Decentralization of Metropolitan Government: Reform in Indianapolis

Charles T. Richardson
University of Michigan Law School

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DECENTRALIZATION OF METROPOLITAN GOVERNMENT: REFORM IN INDIANAPOLIS

In every city the people are divided into three sorts; the very rich, the very poor and those who are between them... The most perfect political community must be amongst those who are in the middle rank, and those states are best instituted wherein these are a large and more respectable part, if possible, than both the other; or, if that cannot be, at least than either of them separate; so that being thrown into the balance it may prevent either scale from preponderating.


I. INTRODUCTION

The local government of Indianapolis-Marion County, Indiana, has recently undergone a major reorganization. As of January 1, 1970, the Indianapolis city limits were expanded to the Marion County lines, and a new unified legislative and executive structure replaced the old city, county, and special district authorities. The enactment was prompted by many of the same problems facing all urban centers. The form of city-county consolidation is also much the same as that adopted by other centralizing areas. Yet, the Indianapolis scheme is unique because of a proposal, introduced with the consolidation bill in 1969 and re-introduced in the 1971 Indiana General Assembly, designed to solve the inevitable problems of citizen isolation from a large metropolitan government. MINIGOV, as the proposal is called, is an attempt to decentralize local government by giving certain powers and responsibilities to community councils, popularly elected from small homogeneous neighborhoods. While MINIGOV does not give ultimate political control to local communities, it is one of the first plans which recognizes the need to stimulate community influence in a broad range of governmental questions.

This note will deal first with the reasons for centralization of local governments and how certain cities, especially Indianapolis, have achieved that goal. The issue of involving smaller communities in the solution to urban problems will then be discussed, first in the context of certain objections to the Indianapolis con-

solidation, then in the context of the achievement record of community development corporations, and finally with relation to MINIGOV itself. Part IV will consider specific sections of the MINIGOV bill dealing with citizen participation in land use planning and development, and Part V will more broadly compare the Indianapolis scheme to other proposals for a "two-tiered" local government.

II. THE NEED FOR CENTRALIZATION

A. Problems of Fragmented Local Governments

While Indianapolis provides one of the most recent examples of major urban governmental reform, metropolitan government has been adopted by a few urban areas and has been proposed for many more. These plans seem to be motivated by a common realization that area-wide problems can only be solved by a political unit that can draw together the resources of the entire community for common planning and action. While it is difficult to generalize about the weaknesses in local governments that have prevented such a coordinated attack on urban problems, one committee has listed several contributing factors: (1) many local units of government are too small in terms of population and area, and have such insufficient sources of tax revenue, that effective treatment of major urban problems which extend beyond arbitrary political boundaries is impossible; (2) often, fragmented authorities, such as independent school districts, municipalities and townships within counties, and a plethora of special districts compete for tax revenues without any coordinated planning; (3) resulting partly from the multitude of governmental bodies and lower political offices, voters are confused by local government and are increasingly apathetic; (4) the multitude of elected officials contributes to weak policy-making mechanisms that further inhibit long-range planning; and (5) administrative organizations, lacking a single executive authority, often are so disorganized and functionally fragmented that even the most elementary organizational concepts employed by business firms may be totally absent from local government.

Another author has described the need for centralized authority

3 See U.S. Advisory Comm. on Intergovernmental Relations, Alternative Approaches to Governmental Reorganization in Metropolitan Areas (1962).
4 Comm. for Economic Development, Modernizing Local Government 11-13 (1966). The CED is composed of two hundred leading businessmen and educators and is supported by voluntary contributions from business and industry. The CED develops policy statements and other research products as guides to public and business policy.
within the metropolitan area in fundamentally the same terms by
listing three benefits of consolidation: first, efficiency in the utili-
ization of area-wide resources by a governmental unit having met-
ropolitan, rather than merely city or suburban, responsibilities;
second, further economic efficiency resulting from the elimination
of overlapping jurisdictions and operations; and third, more ration-
al planning and capital expenditures.\(^5\)

The problems of transportation, pollution, employment and
housing simply do not end at the central city limits. Although
urban areas have attempted to meet the problems by creating
single-purpose service districts with area-wide authority, this solu-
tion often results in a confusing amalgamation of districts and
boards, each having a limited perspective when integrated ap-
proaches are required.\(^6\) Several urban areas have attempted to
achieve integrated solutions by creating multi-purpose metropol-
itan districts, often approaching the form of general metropolitan
government. One of the first such plans was Metropolitan To-
ronto.\(^7\) Often frustrated in attempts to solve complex urban prob-
lems as thirteen individual municipalities, Toronto in 1953
adopted a so-called "federated" form of metropolitan government.
The new Metropolitan Council was composed of twenty-four
members, equally divided between city and suburbs, each member
deriving his seat by virtue of holding office in his own munici-
pality. The local municipalities retained primary autonomy; however,
the new "metropolitan" level of government was given specified
responsibilities for services that transcended the boundaries of the
individual municipalities, such as finance, water and sewage sys-
tems, transportation and parks. In 1957, police and licensing
functions were added to the responsibilities of the Metropolitan
Corporation, and amendments enacted in 1966 reorganized the
Metropolitan Council\(^8\) and expanded metropolitan responsibility
to include education, welfare, and refuse collection and disposal.

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\(^5\) Note, The Urban County: A Study Of New Approaches To Local Government In
Metropolitan Areas, 73 HARV. L. REV. 526, 527 (1960).

\(^6\) For a general treatment of the subject of special service districts, see J. Bollens,
Special District Governments in the United States 91 (1957).

\(^7\) The material which follows on Toronto is drawn from H. Kaplan, Urban Political
Systems: A Functional Analysis of Metro Toronto (1967); Rose, A Decade of
Metropolitan Government in Toronto, 13 BUFF. L. REV. 539 (1964); Milner, The Metropol-
itan Toronto Plan, 105 U. PA. L. REV. 570 (1957); and Comm. for Economic

\(^8\) The thirteen municipalities were consolidated into five boroughs and one city, repre-
sentatives on the Metropolitan Council being elected from those political subdivisions on a
representative population basis. The size of the Council was enlarged to thirty-two. What
was previously a city-suburban split of 12-12 is now 20-12 in favor of the suburbs. The
Executive Committee, however, maintains a 5-5 division.
Miami-Dade County, Florida, in 1957 adopted a variant of the federated form of government where an elected Board of County Commissioners was invested with area-wide powers. Although the twenty-seven municipalities involved retained their identity and control over "local" matters, Metro was given responsibility for transportation, health, welfare, parks, pollution control, urban renewal, and flood and beach control. Thus, Miami has a pseudo-federal system in which government is shared by the county and the municipalities.

Another approach to metropolitan government, the one ultimately chosen by Indianapolis, is a city-county consolidation in which previously fragmented local governments within the urban county are united into one political unit. Miami-Dade County has some of the elements of city-county consolidation since Metro extends county-wide and officials are elected county-wide. However, a better example is Baton Rouge-East Baton Rouge Parish, Louisiana, which in 1947 established interlocking city and parish governments. The seven city council members and two persons elected from the rural areas constitute the parish council, presided over by a mayor-president who is elected parish-wide. While the city limits were expanded to encompass the entire urban area, all services were not thus extended, and the citizens of those areas not receiving services are not required to contribute to their cost. Consequently different areas of the new city receive different services and hence pay different tax rates. These special tax and service differentials were similarly incorporated into the more recent city-county consolidations in Nashville-Davidson County, Tennessee, in 1962, and Jacksonville-Duval County, Florida, in

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9 FLA. CONST. art. VIII, § 6 is the home rule amendment, and provides for the Miami-Dade County Charter. For a more detailed explanation and history of the Miami plan, see J. Bollens & H. Schmandt, THE METROPOLIS: ITS PEOPLE, POLITICS, AND ECONOMIC LIFE 459-477 (1965); and E. Sofen, THE MIAMI METROPOLITAN EXPERIMENT (1963). See, The Urban County: A Study of New Approaches to Local Government in Metropolitan Areas, supra note 5, for a survey of the literature on metropolitan government and a discussion of the Miami-Dade County plan.

10 LA. CONST. art. 14, § 3(a). See J. Bollens & H. Schmandt, supra note 9, at 430-33.

11 The parish was divided into three zones: urban, industrial, and rural. The city government provides police and fire protection, garbage and refuse collection, street lighting, traffic regulation, sewerage, and inspectional services in the urban area, and residents pay both city and parish taxes. City-type services needed in industrial areas are provided by the industries at their own expense. The rural zone cannot receive city-type services (except the services of the sheriff's department) and residents pay only parish taxes, for which they receive bridges, highways, streets, sidewalks, and airports.

12 TENN. CONST. art. 11. TENV. CODE ANN. §§ 6-3701 to 3725 (1970); and [1961] Tenn. Priv. Acts, ch. 408. See J. Bollens & H. Schmandt, supra note 9, at 433-34. The new county-wide government consists of an elected mayor and a forty-member metropolitan county council, five of whom are elected at large, thirty-five elected from districts. Recognizing that full municipal services simply could not be extended to everyone in the
Attempts by certain municipalities to replace fragmented authority with metropolitan government assuming various duties and responsibilities throughout the urban area have been motivated by different political forces and different practical necessities within the urban areas. No two cities have developed identical governments. Each of the cities has recognized, however, that a unified legislative and executive structure is necessary if rational, coordinated decision-making is to be achieved.

B. UNIGOV: City-County Consolidation

Indianapolis, like other cities, has been moving toward centralization for years as individual municipal functions were transferred to boards having county-wide authority. The resulting web of special service districts and autonomous boards and commissions became so complex and overlapping that attempts to rationally administer urban programs seemed almost hopeless. For example, before consolidation there were eight different authorities responsible for drainage and water problems, and five such authorities for transportation. Coordination became almost impossible—confusion and conflict the rule.

These conditions prompted the 1969 Indiana Legislature to pass a proposal, dubbed “UNIGOV” by the press, which unifies governments in Indianapolis-Marion County. While the UNIGOV bill is lengthy, complex, and filled with compromises and exceptions, it in essence provides for an extension of the Indianapolis city limits to the Marion County lines, with a govern-
ment to be composed of a mayor, six executive departments, and
a twenty-nine member city-county council. When fully operative
in January 1972, fifty-eight previously existing boards and com-
misions will be consolidated into six executive departments: administration, metropolitan development, public works,
transportation, public safety, and parks and recreation. Each
department will be headed by a director responsible to and
appointed by a popularly-elected mayor.

The most important change created by UNIGOV, and the one
most often cited by its supporters, is the consolidation of the city
and county legislative bodies. The new combined City-County
Council will consist of twenty-five representatives elected from
districts and four representatives elected at large. The UNI-
GOV bill explicitly provides that the districts shall be equal in
population, compact in configuration, and created by ordinance of
the City-County Council. The City-County Council is the met-
ropolitan area's primary legislative body, having the power to
approve budgets, to levy general or special taxes, and to make
appropriations for the consolidated city. Tax and service
differentials, which have characterized recent city-county con-
solidations in other cities, are included in the Indianapolis scheme
by leaving certain special service district boundaries the same.
Even in these instances, however, the Council's fiscal authority
extends to many of the independent agencies and boards whose
powers and duties were not changed by consolidation. In other
words, for the first time, legislative authority is vested in a popu-
larly elected representative body that is empowered to review the
actions of previously autonomous bonding and taxing units.

19 Id. § 48-9303.
20 Id. § 48-9204.
21 Before UNIGOV, the City Council consisted of nine members elected at large, and
the County Council consisted of five members who were also elected at large. These men
will serve on the interim City-County Council until the first municipal elections in 1971.
23 Id. § 48-9208.
24 Id. § 48-9224.
25 The police, fire and sanitation districts remain as they were before consolidation,
generally restricted to the old city limits. However, provision is made for extending those
services when desired by the residents of outlying areas or when economically feasible.
Furthermore, citizens pay only for the services they receive, and only council members
from the relevant urban districts will vote on decisions affecting the districts, except for the
four at large members who vote on everything.
26 The City-County Council, for example, has the right to review and modify the
operating and maintenance budgets and the tax levies of the authorities responsible for
airports, health and hospitals, and libraries. These functions were already performed
county-wide, but were operated by semi-autonomous boards.
III. THE NEED FOR DECENTRALIZATION

A. Opposition to UNIGOV

Although a primary purpose of UNIGOV was to make city government more responsive to the electorate by fixing responsibility for governmental services with a highly-visible mayor and city-county council, and notwithstanding the relative ease with which UNIGOV passed the state legislature,\textsuperscript{27} UNIGOV encounters continued opposition from groups as diverse as the John Birch Society and black militants.\textsuperscript{28} On the one hand, white suburbanites who have fled from the problems of the inner city in the past two decades do not view with favor the possibility of finding themselves once again faced with the prospects of higher taxes, public housing in their neighborhoods, and problems of racial integration.\textsuperscript{29} On the other hand, inner city residents, many of them black, see the extension of the city limits to the county line as an attempt to dilute their voting strength and political power. They view their chances of electing a black government as having been greatly diminished. Although black residents comprised twenty-six per cent of the old city population, under UNIGOV it has been reduced to only sixteen per cent.\textsuperscript{30}

The black opposition also asserts that the establishment of four

\textsuperscript{27} While the recent city-county consolidations in Miami, Nashville, and Jacksonville were in part prompted by municipal bankruptcy or scandal, the Indianapolis-Marion County consolidation was passed relatively quickly with an absence of major political turmoil. \textit{CITY}, June, 1969, at 37.

\textsuperscript{28} Two complaints are rather universal. The first is that voters were not given a chance by referendum to approve or reject the bill. In Indiana, cities are the creatures of the state legislature and major structural reform must be achieved by act of that body. Supporters of the bill replied, therefore, that since a referendum has no binding legal effect, the cost of a two-year delay (the Indiana Legislature meets once every two years) would have been senseless. Supporters also point to the fact that the fifty-man advisory group that drew up the UNIGOV bill represented all segments of the community and that the numerous changes and compromises which were embodied in the final form represented considerable citizen input. \textit{See generally U.S. ADVISORY COMM. ON INTERGOVERNMENTAL RELATIONS, FACTORS AFFECTING VOTER REACTIONS TO GOVERNMENTAL REORGANIZATION IN METROPOLITAN AREAS} (1962), especially the summary of conclusions at 24-33.

The second complaint is purely political. A Republican mayor—the first since 1956—with a Republican city council and a Republican county council allegedly “pushed through” consolidation at a time when Republicans controlled both houses of the state legislature and the governorship. There can be no doubt that considerable political pressure was exerted to get the bill passed, leaving all Republicans open to charges of a power grab by incumbent Indianapolis leaders. But the incumbent, Mayor Richard G. Lugar, in a speech before the 34th Annual Conference of the National Association of County Officials in Portland, Oregon, July 28, 1969, frankly admitted that without this political leadership, exercised forcefully and quickly, the idea of government reform which had been talked about for forty-four years in Marion County, and supported by the past Democratic Mayor, would never have become a reality.

\textsuperscript{29} Speech by Mayor Richard G. Lugar, 34th Annual Conference of the National Association of County Officials, in Portland, Oregon, July 28, 1969.

\textsuperscript{30} \textit{CITY}, June, 1969, at 39.
"at large" seats on the Council is an overt attempt by white residents to make sure the influence of black councilmen is minimal. Proponents of UNIGOV maintain that as many as eight or nine districts may elect black representatives and that the black population will have, therefore, more vocal leaders than was the case before UNIGOV when inter-party agreements assured the presence of only one black representative on the City Council. Inner city spokesmen are also met with the argument that inheriting the inner city and electing a black mayor would be a Pyrrhic victory if white citizens and their resources had migrated to the suburbs.

Regardless of the merit in the assertions that metropolitan government is anti-black and that the suburbs will "control" the new city, these objections to UNIGOV do raise the specter of frustration and powerlessness among poorer inner city residents. However one approaches the complexities of metropolitan government, whether in Indianapolis or in any other city, eventually a centralized area-wide government must be reconciled with the need for community identification and the desire of minority groups to control events in their community. Weldon Rougeau, field director of the Voter Education Project of the Southern Regional Council based in Atlanta, finds it disquieting that liberals are gung-ho for metro without taking into account all of its effects, without asking the important questions: How about the people who have been neglected? How is this going to help them? Are they still going to have to litigate to buy homes in the suburbs? [Ultimately] satellite communities must be brought into some metropolitan form of government with the central cities. But people who live in the cities have to have a decisive voice.

Centralization of governments in large urban areas such as Indianapolis may help establish a framework for dealing with problems that require regional solutions. Instead of specialized authorities competing for limited financial resources, a large urban government integrates, plans and establishes priorities for an entire region. Ideally, the voters will determine who will run that government, and, in turn, what those priorities will be. Unfortunately, there is no indication that regional elections will result in directing the efforts of the elected body toward the resolution of

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31 Lawrence & Turnbull, supra note 15, at 25.
32 Id.
33 Id.
34 CITY, June, 1969, at 40.
the staggering problems facing cities.\textsuperscript{35} Simply because more people, and theoretically more resources, have been organized under one governmental unit does not necessarily mean that the government can more effectively resolve peculiarly local problems. Not only is it possible that the more affluent and politically sophisticated will \textit{in fact} continue to have a disproportionate influence on resource allocation under a centralized government, but it is also possible that disadvantaged elements in the city will believe that the larger, more remote government is controlled by alien citizens and thereby give up all attempts to influence local policy.

In short, centralization offers no guarantee that a more rigorous attempt will be made to solve particular problems of housing, employment, education, redevelopment, and physical protection of persons and property in the inner city. That challenge is so great that neighborhoods and communities must be encouraged to articulate their problems and to unite in an effort to formulate solutions. To achieve desired goals, and successfully attack urban ills, meaningful participation is required of small communities. One method of transferring decision-making to small units of people is the creation of community development corporations.

\textbf{B. Community Development Corporations}

In response to community needs and problems, a few inner city groups have turned to non-profit community development corporations (CDC), owned and operated by inner city residents, as a means of developing social, economic and political resources within indigenous areas. The exact operational form assumed by such community corporations varies with the manner in which membership in the corporation is determined, the purposes of the corporation, and the manner in which the corporation obtains funds. Generally, the investors include only residents of the corporation’s “jurisdiction.” The corporation is governed by a board of directors, elected from the residents of the community or the investors in the corporation. Capital funds for the corporation may also be obtained from private philanthropic groups and the federal government.

Although it is difficult to generalize about the goals and purposes of CDC’s, they are usually intended to provide both social

\textsuperscript{35} For example, it is unclear that a larger governmental unit with county-wide jurisdiction will give greater aid to an inner city neighborhood confronted with the problems incident to an urban renewal project than was given by a city council before. The concept of centralization offers no inherent advantage to the poor inner city resident seeking adequate housing, education or employment.
services for residents of the community and stimulation of economic development by investment in local business. One author has described the hopes for community development corporations as a means of ending the ghetto's dependence on outside aid by generating enough revenue to provide significant short-run services to the community in addition to creating enduring resources to end the depressed state of the ghetto. At the same time they are seen as creating community pride and other psychological rewards, in addition to insuring the sensitivity of programs to community values, through community control of the corporation.36

Recently, an act has been introduced in the national legislature designed to foster the creation of CDC’s on a national scale.37 The bill would create a National Community Certification Board which would have the authority to grant federal charters and to provide initial appropriations for creation of CDC’s in communities where the standard of living is very low.38 The CDC would be managed by an elected board of directors39 and a business management board (BMB) appointed by the board of directors.40 Voting membership would be given to each resident that purchased a five-dollar share of stock.41

The BMB would be responsible for the investment of corporation funds, primarily in local businesses, and would determine the percentage of the profits the CDC would devote to such social services as child day-care centers, job training centers and recreational facilities.42

This bill has stimulated much discussion about the goals and priorities of community-level corporations. One author has concluded that legislation creating community development corporations should be concerned less with “community support for and participation in development effort” and more intent on fostering economically-sound, job-producing business enterprises in

38 Id. §§ 103, 138. The standard of living in the community, computed on the basis of median income and employment statistics, must be substantially below the national or metropolitan average. The bill provides in § 110(b) that a community have no less than five thousand residents and no more than 300,000.
39 Id. § 112.
40 Id. § 113.
41 Id. §§ 111(b), 132(a)(5).
42 Id. §§ 110(a), 119.
poverty areas. Others have suggested that legislation should not subordinate community organization and citizen participation to economic development. Indeed, the whole idea of using the corporate form as a means of self-help in inner-city neighborhoods has been questioned by those who feel that poor citizens will have neither the interest nor the money to participate in a corporation over which they will have limited control and from which they will receive few tangible benefits.

Although a lively discussion continues about the purposes of community development corporations, in fact, few community development corporations have been formed. Moreover, the CDC's in existence have had limited success in achieving any of their goals. There are several possible reasons why community corporations experience severe operational problems. First, the corporation may initially encounter a shortage of both entrepreneurial skills and necessary capital. If the corporation does begin operations, it is likely that a lack of experienced management and the employment of mostly unskilled or inefficient labor may keep the corporation from flourishing unless it can attract a continuous flow of outside financial and entrepreneurial resources. Finally, even if the enterprise stays in existence, it may be difficult to support community services or substantial economic development. These factors seem to have hindered the corporations in attracting capital to the ghetto and thereby providing residents with tangible benefits. Furthermore, the goal of citizen participation in CDC's has not been realized. Acquiring capital from outside sources has had the effect of limiting local control of the corporation and its activities. Also, in part because the benefits of CDC's have not been great, local residents have demonstrated a simple lack of interest in the success of the corporation.

Note, The Inner-City Development Corporation, 55 Va. L. Rev. 872, 906-7 (1969). The Note contends that projects like the Bedford-Stuyvesant Restoration Program in New York, which combines an appointed board of local residents with an appointed board of powerful representatives of business and politics, have the best chance of drawing capital and jobs into the ghetto. See id. at 885-895 for a summary of the Bedford-Stuyvesant project which was established in 1967 largely through the work of the late Senator Robert Kennedy.


Id. at 649-656; Goodpaster, An Introduction To The Community Development Corporation, 46 J. Urban L. 603, 662-3 (1969).

Community Development Corporations: Operations and Financing, supra note 36.

Id. at 1576-77.

Id. at 1577-82.

Evidence of this is presented in a recent survey of cities with community development corporations which shows that most CDC decisions are made by very small numbers of people. Id. at 1576.
As a result of these problems, several critics of community development corporations have suggested that citizen participation in the reconstruction of neighborhoods would better be achieved through a non-corporate institution, such as a municipal corporation or other cooperative form in which all residents are members.\textsuperscript{50} Having perceived the difficulties encountered by development corporations in attempting to facilitate the growth of community identity and the improvement of economic conditions, Indiana, through MINIGOV, may turn to a governmental structure to achieve some of the same goals sought by CDC's.

Instead of an economic approach, the thrust of MINIGOV is towards political resolution of local problems. MINIGOV is designed to provide a governmental framework in which local problems can be articulated and hopefully solved without direct commitment of financial resources to specific poverty areas. Also, MINIGOV is devised to offset the loss of identity of smaller communities with the advent of UNIGOV by giving to local groups of people a voice in the determinations affecting their area. The author of the bill described the purpose of MINIGOV to be to provide communities the opportunity to organize local councils to represent truly the interests of their people:

These councils would serve as a forum for communication among the people of a community, as an influence on those decisions which affect the people of their community, and as a voice in the councils of government; they would establish local community priorities, encourage local individual effort in solving the problems of the community, encourage citizen participation in planning and encourage independent organizations trying to serve the people of the community.\textsuperscript{51}

\section*{C. Major Provisions of MINIGOV}

Stated briefly, the purpose of MINIGOV is to permit local groups of residents within the city to elect community councils which may serve as a forum of true local government in their respective neighborhoods. The councils would be empowered to enact ordinances relating to specific local functions; to participate in planning and zoning, including approval of petitions for zoning variances affecting property within the neighborhood; to approve projects for urban renewal, redevelopment and rehabilitation; and to expend funds appropriated by the City-County Council under

\textsuperscript{50} Community Development Corporations: A New Approach To The Poverty Problem, supra note 44, at 666-67.

UNIGOV for improvements within the neighborhood. Additionally, the community council would be recognized as a party in interest in any proceeding before a city department or agency affecting the neighborhood or any of its residents.

1. Creation of Communities

After enactment of the bill, the Department of Metropolitan Development would be required to submit to the City-County Council a plan for the division of Indianapolis into communities. In proposing the boundaries, the Department would be required to take into account the following factors: (1) natural boundaries, such as watercourses, railroads, interstate highways and major thoroughfares; (2) boundaries of existing school districts; (3) retail trading patterns; (4) existence and extent of non-governmental community and neighborhood associations; and (5) other factors indicating a social, cultural and economic interrelationship within a geographic area of the city. No community could have a population of less than three thousand nor greater than twenty-five thousand except where an area of the city had a separate existence as an incorporated town prior to UNIGOV.

After the Department submits the plan to the City-County Council, the Council must accept or amend it within sixty days, or in the event the City-County Council does not adopt the plan, the Department is required to submit a second plan. If the second plan is not approved, with or without amendments, the Circuit Court of Marion County will choose the plan which best follows the criteria set forth in the Act with respect to boundaries. After the plan creating the communities is approved, the City-County Council must realign the ward and precinct boundaries of the city so that no precinct lies in more than one community.

2. Organization of Community Councils

At the city primary election after boundaries have been determined, voters in each community would have the opportunity to

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53 Id.
54 Id.
55 Id. § 3.
56 Id. Section 4 of the bill specifies that after a plan is approved by the City-County Council, a group of residents in one community may petition to have their area transferred to another community, but any such transfer would have to be approved by the Council. Section 5 permits the Metropolitan Development Department to propose changes in community boundaries after each federal census.
57 Id. § 6.
determine whether they wish to elect a community council for their community. This question would be submitted to the voters in the form of a referendum, and, if passed, a community council would be elected at the next general municipal election. If the referendum fails in any community, a subsequent referendum may be held on the petition of fifty registered voters at any subsequent municipal primary election.

The community councils would be composed of one councilman from each precinct in the community, the councils to have a minimum of three members. Candidates would be nominated by petition and would not run on any party label. Alternate councilmen would also be elected, to serve in the event the councilmen should die, resign or move out of the community. The bill further provides for a Community Advisory Council, made up of one member of each community council in the city, which would meet periodically to discuss common problems, and which would have the power to designate up to three persons to participate without vote in the deliberations of the City-County Council.

3. General Powers of Community Councils

The bill provides that community councils shall possess the powers currently granted to boards of town trustees in Indiana; however, the bill also gives the City-County Council authority to increase or decrease those powers and specifies that the following powers are denied at the outset: levying and collecting taxes, issuing general obligation bonds, adopting any regulation or ordinance in conflict with any City-County Council ordinance, exercising the power of eminent domain, exercising power outside the community, and annexing territory or changing its boundaries. Powers specifically granted to the community council include the ability to hire its own officials, contract with the city for special services, additional police and fire protection, community improvements, and park and recreational facilities, and enact
ordinances for the regulation of traffic on minor streets within the community.  

To pay for these services, the City-County Council would be authorized to appropriate for the use of all community councils funds from the city's general fund, or could earmark for community use a portion of any distribution of funds from the state to the city. This money would be available to each community council on a per capita basis, and, in areas with no organized community, to the City-County Council for strictly local improvements in the unorganized area. These allocations would allow the communities to establish and finance "local priorities for projects not sufficiently recognized in importance in the overall county picture." The bill also provides that the community council or its designated representative would be entitled to represent any resident of the community or the community itself in any proceeding before a non-judicial board, department, or agency of the city. Finally, the bill specifies the powers granted to communities over the control of land use planning and development.

IV. CITIZEN PARTICIPATION UNDER MINIGOV

While it is beyond the scope of this note to analyze the probable effect of every section of the MINIGOV bill, it is useful to scrutinize certain sections to see their relation to the goals and priorities established for community governments. Those sections of the bill to be discussed deal with land use planning and development. Because they show the overriding intent of the drafters to stimulate the interest and influence of local residents in the new metropolitan government, without bestowing upon them ultimate political power, these sections appear especially worthy of discussion. Although land use planning may not be the most crucial issue facing a large metropolitan area, individual citizens have

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67 Id. §§ 15(3)-(5).
68 Id. § 24.
69 While the authors of the bill recognized that income levels would be markedly different between communities, it was felt that the cost of providing specific services and improvements would not fluctuate as widely and would tend to be proportional to the population and area involved. Remarks of E. H. Lamkin to Indiana State Legislative Study Committee, Interim Committee on Local Government, Feb. 19, 1970. While these assumptions are subject to argument, the distribution plan is at least better than one providing for allocation according to the amounts paid into the city funds by different communities. There is some redistribution of resources from affluent to blighted neighborhoods.
73 See text accompanying notes 74-84 infra.
traditionally had limited influence over it. It is a significant purpose of MINIGOV to increase the amount of community control over this aspect of municipal government.

MINIGOV attempts to involve in land use planning and development the citizens most affected by the process. Traditionally, land use planning has been effectuated through municipal building, zoning and housing codes, which have been enacted and enforced by centralized agencies.\textsuperscript{74} The local legislative body normally approves a comprehensive plan of land use, passes various zoning ordinances to facilitate the plan, and supplements the plan with uniform building, health and housing codes. One difficulty with this centralized enforcement and administration is that local residents feel that the process is unresponsive to their desires; that it appears "arbitrary and mechanical."\textsuperscript{75} Similarly, residents may resent the apparent ability of large scale landlords, builders or realtors to deal more effectively with the enforcement agencies.\textsuperscript{76} In this regard, one of the most frequently-voiced criticisms is that comprehensive plans are thwarted by the Zoning Appeals Board, inconsistently applying the zoning regulations through its grants of zoning variances. Contending that the lay zoning board fails to realize the necessity for planned, integrated zoning, some have advocated allowing only the legislative body, perhaps upon the recommendation of a board of expert planners, the authority to grant variances.\textsuperscript{77} Another criticism, based largely upon the findings of empirical studies, that appeal boards pay little attention to the legal limitations on their powers and operate largely on an \textit{ad hoc} basis, has led others to suggest abolishing the board, replacing it with either a board of experts or a single administrator, with the right of appeal to a legislative body.\textsuperscript{78} In this way it is hoped that the frequent problem of zoning boards granting too many variances, and thus weakening the comprehensive zoning scheme, will be avoided.

Contrary to these suggestions, MINIGOV contemplates \textit{less} expertise, less recognition for the sanctity of comprehensive land-use plans, greater community influence over the zoning scheme, and thus probably more variances.\textsuperscript{79} The bill provides

\textsuperscript{74} Babcock & Bosselman, \textit{Citizen Participation: A Suburban Suggestion For The Central City}, 32 \textsc{Law \& Contemp. Prob.} 220 (1967).
\textsuperscript{75} \textit{Id.} at 228.
\textsuperscript{76} \textit{Id.} at 229; see also Dukeminier & Stapleton, \textit{The Zoning Board of Adjustment: A Case Study In Misrule}, 50 \textsc{Ky. L. Rev.} 273, 325 (1962).
\textsuperscript{77} \textit{Note, Zoning Variances}, 74 \textsc{Harv. L. Rev.} 1396, 1407-08 (1961).
\textsuperscript{78} Dukeminier & Stapleton, \textit{supra} note 76, at 350.
\textsuperscript{79} Although this decentralization of zoning power seems heretical to the teaching of Euclidian Zoning, the idea has support among modern commentators who feel that the
that any community council may propose amendments to the master plan for land use in its community. Likewise, a community council may propose amendments to any applicable zoning ordinance for the purpose of changing the zoning classification of a particular parcel of property located in its community. Any petition for rezoning of a parcel of land within the community must first be submitted to the community council for its consideration and recommendations, which would be forwarded to the Metropolitan Development Commission. Finally, the community councils are given the power to grant or deny all variances of use, height, bulk and area from the terms of any zoning ordinance with respect to any property within an organized community. Clearly in the past, especially in regulating the zoning of poorer areas, the zoning boards have operated largely beyond the control of local residents, who are uneducated in the subtleties of political persuasion behind closed doors. By giving the elected community councils influence over land use, the zoning determinations should be more responsive to the desires of the residents than to the pressures of those with money or political influence.

Yet, in all instances where the communities are given a role in determining land use planning, that role is primarily advisory, and the decisions of the councils need never be followed. Although the councils may propose amendments to the master plan and suggest changes of zoning classifications, the decision on whether to accept the amendment rests with the Metropolitan Development Commission. Moreover, petitions for rezoning must be first submitted to the community councils, but their recommendations are not binding on the Commission.

Even though the community councils are given the authority to grant or deny variances, the bill provides that landowners may appeal the council decision denying the variance if the expert from the Metropolitan Development Department recommended approval of the variance. The provision for appeal indicates that

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centralized application of zoning ordinances, while possibly adequate for homogeneous, affluent suburbs, has not worked to improve blighted neighborhoods. BABCOCK & BOssel-man, supra note 74, at 220.

[1969] Ind. House Bill No. 1921, § 17. The Metropolitan Development Department must make available qualified staff personnel to prepare such proposed amendments and to represent the community council in all proceedings.

the authors of the bill considered it more important that no owner be unjustly denied a variance than that the comprehensive zoning scheme remain inviolate. Standing alone, this provision seems difficult to rationalize when the problem with variances has characteristically been that too many are granted, which is destructive of the zoning plan, and not that individuals are unjustly denied variances. Although the community councils do not retain ultimate responsibility for determining land use planning and development, they should have an important political influence on the real decision makers, the Metropolitan Development Commission and ultimately the City-County Council.86

The detailed provisions in MINIGOV allocating the locus of control over zoning are in sharp contrast to the single, terse section of the bill dealing with redevelopment and urban renewal. The bill provides that any project for "urban renewal, redevelopment, rehabilitation, [or] systematic code enforcement" undertaken by the city must first be approved by the community council of each area affected, but that the City-County Council can reverse a contrary decision of a community council and approve a project by a simple majority vote.87 The first half of this provision seems to recognize that part of the problem in the inner city has been large highway and slum clearance projects, ostensibly designed to help the poor, which have, in fact, burdened the poor to benefit the middle class.88 A project planned by the city bureaucracy meant to "rehabilitate" an inner city neighborhood may fail

86 At least seven states have enacted statutes intended to liberalize the annexing powers of municipalities while giving the annexed areas some control over subsequent land use and development. U.S. ADVISORY COMM. ON INTERGOVERNMENTAL RELATIONS, URBAN AND RURAL AMERICA: POLICIES FOR FUTURE GROWTH 168 (1968). The Washington statute, for example, provides for the formation in newly annexed areas of "community municipal corporations" governed by "community councils," which not only have the power to disapprove the application to any of its territory of new municipal land-use plans, zoning schemes, subdivision regulations, etc., but also may:

(1) Make recommendations concerning any comprehensive proposal which directly or indirectly affects the use of property or land within the service area;
(2) Provide a forum for consideration of the conservation, improvement or development of property or land within the service area; and
(3) Advise, consult, and cooperate with the legislative authority of the city on any local matters directly or indirectly affecting the service area. WASH. REV. CODE § 35.14.050 (Supp. 1970).

MINIGOV's community councils have no power to annex, but the above experiences of Washington and other states are examples of the way several jurisdictions have sought to facilitate the influence of communities in planning and development.


88 A. ALTSCHULER, COMMUNITY CONTROL 47 (1970). This is the first of a series on the widespread demand for increased citizen participation in the government of America's large cities. A noted political scientist, the author presents the arguments for and against community control and suggests ways of implementing specific reform plans.
to follow the cultural patterns of that community. The advocates of MINIGOV apparently believe that the best way to avoid harmful dislocation is by consulting elected spokesmen for the neighborhood. Thus, the section of the MINIGOV bill dealing with redevelopment and urban renewal provides for a degree of citizen input in redevelopment plans absent in the past.

However, the second half of this section, providing that a negative decision by the community council can be "reversed" by a bare majority of the City-County Council, is analogous to the sections of the bill dealing with land use since the role of the community council is rendered merely advisory. Clearly, municipal planning would be ineffective if each indigenous community should have the ultimate authority to decide whether to enforce all municipal codes. Furthermore, there are aspects of indivisible area-wide policy that demand broader decisions and code provisions that are so essential to the health and safety of the municipality that no group should be allowed to prevent uniform compliance. One can easily imagine, for example, racially-homogeneous communities barring all public housing or rehabilitation projects which threatened integration, if each community were given the final power to decide when the city should undertake such programs.

Short of this extreme, however, citizen response in affected neighborhoods should be given considerable weight, which is, in

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89 This is not a novel idea, and several political bodies have tried to tap citizen opinions about proposed development projects. See, e.g., Mich. Comp. Laws Ann. § 125.74(2)(c) (Supp. 1970). This statute is an attempt by the Michigan State Legislature to define the extent of citizen participation by a statute providing for the selection of district councils mandated to serve as a liaison between the city and local citizens in the formulation and execution of renewal plans. This statute is similar to HUD's attempt to assure active citizen response. Renewal Assistance Administration, U.S. Dept. of Housing & Urban Development, Urban Renewal Handbook § 7217, 1, c.5, § 2 (Feb. 1969). All these provisions are written in broad terms with a conspicuous absence of specific legal remedies. See generally Rhodes, Michigan's Participation Statute, 1970 Urb. L. Ann. 231.

90 The City-County Council must also solicit community views before undertaking any project involving "systematic code enforcement," which can mean almost any kind of coordinated governmental action. Taken in its usual context of building and housing codes, the provision might be of questionable wisdom if community councils were in fact given a veto power over all city plans (which they are not). For example, one investigatory body has recommended uniform building codes designed to take into account new developments in construction techniques and building materials. U.S. Advisory Comm. on Intergovernmental Relations, Building Codes: A Program for Intergovernmental Reform 82-3 (1966). This group maintains that the thousands of building codes existing at the local level impede construction of low-cost, high-volume housing. If by "systematic code enforcement" the bill is referring to housing codes only, there may be some justification for varying standards between communities since the physical conditions in those areas vary so widely. Note, Enforcement of Municipal Housing Codes, 78 Harv. L. Rev. 801, 812 (1965).


92 Babcock & Bossemann, supra note 74, at 226.
essence, what MINIGOV provides. Community councils do not have a veto power over the city's urban renewal plans. Theoretically, the Mayor and a majority on the City-County Council could proceed with urban renewal projects despite the disapproval of elected representatives of the affected area. Practically and politically, a decision to proceed with plans unacceptable to the affected area would be very difficult to make. Not only would the discussion and hearings of the community council about proposed projects serve as a focus for public objections, but the result of council deliberations would serve as a referendum that higher elected officials would hesitate to challenge. This would be particularly true if several neighborhoods, representing a significant element of the population, joined together in opposition to a contemplated project. The Mayor would not want to evoke the wrath of a segment of his constituency, and both the Mayor and the City-County Councilmen outside the affected area might have a hard time explaining to their voters why it was necessary to force a decision on communities that had clearly and democratically expressed disapproval.

Establishing community councils carries significant implications for the expression of concern by citizens in inner city neighborhoods on a broad range of issues, not limited to the urban renewal, redevelopment and rehabilitation questions just mentioned. Certainly, the Mayor and City-County Council would not want to alienate a segment of the population, whatever the source of disagreement. Furthermore, community councils consisting of elected representatives would listen to the diverse complaints, problems and ideas of their constituents. Before UNIGOV, the local resident had only a mayor and some councilmen elected at large from the whole city to go to with a problem. After UNIGOV, he has a mayor and a city-county councilman elected from his district. MINIGOV adds a more responsive representative—a representative elected from a small homogeneous neighborhood with which the local resident can identify. While before, the resident with a problem might press his case with a remote legislator, MINIGOV contemplates that he will be able to take his case to a body that is closer to the problem, closer to the person having the problem, and more responsive to individual ideas. An inner city resident who has been frustrated by a lack of access to elected officials and who has given up expressing himself may find in MINIGOV at least a partial answer to his personal problems and concerns.

Two final aspects of the MINIGOV bill should be mentioned.
because of the relevance they may have to community land use planning. First, the section of the bill enumerating the general powers of community councils provides that community councils are forbidden to enter into any agreement or receive funds from any unit of government other than the city and its departments without prior approval of the City-County Council. While this is an unambiguous prohibition against receipt of funds from the federal sources available to community development corporations, it is nevertheless conceivable that communities could generate development funds from private sources unless the City-County Council should vote otherwise. One can imagine, for example, that well-organized inner city communities with strong council leadership might attract funds from various foundations interested in problems of black citizens, much as community development corporations have done. By thereby supplementing the funds already provided by the City-County Council, poorer communities might establish an economic base from which to resolve some ghetto problems.

Underlying this discussion of community councils in their land use role is the implicit belief that somehow neighborhood-size groups should be encouraged to participate in the decision-making process. This belief is best conveyed by the provision which gives the community council or its representative the right to represent any resident of the community, or be heard as a party in interest in any proceeding affecting the community or any of its residents, before any non-judicial board, department or agency of the city. In this section, the proponents of MINIGOV have clearly articulated their belief that genuine neighborhood involvement on a regular basis is better than the informal and disorganized participation, often prompted only by large, potentially disruptive projects, that has characterized neighborhood groups in the past. Community councils are to be cohesive enough to participate in non-judicial hearings as representatives of the whole community, but small enough so that individuals will be encouraged to come to them for help.

These are some of the "powers" conferred upon community councils by MINIGOV. Some will argue, with justification, that any semblance of real power is merely illusory and that MIN-

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94 Id. § 16.
95 The American Law Institute has recently proposed a somewhat similar way of involving neighborhood organizations in land use decisions by allowing qualified organizations to participate in hearings, receive notices, and bring judicial proceedings. ALI MODEL LAND DEVELOPMENT CODE § 2-307 (Tent. Draft No. 2, 1970).
IGOV tends only to stimulate the political “influence” of communities. Every act by a community council is subject to the control of the legislative body of the whole city. Furthermore, fiscal restraint by the City-County Council puts severe limits on any community program. Nevertheless, at a time when the city government has been centralized through UNIGOV, which governs the entire urban area, this small step toward decentralization may be crucial, not only for civic leaders anxious to know the feelings of their constituents, but also for the individual wanting to have an impact, however small, on his government.  

V. Two-Tiered Urban Government

Indianapolis has initiated urban governmental reform in an attempt to provide a functional two-tiered approach to urban problems combining the seemingly contradictory theories of centralization and community control. Many of the overlapping layers of local government which had contributed to fragmentation of the tax base, inefficiency, and lack of responsible political control over a maze of boards and authorities have been eliminated. This kind of modernization has been urged as a necessary step toward solving area-wide problems in a systematic and practical manner. Yet, proponents of city-county consolidation, or any other plan to create metropolitan government and large-scale unity within the community, have recognized the possible liabilities of citizen alienation and isolation from a larger, centralized government.

From this realization have sprung the various proposals for a two-tiered approach to urban government: granting certain local powers to neighborhood-size units while creating a larger, consolidated urban governing body. The Committee for Economic Development has recently urged adoption of a community-level gov-

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96 One commentator has described a neighborhood-level board of enforcement this way: “The neighborhood Board would serve as a forum not only to enforce compliance but to dispense benefits. It would provide an arena for debate and decision making by low- and middle-income tenants and landowners that would be more accessible to them than the distant and little understood machinery at City Hall.” BABCOCK & BOSELMAN, supra note 74, at 228.

97 See COMM. FOR ECONOMIC DEVELOPMENT, MODERNIZING LOCAL GOVERNMENT, supra note 4.

98 For a persuasive argument that large urban bureaucracies are unable to solve the problems that face our cities, see Goodpaster, supra note 45, at 604-608. The author contends that as a bureaucratic organization increases in size, it tends to become stagnant and unresponsive to individual needs; therefore, it is argued that new institutions are needed which will increase citizen participation, legitimize authority, and solve urban problems.
ernment system, sharing functions with area-wide government.\textsuperscript{99} Similarly, the United States Advisory Commission on Intergovernmental Relations has recommended establishing subunits of metropolitan government with limited taxation and self-government powers, including the administration of certain federal, state and local programs.\textsuperscript{100}

The proposal of MINIGOV does not extend nearly as far as these suggestions. Instead of governing power, MINIGOV gives only advisory influence and authority to the local communities. Thus the question is raised whether Indianapolis will have, after MINIGOV, a functional two-tiered government. The answer is probably no. While UNIGOV was a bold step toward centralized metropolitan government, the MINIGOV bill provides for the decentralization of far fewer governmental responsibilities. After so recently uniting a fragmented and archaic government, it is as if city leaders are reluctant to reverse the process and are more willing to wait and see how communities respond to this initial invitation to exercise leadership.

The MINIGOV bill is, however, stimulating the involvement of neighborhood-level institutions— institutions which are being asked to participate for the first time formally in a wide range of governmental functions. The political influence of these groups is openly recognized and encouraged, in the hope that the traditional kinds of covert activities will decrease. Furthermore, this grassroots leadership will provide the real decision-makers, the members of the City-County Council, with important information about citizen feelings, wants and desires.

MINIGOV may also help to some extent to chip away at the cynicism surrounding what is often perceived as a remote and impersonal city government. Community councils may have little formal power to control zoning enforcement, to upgrade housing, or to stop a renewal project that the City-County Council is convinced is needed, but at least the citizen's influence over such matters may be increased. However, while MINIGOV attempts to deal with access to elected representatives, it fails to respond to the citizen's need to relate to the increasingly large city bureaucracy responsible for the every-day problems of urban living. A local resident can take complaints to a community council, but if the problem involves a strictly municipal function, a city service

\textsuperscript{99} COMM. FOR ECONOMIC DEVELOPMENT, RESHAPING GOVERNMENT IN METROPOLITAN AREAS, supra note 7, at 19.

\textsuperscript{100} 2 U.S. ADVISORY COMM. ON INTERGOVERNMENTAL RELATIONS, FISCAL BALANCE IN THE AMERICAN FEDERAL SYSTEM 16 (1967).
for example, the citizen would have to act on his own to obtain relief. It is these attempts to obtain municipal services—like having the garbage picked up, the chuck hole in the alley filled, and police help provided to find out who menaced the child in the park—which provide the experiences that determine the thoughts and actions of citizens towards local governments.

In part, Indianapolis has already reacted to the need for response to citizen complaints by providing a staff of telephone operators working directly from the Mayor's office. This process is no doubt an improvement over the frustrating prospect of a citizen trying to locate the responsible department by himself and to persuade the administrative official to act and to do so promptly. Nevertheless, the authors of MINIGOV could have contributed much to the process of breaking down an impersonal bureaucracy by delegating to community level some responsibility for these administrative functions that figure so heavily in the lives of inner city residents.

Any such delegation of administrative authority would, however, necessitate some kind of provision for a technical staff that could serve the community council in its dealings with citizens and city officials. MINIGOV does not do so except for the limited power granted to a community council by section 15(3) "to hire its own clerk and to hire other officials permitted by ordinance of the [City-County] Council." Of even greater importance is the fact that communities lack the power to provide independently for an investigative staff able to sensitize the councils to the problems of their constituents and inform them of the possibilities for cooperation with other levels of government. All information would seem to come from the city government, as is the case under the land use sections of MINIGOV which provide community councils with "experts" from the Department of Metropolitan Development. The community councils will be forced to operate with minimal investigatory resources and inadequate tools with which to resolve complaints. Under such circumstances, it is difficult to foresee community councils developing imaginative responses to constituents' problems. If the community councils are to properly serve even a limited advisory role, they must be given personnel who are responsible to them as local agents and not responsible to the central administrative structure.

Because MINIGOV is aimed primarily at political rather than

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101 In 1968 Indianapolis established a central complaint number which is well publicized throughout the city. Complaints are received and channeled by the Mayor's Office to the responsible department. After a reasonable amount of time, the citizen is called by the complaint operators to see if his problem has been solved, and reports are kept on the efficiency of the city departments in responding favorably to citizen complaints.
economic problems, community councils, unlike community development corporations, are not meant to have significant economic leverage in dealing with physical blight, unemployment, inadequate housing and poor education. The provisions of MINIGOV dealing with financial powers specifically prohibit community councils from seeking governmental funds to supplement the undoubtedly limited amounts provided by the City-County Council. However, by giving community councils such limited financial tools, the MINIGOV bill severely limits any chance those councils might have to solve the most pressing urban problems on their own. This reflects the attitude that the recently created metropolitan government is better equipped to marshal the resources of the area and provide the framework necessary to solve the problems faced by a large metropolitan area. The community councils are intended to serve only as an adjunct to that system.

The granting of political power to many communities within the urban area involves a certain amount of inefficiency, the very antithesis of schemes like UNIGOV. Nevertheless, it is clear that even good government advocates would exchange a little efficiency for a decrease in the isolation, frustration and discontent too often a part of inner city life. A certain price will have to be paid for community activism and citizen involvement. Community councils are meant to encourage inner city residents to make their problems known, to stimulate their interest and confidence in the new metropolitan government, and to make that government responsive to citizen needs. MINIGOV gives very little power or money to community councils, but it may help poor communities develop a voice in dealing with the City-County Council. If enough communities become politically active and exert enough pressure, the City-County Council may respond with the resources needed to provide adequate housing and transportation, to provide enough job training and jobs, and to furnish poor citizens with the city services that might previously have been reserved for politically powerful, affluent groups.

Whatever its impact, if MINIGOV is enacted by the Indiana Legislature, the Indianapolis system of urban government reform will serve as a much needed test of decentralization in the context of fostering community involvement in a large consolidated metropolitan government.

—Charles T. Richardson

103 A. ALTSHULER, supra note 88, at 140.