[Michigan Business & Entrepreneurial Law Review](https://repository.law.umich.edu/mbelr)

Volume 5 | Issue 1

2016

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https://doi.org/10.36639/mbelr.5.1.amenities

AMENITIES, AMENITIES, AMENITIES? HOW POLICYMAKERS CAN SWOT THEIR WAY TO BETTER ENTREPRENEURIAL FACILITY OPTIONS

*Darren A. Prum**

Across the country, policymakers from both the public and private sector regardless of their level of responsibility turn to entrepreneurial ventures as an opportunity to drive economic activity within their sphere of influence. They develop and implement strategies that encourage new business ventures but fail to consider a fundamental aspect of the organizing process of a business, which is finding a suitable facility. As such, this article seeks to consider and evaluate the various forms and types of facilities available to entrepreneurs in order to provide policymakers with an insight as to the best methods to assist in facilitating their success while providing a template for a SWOT analysis as a tool for developing a robust policy strategy.

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"Facts are the basis of policies but they do not create policies; they are only the stuff of which policies are made. Here is where synthesis comes in to build up the facts into useful knowledge which is wisdom, and it is wisdom that alone gives meaning and direction to life."

– Dr. Harold W. Dodds (15th President of Princeton University)†

I. INTRODUCTION

In the 1970s and 1980s, economic growth shifted from large corporations to small enterprises.[1] The stagflation and high unemployment of the time revived the appeal of supply side economic theories along with their underlying factors that created growth.[2] In evaluating this new reality and considering the elements that drive growth, some researchers concluded that entrepreneurship now plays a more vital role in economic development than previously thought.[3]

Also in response to the economic conditions, Congress passed the Bayh-Dole Act in December 1980,[4] which allowed universities to retain the intellectual property rights on innovations developed under federal funding within their institution.[5] This landmark legislation created a strong incentive within the higher education community to develop infrastructure within each institution that would enable the transfer of newly developed technology through patent and licensing agreements to industry.[6] As a result, the relationship between industry and institutions of higher education strengthened with respect to the transfer of technology[7]

† THE FORBES SCRAPBOOK OF THOUGHTS ON THE BUSINESS OF LIFE, 1 (Triumph Books 1995) (1992).

1. Sander Wennekers & Roy Thurik, *Linking Entrepreneurship and Economic Growth*, 13 SMALL BUS. ECON. 27, 27 (1999).

2. *Id.*

3. *See e.g.*, *id.* at 51.

4. Bayh-Dole Act, Pub. L. No. 96-517, 94 Stat. 3015-28 (codified as amended at 35 U.S.C. §§ 200-212 (2000 & Supp. II 2002)).

5. 35 U.S.C. §§ 202-203.

6. *See generally, e.g.*, Thomas A. Massaro, *Innovation, Technology Transfer, and Patent Policy: The University Contribution*, 82 VA. L. REV. 1729, 1731–32 (1996).

7. *See id.* at 1731–32; Rebecca S. Eisenberg, *Public Research and Private Development: Patents and Technology Transfer in Government-Sponsored Research*, 82 VA. L. REV. 1663, 1708–11 (1996).

and caught the attention of local policymakers as a tool to stimulate economic growth.[8]

Consequently, policymakers across the country from both the public and private sector, regardless of their level of responsibility, turned to entrepreneurial ventures as an opportunity to drive economic activity within their sphere of influence.[9] By deciding to allocate and invest resources into entrepreneurial ventures, the policymakers looked to affect and ultimately influence a broad demographic of people through their actions in a positive manner.[10]

While researchers point out the lack of understanding on the best methods for promoting entrepreneurship,[11] policymakers continue to develop and implement strategies that encourage new business ventures. These policies look to use entrepreneurship as a vital catalyst for economic activity but fail to consider a fundamental aspect of the organizing process of a business, which is finding a suitable geographic location.[12] Selecting a proper location will genuinely impact the success of a business.[13]

After settling on a geographic location, an entrepreneur must consider the various facility alternatives for the new venture.[14] Given that the alternatives for a new venture now include many traditional options like leasing or purchasing a building alongside the many shared facility choices such as a business incubator (BI), co-working space, or artistic center, the entrepreneur confronts a crucial decision at an early stage that may affect the fledgling business' prospects.

Accordingly, this research article seeks to provide policymakers an understanding on how best to nurture entrepreneurship within their sphere of influence based on facility options and offers a framework for an analysis that will assist in developing a strategy that creates more robust policies going forward. To this end, Section II begins with a review of the prevailing theories for the entrepreneurial lifecycle. The evolutionary cycle on a business organization provides the optimal starting point because it may offer an insight as to whether the facility decision occurs more frequently

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8. *See generally* Naomi Hausman, *University Innovation, Local Economic Growth, and Entrepreneurship* (Ctr. for Econ. Studies, U.S. Census Bureau, Working Paper No. 12-10, 2012), https://ideas.repec.org/p/cen/wpaper/12-10.html.

9. *See generally* David M. Hart, The Emergence of Entrepreneurship Policy: Governance, Start-Ups, and Growth in the U.S. Knowledge Economy (Cambridge Univ. Press 2003).

10. *See generally id.*

11. *See* Wennekers & Thurik, *supra* note 1, at 51.

12. *See* Kathleen R. Allen, Launching New Ventures: An Entrepreneurial Approach 283–96 (3d ed. 2003).

13. *Id.* at 283. For example, the location will affect the abilities of the business to succeed by providing visibility to those interacting with it. In other situations where customer contact is more remote, the proximity of a facility to major sources of transportation may play a crucial role in product distribution and pricing.

14. *See id.*

during a particular stage of development or if one phase plays a larger role than another.

In Section III, the various facility options available to entrepreneurs across the country are explored. Traditionally, an entrepreneur needed to choose between the leasing of an existing facility, the purchasing of a building, or the construction of a custom structure. While these options sufficed for some entrepreneurs, other new ventures find some type of shared facility like a BI, co-working space, or artistic center a better fit.

Based on the evolutionary lifecycle of a business and the various facility options, Section IV offers an approach that will lead to policy recommendations. This begins with the finding of a common theme amongst the diverse facility options and then turns to a SWOT analysis as a tool for developing a robust policy strategy. The SWOT analysis specifically highlights the need for policymakers to consider a variety of resources such as those that are financial within a given location, those that occur due to labor and intellectual capital within a locale, and those that emanate from artistic or cultural sources while providing examples of successful approaches as a template for achieving an effective policy.

II. The Entrepreneurial Cycle

Over the past fifty years, many different researchers offered a wide variety of models in an effort to describe how business organizations evolve.[15] One of the more popular frameworks came from Neil Churchill and Virginia Lewis who offered a five-stage concept that attempted to capture the essence of a small business' growth: Existence, Survival, Success, Take-off, and Resource Maturity.[16] Their framework concentrated mainly

15. *See generally*, Enno Masurel & Kees van Montfort, *Life Cycle Characteristics of Small Professional Service Firms*, 44 J. Small Bus. Mgmt. 461, 462–66 (2006).

16. *See generally* Neil C. Churchill & Virginia L. Lewis, *The Five Stages of Small Business Growth*, Harv. Bus. Rev., May–June 1983, at 30. According to some researchers, the Churchill and Lewis framework emerged from the application of the small business scenario to the five phases of growth articulated by Professor Greiner in 1972. *See also* Masurel & van Montfort, *supra* note 15, at 463. The Churchill and Lewis framework starts with the "Existence" stage, whereby the entrepreneur tackles issues relating to the acquisition of customers and the logistics concerning product or service delivery. *See* Churchill & Lewis, *supra* note 16, at 31–33. The "Survival" stage follows, and new challenges surrounding revenue and expense relationships dominate the matters needing attention. *Id.* at 34.

In the third stage, called "Success," Churchill and Lewis explain that the entrepreneur will make a key decision and follow one of two paths. *Id.* One option is for the venture to continue to grow and expand, which they labeled as Growth. *Id.* They call the other alternative Disengagement, where the entrepreneur uses the company as a funding source in a status quo type of situation, which functions as a platform for other pursuits outside of the business. *Id.*

After passing the "Success" stage, the business advances to the "Take-Off" phase where the entrepreneur tackles rapid growth and how to finance the expansion. *Id.* at 40. In this stage, the ability of the entrepreneur to delegate by transferring responsibility and control to others in order to improve managerial effectiveness becomes crucial. *Id.*

Finally, a company enters the last stage, called Resource Maturity, when it maintains "advantages of size, financial resources, and managerial talent" and a defined separation on on an organization's structure and did not assume a linear progression for the venture to proceed to the subsequent stage.[17] They incorporated into their model the possibility of failure or changes in strategy that require retrenchment during the different stages of development.[18]

In developing their framework, Churchill and Lewis noted that previous models relied solely on the dimensions of business size and age. They instead chose to describe their stages based on size, diversity, and complexity.[19] Further refining their descriptions applied to each stage, they also took into account the style used to oversee the venture, the organization's structure, the degree to which formal systems exist within the business, the key strategic goals, and the extent of the owners' involvement in the company.[20]

Subsequently, Mel Scott and Richard Bruce introduced another highly regarded iteration of the five-stage model.[21] In their version, they contended that small business growth occurs in response to either an external or internal crisis.[22] By understanding these crises within the framework of growth, Scott and Bruce offered a diagnostic tool to assist in the selection of the most appropriate strategies to achieve a small business's managerial objectives.[23]

As such, the models offered by Scott and Bruce as well as the one supplied by Churchill and Lewis continue to provide the foundation for describing the evolution of small businesses.[24] Thus, an entrepreneur will face important decisions with regard to selecting a facility for the business within each of the stages and the corresponding characteristics outlined in the evolutionary cycle.[25]

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the financial and operational aspects of the business from the owner occurs. *Id.* The business now enjoys the ability to engage in comprehensive operational and strategic planning because it now possesses the staff and financial resources to do so. *Id.* The company utilizes a decentralized management approach and retains adequate and experienced staff along with well-developed and extensive systems. *Id.* Moving forward from this stage, Churchill and Lewis suggest that the business may enter into a period of continued performance if the company can sustain its entrepreneurial spirit or enter a period of ossification due to decision paralysis or risk avoidance strategies as a possible Sixth phase. *Id.*

17. Churchill & Lewis, *supra* note 16, at 38.

18. *Id.*

19. *Id.* at 31.

20. *Id.*

21. Mel Scott & Richard Bruce, *Five Stages of Growth in Small Business*, 20 LONG RANGE PLAN. 45 (1987).

22. *Id.* at 45.

23. *Id.* at 51.

24. *See* Masurel & van Montfort, *supra* note 15, at 461, 465.

25. *See* ALLEN, *supra* note 12, at 283–96.

III. Facility Options

While many factors like geography, economic conditions, financial incentives, population base, and the type of venture weigh in on where to geographically locate the business site, the entrepreneur will also need to select the appropriate facility.[26] Traditional facilities include the purchase or leasing of a building whereas shared facilities offer alternative benefits.[27] There are compelling reasons supporting an entrepreneur's selection of each alternative.

A. *A Traditional Building*

Often, many policymakers forget that traditional buildings provide facility options to many different entrepreneurs and require consideration. While location plays a large role in the selection of a traditional building option, the entrepreneur must also decide whether the purchase of an existing building, the construction of a custom structure, or a leasing arrangement is optimal.[28] When an entrepreneur decides to purchase a building, the fundamental question is whether to find one that already exists or to locate a vacant parcel and construct a custom solution.[29] In contrast, the lease option offers more flexibility in its terms without all of the costs of ownership, but it may allow for limited customization only.[30] Each alternative comes with its own positives and negatives along with a financial cost, so the entrepreneur must weigh a number of different criteria.[31]

1. The Lease Option

For many entrepreneurs, a lease provides a good alternative because it offers a great deal of flexibility.[32] It allows a tenant entrepreneur, who requires less than a complete indivisible building, to gain access to just the right amount of space to meet his needs.[33] Leases can cover short or long terms, which makes available much of the limited cash resources of the venture for expansion or for handling a failure within all or part of the business.[34] In these situations, the tenant sidesteps the need to make a down payment, avoids the cost of incurring debt, and may deduct the lease payments from his taxes. By doing so, however, he loses the opportunity

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26. *Id.*

27. *See generally id.* 289–95.

28. *Id.* at 289–94.

29. *See id.* at 289.

30. *Id.* at 291–93.

31. *See id.* at 289–93.

32. *Id.* at 291.

33. Terrence M. Clauretie & G. Stacy Sirmans, Real Estate Finance: Theory & Practice 425 (6th ed. 2010).

34. *See* Allen, *supra* note 12, at 291.

to receive a gain from any appreciation in the underlying property value during the occupancy.[35]

Furthermore, taxes affect the cost of a lease when an entrepreneurial business that owns a property cannot claim the depreciation allowance and chooses to be a lessee instead.[36] When an entrepreneurial business does not have enough income to offset the depreciation, it may benefit more from selling the building to another firm that can claim the depreciation write-off and lease from this new owner.[37] In this situation, the entrepreneur can negotiate for more favorable lease terms because the new property owner can take advantage of the tax benefits.[38]

Beyond the traditional financial advantages, an entrepreneur may find a suitable location that already includes many of the build-outs and amenities he requires for his venture. This allows the entrepreneur to realize a possible large cost savings by leasing such a facility.[39] Other times, the landlord may wish to incentivize prospective tenants by offering rent credits against costs to renovate or to reconfigure a property as a means for selecting their location or will amortize those expenses across the length of the tenancy, which may also offer an entrepreneur a nontraditional method for financing their business.

On the other hand, a savvy landlord may include rent escalations that may place the entrepreneur in a position where it costs more to move than pay above market rent.[40] Although these are more likely to occur with shorter term leases, the entrepreneur can, with a little foresight, overcome this trap with renewal options that contain pre-negotiated rental amounts.[41]

When evaluating the lease for a specific property, the entrepreneur must also consider the language and type of lease because it may shift many of the obligations and duties of the landlord to the tenant.[42] Depending on the type of lease, the tenant may only pay a fixed rent and possibly utilities, but in other instances, a percentage of a business' income may also be included.[43] These differences make a lease a useful option,

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35. Clauretie & Sirmans, *supra* note 33, at 422–23. Professors Clauretie and Sirmans pointed out that the IRS may treat a lease as a financing arrangement when the lease payments are not reasonable and a purchase option gets incorporated into the agreement. *Id.* at 423.

36. *See id.* at 425.

37. *Id.*

38. *Id.*

39. This type of situation frequently occurs in professional practices, such as those in the medical or legal industries as well as the food service industry or car dealerships, where the allocation of space within the structure occurs for specific reasons and unoccupied locations routinely become available for new tenants with the improvements already completed.

40. *See* Allen, *supra* note 12, at 291.

41. *Id*. at 291–292.

42. *Id.* at 292–93.

43. Alvin L. Arnold & Jeanne O'Neill, 1 Real Estate Leasing Practice Manual §§ 4-6 (April 2014). The most common types of leases an entrepreneur will encounter

but only if the entrepreneur follows prudent business practices to make sure the terms do not become disadvantageous and burdensome.[44]

Finally, the decision to lease office space may cause the new venture's financial statements to show better performance than if a purchase had occurred.[45] This may happen when the lease payments end up costing the same as the interest payments under a purchase that causes an underlying debt and mortgage.[46] As a result, the new venture will show a greater return on assets due to the smaller amount of total assets on the balance sheet unless someone recognizes the present value of the future lease obligations as an inherent debt.[47]

With this in mind, Professor Kathleen Allen endorses a lease in all stages of the entrepreneurial cycle, although she makes distinctions between the lengths of the terms.[48] In the startup and rapid growth phases, she suggests a short-term lease; whereas a business in stable growth will covet the stability of a longer duration.[49] As a startup, she points out that a short term lease will allow the new venture to assess and decide its long term needs; while a business experiencing rapid growth will maintain the flexibility to relocate to a larger facility.[50]

Expanding on this perspective, Professors Michael Clauretie and Stacy Sirmans point out that when a business anticipates a long-term occupancy it should avoid the lease option.[51] They base their viewpoint on the costs associated with the need to create a separate entity to manage and lease the structure to the business, which creates additional costs and causes a diversion of some of the cash flows that could have gone elsewhere if that option was originally chosen.[52]

2. The Purchase Option

In considering the option to purchase an existing structure, the entrepreneur must evaluate many building specific factors after settling on a

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include a gross lease, a percentage lease, and a net lease. *See Id*. A gross lease is where the tenant pays a fixed rent per the terms of the agreement and all other building expenses such as insurance, taxes, and operating costs become the landlord's responsibility. *Id*. § 4.1. A percentage lease generally includes a fixed rental component along with the requirement to pay a percentage of the business' sales. *See id*. §§ 5.1–5.2. A net lease or triple net lease requires the tenant to pay a fixed rent based on the contract as well as the taxes and operating expenses for the building while the landlord only covers the insurance for the structure. *Id*. § 6.1.

44. *See* Allen, *supra* note 12, at 292–93.

45. *See* Clauretie & Sirmans, *supra* note 33, at 425.

46. *Id*.

47. *Id*.

48. *See* Allen, *supra* note 12, at 290.

49. *Id*.

50. *Id*.

51. *See* Clauretie & Sirmans, *supra* note 33, at 425.

52. *Id*.

location.[53] These criteria include items such as the facility's ability to meet its current sizing requirements and potential for immediate and long-term growth, whether there is sufficient area for customers, storage, inventory, administrative needs, and parking, and if employee necessities such as break rooms and restrooms are present.[54]

Taking the financial perspective into account, transaction costs may exist for the purchase. These costs, however, become minimal when amortized over a long timeframe.[55] As a result, the business will gain a large and leveragable asset on the balance sheet based on the most efficient manner available for its payment.[56] Similarly, this alternative may also provide a more efficient use of a business' resources on a long-term basis in that many of the administrative costs incurred from a leasing arrangement also do not exist.[57] In addition, the payments made to purchase the building go directly into the venture's value on the balance sheet instead of becoming an expense, so the user of the property does not need to pay another entity that may claim superior title.[58]

Applying this alternative to entrepreneurs, Professor Allen suggests that businesses in a stable-growth environment or those that need to show a substantial asset on their balance sheet exhibit the proper conditions for buying a building.[59] She further explains that the business retains the option of selling the building with the possibility to lease it back should the business need a quick injection of cash to support a new growth cycle.[60] The ownership option also allows for tax-deferred exchanges, where the entrepreneur receives the flexibility to postpone capital-gains taxes when the need arises to sell one building and purchase another at the same time.[61]

Professor Allen, however, cautions against purchasing a building during a start-up or rapid-growth phase of an entrepreneurial venture.[62] She

53. *See* Allen, *supra* note 12, at 289–91.

54. *Id*.

55. *See* Clauretie & Sirmans, *supra* note 33, at 425.

56. *See generally id*.

57. *Id*.

58. *Id.*

59. *See* Allen, *supra* note 12, at 290.

60. *Id.* Professors Clauretie and Sirmans explain that an owner of a property may also obtain a loan in situations requiring immediate cash. Clauretie & Sirmans, *supra* note 33 at 424. After completing the financial calculations and pointing out that a sale and leaseback agreement will contain a provision protecting the buyer from any loss in value due to a seller failing to complete the subsequent purchase, the authors deem the two different options as equivalent. *Id.*

61. *See* Allen, *supra* note 12, at 293. Professor Allen explains that this situation may arise when a business needs to support a change in direction. *See id.*

62. *Id.* at 290.

supports her position based on the reality that many businesses will need their cash to fuel their operational needs during an expansion.[63]

3. The Custom Building Option

For those circumstances where an entrepreneur cannot acquire an existing building that satisfies the business' specific requirements, then the construction of a custom structure may provide the best option.[64] In addition to fulfillment of the unique needs of each company, a flexible timeline and a long-term occupancy plan increase the likelihood that this option will offer the best solution.[65]

In those types of situations, the entrepreneur may either purchase the real property or enter into a ground lease with an owner of a parcel of land. As previously discussed, there are different advantages for choosing to purchase or lease a given piece of property,[66] and the custom building options provides variations on both alternatives.

Following the traditional approach of purchasing a piece of real property, the entrepreneur begins by acquiring the land that satisfies his or her business requirements by developing a design for the building, by creating an organizational process for the construction, and by either providing or securing the finances.[67] With the financing in place and approved, the en-

63. *Id.* Professor Allen qualifies her position for those situations where it is the only option or the available cash exceeds the needs for its operations.

64. *Id.* at 294. Franchise opportunities often fit into this category because they require each location under its master agreement to portray a common look and feel as well as meet specific building requirements. *See* Jeffry A. Timmons & Stephen Spinelli, New Venture Creation: Entrepreneurship for the 21st Century 227 (6th ed. 2004). Professors Timmons and Spinelli illustrate this notion with the specifications required under a Jiffy Lube agreement. *Id.* They explain that the location for a franchise must provide a "high volume of car traffic, side of the street located for inbound or outbound traffic, high profile retail area, and the far corner of any given street or block." *Id.* Beyond the physical location, a Jiffy Lube's exterior must meet "[s]tructural specifications regarding the angle of the building and the width, depth, and angle of the entrance [to] allow the optimal number of cars to stack in line waiting for the car in front to complete the service." *Id.* On the inside of a Jiffy Lube facility, the maintenance bay was designed to service a vehicle without a hydraulic lift while completing a half-hour service in ten minutes by allowing a technician above and below the vehicle to work simultaneously with a third taking care of the inside. *Id.* at 228.

65. *See* Allen, *supra* note 12, at 294.

66. *See supra* Sections III(A)(1)-(2).

67. *See* Justin Sweet & Marc M. Schneier, Legal Aspects of Architecture, Engineering and the Construction Process § 8.02 (9th ed. 2013). Because the entrepreneur or owner of the project usually does not possess the funding for major construction, a specialized lender typically provides a construction loan that fills the financial gap that occurs between the securing of permanent financing upon the land with the planned improvements and the current property's condition. *Id.* at § 8.05. Generally, as part of the construction lender's requirements for approval, it will require the project's owner to secure permanent financing upon completion of construction. *See* Nelson & Whitman, *infra* note 70, § 12.3 and accompanying text; Colin C. Livingston, *Current Business Approaches – Commercial Construction Lending*, 13 Real Prop. Prob. & Tr. J. 791, 796-97 (1978).

In other situations like franchising, the franchisor may supply the financing and either purchase the land or become the primary tenant on a ground lease. Harry Sonnenborn detrepreneur will then need to secure all of the applicable permits before beginning the construction process. The entrepreneur also must pass inspections at the appropriate times before occupancy occurs.[68] This will ensure the building's design and construction comply with threshold requirements and protect the entrepreneur from unscrupulous contractors.[69] With a Certificate of Occupancy and Mechanic's lien releases delivered to the owner of the building, the entrepreneur becomes free to use the building and either pay off the construction loan or refinance the construction loan with its permanent lending arrangement to complete the process.[70]

In utilizing the ground lease option, the entrepreneur or developer leases the land from the owner in order to improve the property.[71] The participants in these leases usually contract for a long-term duration and tend to structure them as a net lease.[72] The entrepreneur then makes an arrangement with a lender to finance the improvements under the terms of a leasehold mortgage[73] and constructs the building in a similar process to those projects without a ground lease in place.

Because the process is so arduous and fraught with many pitfalls, Professor Allen suggests this alternative in only two situations.[74] She endorses this approach when a new venture is in the startup stage and no suitable existing building is available or in the stable growth phase when the business maintains a stable cash flow as well as the financial resources, energy, and time to see the project through to completion.[75] On the other hand, she discourages entrepreneurs from constructing a building while in

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veloped this model for McDonald's in 1956. DANIEL GROSS, FORBES GREATEST BUSINESS STORIES OF ALL TIME 185-86. (1996). Sonnenborn originally planned a 20% markup on the real-estate costs followed by an increase to 40%. *Id.* Accordingly, a franchisee would pay McDonald's the greater of a minimum rate associated with leasing the property or a percentage of its sales, and the strategy allowed the company to include its policies as part of the rental agreement, which was enforceable using real estate law. *Id*.

68. *See generally* SWEET & SCHNEIER, *supra* note 67, at § 8.08.

69. *Id.*

70. *See generally* GRANT NELSON & DALE WHITMAN, REAL ESTATE FINANCE LAW § 12 (5th Ed. 2007).

71. *See* CLAURETIE & SIRMANS, *supra* note 33, at 432.

72. *Id*. at 433 (pointing out that a 50 year ground lease is not an uncommon length).

73. MICHAEL T. MADISON ET AL., *Leasehold vs. Fee Mortgage Financing*, *in* LAW OF REAL ESTATE FINANCING §7:1 (2014). In general, the lender of a leasehold mortgage retains a security interest for the loan in the possessory estate as well as any of the improvements made upon the land. *Id.* This occurs regardless of whether the tenant acquired its rights through a new lease or from a sale and leaseback arrangement with the underlying real property. *Id.* Interestingly, one outlying decision by an Arizona appellate court based its opinion on Article 9 of the Uniform Commercial Code for guidance but the Arizona Supreme Court subsequently ordered the opinion depublished, which disqualified it for use as precedent. *See* FL Receivables Trust 2002-A v. Arizona Mills, L.L.C., 210 Ariz. 388 (Ariz. Ct. App. 2005), *depublished by* 212 Ariz. 43 (Ariz. 2006).

74. *See* ALLEN, *supra* note 12, at 290.

75. *Id.*

the midst of rapid growth as it may syphon off cash that may be needed to fund an expansion.[76]

Thus, the traditional building alternative encompasses three main options in that an entrepreneur may elect to lease, purchase, or construct a facility. Each offers its own benefits and disadvantages for a particular entrepreneurial venture while satisfying the needs of many businesses in all stages of the evolutionary lifecycle. As such, policymakers need to remember that this option continues to provide solutions to many entrepreneurs with diverse sets of needs even though other types of facilities tend to capture the spotlight.

B. *Shared Facilities*

Outside of the conventional business building, many entrepreneurs turn to a variety of alternatives during their evolutionary cycle to house their venture.[77] The shared facility makes sense in many situations. These options not only provide the entrepreneur with essential amenities that would be too expensive to purchase separately, but they also correspond with significant reductions in overhead costs and with the flexibility to alter a business strategy with little consequences. To this end, many entrepreneurs turn to BIs, co-working facilities, and artistic centers to meet their facility and other business needs.

1. The Business Incubator Option

As one of the better-known options, a BI is the generic description for the facility that offers shared services in conjunction with a subsidized or reduced office space for rent.[78] In these facilities, a BI attempts to provide a controlled environment for a new venture in order to overcome obstacles encountered in its initial phases.[79] The BI may be privately owned or sponsored by the government. The BI allows a new venture to occupy office space for a limited amount of time before needing to move into its own facility.[80]

Traditionally, a BI functioned as a business center that housed multiple startup ventures in a single facility for reduced or subsidized rent.[81] In an

76. *Id.*

77. *Id.* at 294.

78. David Allen & Richard McCluskey, *Structure, Policy, Services and Performance in the Business Incubator Industry*, 15 Entrepreneurship Theory and Prac. 61, 62 (1990). Other researchers point out that labels such as Business Accelerator, Research Park, Science Park, Knowledge Park, Seedbed, Industrial Park, Innovation Center, Technopole, and Networked Incubator may maintain the same or similar meaning as a business incubator. *See* Anne Bøllingtoft & John P. Ulhøi, *The Networked Business Incubator—Leveraging Entrepreneurial Agency?* 20 J. Bus. Venturing 269, 268 (2005).

79. *See* Allen, *supra* note 12, at 294.

80. *Id.*

81. *Id.* The first BI began in Batavia, New York, when a public-private partnership formed to respond to the loss of a Massy-Ferguson manufacturing plant in 1959. *See* Wiggins

effort to assist the fledgling enterprise manage overhead costs, while also recognizing the common need for many of the different types of support functions, the BIs generally offered a shared receptionist, copy machines, and conference rooms.[82] In some instances, the BI also provided specialized training to assist the entrepreneurs' understanding of the many facets involved in managing a business.[83]

Today, many researchers believe that the role of a BI has evolved from simply offering office facilities to one that supplies value added contributions to the entrepreneur.[84] These value added contributions tend to fit within four different categories: Shared Office Services, Business Assistance, Accessibility to Financial Markets, and a Business Network.[85]

As originally conceived, an entrepreneurial venture enters the BI as a tenant and may take advantage of any shared office services while paying a subsidized rent.[86] By offering such infrastructure services like a shared receptionist, conference room, technology, and the like, the BI enables the entrepreneurial venture to reduce its overhead costs and take advantage

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& Gibson, *infra* note 85, at 57. This partnership took the abandoned building and created a mixed-use incubator inside of it. *See* David A. Lewis, Dep't of Commerce, Does Technology Incubation Work? A Critical REVIEW (2001).

Subsequently, many other communities faced with similar economic situations caused by the deindustrialization of their manufacturing industry followed the lead of Batavia and started incubators of their own. *Id.* (citing David N. Allen & Eugene J. Bazan, Appalachian Reg'l Comm'n, Value Added Contributions of Pennsylvania's Business Incubators to Tenant Firms and Local Economies (1990)). The main push beyond the community itself included funding at universities for emerging programs in innovation and entrepreneurship by the National Science Foundation and the decision by successful entrepreneurs to give back to the next generation through advice and investment capital. *See* Wiggins & Gibson, *infra* note 85, at 57.

While the initial concept of a BI became a development tool to diversify the economic base of a particular area, it eventually turned into a vehicle for cultivating and advancing technology based ventures as a means for upgrading a region's competitiveness. *See* Aernoudt, *infra* note 94, at 127. These role changes by policymakers led to the tighter relationships between BIs and institutions of higher education and public research. *Id.* at 128-129.

By 1980, only twelve BI existed; so the U.S. Small Business Administration responded by holding regional conferences, publishing newsletters and handbooks, and supported the formation of the National Business Incubation Association in 1985. *See* Wiggins & Gibson, *infra* note 85, at 57. By 1995, the number of BIs skyrocketed to almost 600 across the country. *Id.*

82. *See* Allen, *supra* note 12, at 294.

83. *Id.* at 294-5.

84. *See* Sean M. Hackett & David M. Dilts, *A Systematic Review of Business Incubation Research*, 29 J. Tech. Transfer 55 (2004); Lois Peters, et al., *The Role of Incubators in the Entrepreneurial Process*, 29 J. Tech. Transfer 83 (2004); Joel Wiggins & David V. Gibson, *Overview of US Incubators and the Case of the Austin Technology Incubator*, 3 Int'l J. Entrepreneurship and Innovation Mgmt. 56, 62 (2003).

85. Anna Bergek & Charlotte Norrman, *Incubator Best Practice: A Framework*, 28 Technovation 20, 21 (2008).

86. Sarfraz A. Mian, *Assessing value-added contributions of university technology business incubators to tenant firms*, 25 Res. Pol'y 325, 327 (1996).

of equipment and facilities it may not be able to otherwise afford.[87] These shared services, however, offer few solutions that many new ventures face from a management perspective.[88]

To offer more value, a new venture can also expect to find a nurturing business environment that offers services, such as legal and accounting, which could become an obstacle to success due to their cost.[89] Often overlooked and critical to assisting the new venture, the incubator should provide an entrepreneurial staff with leadership capabilities that demonstrate an eagerness to assist, possess problem-solving skills, maintain a results oriented focus, and expect to match or exceed the efforts of those they are helping.[90]

For example, many BIs offer general business and operational support in areas like accounting, law, advertising, and finance.[91] In addition, some BIs provide strategic services like entrepreneurial training and business development advice with coaches or through formal education on subjects such as planning, leadership, marketing, and sales to provide even more value.[92]

Furthermore, accessibility to seed financing and angel investor networks is one of the most important value added amenities a BI provides.[93] An underfunded or very thrifty entrepreneur may limit business growth due to lack of access to new funding sources.[94] Rudy Aernoudt points out that the entrepreneurial process becomes greatly enhanced when angel investor networks direct their financial infusions toward BIs because a new venture's managers will generally manage their risks rather than avoiding them, which he believes is a key ingredient to success.[95] In turn, this will cause positive outcomes for all involved and eventually become a "virtuous circle" for the financial investors, the BI, and the entrepreneur.[96]

Finally, the BI may offer some type of assistance to the entrepreneur in the form of social capital through its facility.[97] While social capital may

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87. *See* Allen & McCluskey, *supra* note 78, at 70.

88. *Id.*

89. Bøllingtoft & Ulhøi, *supra* note 78, at 269.

90. *See* Wiggins & Gibson, *supra* note 84, at 61.

91. *See* Mian, *supra* note 86, at 329.

92. *See* Bergek & Norrman, *supra* note 85, at 24.

93. *See* Rudy Aernoudt, *Incubators: Tools for Entrepreneurship?*, 23 Small Bus. Econ. 127, 133 (2004).

94. *See* Wiggins & Gibson, *supra* note 84, at 64.

95. *See* Aernoudt, supra note 93, at 133. Angel networks are only one option for helping entrepreneurs to acquire investment funding. *See* Wiggins & Gibson, *supra* note 84, at 64. Some BIs utilize internal investment funds that begin with government assistance or through the BI's own entrepreneurial efforts to raise capital. *Id.* Other BIs may look to external sources such as venture capitalists, corporations looking to make a strategic investment, debt financing, and government grants, along with many other types of investors that are interested in taking a risk on a new venture with promise. *Id.*

96. *See* Aernoudt, supra note 93, at 133.

97. *See* Bøllingtoft & Ulhøi, *supra* note 78, at 275.

develop outside the BI and through personal connections, the opportunity to have social and work related interactions with other tenants becomes another amenity.[98] The likelihood of collaboration with other tenants increases because of the occupancy of all the entrepreneurial ventures collocating in a single facility.[99] As a result, the BI is able to institutionalize the benefits of its network from a social capital perspective and offer it as another amenity beyond its physical presence, which many entrepreneurs consider very important.[100]

Removing the physical presence component that may not be highly valued or physically accessible by some entrepreneurs, virtual BIs now exist in cyberspace.[101] These types of BIs provide their support online while keeping their real property footprint to a minimum.[102] In some instances, the BI redirects the money set aside for the construction of a physical building to make it available for investing directly into the entrepreneurial ventures it is supporting.[103]

In other industries that do not utilize a traditional office setting, alternative types of BIs exist with a more specialized focus as a means of creating value for the entrepreneur. For example, the managers of the Mall of America in Bloomington, Minnesota, created the Entrepreneurship Partnership Program for retailers.[104] In an odd twist, the real estate developer turned into a venture capitalist by offering a selected few entrepreneurs the opportunity to open a retail outlet within the mall.[105] The developer was able to offer significant amounts of business support and advice to help imbed successful strategies into the new ventures while costing the mall very little financially.[106] As such, the Mall of America program demonstrated that the incubation concept applies to the retail environment as well as in the office setting.

Taking the concept outside of the traditional business or technological setting, some incubators now focus on assisting entrepreneurial efforts based on the arts.[107] In Louisiana, the Arts Council Incubator located in

98. *Id.*

99. *Id.*

100. *See id.;* Lois Peters, et. al., *supra* note 84, at 89.

101. See Aernoudt, supra note 93, at 132.

102. *Id.*

103. *Id.*

104. Karl Egge & Jerry Gustafson, *Shopping Centers as New Firm Incubators and Angels: On the Mall of America Entrepreneur Partnership Program*, FRONTIERS ENTREPRENEURSHIP RES. 37 (1995), http://fusionmx.babson.edu/entrep/fer/papers95/egge2.htm.

105. *Id.*

106. *Id.* Those chosen to participate in the Entrepreneurship Partnership Program received many benefits, which included consultations with interior design professionals and a completed tenant improvement, a comprehensive assessment of their business concept and design by experts in the field, ongoing guidance on mall retailing strategies, and a lease with built in advantages.

107. Linda Essig, *Arts Incubators: A Typology*, 44 J. ARTS MGMT. L. & SOC'Y 169 (2014) [Hereinafter Essig, *Arts Incubators*]. Professor Essig explains that about forty organi-

New Orleans found that the BI serves an important role of explaining entrepreneurship practices to artists in a "language" they could understand.[108]

Because many organizations look to assist artists by nurturing, growing, and developing their craft, some definitions of arts incubator include the goal of achieving success or objectives in the marketplace for its participants.[109] This element may provide an ongoing point of discussion given that the goal of economic development has triggered the creation of many traditional BIs and university venture incubators, but arts incubators, especially those associated with universities, "may not be founded with . . . economic development expectations."[110]

Furthermore, the arts incubators tend to have broad objectives and cast a wide net with respect to the arts they service.[111] For instance, one art incubator looks to attract participants through its invitation to an "evening of art, live music, poetry, and Caribbean cuisine as a means to become more familiar with our artists and our mission."[112] Likewise, another art incubator states that it "provides programs for visual artists, writers, musicians, performers, designers, arts administrators, and other creatives."[113] This focus on available services as opposed to the facilities also appears to be following the trend of incubators outside the arts.[114]

For the many different types of BIs, Professor Allen suggests that entrepreneurs should consider past performance as an indicator of success.[115] She further suggests investigating the services that a BI provides to make sure that they closely align with the needs of the new venture.[116] Thus, the broad spectrum of BIs available to assists many different types

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zations across the country describe themselves as an "arts incubator" as a means to assist nonprofits, "to boost local economies, strengthen communities and, most frequently, provide individual artists with tools for self-sufficiency in the market-driven economy of the twenty-first century." *Id.* at 169.

108. Nat'l Governors Ass'n., Arts & the Economy: Using Arts and Culture to Stimulate State Economic Development 17 (2009).

109. *See* Essig, *Arts Incubators*, *supra* note 107, at 170–71. Professor Essig's definition of arts incubators includes organizations and programs that provide early developmental assistance and describe themselves or are labeled by others in published materials as an "arts incubator." *Id.* at 170.

110. *See* Linda Essig, *Ownership, Failure, and Experience: Goals and Evaluation Metrics of University-Based Arts Venture Incubators*, 4 Entrepreneurship Res. J. 117, 132 (2014) [hereinafter Essig, *Ownership*].

111. *See, e.g.*, Arts Incubator of the Rockies, Brochure (2012).

112. *See Diaspora Vibe Gallery: About Us*, Diaspora Vibe Cultural Arts Incubator, http://www.diasporavibe.net/aboutus.php (last visited Oct. 21, 2015).

113. *See* Arts Incubator of the Rockies.

114. *See* Essig, *Ownership*, *supra* note 110, at 120–21.

115. *See* Allen, *supra* note 12, at 295.

116. *Id.* Professor Allen points out that the more pressing requirements for an entrepreneurial venture include: a network of contacts, the ability to tap into technical expertise and financial resources, access to professional services, and the ability to reach customers. *Id.*

of emerging ventures, coupled with the value added services and networking opportunities, may provide an excellent solution for the diverse needs of many entrepreneurs.

2. Co-working Spaces

The term co-working first surfaced as a term illustrating the collaborative process in which physically separated computer programmers performed their duties together.[117] Later, co-working began to depict the place where independent and mobile workers converged in a casual working environment, an emerging option in the entrepreneurial arena.[118] As this option continues to evolve, the description used to define it continues to develop lockstep as well.[119]

As such, one researcher examines the descriptions by considering the wiki definition of co-working as a starting point.[120] The definition states,

> The idea is simple: independent professionals and those with workplace flexibility work better together than they do alone. Coworking spaces are about community-building and sustainability. Participants agree to uphold the values set forth by the movement's founders, as well as interact and share with one another. We are about creating better places to work and as a result, a better way to work.[121]

Based on his research, he concludes that co-working is "a service that proprietors provide indirectly, by providing a space where coworkers can network their other activities by engaging in peer-to-peer interactions."[122]

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117. Many attribute the term "coworking" to Bernie DeKoven and his work associated with "'the play community' — the social dynamics of people playing together." *See* Bernie DeKoven, *Coworking Continues*, DEEP FUN (Feb. 17, 2010) http://www.deepfun.com/2010/02/coworking-continues.html. He recalls that the first recorded occasion where he used the term was on April 29, 1999. *Id.* Subsequently, Mr. DeKoven worked with Gerrit Visser to further expand and develop the concept in breadth and depth. *Id.* This eventually led to Brad Neuberg using the term as a label for a shared physical location, which brings in a new element to Mr. DeKoven's original concept. *Id.*

Mr. Neuberg's original coworking facility provided three people in the technology field a live/work environment that also allowed public use during the day. (Renegade Entrepreneur Team, *The Rise of Coworking Spaces,* RENEGADE ENTREPRENEUR (Oct. 4, 2012), http://renegadeentrepreneurs.com/the-rise-of-coworking-spaces/.) In due course, he cofounded another coworking location for "work only," which some commentators attribute as the epicenter for this option. *Id.*

118. Anne Kreamer, *The Rise of Coworking Office* Spaces, Harvard Business Review (Sept. 19, 2012), Eric Posner, *More on Section 7 of the Torture Convention*, https://hbr.org/2012/09/the-rise-of-co-working-office.

119. *See* Clay Spinuzzi, *Working Alone Together: Coworking as Emergent Collaborative Activity*, 26 J. BUS. & TECH. COMM. 399, 431–32 (2012).

120. *Id.* at 402.

121. COWORKING WIKI, -http://wiki.coworking.org/w/page/16583831/FrontPage (last visited Oct. 24, 2015).

122. Spinuzzi, *supra* note 119, at 431 (pointing out further that he does not consider coworking a concrete product).

Further explaining this type of facility, one reporter described a co-working space as a large office setting that includes amenities like conference rooms, espresso machines, and opportunities for socializing to individual entrepreneurs and freelancers that are normally not available in a home office setting.[123] For its members, the facility usually offers specific desks or work areas for lease or the ability to stop by on an as needed basis and utilize common space for a lower or no fee.[124]

With this in mind, many different types of emerging ventures, professionals who work at home, entrepreneurs, and freelancers find this type of facility appealing because most of their effort is done in virtual isolation.[125] Many of these types of entrepreneurs look at co-working facilities as a place where they can connect with other professionals as part of a physical community while sharing, collaborating, and conveying their ideas in the midst of developing new friendships and networks.[126] The co-working facility, however, must match almost exactly to an entrepreneur's needs for it to be successful.[127] This occurs more frequently with a worker who moves around quite a bit or an extremely thrifty emerging venture.[128]

Hence, the co-working option appears to fill an expanding need for the growing number of entrepreneurs with either a single or a few employees looking to capture the social aspects and benefits associated with a larger workplace environment and do not wish to work in isolation.

3. Artistic Centers

As an often overlooked option specifically relating to entrepreneurial ventures associated with the arts community,[129] an artistic center provides a facility where artists "come together to show and share their work, give and receive feedback, teach and learn, ponder artistic and professional

123. Ilana DeBare, *Shared Work Spaces a Wave of the Future*, S.F. CHRONICLE (Feb. 19, 2008, 4:00 A.M.), http://www.sfgate.com/bayarea/article/Shared-work-spaces-a-wave-of-the-future-3294193.php.

124. *Id*.

125. Dave Brunnell & Jeanine van der Linden, *Is Coworking the Next Incubator?* DESKMAG (Nov. 14, 2011), http://www.deskmag.com/en/has-coworking-replaced-the-incubator-175.

126. Elise Hu, *How The Sharing Economy Is Changing The Places We Work* (NPR radio broadcast Nov. 14, 2013), http://www.npr.org/blogs/alltechconsidered/2013/11/14/244568645/how-the-sharing-economy-is-changing-the-places-we-work.

127. *See* Brunnell & van der Linden, *supra* note 125.

128. *Id.*

129. According to a 2011 study by the National Endowment for the Arts, 2.1 million artists reside in the United States and are 3.5 times more likely than others in the workforce to be self-employed, which makes them highly entrepreneurial. BONNIE NICHOLS, NAT'L ENDOWMENT FOR THE ARTS, ARTISTS AND ARTS WORKERS IN THE UNITED STATES 1, 5 (Oct. 2011) (NEA Research Note #105). In addition, many governments with experience trying to cultivate entrepreneurial ventures from the arts discovered that traditional policies and services like incubators are not effective, so alternatives such as artistic centers need consideration. MARKUSEN, *infra* note 131 at 3.

challenges, share workspace and equipment, and exhibit their work."[130] While these types of facilities may have been available for a long time, the modern version seems to have come of age in the 1970s.[131] In larger urban settings, an artistic center provides specialized assistance for composers, playwrights, printmakers, photographers, filmmakers, ceramists, and writers; whereas those facilities located in a small town or inner city neighborhood tend to focus on cross-disciplinary types of support.[132]

In developing the defining characteristics for artistic centers, researchers Ann Markusen and Amanda Johnson turned to two important features to differentiate between artistic centers and other types of organizations and locations that contribute to the development of artists and their ability to earn a living.[133] One distinguishing feature considered the amenities available while the other explained the characteristics associated with being able to participate at the facility.[134]

In artistic centers, generally everyone is welcome to become a member for a reasonable annual fee without any prerequisites or screening as a precondition for entry.[135] This means that any entrepreneurial artist may gain access to learning opportunities from highly skilled masters and apprentices in both the artistic and business side of their craft as well as receive a chance to obtain guidance from a mentor along the way.[136] These facilities offer the artist access and opportunity to gain valuable insight by performing, exhibiting, and marketing their works with the understanding that making a profit is acceptable.[137]

Moreover, the researchers explained that the dedicated space within the facility in conjunction with the amenities set these types of centers apart from other arts organizations and locations that foster artistic endeavors along with the ability to earn compensation for such talents.[138]

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130. ANN MARKUSEN & AMANDA JOHNSON, ARTISTS' CENTERS: EVOLUTION AND IMPACT ON CAREERS, NEIGHBORHOODS AND ECONOMIES 11 (2006), http://www.cura.umn.edu/sites/cura.advantagelabs.com/files/publications/B2006-5.pdf Another term used to describe a specialized type of artistic center is a cooperative gallery.

131. *See, e.g.* ANN MARKUSEN, EWING MARION KAUFFMAN FOUND., HOW CITIES CAN NURTURE CULTURAL ENTREPRENEURS 5 (2013); Gayle Renee Davis, The Cooperative Galleries of the Women's Art Movement, 1969-1980, 15-30 (1981) (unpublished Ph.D. dissertation, Michigan State University) (on file with University Microfilms International).

132. *See, e.g.* MARKUSEN & JOHNSON, *supra* note 130, at 5.

133. *See id*. at 11.

134. *Id*.

135. *Id.*

136. *Id*.

137. *Id*. In a feasibility study for such a facility in Wisconsin, the authors also envisioned that an artistic center would move beyond a physical presence and operate a virtual gallery over the internet as a means of promoting sales and visitors to its brick and mortar location. TOM RICHTER ET AL., UNIV. OF WIS. OSHKOSH COLL. OF BUS., INITIAL BUSINESS FEASIBILITY STUDY COOPERATIVE ART GALLERY IN DOWNTOWN LITTLE CHUTE, WISCONSIN 5 (2012).

138. MARKUSEN & JOHNSON, *supra* note 130, at 11–12. The researchers specifically differentiated the artistic center apart from "educational institutions and teaching studios;

They found that this particular combination of amenities and access became an effective producer of artistic work and careers.[139]

At first glance, an artistic center appears almost identical to an arts incubator, yet several researchers draw distinctions between the two.[140] These differences begin with the founding approach for each type of facility.[141] An artistic center generally emerges as a cooperative arrangement within the community to further cultural bonds, whereas most arts incubators tend to materialize out of ties or through the backing of a regional or local economic development agency with a more commercial application and agenda.[142] This grass-roots type of background for an artistic center makes it more of an intermediary that bridges the divide between economic development agencies and the arts emanating from a cultural heritage.[143]

In addition, the more communal approach of an artistic center to primarily developing the artists followed by the possibility of financial gain contrasts with the underlying goal of a BI whose main focus is to nurture the creative venture so that it may continue to mature and progress on its own without further assistance. As such, the artistic center tends to focus more on the development of an individual's talents with personal entrepreneurship rather than launching an enterprise based on the arts in the case of an incubator.

As seen from these three shared-facility options and the variations among them, a broad spectrum of solutions exists to fill the needs of a diverse set of entrepreneurs in need of a physical location for their business, no matter the size. When the shared facilities are included with the traditional alternatives, the numerous options available to policymakers allow for a wide variety of opportunities to support the growth of entrepreneurial ventures within their sphere of influence.

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presenting and producing organizations (theaters, museums, galleries, clubs); art fairs and crawls; artists' retreats; artists' service organizations without dedicated space; artists' live/work and studio buildings; and arts incubators." *Id*. at 11.

139. *Id.* at 12. In particular, the researchers point out that the additional space provided for multiple uses combined with the contacts with established artists and market participants casts a wide net in giving access to the largest segments of the general public to give the strongest effect possible within the communities where they are located.

140. *See, e.g.* Markusen & Johnson, *supra* note 130, at 11, 106; *see generally* Chris Walker et al., The Urban Instit. & The Fund for Folk Culture, Culture and Commerce: Traditional Arts in Economic Development 1-2 (2003) (comparing the enumerated attributes of an artistic center with those traits associated with an arts incubator).

141. *See generally* Markusen & Johnson, *supra* note 130, at 11, 106; Walker et al., *supra* note 140, at 1-2.

142. *Compare* Markusen & Johnson, *supra* note 130, at 3, 5; *and* Davis, *supra* note 131, *with* Essig, *Arts Incubators*, *supra* note 108, at 170-1; *and* Markusen & Johnson, *supra* note 130, at 106; *generally* Walker et al, *supra* note 140, at 11.

143. *See* Walker et al., *supra* note 140, at 26.

IV. Policy Recommendations

As previously discussed, Professor Allen provides specific advice to entrepreneurs with respect to whether to buy, construct, or lease a building along with other alternatives within the shared-services area based on the lifecycle stage of the business.[144] With this in mind, policymakers need to take a comparable approach when trying to foster entrepreneurship within their sphere of influence by determining if a common theme occurs within the different options and then conducting an analysis to determine a direction for action. Based on these types of evaluations, policy directions and recommendations may be drafted, approved, and implemented in order to upgrade, offer, or develop the proper facilities for a given setting.

A. *A Common Theme Among the Facility Options*

When examining the different alternatives available to entrepreneurs, one consistent theme tends to reoccur. This theme follows the age-old adage that "there are three things that matter in property: location, location, location."[145] In this instance, however, the word "amenities" needs to replace "location." Accordingly, the three things that appear to matter most with regard to the facility alternatives for entrepreneurial ventures should state: amenities, amenities, amenities.

In considering the various options, the available amenities tend to standout above the other criteria used in determining the proper facility for a new venture. While location will generally take the primary spot, the discussion on each alternative managed to shift to the amenities available within the description of the various types of facilities. For instance, the large amount of research literature that points out that a BI can no longer simply offer a shared facility serves as an indicator of its significant importance.[146] A BI must offer its tenants value-adding features that contribute to the entrepreneurial venture in a manner over and above those realized from cost savings.[147]

In addition, both the art incubator and artistic centers used the amenities offered by a facility as a distinguishing characteristic to determine the organizations that assist entrepreneurs from those that just contribute to an artist's development.[148] This key component demonstrates the emphasis placed by these types of facilities in assisting each artist to grow profes-

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144. *See* Allen, *supra* note 12, at 290.

145. William Safire, *On Language: Location, Location, Location*, N.Y. Times, June 28, 2009, http://www.nytimes.com/2009/06/28/magazine/28FOB-onlanguage-t.html?_r=0 (tracing the etymology of the popular saying back to a 1926 real estate classified advertisement in the Chicago Tribune that read, "Attention salesmen, sales managers: location, location, location, close to Rogers Park.").

146. *See* Bergek & Norrman, *supra* note 85, at 21.

147. *See* Wiggins & Gibson, *supra* note 84, at 62.

148. *See* Essig, *Arts Incubators*, *supra* note 107 at 170-71; Markusen & Johnson, *supra* note 130, at 11.

sionally and with an understanding of the business aspects of the art world in addition to learning their craft.

Moreover, amenities affect the traditional building option, but in a more physical sense. Beyond the matching of a building's physical characteristics to a new venture's needs, a real-estate developer may choose to subdivide and sell portions of the development as a means for inducing an anchor business in an attempt to make the larger parcel more attractive to an entrepreneur. Likewise, a landlord may use inducements such as reduced or free rent, a tenant improvement budget, long term leasing options, or more favorable contract terms whenever they deem appropriate. Regardless of whether the entrepreneur leases or purchases, he or she still must evaluate each facility to make sure it meets their needs today and as they continue to progress.

Consequently, the basic facility without any desired amenities appears to no longer persuade an entrepreneur to become a tenant or buyer and fails to provide any distinguishing features. In essence, the amenities offered by each type of facility to the entrepreneurial venture are a "lagniappe" or a little something extra.

B. *A SWOT Analysis*

When considering the different tools for making better policy decisions with respect to such a complex topic as to how to facilitate a more beneficial entrepreneurial environment based on facility types, a Strengths, Weaknesses, Opportunities, and Threats, ("SWOT"), analysis provides a useful breakdown for understanding the landscape and how to progress forward. Developed in a managerial context,[149] a SWOT analysis attempts to generate a strong match between a firm's internal competences and its external situation as a basis for its strategy.[150] It requires an analysis of the internal strengths and weaknesses followed by an examination of the potential external opportunities and threats.[151] After developing these evaluations, it is possible to draw conclusions about the current situation and their implications, so planning may occur.[152]

1. Strengths and Weaknesses

When policymakers begin to consider the respective strengths and weaknesses of the location they oversee, they should begin with the obvious. This means that they should look at their community's currently available resources first. Some commonly limited resources in a particular

149. *See* Albert S. Humphrey, *SWOT Analysis for Management Consulting,* Newsletter (SRI Int'l Alumni Ass'n), Dec. 2005, at 7 (Mr. Humphrey and his research team developed the SWOT Analysis concept during his tenure at SRI from 1960 to 1970 as a means for developing a new approach to managing change based on prior failures).

150. Arthur A. Thompson, Jr. & A. J. Strickland III, Strategic Management: Concepts and Cases 91 (5th Ed. 1990).

151. *Id.*

152. *Id.* at 90-93.

location include those that are financial, labor related, and artistic or culturally based.

a. *Financial Resources*

Beginning with the financial aspects, the policymakers need to evaluate their community's availability to provide and deliver much needed capital as a means of assisting most entrepreneurial ventures. While some types of entrepreneurial ventures may come with an internal source of affordable financial assistance like those following a franchise model, most new businesses will seek investment capital through public or private sources.

For instance, the policymaker's community may be located near one of the many financial centers around the country, which will provide easy access to affordable investment capital. Commercial Banks, Insurance Companies, Investment Firms, and Government owned institutions like the Federal Reserve maintain offices that make many key investment and lending decisions, so close proximity to one of these types of decision makers offers a huge advantage through ease of contact.

While this doesn't mean that local financial institutions cannot fill the void, it does open the possibility that the local resources may not maintain enough funding for the entrepreneurial venture or may not feel comfortable with venture risk levels. Moreover, the local institutions may charge an extremely high premium on such loans due to their lack of knowledge of such risk, which could discourage an entrepreneur from moving forward with the venture. As such, policymakers need to determine whether their particular setting offers a strength or weakness in this area.

b. *Labor Resources*

Turning to labor resources, the policymakers need to evaluate whether these exist in sufficient quantities and types to support the entrepreneurial ventures that they wish to encourage. In some locations, certain types and amounts of intellectual talent with specific expertise tend to gather together, such as in the Silicon Valley of California or around universities.[153] The synergies and resources from a collective group of knowledgeable people within a community can greatly enhance the entrepreneurial venture and allow for recruiting and collaborative opportunities.[154]

Moreover, a large intellectual community like a university may surround some locations where entrepreneurial activity occurs, but in some situations, it is geographically remote from more populated areas. This situation may provide excellent encouragement for the conception of the venture but may hinder its ability to move forward in a particular facility

153. *See generally* Naomi Hausman, *University Innovation, Local Economic Growth, and Entrepreneurship* (Ctr. for Econ. Studies, U.S. Census Bureau, Working Paper No. 12-10, 2012), https://ideas.repec.org/p/cen/wpaper/12-10.html.

154. *See generally id.*

because the surrounding area may not have sufficient labor resources needed for growth.

In contrast, a location with a large pool of low or unskilled labor may provide support to entrepreneurial ventures that are labor intensive. Not all entrepreneurial ventures seek to technologically innovate, so those that require large numbers of low or unskilled employees may select a facility based on a different set of criteria. To this end, various types of labor resources can support different types of entrepreneurial ventures and a policymaker should evaluate their location's strengths and weaknesses in this context.

c. *Artistic or Cultural Resources*

From an artistic or cultural resources perspective, policymakers must sift through a complex set of factors in order to determine whether they already possess strengths and/or weaknesses in their community. Because the needs of an individual artist will shift over time due to the evolutionary nature of his or her work, these types of facilities must be able to accommodate a wide variety of requirements within the artist's development cycle.[155]

An artistic career begins with encouragement and training either on a formal or informal basis, but it must be continually available even when a course of study naturally concludes.[156] This includes critical feedback from new and familiar sources as they continue to further refine their craft during their evolutionary process.[157]

Sometimes, these types of resources come from a particular culture and tradition[158] while in other instances they may develop alongside or within an institution such as an university. In the case of traditional arts, there is a connection to the materials, styles, and techniques used by prior generations and perfected over time within a community.[159] This is in contrast to the universities that either attract or develop talent in the fine and performing arts to essentially provide the same type of functions in a more formal and streamlined fashion.

Likewise, the facilities used by artists are quite diverse because of their distinctive work patterns. Some artists work by themselves while others require collaborators.[160] These distinctions require an understanding of

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155. *See* Markusen & Johnson, *supra* note 130, at 11.

156. *Id.* (pointing out that dancers take classes on an ongoing basis regardless of their level of achievement and that all artists need to find alternative options when they can no longer meet with "teachers, classes, classes and workspace").

157. *Id.*

158. *See generally* Walker et al., *supra* note 140, at 7 ("traditional arts are grounded in the cultural traditions of particular communities").

159. *Id.* at 7-8.

160. *Cf.* Markusen & Johnson, *supra* note 130, at 11 (pointing out that the various art forms innovate differently such as music, dance, theater, and film entail partnerships whereas other artists like painters and composers innovate in isolation).

the different types of facilities available to artists as well as the associated tools and equipment. Hence, policymakers need to evaluate the types of facilities already available or needed for the complex requirements associated with artists in order to better ascertain whether they fit within a strength or weakness.

Thus, policymakers need to consider the wide variety of resources at their disposal in determining a particular location's strengths and weaknesses for the different types of entrepreneurs. Often times, the policymaker overlooks an important resource, which could become a strength. Other times, the policymaker fails to recognize that a resource does not exist. As a result, policymakers must consider all attributes of a given location when determining the strengths and weaknesses so that they may properly address the opportunities or threats facing their decisions in order to support entrepreneurial ventures moving forward.

2. Opportunities

When evaluating the opportunities for a given location, the strengths and weaknesses will play a large role, as they will identify where a policymaker can make a difference. Dr. Allen pointed out that an entrepreneur may seek a new facility during any stage of the evolutionary cycle.[161] This possibility provides policymakers numerous opportunities along with a wide assortment of policy tools to assist entrepreneurs with their specific needs or to attract them to facilities within their sphere of influence.

In addition, each opportunity offers the policymaker the prospect of creating economic diversification and an expanded tax base within their sphere of influence. Because of the needs associated with entrepreneurship and the competitiveness that occurs with the various amenities required to attract the most viable ventures, these numerous ancillary services become a necessary part of the equation.[162] Beyond attracting startup businesses, these ancillary services will add to the economic diversification of a given jurisdiction. They also expand the tax base generating more funds for investment into the next generation of entrepreneurial ventures. This process is somewhat similar to the "virtuous circle" described by Mr. Aernoudt previously.[163]

Given the potential upside for policymakers willing to leverage their strengths and turn a weakness into an advantage, many opportunities exist at all stages of the evolutionary cycle of an entrepreneurial venture. To this extent, several examples from around the country provide good illustrations on how policymakers turned some of the common resources described as a strength or weakness in a location into an opportunity that makes a difference in furthering the policy objectives.

161. *See generally* ALLEN, *supra* note 12, at 289-96.

162. *See supra* Part IV.A.

163. *See supra* notes 78-82 and accompanying text.

a. *Financial Resources*

As previously mentioned with respect to financial resources, entrepreneurial ventures need access to investment capital in order to continue to grow, regardless of their facility choice. Those locations without the benefit of a financial center within close proximity may need to consider this weakness as an opportunity rather than a threat.

Case in point, the City of Austin's financial resources for entrepreneurial ventures only included a few angel investors, several venture capital firms, and no banks willing to make loans to startup ventures when the Austin Technology Incubator commenced operations in 1989.[164] In response, the BI created The Texas Capital Network as a means for sponsoring venture capital conferences, hosting monthly meetings to allow entrepreneurs and angel investors to meet one another, and conducting educational programs for investors and those looking to start a technology business.[165] By 2000, the city could now count more than 100 angel investors, in excess of 30 venture capital firms, and a number of banks that understood how to effectively make loans to startup businesses.[166]

Beyond the BI scenario, many entrepreneurs looking at a traditional building option will also need loans. While many financial organizations understand how to make a loan on real property, an entrepreneur might also need operating capital or a combination thereof. The development of this type of resource should become a cornerstone of any policy looking to stimulate new ventures while offering an important opportunity.

b. *Labor Resources*

Similar to the development of financial resources as an opportunity, the geography associated with labor resources provides an analogous situation for many locations. For those locations without an adequate population base or the appropriate type of labor characteristics, an opportunity might exist through strategic alliances and innovative technology to overcome any weaknesses.

When confronted with this type of scenario, policymakers can look to capitalize on a strategic alliance with another location or organization that offers complementary strengths to form a highly beneficial opportunity for the entrepreneur. This pooling of assets allows the policymakers in both locations to negate any identifiable weaknesses while maximizing the resources available to the entrepreneurial ventures.

Taking an example from a successful medical education solution, policymakers in the States of Washington, Wyoming, Alaska, Montana, and Idaho entered into a strategic alliance in order to collaboratively train

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164. *See* Wiggins & Gibson, *supra* note 84, at 64.

165. *Id.* (explaining as part of its educational programs, the BI helps its tenants comprehend the actions necessary to obtain investment capital, how to create presentation materials as well as determining the appropriate source for a given type of business).

166. *Id.*

and prepare physicians across the region. Their combined effort obviated the need to build new facilities in each location and develop their own resources independently.[167] Called the WWAMI program, the participating states delivered a cost effective solution that limited their exposure to the soaring costs of a medical education while meeting increasing demands for physicians.[168] As an added perk, they offered residents of their states access to one of the top medical schools in the country at the University of Washington.[169] This type of solution took advantage of the region's diversity in population and labor resources as well as current and future infrastructure needs by cooperatively crafting a unified effort to benefit all participants.

Offering a different opportunity to labor resource issues, policymakers may turn to technological innovation and build a core competency out of necessity. These types of opportunities include the development of a global network of specialists who offer their expertise using the internet and other technological innovations. For instance, online education developed from correspondence courses as technology progressed.[170] The only medium for communication for a correspondence course began with mail then progressed to fax machines followed by email with the advances in technology.[171] More recently, the online classroom now includes virtual worlds and internet-based course management systems.[172] As such, the educational experience that once required presence to gain insight from a specialist in a field of study now frequently occurs remotely with the use of technology and offers a broader reach to those located elsewhere.

Hence, policymakers maintain ample chances to turn any weakness in labor resources they foresee within their location into an opportunity to provide entrepreneurs with better resources and amenities that augment their facility selection.

c. *Artistic or Cultural Resources*

When looking into the opportunities associated with artistic or cultural resources, one study explained that "[a]ctive cultural participation can build strong communities. Strengthening cultural communities, in turn, creates economic assets. And these economic assets can be harnessed for regional growth."[173] To this extent, the authors point out that the creation

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167. Univ. of Wash., *WWAMI*, UW MEDICINE, http://www.uwmedicine.org/education/wwami (last visited Nov. 18, 2015).

168. *Id*.

169. *Id.*

170. Ida M. Jones, *Can You See Me Now? Defining Teaching Presence in the Online Classroom Through Building a Learning Community*, 28 J. LEGAL STUD. EDUC. 67, 69 (2011).

171. *Id.*

172. *Id.*

173. WALKER ET AL., *supra* note 140, at 7.

of economic value occurs through the community's strength and eventual conversion of their traditional arts into exported products.[174]

To further illustrate this point, New Bedford, Massachusetts crafted a revitalization plan based on tourism and the arts.[175] The city sponsored a monthly program called "AHA!" in order to highlight its extensive cultural resources by promoting local artists, artisans and performers to the public along with their creative processes.[176] By taking advantage of its already established strengths within its community, researchers at the University of Massachusetts, Dartmouth determined that the program generated an economic impact between seven and fifteen dollars for every dollar spent in grant money over a four year period.[177] The researchers also reported that the economic impact influenced activity outside of the area for the program and stimulated interested in the arts on a broader scale than could be measured.[178]

In other locations, an institution such as a university may serve as the underlying asset waiting to be developed into an economic engine.[179] Many universities maintain large resources and programs that are developed specifically to cultivate the arts and the unique entrepreneurial requirements in entails.[180] When these resources align within a program that combines artistic skill and technical expertise, the local workforce can greatly benefit.[181] For instance, a distinguished pottery program at Montgomery Community College in North Carolina teamed up with an organization that provides entrepreneurial training in order to help its students commercialize their skills for long-term success.[182]

Hence, artists serve as a foundation for many products that can create economic development whether it comes from developing or existing talent pools.[183] Given that many communities maintain a rich cultural heritage and other underlying assets like universities, policymakers may have an untapped resource that just needs cultivating in order to turn it into an opportunity.

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174. *Id.* at 9-10.

175. UNIV. MASS. DARTMOUTH CTR. FOR POLICY ANALYSIS, AHA! THURSDAY NIGHTS IN THE CITY: YEAR 4 ECONOMIC IMPACT AND PROGRAM EVALUATION 1-2 (2003).

176. *Id*.

177. *See id*. at 37 (listing the dollar amount of economic impact generated per state dollar spent in grant money for fiscal years 2000, 2001, 2002, and 2003 as 13, 15, 7, and 14.5, respectively).

178. *See id*.

179. *See* NAT'L GOVERNORS ASS'N. *supra* note 108, at 17.

180. *Id*.

181. *Id*. at 20.

182. *Id*.

183. *See* MARKUSEN & JOHNSON, *supra* note 130, at 8.

3. Threats

Always looming around the corner, the threats to a given policy may come from a variety of different sources. Policymakers need to thoroughly evaluate their strategy to make sure that their vision and goals properly align with their directives while limiting unintended consequences. They also must ensure that they balance their approach in order to limit any negative repercussions or threats to obtaining their desired outcomes.

In Nevada, policymakers decided that they wanted to support environmental efforts to reduce the carbon footprint associated with buildings across the state.[184] Nevada enacted a tax incentive policy in 2005 to stimulate the new construction of green buildings within the private sector and required the state to construct two of its own each year.[185] Despite having admirable aspirations, the program caused a $940 million deficit in the state's revenues along with a threat to severely undermine education funding due to a lack of a proper and thorough evaluation prior to its enactment that allowed lower tiered policymakers to make questionable interpretations when implementing the policy.[186] Consequently, the state legislature needed to take remedial measures to the program at its next meeting in 2007 to balance the policy aspirations with those of fiscal reality before it cost the state more revenue.[187]

From this illustration, policymakers may set a course with the best of intentions that may offer too lucrative of an incentive, but at some point, there must be a reality check to make sure a positive return on the investment occurs. The same type of threat may occur with any attempt to assist entrepreneurs through better facility options or amenities. Policymakers face the real possibility of giving too much away when very little was necessary for a particular type of entrepreneurial venture or allocating resources toward an option that provides little in return.

For instance, a recent study by a post-doctoral scholar at Syracuse University empirically evaluated the impact of BIs on new venture performance.[188] In this assessment, the researcher compared the survival, employment growth, and sales growth performance of incubated and unincubated businesses to ultimately conclude that very little difference occurred between the two different evolutionary approaches.[189] While

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184. Darren A. Prum, *Creating State Incentives for Commercial Green Buildings: Did the Nevada Experience Set an Example or Alter the Approach of Other Jurisdictions?* 34 Wm & Mary Envtl. L. & Pol'y Rev. 171 (2009).

185. 2005 Nev. Stat. 68, 71.

186. *See* Prum, *supra* note 184, at 180-81.

187. *Id*. at 182-83.

188. Alejandro S. Amezcua, Boon or Boondoggle? Business Incubation as Entrepreneurship Policy—A Report from the National Census of Business Incubators and their Tenants (unpublished Ph.D. dissertation, Syracuse University) (on file with Whitman School of Management, Syracuse University).

189. *Id*. at 15-16 (noting that a small advantage occurred in the sales and employment growth level for those businesses involved in a BI, which ranged from two to seven percent

not suggesting that BIs offer a poor policy choice, the researcher called attention to the need for more analysis to greater assist policymakers in making better decisions regarding approaches for BIs to deliver better results.[190]

With these types of situations in mind, policymakers need to evaluate the marketplace in order to avoid supporting fruitless efforts. It is one thing to make a small investment in a new industry as a pilot project while continuing to sponsor areas of core competency, but it is quite another to redirect an entire or large majority of a policy toward a new endeavor. This means that policymakers run the risk of putting too much stock in highly visible options that attract attention while neglecting opportunities where traditional entrepreneurship occurs.

Accordingly, each policymaker maintains the ability to direct resources toward opportunities but must recognize that threats come from a variety of places. Each threat carries with it the possibility that it may neutralize the best policy intentions; so a thorough and realistic analysis is necessary in order to avoid any negative consequences at a later time.

Thus, policymakers need to realistically evaluate their resources to determine their strengths and weaknesses on many levels. After completing such an analysis, they may turn their focus to current and future opportunities so long as they also recognize the various threats that may neutralize their objectives. Hence, a SWOT analysis provides an effective tool for policymakers looking to make an impact on facility options for entrepreneurs within their sphere of influence.

V. Conclusion

Given the dichotomy of entrepreneurial ventures and the varying needs for a facility at any time within the evolutionary cycle of a business, policymakers need to strongly consider a broad based approach in order to find success with their policies. The amenities offered by a particular location appear to supply one of the most important determining factors while providing a good opportunity to influence entrepreneurs toward a particular type of facility.

In completing a SWOT analysis, the policymakers can determine their market positioning in conjunction with the strengths and weaknesses where they maintain influence. Because resources are limited, the policymakers should strive to make the most out of what they already have available and leverage them to their fullest potential. This will allow each policymaker to turn their efforts toward creating opportunities within their sphere of influence to take advantage of existing strengths and develop core competencies for the future.

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over unincubated ventures. However, the survival rate for BI graduates is worse than those not involved, but not in any significant amount).

190. *Id*. at 16.

Policymakers, however, must anticipate various pitfalls in their strategy and consider them as a threat to their overall objectives. In response to these pitfalls, each policymaker needs to develop a proactive plan to minimize, reduce, and manage the various threats in order to keep their overall strategy in tact while delivering a greater variety and more successful facility option to entrepreneurs.

As such, policymakers cannot just allocate funding toward a facility option of their choosing and expect to see results. A well-developed and executed plan is now an imperative in order to see meaningful results because of the diversity of needs and varying types of entrepreneurial ventures. Thus, entrepreneurship encompasses much more than just a facility and now requires policymakers to deliver a lagniappe in order to find success.

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