


2007

Symposium: Current Issues in Community Economic Development: Foreword: Entrepreneurship, Race, and the Current Environment for Community Economic Development

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Recommended Citation

30 W. New Eng. L. Rev. 1 (2007)

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SYMPOSIUM:
CURRENT ISSUES IN COMMUNITY
ECONOMIC DEVELOPMENT

FOREWORD: ENTREPRENEURSHIP, RACE,
AND THE CURRENT ENVIRONMENT FOR
COMMUNITY ECONOMIC DEVELOPMENT

ERIC J. GOUVIN*

On March 30, 2007, the Western New England College School of Law and the School of Business¹ jointly hosted the second annual academic conference on Current Issues in Community Economic Development (Conference), sponsored by the Western New England College Law and Business Center for Advancing Entrepreneurship (Law and Business Center). The Conference is one of many educational and service projects of the Law and Business Center. This edition of the Western New England Law Review serves as a record of the papers that were presented at the Conference.

The Conference promotes the two primary goals of the Law and Business Center: (1) to provide technical legal and business as-

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1. Western New England College School of Law is the only Massachusetts law school located outside the greater Boston area that is fully accredited by the American Bar Association and the Association of American Law Schools. The School of Business at Western New England College is one of three business schools outside the Boston area to be accredited by the Association to Advance Collegiate Schools of Business.

sistance to entrepreneurs and (2) to sponsor educational and outreach events focused on entrepreneurship and economic development. The Law and Business Center is a unique resource in Western Massachusetts. The combination of legal and business expertise sets the Law and Business Center apart, allowing it to provide services that other support organizations are unable to deliver.

The cornerstone of the technical assistance aspect of the Law and Business Center is the Small Business Clinic (Clinic)—a joint venture of Western New England College's School of Law and School of Business. Organized in 2002, the Clinic first offered legal services in the spring of 2003. It was among the first in the country to provide both business and legal advice to low-income clients. The Clinic also provides an innovative "office hours" program to help business owners with specific problems, without requiring the Clinic to take the business on as a client. Since its inception, the Clinic has served over one hundred businesses. It has provided legal assistance on matters ranging from business formation and the protection of intellectual property to contract drafting and tax matters. The Clinic has also provided business assistance on matters such as marketing plans, personnel policies, and competitive analysis.

The education and outreach component of the Law and Business Center's mission is addressed in several ways. Throughout the academic year, the Law and Business Center sponsors events focused on entrepreneurship at Western New England College and at the Scibelli Enterprise Center at Springfield Technical Community College. The Law and Business Center offers a series of informational workshops on topics of interest to entrepreneurs designed to help answer common questions. The Law and Business Center also sponsors a speaker series in which nationally recognized guest speakers with expertise in entrepreneurship, small businesses, or economic development present issues of interest, not only for students and faculty, but also for the community at large.²

2. During the 2005-2006 academic year, the speakers on the legal side included Professor Lisa Fairfax and Professor Douglas K. Moll. Douglas K. Moll, Professor, University of Houston Law Center, Address at the Western New England College Law and Business Center for Advancing Entrepreneurship Speaker Series: The Oppression of LLC Members (Mar. 7, 2006); Lisa Fairfax, Professor, University of Maryland School of Law, Address at the Western New England College Law and Business Center for Advancing Entrepreneurship Speaker Series: Achieving the Double Bottom Line: A Framework for Corporations Seeking to Deliver Profits and Public Services (Feb. 9, 2006). On the business side, the Law and Business Center hosted Laura Gordon, CPA and principal of Gordon & Associates, and community entrepreneur Bill Strickland.

Finally, the Law and Business Center also sponsors an annual academic conference. This symposium issue of the *Western New England Law Review* documents the proceedings at the second of these conferences, held in 2007. This interdisciplinary Conference is designed to bring together experts from many different fields—legal and business scholars, policymakers, lawyers, and businesspeople—and put them in a setting where they will talk to, and learn from, each other about current issues in community economic development. The Conference employs a “roundtable format” to facilitate the panel discussions.³ One of the main goals of the

Laura Gordon, Principal, Gordon & Associates, Address at the Western New England College Law and Business Center for Advancing Entrepreneurship Speaker Series: Building Business from a Base of Strength (Apr. 25, 2006); Bill Strickland, President & CEO, Manchester Craftsmen’s Guild & Bidwell Training Center, Inc., Address at the Western New England College Law and Business Center for Advancing Entrepreneurship Speaker Series: Building Enterprise to Empower Community (Jan. 25, 2006).

In the 2006-2007 academic year, the speakers on the legal side were Professor Steven Hobbs and Professor Gordon Smith. Steven Hobbs, Professor, University of Alabama School of Law, Address at the Western New England College Law and Business Center for Advancing Entrepreneurship Speaker Series: When the Hero Gets the Blues: Lessons from Willie King (Mar. 7, 2007) (giving a perspective on storytelling and entrepreneurship); Gordon Smith, Professor, University of Wisconsin School of Law, Address at the Western New England College Law and Business Center for Advancing Entrepreneurship Speaker Series: What Does Law Have to do with Entrepreneurship? (Jan. 25, 2007). The business side of the series featured Ms. Humera Fasihuddin, principal of Edical May, and Ms. Nadine Thompson, founder of Warm Spirit, Inc. Humera Fasihuddin, Principal, Edical May, Address at the Western New England College Law and Business Center for Advancing Entrepreneurship Speaker Series: To Own or Be Owned (Oct. 25, 2006); Nadine Thompson, Founder and CEO, Warm Spirit Corporation, Address at the Western New England College Law and Business Center for Advancing Entrepreneurship Speaker Series: Doing Well by Doing Good (Sept. 12, 2006).

During the 2007-2008 academic year the speaker series featured business speaker Dr. Fran Harris, author of “About My Sister’s Business” and legal speaker Professor Robert Suggs. Dr. Fran Harris, Address at the Western New England College Law and Business Center for Advancing Entrepreneurship Speaker Series: Innovation and Diversity (Nov. 13, 2007); Robert Suggs, Professor, University of Maryland School of Law, Address at the Western New England College Law and Business Center for Advancing Entrepreneurship Speaker Series (Oct. 25, 2007). In 2008, the legal speaker will be Professor Michael Barr, at the Speaker Series entitled Community Banking, on April 8, 2008; and the business speaker will be Stephanie Capparell, the author of the “The Real Pepsi Challenge,” on January 29, 2008.

3. In the “roundtable format” the moderator takes the first few minutes to introduce the topic and each panelist. Each panelist has ten minutes or so to develop the points he or she wants to make for the session. Ordinarily, the other panelists will have already seen each other’s papers, so they will be able to chime in with questions and comments while the presenter is making his or her points. The moderator can act as a traffic cop or as a catalyst, posing questions, generating arguments, involving the audience, and putting each panelist’s contributions into perspective relative to the session topic. In the final two or three minutes, the moderator summarizes the discussion, identifies the key points of agreement and contention, and ends the session on time.

Conference is to get people who might not ordinarily cross paths to talk to each other. In addition to the panels, the Conference features a lunchtime keynote speaker.

Although we are proud of the Law and Business Center as a resource for small businesses in the community, the primary objective of the project is to provide powerful learning opportunities for Western New England College students, in both the School of Law and the School of Business. Research shows that there is a link between education and entrepreneurship.⁴ The Law and Business Center offers students an outstanding opportunity to apply, expand, and refine their knowledge and skills in business development. We hope the end result will be a group of legal and business professionals who are prepared to both assist entrepreneurs and become entrepreneurs themselves.

On March 30, 2007, approximately seventy people concerned about community economic development came to the Western New England College School of Law campus to discuss critical issues that affect us in these postindustrial times. This second Conference on current issues in community economic development built upon the foundation set down the previous year.⁵

The Conference panels focused on the following topics: (1) discussing whether set-aside programs and affirmative action initiatives have served the goal of developing minority- and women-owned businesses; (2) determining whether public-private partnerships work and, if so, under what conditions; (3) identifying and addressing challenges facing urban entrepreneurship; and (4) assessing whether "fringe banking" businesses, such as check-cashing facilities and payday lenders, are predators or a new model for delivering financial services in underserved communities.

As the panels and panelists came together for the 2007 Conference, it became clear that most of the topics had racial undertones, if not an explicit racial theme. Obviously, a panel examining set-aside programs and affirmative action is explicitly about race; but the topics of urban entrepreneurship and fringe banking raise racial

4. See SMALL BUS. ADMIN., THE SMALL BUSINESS ECONOMY FOR DATA YEAR 2005: A REPORT TO THE PRESIDENT 113-56 (2006), available at http://www.sba.gov/advo/research/sb_econ2006.pdf.

5. On March 24, 2006, the Western New England College Schools of Law and Business hosted the first Issues in Community Economic Development Conference. The *Western New England Law Review* published essays based upon this conference. See Symposium, *Issues in Community Economic Development*, 29 W. NEW ENG. L. REV. 1 (2006).

issues as well when one stops to consider that the populations most affected by conditions that create challenges for urban entrepreneurship or by the practices of fringe bankers. Finally, when discussing public-private partnerships, we are necessarily talking about bringing together a private entity and a political entity, and the politics of race frequently affect the possibility that political deals can be struck. The panelists did not shy away from discussing these underlying issues as well as the technical, legal, and business challenges raised in these topics.

The first panel, which examined the question of whether set-aside programs and affirmative action had advanced the goal of fostering the development of minority-owned businesses, was moderated by Professor Sudha Setty of Western New England College School of Law. The panelists included Professor Bessie House-Soremekun⁶ of Kent State University; Leamon Sowell,⁷ a practicing attorney from Detroit; and Senator Malcolm Graham,⁸ a state sena-

6. Professor Bessie House-Soremekun is an award-winning author, administrator, and entrepreneur. At the time of the Conference, Professor House-Soremekun was an associate professor in the Department of Political Science at Kent State University. She has since joined the faculty at Indiana University-Purdue University Indianapolis's Department of Political Science. In 1978 she received her BA in English from Huntingdon College, where she graduated magna cum laude and in the top five percent of her class. She subsequently earned her MA and PhD in international studies from the University of Denver. Professor House-Soremekun is the founder and Executive Director of the Center for the Study and Development of Minority Businesses at Kent State University, which performs research on factors that promote success and failure for entrepreneurs, and provides research-based seminars and workshops to African American entrepreneurs in Cleveland, Ohio. She is President and CEO of B. House Communications, Inc. She concentrates her research on African and American economic and political advancement. Her publications include three books and many scholarly articles, book chapters, and book reviews.

7. Leamon R. Sowell, Jr., is the managing partner of L. R. Sowell & Associates, a Detroit, Michigan-based law firm. He holds a BA from Goshen College and a JD from Northwestern University School of Law. Attorney Sowell has practiced corporate law for twenty-six years. Attorney Sowell is an expert in developing and growing minority business enterprises (MBEs) and women business enterprises (WBEs). Attorney Sowell began his career at Marathon Oil Company in the Office of the General Counsel in Findlay, Ohio, in 1981. In 1984, Attorney Sowell joined the law firm of Dykema Gossett, PLLC, Michigan's largest law firm, becoming a partner in the Corporate and Securities Group in 1990. While at Dykema, Attorney Sowell specialized in, among other things, general corporate transactions, mergers and acquisitions, and private and public offerings of securities. In the 1990s, he began to focus his skills on assisting MBEs and WBEs to develop growth strategies, and working with corporate customers who are developing substantial minority and women's business procurement programs. That practice has evolved into developing strategic alliances and joint ventures between MBEs or WBEs and major corporations committed to diversity initiatives.

8. Senator Malcolm Graham is a member of the North Carolina Senate and a noted policy expert on issues vital to African American and minority communities.

tor from North Carolina. Professor House-Soremekun's Essay, *The Impact of Minority Set-Aside Programs on Black Business Success in Cleveland, Ohio: Implications for Public Policy*, provides a historical and legal context, along with empirical evidence from Cleveland, Ohio, to inform the debate over the efficacy of minority set-aside programs as a tool for affirmative action. Her paper examines the interrelationship between politics and economics on the business outcomes of African American entrepreneurs. Her findings show that set-aside programs appear to have a positive impact on the success of black business owners.

Senator Graham related the political realities of revamping the Minority and Women Business Development (MWBD) program in Charlotte, North Carolina, and turning it into a program that supports business success, not just through set-asides, but by preparing businesses to compete generally. In January 2002, the City of Charlotte terminated its MWBD program as a result of a lawsuit. After evaluating the City's legal position in light of the cases that had been decided at that time, the City Attorney's Office recommended settling the lawsuit, suspending the MWBD program, and conducting a new disparity study to determine whether race- and gender-conscious contracting measures were legally warranted. The Charlotte City Council voted to proceed with these recommendations and promptly appointed a citizens' stakeholders committee (committee) consisting of prime contractors, subcontractors, and two construction law attorneys, to recommend race- and gender-

Senator Graham attained a bachelor's degree from Johnson C. Smith University in 1985 and participated in the Minority Business Executive Program at Dartmouth College's Amos Tuck School of Business. For nearly two decades, he has worked at developing and managing programs that address minority and small business concerns. He also founded the Center for Supplier Diversity, where he is currently the Director. As a not-for-profit and nonpartisan organization, the Center for Supplier Diversity provides resources for exploration, knowledge, procurement management, and the advancement of business. The focus of the Center for Supplier Diversity is on minority- and women-owned business enterprises. Prior to founding the Center for Supplier Diversity, Senator Graham was a senior executive with Bovis Lend Lease, where he was responsible for ensuring diversity among providers and reaching out to the community. Senator Graham was also Vice President for Minority Business Development at Bank of America, where he functioned as national client relationship manager and created supplier-diversity plans for the bank's major lines of business. In addition, he was the Regional Manager in North Carolina, South Carolina, Tennessee, and Kentucky for the endeavors of minority firms. For a decade, Senator Graham was Executive Director of the Carolinas Minority Supplier Development Councils, Inc., which matched more than four hundred minority-owned businesses with corporations wanting to purchase their goods and services.

neutral measures to address community concerns pending completion of the disparity study.

The committee came up with a detailed set of recommendations for the City Council's consideration. One of these was to create a small business outreach program that would function in a manner similar to the City's former MWBD program, except that it would be targeted to reach small business enterprises generally. The City Council approved the committee's recommendations for this program. Shortly after the small business enterprises program went into effect, the City Council was faced with a flurry of bid rejections as contractors struggled to learn and adapt to the new program requirements. With some modifications, the Charlotte program has gone on to be very effective in preparing small businesses to grow to the next level.

At first, the suggestion that the old MWBD program could do more than just hand out set-asides was viewed as an attack on the program, which shows how these programs can take on a sacred cow status. However, Senator Graham believed in the larger goal of the program—to make businesses controlled by minority and women entrepreneurs viable. He recognized that merely handing out the contracts was not enough if the businesses did not have the support they needed to succeed.

Attorney Sowell provided a history of various efforts over the past fifty years to bring affirmative action to bear on government contracting. He gave a report from the real world of minority contracting and told of businesses that have found that making a conscious effort to diversify their supplier base is not only the right thing to do, but good business as well. According to Attorney Sowell, during the past fifteen years, many large corporations have focused corporate policies to implement supplier diversity as a strategic part of their community-support strategies. These senior managers are responding to a dramatic change in their customer bases. In forty-eight of America's largest cities, minorities are now the majority. The minority population in the United States is predicted to be forty-eight percent by the year 2045. A minority consumer base that large will create the need for a diverse national supplier base that can provide innovative and cost-competitive products and services. He has seen clients whose great success and impressive business growth were based, at least in part, on the leg-up that public contract set-asides had provided.

The second morning session, on public-private partnerships, examined one of the classic responses to urban redevelopment—the possibility that a “partnership” between private developers and the government might be able to bring a project to fruition where purely private or purely public efforts might fail. The panel was moderated by Professor Robert Statchen, a joint appointee on the faculties of the School of Law and the School of Business at Western New England College. The panel consisted of Professor Koen Byttebier⁹ of the Free University of Brussels, Belgium; Professor Audrey McFarlane¹⁰ of the University of Baltimore School of Law; Mr. David Panagore,¹¹ the Chief Development Officer for the City

9. Professor Byttebier has been a professor of law at the Vrije Universiteit Brussel since 1994. In 1996, he began his career as a practicing lawyer with a major Belgian law firm and started his own law firm in 1999. He also acts as legal counsel to the Brussels office of the English law firm of Eversheds, LLP. He is a member of the Board of Directors of the NV t-groep. His fields of specialization are economic, commercial, corporate (especially mergers and acquisitions) and financial law, and secured lending. He is the author of several books and articles on commercial law, financial law, and collateral law. He is also a member of the editorial boards of several Belgian law journals.

10. Professor McFarlane is a professor at the University of Baltimore School of Law, where she teaches local government law, property, land use, and local economic development. She earned her bachelor's degree from Harvard-Radcliffe in 1986 and her law degree from Stanford Law School in 1990, where she was a member of the Stanford Law Review. She clerked for the Honorable A. Leon Higginbotham, Jr., Chief Judge of the U.S. Court of Appeals for the Third Circuit, and was an associate at the Washington, D.C., law firm of Wilmer, Cutler & Pickering, where she worked on corporate and securities matters as well as pro bono work on children's issues and community development. She then turned her career to teaching as a visiting professor at the University of Maryland School of Law, where she initiated the school's first community development clinic. Professor McFarlane is also committed to legal academia. She focuses her scholarly articles on the intersection of race and class in government law at the local level, with a particular interest in land use and economic development. Furthermore, she has published novel and engaging pieces on empowerment zones as a manifestation of the correlation between race and economic development, abstract reasons for why communities must participate in community development, the impact of globalization on businesses, and the effect that racialized space has on business improvement districts. More of her recent work focuses on eminent domain and city revitalization.

11. Mr. Panagore is the Chief Development Officer for the City of Springfield, who oversees all economic development activity in the city. Mr. Panagore received his MPA from the Sawyer School of Management at Suffolk University, his JD, cum laude, from Suffolk University, and his dual BA in political science and philosophy from the University of Massachusetts. Immediately prior to his appointment as Chief Development Officer, he served as the Deputy Executive Director of the Springfield Finance Control Board. He was previously the Project Director for the construction of the Boston Convention Center, Chief Negotiator for the Redevelopment Authority in San Jose, California, and Chief Legal Counsel for the city of Chelsea, Massachusetts.

of Springfield, Massachusetts; and Ms. Maureen McAvey,¹² Executive Vice President of the Initiatives Group at the Urban Land Institute.

Professor McFarlane's Essay, *Putting the "Public" Back Into Public-Private Partnerships for Economic Development*, makes explicit the implicit political balancing act where public-private partnerships are both celebrated as "good government," and denounced as evidence of a structural power disadvantage for community residents vis-à-vis informal influence and relationships among developers and government officials. Professor McFarlane raises four questions that should inform the debate about public-private partnerships: (1) whether economic development, as currently practiced, is necessary; (2) whether public-private joint ventures are essential to carry out economic development; (3) whether those partnerships work; and (4) whether the evidence offered to support the effectiveness of partnerships is rigorous and robust. In the end, she concludes that there are good practical reasons for the public and private sectors to collaborate from time to time. Ideally, however, such collaborations should take place to jointly address goals that could not or *would not* be met by either party separately.

Despite the practical reality that these partnerships are sometimes necessary, the political fallout from the case of *Kelo v. City of New London*¹³ shows a growing skepticism about public-private partnerships. The flurry of bills that have been passed at the state and local levels to limit the government's use of eminent domain for general economic development provides evidence of that skepticism. As the public demands more accountability for government action taken under the banner of "economic development," we will need new mechanisms for reviewing development and even for defining what is meant by appropriate development. As Professor

12. Maureen L. McAvey is a senior resident fellow Urban Land Institute (ULI)/Klingbeil Family Chair for Urban Development (ULI). As one of only five senior resident fellows, her areas of specialty include public policy, retail and urban entertainment, transportation, and concerns in real estate finance. She focuses on the financial aspect of urban revitalization. Her background is in urban development and she has worked in both the public and private sector. She has been working in real estate development for over twenty-five years, with experience in consulting and constructing public/private financial structures. Before she joined ULI, she was the Director of Business Development for Federal Realty Investment Trust (FRIT). FRIT is the owner and operator of both retail and mixed use developments. In addition, for six years she was a member of ULI's Board of Trustees, and for two years she was the Chair of ULI's Regionalism Forum. She was also the Chair of ULI's advisory services panel for Cracow, Poland.

13. *Kelo v. City of New London*, 545 U.S. 469 (2005).

McFarlane sees it, substantive standards about the desirable public outcomes for development, or the creation of ground rules for that development, may be necessary to resolve these disputes.

Mr. Panagore gave his perspective from the front lines of community development. As the Chief Development Officer for the City of Springfield, he knows the challenge of trying to revitalize a nineteenth-century city in a twenty-first-century world. In his view, the long and the short of it is that public-private partnerships are essential, as there is little a city can do without private support and there is little reason for private actors to stay in a given locale without some assistance from and a working relationship with the municipal government. He pointed out that, increasingly, in cities like Springfield, the “private” part of the equation is likely to be a non-profit corporation, typically one of the “meds and eds”—healthcare organizations and institutions of higher education. Whether these public-private projects can succeed, however, depends a great deal on whether the parties can overcome the mutual distrust that sometimes informs their relationship and really see where their common interests lie.

Ms. McAvey also has experience with the City of Springfield, as she was on the team from the Urban Land Institute (ULI) that studied the city to provide feedback to the business community, the control board, and the city government about the most promising paths for revitalization of the city. The ULI has undertaken projects all over the world and has given valuable advice to many cities in North America. What they found in Springfield was a city with “great bones,” but not enough flesh to fill them out. Many cities can only dream of a park system like the one in Springfield. Many cities this size will never support the kinds of cultural institutions that Springfield enjoys, like the Symphony, the Quadrangle, and City Stage. From her perspective, Springfield has the makings of a renewed city, but the divisions between the private sector, the nonprofit sector, and the government sector need to be set aside to focus on the Springfield sector. Major initiatives will require resources from all of the sectors that have an investment in the city’s success, so the question of whether public-private partnerships are effective is just slightly the wrong question, as they are the only game in town. The question ought to be how to make them as effective as they can be.

Professor Byttebier provided a totally different perspective on the public-private partnership issue. In Europe, obviously, there is a completely different set of legal rules and political dynamics, yet

on the Continent, public-private partnerships have been successfully executed there for quite some time. One of the political obstacles to these projects, however, is the frequent granting of exclusive economic rights to a private partner. Needless to say, this raises serious concerns for competition law and for the political viability of a project. Within the European Union (EU), one state cannot favor its own businesses over the businesses from another state. Thus, the project must be designed to aid trade generally, and not to aid one country's prospects for trade alone.

Professor Bytтеbier suggested the following guidelines to ensure a successful public-private partnership in the EU: (1) an open, nondiscriminatory, and transparent public procurement procedure to guarantee that the project will not be seen as the inappropriate recipient of state aid if the government contract is awarded; or, alternatively, (2) if no tendering procedure was implemented, the European Commission should only conclude that no state aid is involved if the Commission is convinced that the price paid for the project corresponds with the market price. These are interesting guidelines, especially when viewed from the context in the United States, where, although we have bidding procedures to ensure a fair process, the concern about favoring one private player over another does not seem as pressing a problem.

Between the morning and afternoon sessions, Andrea Silbert delivered the keynote address during lunch. Ms. Silbert is currently the President of the Eos Foundation, a Boston-based foundation that supports nonprofit organizations, public policies, and the fight against poverty. Prior to that, she was the cofounder and CEO of the Center for Women & Enterprise, one of the largest nonprofit entrepreneurial training centers in New England. Ms. Silbert was also a candidate for Lieutenant Governor of Massachusetts. Her personal story provided much of the structure for the talk—from her educational background, to her early work experience, to her many experiences of giving back to the community by providing support for businesses. Her remarks are also presented in this issue of the *Western New England Law Review*.

In the afternoon, Professor Harlan Spotts, of the Western New England College School of Business, moderated a panel entitled "The Challenges Facing Urban Entrepreneurs." The panelists included Professor Susan Jones¹⁴ from George Washington Univer-

14. Professor Jones has been a member of George Washington University School of Law's faculty since 1988 and currently runs its Small Business Clinic. She received

sity School of Law; Professor Jeffrey Robinson¹⁵ of the Stern School of Business at New York University; Professor Victor Fleischer¹⁶ of the University of Illinois School of Law; and Mr. Stephen J. Adams,¹⁷ Regional Advocate for the Small Business Administration (SBA).

her bachelor's degree at Brandeis University and her JD from Antioch School of Law. Before joining the George Washington University School of Law faculty, Professor Jones practiced in the areas of civil and administrative law. In addition, she taught lawyering skills and clinical simulations at both City University of New York and Queens College from 1985 to 1986. She was also the 2004 Haywood Burns visiting Chair in Civil Rights, where she taught community economic development and economic justice. She also taught legal writing at American University's Washington College of Law and ran the Immigration Law Clinic at Antioch School of Law. Professor Jones was a previous Senior Editor-in-Chief of ABA's *Journal of Affordable Housing and Community Development Law*. A vast amount of Professor Jones's writing deals with the issues of microenterprise and community economic development. Her other concentrations include the legal facets of entrepreneurship, economic development, nonprofit organizations, and the arts.

15. Professor Robinson has been an assistant professor of management and organizations at the Stern School of Business at New York University since 2003. He received a BS in Civil Engineering and a BA in Urban Studies from Rutgers, the State University of New Jersey; an MS in Civil Engineering Management from Georgia Institute of Technology; and an MPhil and a PhD from Columbia University's Graduate School of Business. He is dedicated to research and knowledgeable policy making regarding community economic development, social venturing, and obstructions to the economic market. Professor Robinson's publications focus on entrepreneurship and the role that entrepreneurs play in neighborhoods, as well as how to cultivate a viable advantage in regions and nations. He has cofounded two social ventures: MBS Enterprises, LLC, and Building Community Technology Partners. Professor Robinson has also served in many public policy and community technology and building initiatives in Atlanta, Baltimore, and various cities in New York and New Jersey.

16. Professor Fleischer joined the University of Colorado law faculty in 2006 and currently is an associate professor at the University of Illinois School of Law. He attended Columbia University for both undergraduate studies and law school. He received his bachelor's degree in 1993 and his JD in 1996. Professor Fleischer's main areas of focus include federal income tax, venture capital and private equity, and structuring corporate transactions. Before joining the University of Colorado law faculty, Professor Fleischer was an acting professor of law at UCLA from 2003 to 2006. He has also taught at Georgetown as a visiting professor of law in 2005, and served as the Research Fellow in Transactional Studies at Columbia Law School from 2001 to 2003. Before this, Professor Fleisher worked as an associate for Davis Polk & Wardwell in New York. He also clerked for the Honorable M. Blane Michael at the U.S. Court of Appeals for the Fourth Circuit and the Honorable Alex Kozinski at the U.S. Court of Appeals for the Ninth Circuit.

17. Mr. Adams is the SBA Regional Advocate for Region I, which includes the six New England states. Mr. Adams received his bachelor's degree from Queen's University in Kingston, Ontario, Canada, and a Masters of Public Administration from Pennsylvania State University. He has been working in the areas of economic development, public finance, and regulatory reform for more than twenty years. The SBA Office of Advocacy helps to minimize the encumbrances placed on small businesses by federal laws and regulations and increase the gains received from the government. The SBA's mission is to promote policies that encourage the development of small busi-

In Professor Jones's Essay, *Supporting Urban Entrepreneurs: Law, Policy and the Role of Lawyers in Small Business Development*, she pointed out that our federal policy to support development in underdeveloped communities has largely taken the form of tax credits, loans, and technical assistance from the SBA. With the best of intentions and the best minds working at program design, these programs have, nevertheless, fallen short of their goals. Professor Jones identified a variety of ways to better support urban entrepreneurship, such as finding ways to promote nonprofit partners for community development, tapping the expertise of educational institutions, sharing innovative new techniques, and even finding ways to reduce the regulatory burden on small businesses.

In Professor Fleischer's view, also articulated in his Essay, *Urban Entrepreneurship and the Promise of For-Profit Philanthropy*, entrepreneurs seeking capital for projects in urban areas face unusual barriers to raising capital. The primary problem might be that urban projects are often slow-growth projects, which is contrary to the typical time frame for most venture capitalists. He offered promising alternative solutions to the problems of urban entrepreneurship, such as community networks, investments from nonprofits, and investment tax credits. For-profit philanthropy—altruistic investments guided by the discipline and accountability of for-profit venture investing—might be a viable supplement to the other efforts necessary for making urban environments more supportive of entrepreneurship.

Professor Robinson, in both the panel and his Essay, *Urban Entrepreneurship: Patterns and Policies*, explored the patterns of urban entrepreneurship and discussed the implications of these patterns on urban entrepreneurship initiatives. The most significant point that emerges from these studies is that capital access and technical assistance are not the only issues to deal with in the business development of inner cities. To be successful, a certain level of local community knowledge and experience is essential. This can come in the form of community entrepreneurs or partnerships. In

nesses in the United States. As Regional Advocate, Mr. Adams is the liaison between the owners of small businesses and local and federal government agencies and legislators, and the Office of Advocacy of the U.S. SBA. He previously served in state government as director of the Maine State Planning Office, as an economist for Maine, and as Assistant Treasurer for the Commonwealth of Massachusetts. Prior to his appointment as Regional Advocate, he was President and CEO of Pioneer Institute for Public Policy Research and Director of Pioneer's Center for Urban Entrepreneurship. He also served as Vice President and Director of Research and Strategy for the Initiative for a Competitive Inner City, a national nonprofit dedicated to inner-city revitalization.

his view, national policy should encourage community entrepreneurship and community-business partnerships, while continuing to provide access to capital and technical assistance. Implementation of this idea would require setting policies and guidelines that encourage local entrepreneurship and partnerships, perhaps empowering local administrators to do what is necessary to identify community entrepreneurs, link them to sources of capital, *and* identify community partners to work with entrepreneurs from outside of the inner city.

Mr. Adams rounded out the panel by noting that the “hype” that Black- and Hispanic-owned start-ups are outpacing majority-owned firms may be inaccurate; but digging deeper gives a more accurate picture of minority entrepreneurship in Massachusetts. He presented data showing those minority-owned firms to be very vulnerable. They are less likely to have employees and have lower sales figures than their majority counterparts. Mr. Adams provided a quick review of some of the existing programs targeting underserved neighborhoods and showed how they are primarily focused on income replacement for displaced or vulnerable workers, but do little to help create wealth. To remedy this, he champions the Urban Entrepreneur Partnership which would tap both the intensive consulting programs like those offered at the Scibelli Enterprise Center at the Springfield Technical Community College and strong community-based organizations that know the lay of the land and can help focus on those businesses most likely to take off. As he sees it, the best hope for regenerating inner cities and creating a critical mass of successful business is for policy initiatives to target indigenous entrepreneurs and focus on growth-oriented, low- to moderate-income businesses. The business owners should get one-on-one technical assistance. In Mr. Adams’s view, whatever policies are adopted should be market driven, not government policy driven, or else they will just prop up businesses that really ought to fail.

I moderated the last panel of the day, which looked at the issue of “fringe banking,” the pejorative term used to refer to the providers of financial services in underserved neighborhoods. These fringe bankers run the gamut from check cashers and pawn shops to payday lenders and rent-to-own companies. Fringe bankers often charge fees that are quite high in comparison to commercial banks and credit unions, and have been criticized by consumer groups. The panel was the most contentious of the day. The panelists were

Professor Peggy Hamilton¹⁸ from the Clinical Law program at Yale Law School; Jean Ann Fox,¹⁹ Director of Consumer Protection at the Consumer Federation of America; and Attorney Robert Rochford,²⁰ counsel to the Financial Services Centers of America, an industry trade group representing check cashers, money-order vendors, pawn brokers, bill-paying services, and income tax preparers, among others.

Professor Hamilton's Essay, *Why the Check Cashers Win: Regulatory Barriers to Banking the Unbanked*, and participation on the panel reviewed the check-cashing industry and its activities relative to the banking industry given that check cashers are performing a task which is commonly considered a basic "banking" function. She concluded that check cashers have successfully found a way to take advantage of this inefficiency in the banking system. While the

18. Professor Peggy Delinois Hamilton was the Selma M. Levine Visiting Lecturer in Clinical Law at Yale Law School where she taught in the Community and Economic Development Clinic and the Community Development Financial Institutions Clinic. Professor Hamilton received her undergraduate degree from Brandeis University and her law degree from Harvard Law School. Professor Hamilton focuses her pedagogy on the transactional law and skills necessary to effectuate positive change in poor urban neighborhoods. Her clinical work includes securing a \$25 million settlement to establish a bank focused on serving the low- and moderate-income neighborhoods of New Haven, Connecticut. She was formerly general counsel with City First Bank of D.C., the first and only community development bank in Washington, D.C. Prior to joining City First Bank of D.C., Professor Hamilton was an associate with Wilmer, Cutler & Pickering where she specialized in advising banks and thrifts in preventing lending discrimination and utilizing her traditional corporate experience to establish and advise entities focused on community economic development. Professor Hamilton currently serves as a member of the Board of Education for the New Haven Public Schools and the Greater New Haven Community Loan Fund, a local community development financial institution that provides access to credit for affordable housing projects in the greater New Haven area.

19. Jean Ann Fox is the Director of Consumer Protection for the Consumer Federation of America, a nonprofit association of about three hundred consumer groups, established in 1968, to advance the consumer interest through research, education, and advocacy. Ms. Fox holds a masters degree from Cornell University and a Masters of Public Administration from the University of Pittsburgh. Her undergraduate degree in home economics is from the University of Tennessee. Ms. Fox specializes in financial services, electronic commerce, and consumer protection issues. Ms. Fox has served as a board member, President, and Vice President of the Consumer Federation of America. Ms. Fox is the author and coauthor of numerous reports on check cashing and payday lending. She has also authored and coauthored reports on refund anticipation loans, car title loans, and bank-overdraft loans.

20. Robert E. Rochford is special counsel to Winne, Banta, Hetherington, Basralian & Kahn, P.C. He earned his JD, cum laude, from Rutgers, the State University of New Jersey in 1974 and his BA, magna cum laude, from the University of Massachusetts in 1971. Attorney Rochford is a practicing New Jersey attorney specializing in commercial litigation and represents the check-casher industry association, the Financial Services Centers of America.

check cashers do exactly what they are supposed to do as good capitalists—exploit a profitable niche—from a community development perspective they are extracting significant profits from persons who can least afford the costs.

Professor Hamilton's views were backed up by the work of Jean Ann Fox, as exemplified by her Essay, *Fringe Bankers: Economic Predators or a New Financial Services Model?*. Her work at the Consumer Federation of America has shown that unbanked and marginally-banked consumers pay steep fees at check-cashing outlets to perform basic financial transactions. Payday and car title loans have triple-digit interest rates and place important assets at risk if they cannot be repaid quickly. Tax refund loans skim hundreds of millions in antipoverty dollars from tax refunds and Earned Income Tax Credits from the working poor. In her view, consumer protection laws are inadequate in most states and resources to assist families and to improve communities are siphoned out of low- and moderate-income neighborhoods by fringe bankers.

Without state and federal consumer-protection laws, the fringe bankers will have no incentive to give their customers a better deal. The Consumer Federation of America believes that rate caps and usury laws are essential for restraining high-cost credit when borrowers lack sufficient market clout to drive down the cost of borrowing. Some credit products should be banned as unsafe for consumers, including loans based on access to the borrower's bank account, car title, or Earned Income Tax Credit delivered through tax refunds. Fee-for-service transactions and products can become the new "financial services model" with the right combination of features, protections, promotion, and information.

The last speaker of the day, Attorney Robert Rochford, provided the counterpoint. In market surveys done by the Financial Services Centers of America, customers of its services reported a very high degree of satisfaction. He pointed out that many of the customers either have, or have had, bank relationships and decided for their own reasons to conduct financial transactions through check-cashing facilities. This might be due to the high fees charged by banks, or by the convenience of check-cashing facilities. Attorney Rochford brought an important perspective to the debate. While it is easy to vilify the check-cashing industry, it is often overlooked that traditional banks have abandoned the neighborhoods where these fringe bankers flourish. Traditional banks are not located there and, even when a branch is reasonably convenient, the fees associated with maintaining a typical bank account are too

steep for many small accounts. Without fringe bankers many in the underserved neighborhoods would have no access to the payments system at all.

At the conclusion of the last panel, it was clear that we had conducted another successful conference. Our goal was to bring together academics and professionals from a wide range of disciplines and for them to exchange ideas, make professional acquaintances, and bring important issues into focus. Those goals were met and exceeded.

The Conference would not have been possible without the generous support of a local private foundation that desires to remain anonymous, and contributions from the MassMutual Financial Group, the Lloyd G. Balfour Foundation, United Bank, and the Springfield Chamber of Commerce—all of which have helped to fund the vision of the Law and Business Center for Advancing Entrepreneurship. In addition, the President and the Provost of the Western New England College, Dr. Anthony Caprio and Dr. Jerry Hirsch, have been consistently supportive of the efforts to realize the vision of the Law and Business Center, as have the Deans of the Schools of Law and Business, Arthur Gaudio and Dr. Julie Siciliano, respectively. The logistics of the event were expertly handled by Aimee Griffin Munnings, the Director of the Law and Business Center, and her assistant, Maegan Brooks. The planning committee that identified the topics for the panels and the panelists included Aimee Griffin Munnings, Dr. Harlan Spotts, Dr. James McKeon, and myself.

Special thanks also to the staff of the *Western New England Law Review*, who have worked tirelessly, and patiently, to bring this issue to press. Finally, additional thanks to Dean Arthur Gaudio for providing the financial means for the Law Review to publish this symposium and to distribute it appropriately. I hope you find these pieces as stimulating and informative as I did.