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## IDA Reform

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## IDA Reform

### Abstract

Thank you for the opportunity to comment on IDA reform. I teach at the University at Buffalo Law School in the areas of affordable housing and community economic development. I am submitting these remarks on behalf of the Partnership for the Public Good (PPG). PPG has united over 40 Buffalo-area non-profits around a 2009 Community Agenda, which includes this plank regarding subsidy reform: Reform New York State's Subsidy Programs New York State should reform its major subsidy programs, such as Industrial Development Agencies and Empire Zones, to ensure that economic development dollars are being spent wisely and with maximum community input. Reform legislation should include job quality standards (living and prevailing wages), local hiring, green building requirements, anti-pirating and recapture mechanisms, and anti-sprawl provisions. Locally, the six IDAs in Erie County should be merged into one countywide authority.

### Keywords

Buffalo, Economic Development, Policies and Programs, Report, PPG, PDF



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Dear Mr. Nickson:

Thank you for the opportunity to comment on IDA reform. I teach at the University at Buffalo Law School in the areas of affordable housing and community economic development. I am submitting these remarks on behalf of the Partnership for the Public Good (PPG). PPG has united over 40 Buffalo-area non-profits around a 2009 Community Agenda, which includes this plank regarding subsidy reform:

**Reform New York State's Subsidy Programs**

New York State should reform its major subsidy programs, such as Industrial Development Agencies and Empire Zones, to ensure that economic development dollars are being spent wisely and with maximum community input. Reform legislation should include job quality standards (living and prevailing wages), local hiring, green building requirements, anti-pirating and recapture mechanisms, and anti-sprawl provisions. Locally, the six IDAs in Erie County should be merged into one countywide authority.

PPG has just completed a report titled *Missing the Target: How Economic Development Programs Have Failed to Revive Buffalo's Most Challenged Neighborhoods*, which includes an analysis of New York's IDA system. The report, the Community Agenda, and the list of Agenda endorsers are all available at [www.ppg.buffalo.org](http://www.ppg.buffalo.org).

The current IDA regime is a dismal failure of wasteful, inefficient, and often downright harmful corporate subsidies. While IDA bond financing remains a useful tool, IDA property and sales tax exemptions do more harm than good by giving a few lucky or favored corporations tax benefits at the expense of all other corporate and individual taxpayers and at the expense of truly public goods such as education, public safety, infrastructure, and public health. The Hoyt/Thompson bill does an excellent job in ensuring that our tax dollars are spent only on projects that advance the public good in ways both measurable and accountable.

### **Sprawl, Green Buildings, and Climate Change**

IDA reform is an essential tool in addressing some of our most severe environmental issues. Sprawl is an explosive problem in growing regions, but, sadly, it is also an explosive problem even in areas such as Erie County that are losing population. From 1980 to 2006, while the region's population declined by 5.8%, our developed area grew by 38%. Between 1984 and 1999, the average miles driven each day increased by 50%, from 10 to 15 miles. All this sprawl occurred at a time when the number of abandoned structures in Buffalo was rising to 8,684 and the number of vacant lots rising to 10,170.

Nationwide, our out-of-control sprawl is a key reason that the United States, with only 5% of the world's population, contributes 25% of its greenhouse gases, and why the average American uses twice as much fossil fuel as the average British person and 2.5 times as much as the average Japanese. 27% of our greenhouse gas contributions come from transportation, in part because our governments continue to subsidize sprawl instead of revitalizing our urban cores.

Another key factor is our failure to build energy-efficient buildings. Buildings account for 35% of our carbon dioxide emissions nationwide – even more than our vehicles. Buildings also create many other kinds of environmental damage; for example, 40% of all raw materials extracted each year are used for buildings. Green building techniques radically reduce energy and raw material use; they also reduce water consumption and help divert storm water from sewer systems, where it causes polluting overflows.

The remarkable fact about green buildings is that in addition to preventing pollution, they save their owners large amounts of money. The University at Buffalo estimates that it saves \$10 million per year due to its energy efficiency improvements. The City of Portland estimated that bringing standard buildings up to LEED environmental levels produced savings of 15% over the life of the buildings. (LEED, or Leadership in Energy and Environmental Design, is the nationally recognized benchmarking system for green design). The State of California did a true cost/benefit analysis, including pollution costs, and found overall financial benefits of \$67.31 per square foot for a LEED gold or platinum-rated building.

We have no time to waste. The consequences of climate change will be catastrophic unless we radically change our transportation and building systems immediately. According to the United Nations, if current trends continue, global temperatures may rise 11 degrees by 2100, wreaking havoc around the world. We can expect severe droughts, more hurricanes like Katrina, and rising sea levels that will flood low-lying coastal areas, such as New York City, where 634 million of the world's people reside.

### **IDA Fragmentation and Performance in Western New York**

While the five counties of New York City share a single IDA, Niagara County has three and Erie County has six (Erie County, Amherst, Clarence, Concord, Hamburg, and Lancaster).

The Amherst and Erie County IDAs are by far the most active. In 2004 the Amherst IDA subsidized 131 projects, providing net tax exemptions worth \$4,834,888. The Erie County IDA offered net exemptions worth \$27,070,150. Together, these two agencies gave out about \$32 million in tax revenues. How much money is \$32 million in the framework of county finances? To give two examples, the county spends about \$22 million per year on its library system and about \$5 million on its arts and cultural organizations.

IDAs are complex bureaucracies that require staffing, lawyers, offices, and other expenses. Thus, in 2004 the Amherst IDA spent \$396,600, and the ECIDA spent \$1,903,800. The IDAs get their revenue from developer fees – they get paid for each “deal” that they make. But the notion of developer fees is misleading, because the developers pay the fees in return for the subsidies they receive from the IDAs; in reality, the taxpayers are footing the bill.

Allowing multiple IDAs within a single county is not just wasteful, it is also undemocratic because a town IDA is able to give away county tax revenue. The Amherst IDA has aggressively subsidized “spec” office complexes that draw tenants from Buffalo and other suburbs, and it has used tax revenue from the whole county, including Buffalo, to do it. In one instance, a court found the Amherst IDA guilty of pirating office tenants from downtown Buffalo. But the practices continue. Recently, the Amherst IDA granted Uniland \$1.46 million in tax breaks to build an office building, even though Uniland had not disclosed any of its prospective tenants.

When the Amherst IDA offered HSBC \$79 million to expand a data center, a subsidy worth \$6.6 million per job created, the rest of the county had no voice in the decision, even though it involved a reduction in the whole county’s tax revenues. A more vigorous and informed debate might have highlighted the fact that HSBC, Europe’s second largest bank, has been responsible for much of the subprime lending that has torn apart so many neighborhoods, and now the entire global economy. At HSBC Holdings, for example, more than 63% of mortgages in 2006 were subprime, including 6,295 loans with rates at least eight percentage points over the Treasury level. While about half of white borrowers got high cost loans from HSBC, 63.27% of Hispanic borrowers and 68.97% of African-American borrowers got high cost loans. It is strange, to say the least, to think about a low-income homeowner in the East Side of Buffalo, a neighborhood devastated by subprime lending, paying to subsidize HSBC’s expansion in Amherst.

Many other local IDA deals appear harmful to the broader public interest. The Clarence IDA has boasted in full page advertisements in the *Buffalo News* about subsidies it has given to the New Buffalo Shirt Factory, a business formerly located in the city of Buffalo, and Dash’s Market, a supermarket which received extensive county tax breaks in order to open a new location in Clarence. NRG Energy has received large subsidies for its coal plant in Tonawanda, which is by far the largest source of pollution in Erie County, releasing some 2,642,883 pounds of toxins per year. Time Warner received a \$6.48 million reduction in sales taxes from the ECIDA, not to create jobs, but simply for a promise not to cut more than 50 jobs.

As the 2007 study “Sprawling by the Lake” demonstrated, far from helping to revitalize the city of Buffalo, the IDA regime is subsidizing sprawl. In 2005, the city of Buffalo, with 30% of the county’s population, contained only 17% of the IDA tax-exempted properties. In 2005 Amherst received 178 property tax exemptions- totaling almost \$393 million; Buffalo received 113 exemptions totaling just under \$248 million. Even within Buffalo, IDA projects are heavily concentrated in downtown and the waterfront; of the more than 100 projects currently listed on the ECIDA’s web site, only three are located in the East Side or West Side (D’Youville College, an affordable housing project on Michigan Avenue, and the Buffalo Public Schools reconstruction project).

Very profitable companies based in suburban or exurban locations routinely get IDA exemptions with only the weakest of justifications. Fisher-Price, a subsidiary of Mattel, received a \$1.4 million break in 2004 and sought another \$1.75 million in 2008 to upgrade its offices in East Aurora. Moog received up to \$1.28 million in subsidies from the ECIDA in 2007 to build an addition in Elma. Tops received \$1.57 million to renovate its headquarters in Amherst. The Dent Neurological Group received \$640,000 to expand its medical facilities in Amherst, vowing to create 38 new jobs. But in what sense are those “new” jobs? Doctors in Amherst compete with other local doctors for a finite clientele of patients; if one office gains 38 jobs, then 38 jobs will be lost at the local competitors’ offices.

On a smaller scale, Martin’s Fantasy Island got \$74,000 to build two new rides at its Grand Island amusement park, over the objection of County Executive Chris Collins, who stated, “they’re going to put these rides in regardless. What company wouldn’t like a freebie, and this is a freebie.” Collins’ logic applies to almost all IDA deals. Although the IDAs and businesses justify them by pointing to additional tax revenue the developments will generate, in return for the subsidy, that argument assumes that the company would not do the development but for the incentives. This “but for” test is not one that the IDAs actually use in evaluating projects, so they have no way of knowing whether a project passes it, and the evidence suggests that few projects do.

Statewide, as reports from the State Comptroller and others have demonstrated, the IDAs’ job creation record is very weak. Of 217,000 jobs promised by IDA applicants for 2005, only 79,000 were actually created. One fourth of the IDA projects actually cut jobs in 2005. In a series of reports and audits, the Comptroller has found that:

- the IDAs routinely subsidize projects that would have been done anyway;
- relationships between IDAs and developers often determine what projects get funded;
- piracy of businesses from one municipality within the state or region to another is common;
- IDAs are induced to support large projects by the fees they obtain from them;
- Only about one third of IDA projects are manufacturing;
- IDAs routinely fail in their reporting requirements;
- Most IDAs have no way to enforce their agreements when employers fail to live up to them.

The Hoyt/Thompson reform legislation is an important step toward a more economically and environmentally responsible future. PPG strongly urges New York's Assembly and Senate to support this landmark reform.

Sincerely,

Sam Magavern  
Partnership for the Public Good