultant in regional economic development, has noted that while people followed jobs during periods of industrial growth, in America’s current service and technology-oriented economy, jobs follow people with skills.<sup>30</sup> In fact, the U.S. Bureau of Statistics has projected that the fastest growing occupations between 2002 and 2012 will all be urban occupations.<sup>31</sup> Increasingly, as urban economist Richard Florida noted in his landmark book, *THE RISE OF THE CREATIVE CLASS*, many of these skilled workers seek regions with vibrant downtowns

---

24. Interview with Richard M. Haughey, Urban Land Institute Director of Multifamily Development, in Boston, Mass. (Sept. 2004).

25. *Id.*

26. *Id.*

27. See Christopher Palmeri, *A New Frontier for Suburban Builders*, BUSINESS WEEK ONLINE, *at* [http://www.businessweek.com/@gk7ntyquvbbhrgca/magazine/content/04\\_38/b3900058\\_mz011.htm](http://www.businessweek.com/@gk7ntyquvbbhrgca/magazine/content/04_38/b3900058_mz011.htm) (last visited Sept. 20, 2004).

28. *Id.*

29. *Id.*

30. Interview with Peter Kwass, Principal, Mt. Auburn Associates, Inc., in Boston, Mass. (Nov. 2004).

31. See OCCUPATIONAL EMPLOYMENT STATISTICS, UNITED STATES DEPT. OF LABOR, BUREAU OF LABOR STATISTICS, *available at* <http://www.bls.gov/oes/home.htm> (last visited Apr. 26, 2005).

and urban neighborhoods.<sup>32</sup> A study released by the Lincoln Institute for Land Policy in 2003 noted that state and local government increasingly cannot afford the costs of building and maintaining the additional miles of highways and utilities, new schools, and other infrastructure required to support sprawl.<sup>33</sup> The study estimated that between 2000 and 2025, the Northeastern states could save forty billion dollars by pursuing more compact, urban development patterns; perhaps more important, withholding from pursuing compact development would force these states to raise taxes—eroding their economic competitiveness—to fund these costs.<sup>34</sup>

#### **HOW CAN ANTITERRORISM MEASURES AFFECT THE ABILITY OF AMERICAN CITIES TO RESPOND TO THESE OPPORTUNITIES AND CHALLENGES?**

The ability of the emerging dynamics in American cities to generate the resources for repairing the damage of decades of decline is still fragile. These trends depend on amenity-rich cities that attract people to live and work; cities that are not overwhelmed by congestion and other symptoms of sprawl; with commercial districts and urban neighborhoods that provide common grounds and draw together people of different economic, racial, and other backgrounds; and that can translate rediscovered aspiration into distinguished new buildings that express a renewed vitality. Antiterrorism policies make it potentially more difficult to revitalize older cities, fight sprawl, promote a renewed sense of urban community and vitality, and permit cities to express their renewed spirit. This impact threatens to become visible in every major American city.

#### **A. Revitalizing older communities**

Public investment is critical—and effective—in reversing patterns of private disinvestment in long-suffering downtowns and urban neighborhoods.<sup>35</sup> This public role has traditionally taken two forms: locating government buildings (and jobs) in areas that the private sector finds too risky to invest in, and subsidizing private investment ahead of

---

32. RICHARD FLORIDA, *THE RISE OF THE CREATIVE CLASS* 217-20 (2002).

33. Robert Burchell, et al., *Smart Growth and State Resources: Conserving Resources By Altering Growth Patterns*, NEW ENGLAND SMART GROWTH FORUM, (Lincoln Inst. Of Land Pol'y, Cambridge, Mass.), Oct. 22, 2003.

34. *Id.*

35. See Ngai Pindell, *Is There Hope for Hope VI?: Community Economic Development and Localism*, 35 CONN. L. REV. 385, 393-94 (2003).

strengthening real estate markets.<sup>36</sup> Even when many cities were truly struggling over the last several decades, these policies produced dramatic results.<sup>37</sup> Today, with more private investment poised to flow into cities than at any time since the 1960s, such policies can be extraordinarily effective.<sup>38</sup>

Two dimensions of the war on terrorism, however, threaten to undercut this tradition of entrepreneurial government investment just as it can be most fruitful. First, security policies that require setbacks of 50 or 100 feet around public buildings;<sup>39</sup> force parking from below public buildings into freestanding garages;<sup>40</sup> keep retail or other street-enlivening uses out of public buildings;<sup>41</sup> and take other similar measures, make these buildings poor additions to the very downtowns and urban neighborhoods that most need them. Policies that require extensive safety perimeters around buildings directly undermine the ability to locate courthouses and other types of buildings in developed older downtowns. The Bureau of Alcohol, Tobacco, and Firearms decided to locate a new office building to help revitalize a part of downtown Washington, D.C.<sup>42</sup> The building is proceeding, but the Bureau has asked for a 100-foot setback that is free of vehicles *and* pedestrians.<sup>43</sup>

Second, as a society that has decided that we cannot afford both guns and butter, the tens of billions of dollars spent on Homeland Security in each of the last two budgets needs to be assessed in the context of the administration's decisions to cut funding for urban programs across the board.<sup>44</sup> Many programs that help pay for the high-risk public and private investments that lead the way to renewing downtowns and urban neighborhoods, including transportation, the HOPE VI housing program, and the Community Development Block Grant (CDBG), are being reduced or abandoned.<sup>45</sup>

---

36. *See id.* at 395.

37. *See id.* at 434-35.

38. Interview with Richard M. Haughey, *supra* note 24.

39. Bob Cizmadia, Building Security through Design, Address at the American Institute of Architects Conference (Jan. 2002).

40. *Id.*

41. *Id.*

42. *Id.*

43. Suman Sorg, Building Security through Design, Address at the American Institute of Architects Conference (Jan. 2002).

44. *Id.*

45. *See* Peter W. Salsich, Jr., *Saving Our Cities: What Role Should the Federal Government Play?*, 36 URB. LAW. 475, 475-76 (2004); *see also* Eugene T. Lowe, *Mayors Push for Housing*, 13 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 319, 319 (2004) (noting the "virtual elimination of HOPE VI").

For years, the General Service Administration (GSA) brought the only significant new investment to many older communities by placing post offices on older main streets; courthouses and federal office buildings in older downtowns; and federal office buildings in high-unemployment communities.<sup>46</sup> For example, while today Boston thrives, forty years ago, the city was one of America's best-known urban disasters.<sup>47</sup> Public investment led the way back.<sup>48</sup> The creation of Government Center—home to federal, state, and city offices—sparked a revitalization of Boston's Financial District.<sup>49</sup> During that period, public investment in Boston outpaced private investment by more than two-to-one, and the city currently enjoys one of America's strongest private real estate markets.<sup>50</sup> Twenty years after the creation of Government Center, the O'Neil Federal Office Building led to revitalization of the city's Bullfinch Triangle area.<sup>51</sup> Two decades later, the Moakley Federal Courthouse opened the door to the redevelopment of the city's Seaport District.<sup>52</sup> This pattern of public investment unlocking the possibilities for subsequent, private investment on a greater scale has been repeated around the country.<sup>53</sup> For many older downtowns, new public buildings still represent the only hope for new investment.

The GSA's federal courthouse program is the source of significant new investment in many older cities that are also beginning to compete for private investment.<sup>54</sup> The most striking new building of the past decade in Cleveland is its new federal courthouse.<sup>55</sup> In Wheeling, West Virginia, a new courthouse is helping to galvanize downtown revitalization efforts.<sup>56</sup> The soon-to-be-renovated courthouse in Indianapolis represents one of the

---

46. Interview with Rebecca Barnes, Chief Planner, Boston Redevelopment Agency, in Boston, Mass. (Aug. 2004).

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

54. Statement of Robert A. Peck, Commissioner, Public Buildings Service, General Services Administration, Before the Subcommittee on Economic Development, Public Buildings, Hazardous Materials and Pipeline Transportation, Apr. 11, 2000, *available at* [http://www.gsa.gov/Portal/gsa/ep/contentView.do?pageTypeId=8199&channelId=-13338&P=XAE&contentId=11763&contentType=GSA\\_BASIC](http://www.gsa.gov/Portal/gsa/ep/contentView.do?pageTypeId=8199&channelId=-13338&P=XAE&contentId=11763&contentType=GSA_BASIC).

55. Steven Litt, *Partly Perfect*, PLAIN DEALER, Nov. 3, 2002, at J1.

56. *Cf.* FOCUS NEWSLETTER (U.S. Gen. Services Admin. Pub. Buildings Serv., Mid-Atlantic Region), Winter 2005, *available at* [http://www.gsa.gov/gsa/cm\\_attachments/gsa\\_document/\\_R2-w-dN\\_0z5rdz-:34K-pR.pdf](http://www.gsa.gov/gsa/cm_attachments/gsa_document/_R2-w-dN_0z5rdz-:34K-pR.pdf) (last visited Sept. 19, 2005).

most important investments in that city's downtown.<sup>57</sup> Other public projects continue to be very important to cities; the largest office development anticipated for the foreseeable future in central Birmingham, Alabama, is a new FBI building.<sup>58</sup> This pattern is even more critical for smaller cities across the country.

Much of the private investment in older cities is subsidized to reduce the risk of entry into questionable markets, particularly in the first round of new private investment. Not only are programs that helped subsidize these costs being cut, but the price of making buildings safer—buying land to accommodate large setbacks and similar security-enhancing steps—raises the cost of building in denser urban areas, both for public buildings themselves and for privately developed buildings near courthouses and other potential targets. In January 2002, *Newsweek* quoted Warren Buffett as saying that the costs of development associated with terrorism “. . . could slowly but surely lead to the de-urbanization of America and the closing of many iconic buildings.”<sup>59</sup>

### B. Fighting sprawl

Closely related—in fact, almost a ghostly twin—is the problem of sprawl. In some quarters downtowns are viewed as most likely to attract terrorist acts, and density and height, two of the central foundations of more compact development, are under attack as a result. The GSA's commitment to locating federal buildings in urban centers is under active attack. Security-driven concerns have led to proposals to decentralize some public employees in addition to isolating major buildings within large, empty setbacks.<sup>60</sup> These policies undermine essential tools for fighting sprawl: focusing growth toward developed areas and re-establishing densities traditionally needed to support urban main streets and public transit. In 2002, the Federal Reserve Bank announced plans to begin moving employees out of denser urban centers to limit the damage that would be caused by an attack on a single major facility.<sup>61</sup> This decentralization exports jobs, disposable income, demand for housing,

---

57. Cf. Fred Kelly, *Courthouse Opens Door to Unsuspecting Public*, INDIANAPOLIS STAR, Oct. 18, 2003, at 1B.

58. Cf. John Archibold, *Carter Rule Put FBI Etc. Downtown*, BIRMINGHAM NEWS, May 3, 2005, at 1B.

59. Steven Brill, *Osama's Hidden Tax*, NEWSWEEK, Jan. 14, 2002, at 50.

60. See Spencer S. Hsu, *Defense Jobs in N.Va. at Risk*, WASH. POST, May 10, 2005, at A01.

61. *Id.*

indirect tax revenue, and many other benefits out of urban cores.<sup>62</sup>

Cities as diverse as San Diego and Boston, Albuquerque and Chicago, Seattle and Miami, have witnessed a rebirth of interest in denser downtowns and urban neighborhoods because density of people and disposable income is the key ingredient for urban vitality.<sup>63</sup> Yet, in December 2001, Steven Johnson, writing in *Wired* magazine, suggested that “[i]f there are to be new rules for the new warfare, one of the first is surely this: Density kills.”<sup>64</sup> A few months later, in *Urban Land*, noted architect Leon Krier argued that the high death toll associated with the attack on the World Trade Center suggests that low-rise buildings are safer and therefore preferable.<sup>65</sup> Yet, density and high-rise buildings represent an important alternative to sprawl because they produce more compact development. Not only do they unlock the ability to use tight urban sites, but density is also key to assembling the critical mass of people and disposable income that supports lively, walkable, urban environments—the very features that attract people to live and work in cities.

Concerns about sprawl are not idle. Sprawl has a literal, tangible, impact on quality of life and economic opportunity for a majority of Americans. While sprawl is often discussed in largely environmental terms—for example, slow-growing Massachusetts has lost more than half its farmland since 1950 and continues to lose more than forty acres of land a day—sprawl also exacts significant human and economic costs.<sup>66</sup> Suburban shopping centers continue to drain life from older main streets, and sprawl has reinforced racial and economic segregation.<sup>67</sup> In 2003, there were more than 40,000 national driver and pedestrian fatalities and many more injured.<sup>68</sup> The death and injury rates for high-sprawl regions are at least two-to-four times greater than rates in low-sprawl regions.<sup>69</sup> Dr. Richard Jackson, then at the Centers for Disease Control (CDC), first

---

62. *Id.*

63. Kelly, *supra* note 23.

64. Steven Johnson, *Blueprint for a Better City*, WIRED, Sept.-Dec. 2001. available at [www.wired.com/wired/archive/9.12/mustread\\_pr.html](http://www.wired.com/wired/archive/9.12/mustread_pr.html).

65. Nikos Salingaros, *The Absurdity of Modernism: Author Leon Krier Offers His Perspective on the Future of Cities in a Recent Interview*, URBAN LAND, Jan. 2002.

66. KEVIN BREUNIG, MASS. AUDUBON SOC'Y, LOSING GROUND: AT WHAT COST? 1 (2003), available at <http://www.massaudubon.org/printnews.php?id=19>.

67. David J. Barron, *Reclaiming Home Rule*, 116 HARV. L. REV. 2255, 2258 (2003).

68. U.S. DEP'T OF TRANSP. FED. HIGHWAY ADMIN., *Road Safety Fact Sheet*, available at [http://safety.fhwa.dot.gov/facts/road\\_factsheet.htm](http://safety.fhwa.dot.gov/facts/road_factsheet.htm) (last visited Sept. 20, 2005).

69. John Pucher & Lewis Dijkstra, *Promoting Safe Walking and Cycling to Improve Public Health: Lessons from the Netherlands and Germany*, 93 AM. J. PUB. HEALTH, 1509-16 (2003), available at <http://policy.rutgers.edu/tpi/docs/usascii.pdf> (last visited Sept. 20, 2005).

brought to wide public attention the correlation between sprawl and significant increases in public health problems in America; he focused on the rapid increase in America in obesity, and related illnesses like diabetes and high blood pressure.<sup>70</sup> A separate, widely-reported study noted that when comparing a “moderate sprawl” region (like Saint Louis) and a “high sprawl” region (like Dallas), less sprawl has a positive impact on public health comparable to a doubling of household income.<sup>71</sup> In an era in which reliance on foreign energy is increasingly regarded as a serious source of vulnerability, an October, 2004, article in *The New Yorker* noted that Manhattan uses less energy per capita than any city in America and roughly two-thirds less energy per capita than a less compact city like Atlanta, and that across the board, regions that are increasingly dense and urban consume significantly less energy than high-sprawl region.<sup>72</sup> A Chicago architect recently conducted a study showing that the selection of an urban site for its new headquarters would save a national foundation twice as much energy as would the pursuit of the most rigorous green-building standards.<sup>73</sup>

It is critical that the battle against terrorism not inadvertently undercut the growing strength of the battle against sprawl.

### C. Building Community

America is growing increasingly more fragmented economically, racially, and socially; during the 1980s and ‘90s, real income for the poorest fifth of American households decreased by almost ten percent, while real income for the wealthiest fifth increased by over forty percent.<sup>74</sup> During this same period, real income for the top one percent of American households increased by 115 percent.<sup>75</sup> Even with a widely reported influx of young professionals and empty nesters into urban neighborhoods, core communities emerged from the 2000 census with family incomes less than

---

70. Judy Corbett & Marla Hollander, *Is Physical Inactivity Draining Our Government Coffers?*, CAL. COUNTY MAG., July-Aug. 2004, available at [http://www.lgc.org/freepub/land\\_use/articles/physical\\_inactivity\\_govt/page01.html](http://www.lgc.org/freepub/land_use/articles/physical_inactivity_govt/page01.html).

71. Deborah Cohen & Roland Sturm, *Urban Sprawl and Chronic Medical Problems*, Address at the Active Living Research 2004 Annual Conference (Jan. 31, 2004) (slides available at [http://www.activelivingresearch.org/downloads/cohen\\_presentation.pdf](http://www.activelivingresearch.org/downloads/cohen_presentation.pdf)).

72. David Owen, *Green Manhattan*, THE NEW YORKER, Oct. 18, 2004, at 111.

73. Interview with Joseph M. Valerio, Principal, Valerio Dewalt Train Associates, in Chicago, Ill. (Sept. 2004).

74. Isaac Shapiro & Robert Greenstein, *The Widening Income Gulf*, CTR. ON BUDGET AND POL’Y PRIORITIES REP. (Washington D.C.), Sept. 4, 1999, available at <http://www.cbpp.org/9-4-99tax-rep.htm#Recent%20Income%20Trends>.

75. *Id.*

half of those in outer suburbs.<sup>76</sup> At no point since World War II has America had a greater need for common grounds that draw together people of different incomes, races, ages, and household types. America's cities are those places, but limiting entries and setting buildings back from the street stifles the development of vibrant, interactive urban communities. The alternative to rediscovering the common ground that city streets and squares can provide is creating an even greater divide between city and suburb, poor and rich.

Viable strategies for making city streets and squares vibrant should focus on increasing the sense of proximity and ease of interaction among people by:

- Fostering a sense of safety by lining streets and squares with buildings that have extensive windows and frequent doorways discharging people onto the street, sometimes called “eyes on the street” (one study of urban vitality suggests that the best-loved urban districts have the highest frequency of doorways)<sup>77</sup>;
- Concentrating as much employment as possible along streets and squares to create a critical mass of people—and their disposable income—to support shops and restaurants<sup>78</sup>; and
- Opening streets and buildings to each other in ways that promote interaction, dissolving the boundary between buildings and the public realm with shops and cafés that promote a sense of interaction with large urban buildings at the street.<sup>79</sup>

Two public buildings in Boston, one designed before and one after the Oklahoma City bombing, tell this story. The architect of Boston's still-new Moakley Federal Courthouse, set on a magnificent waterfront site, designed a winter garden overlooking the harbor and downtown to house public events.<sup>80</sup> I was asked at a conference of architects whether the events of September 11 had diminished public use of this space. The immediate answer was yes. The more important answer, however, was that the courthouse already represented the ways in which security concerns can

---

76. Interview with Mark Draisen, *supra* note 10.

77. David Dixon, *Is Density Dangerous? The Architects' Obligations After the Towers Fell*, PERSPECTIVES ON PREPAREDNESS, Oct. 2002, at 8, available at [http://bcsia.ksg.harvard.edu/BCSIA\\_content/documents/Is\\_Density\\_Dangerous.PDF](http://bcsia.ksg.harvard.edu/BCSIA_content/documents/Is_Density_Dangerous.PDF).

78. *Id.*

79. *Id.*

80. ANTHONY FLINT, GOVERNING GREATER BOSTON, THE POLITICS AND POLICY OF PLACE, 202 (Charles C. Euchner ed., 2002), available at [http://www.ksg.harvard.edu/rappaport/downloads/ggb\\_2002/chapter6.pdf](http://www.ksg.harvard.edu/rappaport/downloads/ggb_2002/chapter6.pdf) (last viewed Sept. 17, 2005).



diminish a lively public realm. Sitting on the principal pedestrian route between the Financial District and the new Seaport District, the courthouse turns a blank wall to the street for an entire block, placing the building in splendid isolation, dampening nearby public life, and severing the two districts it was meant to connect.<sup>81</sup> During planning for the courthouse, the city and many others had asked the GSA to incorporate shops and galleries into this blank wall to enliven the street and reflect the area's character as an art district.<sup>82</sup> The GSA responded that security concerns precluded these uses.

In sharp contrast, the State Transportation Building, which opened in 1983, embodies community-friendly design: it has shops, services and restaurants; parking hidden below the building; and a fully public interior "square," enlivened by cafés, entertainment, and steady pass-through traffic from multiple entrances.<sup>83</sup> These qualities also happen to be the hallmarks of "defensible space," which promotes safety by fostering a vital, people-filled public realm.<sup>84</sup>

#### D. Enhancing Civic Quality

In the wake of the Oklahoma City bombing, Senator Daniel Patrick Moynihan urged Americans to commit themselves to continuing the country's tradition of creating buildings and public spaces that embody the values of an open and democratic society.<sup>85</sup> His words resonate more strongly today: at a time of greater restrictions to fight terrorism, American civic values are at stake.

The State Department and architects designing embassies and other federal buildings abroad have long wrestled with the apparent contradictions between a society that prides itself on openness and freedom, and the bunker-like architectural qualities that most readily meet security concerns.<sup>86</sup> The State Department and these architects both deserve significant credit for keeping the debate alive and for struggling to bring the two goals into balance, but the results hold little promise as a model for America's cities. Although the State Department has worked

---

81. David Dixon, Site Visit to the Seaport District, Boston, Mass., Jan. 2005.

82. Martin F. Nolan, *Heart of the New Boston*, BOSTON GLOBE, June 10, 1998, at A23.

83. Frederic Golden, *Keeping Warm, Boston Style: A Building that Generates Heat from People and Machines*, TIME MAG., Jan 9, 1984, at 55.

84. See generally, OSCAR NEWMAN, DEFENSIBLE SPACE: CRIME PREVENTION THROUGH URBAN DESIGN (Collier Books 1973).

85. Peter Grant, *Safer Buildings for Feds*, WALL ST. J., Dec. 26, 2001, at B4.

86. Neil Irwin, *Embassy Architects Juggle Security, Aesthetics*, WASH. POST., Sept. 2, 2002, at E01.

hard to enhance the architectural quality of its facilities and to minimize the intrusiveness of security measures—including deep setbacks, hardened street levels with heavy walls and few windows, fences, and ostentatious security at limited entry points<sup>87</sup>—such measures represent disturbing models for courthouses, city halls, and other civic buildings. Yet these are the very approaches being promoted to enhance security after September 11.<sup>88</sup> Reliance on obvious security measures within the dense confines of cities challenges architects to create symbolic buildings that do not communicate fear, isolation, targeted discrimination, or other messages inappropriate to a democratic society.

This concern extends to a broad range of values that shape the civic quality of our cities. To the extent that concerns about security supersede other values—historic preservation, accommodations for the disabled, environmental protection, energy conservation—these other values become more difficult to maintain. Creating barriers around historic buildings alters their character and diminishes a sense of connection to our historic values and traditions. Reconfiguring air handling to protect internal air supplies can significantly increase energy use.<sup>89</sup> Mandating large quarantine zones around buildings leads to more construction on greenfield sites.<sup>90</sup> Isolating buildings from parking forces people with disabilities to travel much longer distances. A single point of entry can still allow multiple points of emergency, yet there is the danger of complicating fire safety. The list of potential contradictions is very long.

**HOW CAN AMERICA MAXIMIZE THE BENEFITS AND MINIMIZE URBAN DESIGN, SOCIAL, FINANCIAL, AND OTHER COSTS WHILE PROTECTING AMERICANS AGAINST TERRORISM AND PROMOTING THE LIVABILITY OF AMERICAN CITIES?**

There are no easy ways to balance security and urban livability. We cannot afford to ignore the threat of terrorism—a new sense of vulnerability is now deeply ingrained in America's psyche—but we can afford even less to undermine our cities. Ultimately, just as Israel, Great Britain, France, and other societies that have faced the reality of terrorism have done,<sup>91</sup> Americans will need to engage in a national dialogue to find the right balance between our fear of terrorism and the values which shape

---

87. *See id.*

88. *See id.*

89. Cizmadia, *supra* note 39.

90. *See* Dixon, *supra* note 77, at 8.

91. *Id.*

our cities. From a purely financial perspective, America cannot afford to “harden” every potential target—and, far short even of that goal, should not dedicate most of our building dollars to security at the expense of design, sustainability, durability, and other essential qualities. *BusinessWeek* reported in 2002 on a Brookings Institution projection that “improved major building security” would cost the United States economy an extra \$2.5 billion per year.<sup>92</sup> Those dollars, spent elsewhere, could build enough homes to shelter more than 50,000 homeless Americans every year.<sup>93</sup> The \$47.4 billion in the federal antiterrorism budget for 2005, alone, could fund many of the transit projects that a number of major cities have been trying to fund for years, without success.<sup>94</sup>

As America moves toward this broader dialogue, many difficult debates will emerge around specific approaches to fighting terrorism. For example, compromising privacy (and individual freedom) can make it easier to open a sensitive site to the public—it is far less essential to worry about the dangers associated with placing shops in a courthouse if authorities know who is in those shops at all times. In a widely reported move, organizers of the 2002 Super Bowl installed photographing and scanning equipment that recorded the faces of people attending the game.<sup>95</sup> This step “eliminated the need for highly visible barriers and elaborate checkpoints that, from a design perspective, would have been far more drastic”<sup>96</sup>—and which would have also conveyed a sense of fear. While the effectiveness of the 2002 technology has been debated, the psychology of fear caused by 9/11 at that time made it very difficult to have a public dialogue about the obvious civil liberties issues that this redefinition of privacy embodied. At the same time, there are significant steps that America is already exploring that promise to make cities safer from terrorism without compromising—and in some cases furthering—other important civic values.

#### URBAN DESIGN: CONTINUE TO CREATE GOOD URBAN DESIGN MODELS FOR PROMOTING BUILDING SECURITY

“Following Oklahoma City, the GSA organized a panel of architects, planners, and others to devise an approach to protecting federal buildings in

---

92. Lee Walczac, et al., *America's Biggest Job: Is the U.S. Any Less Vulnerable to Terror These Days? Here's the Good News - - And the Bad*, BUS. WK., June 10, 2002, at 34.

93. Dixon, *supra* note 77, at 10.

94. James Jay Carafano, *The Homeland Security Budget Request for FY 2005: Assessments and Proposals*, BACKGROUND, Mar. 5, 2004, at 1, available at <http://www.heritage.org/Research/HomelandDefense/1731.cfm>.

95. Dixon, *supra* note 77, at 10.

96. *Id.*

Washington that remained sensitive to Senator Moynihan's admonition about creating buildings worthy of a democratic and open society."<sup>97</sup> "The panel suggested approaches based largely on protecting buildings with street furniture."<sup>98</sup> Subsequently, architects designed artful "hardened streetscapes" for the Federal Triangle in Washington, D.C. that made innovative use of benches, bollards, and streetlights, and increased ranks of street trees (a hardened tree presumably being a larger tree).<sup>99</sup> These measures protect civic buildings while enhancing the public realm, and they preempt far more drastic proposals to ban vehicles and people and erect walls around public buildings.<sup>100</sup> New federal courthouses in Seattle and Cleveland have produced successful works of urban design that combine equally artful design and compromise.<sup>101</sup> In Seattle, the courthouse sits on a magnificent stepped plaza that protects much of the building at the same time that it engages the street with a café and other features.<sup>102</sup> The Cleveland courthouse, grappling with the prospect of degrading the quality of the surrounding public streets by pushing its public parking above ground, elected instead to push public parking to remote underutilized downtown garages.<sup>103</sup> It is worth noting that security-driven budget increases have also benefited streetscapes by supporting higher-quality materials and design, which became available when enhanced security became part of the program.<sup>104</sup>

#### **ENGINEERING: FOCUS ON MAKING BUILDINGS SAFER RATHER THAN MORE ISOLATED**

Making buildings safer in the face of terrorism brings comparable benefits in addressing more frequent hazards like fires and earthquakes. General building-safety measures fall into three broad categories—(1) "hardening buildings," (2) protection of heating, ventilation and air

---

97. Dixon, *supra* note 77, at 9. See generally NAT'L CAPITAL PLANNING COMM'N, DESIGNING FOR SECURITY IN THE NATION'S CAPITAL (2001), available at [http://www.ncpc.gov/planning\\_init/security/DesigningSec.pdf](http://www.ncpc.gov/planning_init/security/DesigningSec.pdf).

98. Dixon, *supra* note 77, at 9. See NAT'L CAPITAL PLANNING COMM'N, *supra* note 97, at 7.

99. Dixon, *supra* note 77, at 9.

100. See NAT'L CAPITAL PLANNING COMM'N, *supra* note 97 at 7.

101. See Maureen O'Hagan, *U.S. Courthouse Opens Aug. 17 with Plenty of Concrete, Steel, and Security*, THE SEATTLE TIMES, Aug. 5, 2004, at B1; Brian Tucker, *Dismay Dogs Developer's Withdrawal*, CRAIN'S CLEV. BUS., June 13, 2005.

102. See O'Hagan, *supra* note 101.

103. Interview with Hunter Morrison, Former Planning Commissioner of the City of Cleveland, OH, in Boston, Mass. (Dec. 2004).

104. Cizmadia, *supra* note 39.

conditioning (HVAC) systems, and (3) improvements in emergency readiness.<sup>105</sup>

The most common approaches to hardening buildings involve strengthening street-level walls (including the use of films and other technologies to minimize glass shattering); using stronger structural elements to reduce the risk of window systems detaching from building walls in an explosion; and increasing the blast and fire-resistance of structural systems and emergency stairs and exits.<sup>106</sup> Protecting HVAC systems focuses on making it more difficult to introduce biochemical hazards into air supply, drinking water, or other systems by the design and location of intakes, filters, and similar elements.<sup>107</sup> The emergency-preparedness protocols introduced for the World Trade Center Towers following the 1993 bombing, which included emergency drills, have been credited with saving many lives on September 11; additional emergency-preparedness steps include duplicate exit/access stairways to allow fire and other emergency personnel to enter a building without having to push through fleeing “civilians”; intermittent “safe” floors; and requirements that building structures be able to stand for a longer period to prolong the time for residents to escape.<sup>108</sup> None of these safety measures imposes the same urban design burdens as does isolating buildings or protecting their perimeters by reducing access.

#### REGULATION: SUBSTITUTE RULE BOOKS WITH INCENTIVES

Replacing prescriptive rules with performance-based regulations would create greater incentives to develop approaches that promote security while also advancing other values such as creating pedestrian-friendly facades. In part due to the urgency attached to developing a regulatory framework to guide antiterrorism planning and design, and certainly in part due to the fact that most building regulations are already written in this way, the bulk of new regulations governing security measures have been highly prescriptive.<sup>109</sup> Performance-based regulations, which, for example, would specify the blast level that a building must withstand, rather than specifying

---

105. *Id.*

106. *Id.*

107. *Id.*

108. *Id.*

109. Richard W. Bukowski, *Building Regulatory Systems in a Post-September 11 World*, 2004 Performance-Based Codes and Fire Safety Design Methods, 5<sup>th</sup> International Conference, *available at* <http://fire.nist.gov/bfrlpubs/fire04/PDF/f04040.pdf#search='building%20regulations%20highly%20prescriptive>.

the thickness of its walls, would create significant new incentives to create more “people-friendly”—and inevitably “urban friendly”— solutions to security-related challenges. For example, rather than forbidding the incorporation of retail space into Boston’s Moakley Federal Courthouse, a number of observers suggested that this retail space, which would have represented a significant public amenity and enlivened the adjacent public street, could be shielded structurally to protect the rest of the courthouse, but prescriptive security regulations did not permit this approach.<sup>110</sup> Films and other techniques that strengthen glass and minimize the hazards of shattering represent a far more benign way to “harden” the edges of buildings that face streets than eliminating windows entirely. Similarly, hardening parking structures to resist an explosion has already reduced the separation between parking facilities and airport terminals that were mandated after September 11 which offers important flexibility in locating parking for potential target buildings in urban settings. New technologies will likely further reduce the negative urban design impacts on cities of many of the planning, design, and engineering driven approaches to enhancing security discussed above.

### CONCLUSION

No American city faces more directly the dilemma of enhancing security while promoting urban values than New York. In his January 2002 inaugural address, Mayor Michael Bloomberg said,

We will rebuild, renew and remain the capital of the free world . . . New York is safe, strong, open for business and ready to lead the world in the 21st century. We will continue to improve our quality of life and attract visitors, tourists and businesses in record numbers. We will focus on public safety. We will work tirelessly to provide safe streets and homes for all New Yorkers. We will go forward. We will never go back.<sup>111</sup>

In this address and subsequently, Bloomberg has stressed the importance of focusing the rebuilding of the World Trade Center site and lower Manhattan on people, not fear, and of honoring the victims’ memory by creating a plan that unites people and fosters renewed urban vitality.

---

110. Anthony M. Santomero, The U.S. Experience with a Federal Central Bank System, Speech at Oesterreichische National Bank’s 30th Economics Conference (June 13, 2002), available at <http://www.phil.frb.org/publicaffairs/speeches/santomero24.html>.

111. Michael R. Bloomberg, Inaugural Address (Jan. 1, 2002), available at [http://home.nyc.gov/portal/index.jsp?epi\\_menuItemID=b270a4a1d51bb3017bce0ed101c789a0&epi\\_menuID=13ecbf46556241d3daf2f1c701c789a0&epi\\_baseMenuID=27579af732d48f86a62fa24601c789a0&pageID=nyc\\_blue\\_room&catID=1194&doc\\_name=http%3A%2F%2Fhome.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2002a%2Finaugural\\_address.html&cc=uned1978&rc=1194&ndi=1](http://home.nyc.gov/portal/index.jsp?epi_menuItemID=b270a4a1d51bb3017bce0ed101c789a0&epi_menuID=13ecbf46556241d3daf2f1c701c789a0&epi_baseMenuID=27579af732d48f86a62fa24601c789a0&pageID=nyc_blue_room&catID=1194&doc_name=http%3A%2F%2Fhome.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2002a%2Finaugural_address.html&cc=uned1978&rc=1194&ndi=1).

Echoing his call, a lead editorial in *The New York Times* called for reconstruction plans to incorporate features that “make an urban area live and breathe.”<sup>112</sup>

Terrorism and enhanced security concerns are firmly planted in the American psyche. It is hard for most Americans to accept the need to balance the risks of terrorism against the costs and benefits of responding to these risks. In the absence of quantitative measures for most risk assessments, Americans will need to establish qualitative measures for deciding where and how to respond to terrorism. Architects, planners, and others who deal daily with the qualitative issues of city building can play an important leadership role in this effort, in part because the people who traditionally make risk assessments cannot.<sup>113</sup> This qualitative assessment will need to address such issues as evaluating competing claims for scarce dollars in building projects; finding a balance between enhanced security and lively public realm, a balance that will probably be different in every case; and even determining which buildings and spaces should be viewed as potential targets in the planning and design process.

As with any crisis, a thoughtful response will leave our society stronger and our public realm more vital. Just as initial reactions to the energy crisis matured into much more complex thinking about sustainability, which in turn has enriched large aspects of our built environment, a fully nuanced response to concerns about terror can provide new understanding and resources to strengthen our ability to foster community. To date, the debate over the implementation of new policies and regulations to shape our response to terrorism has been dominated by professionals with backgrounds in designing buildings where security is the sole concern. The key to the Federal Triangle outcome was participation by a far wider array of practitioners who focused on the quality, character, and vitality of cities.<sup>114</sup>

Eli Naor, a California architect who grew up in Israel, says that through years of crisis Israel has remained committed to buildings and public spaces that promote community.<sup>115</sup> In the wake of significant terrorist bombings, cities like Madrid and Paris have not closed important public buildings off from streets and squares.<sup>116</sup> America should carefully consider these models.

---

112. *The Downtown We Don't Want*, N.Y. TIMES, July 17, 2002, at A18.

113. Dixon, *supra* note 77, at 11.

114. *Id.*

115. Interview with Eli M. Naor, Senior Vice President, VBN Architects, in Washington, DC (Oct. 2001).

116. Dixon, *supra* note 77, at 8.

2005

*9/11 AND AMERICA'S CITIES*

123

We need a broad-based national dialogue to ensure that we maintain America's commitment to building livable communities when we make choices about how to make our cities more secure against possible terrorist action. Security is an important goal, but if it trumps all other values of a democratic society—if we commit the same mistakes that endowed a small Connecticut town with a windowless school—we will destroy by our own hand much more than a terrorist act ever could.