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The Role of the Law in the Availability of Public Transit and Affordable Housing in Atlanta’s West End

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I. INTRODUCTION: AN OVERVIEW OF WEST END

The West End MARTA station might not be the first choice for many people because it is not the most visually appealing. However, there are several advantages to living in this part of town, the most important being housing costs and proximity to downtown.

Affordable Housing

Numerous single-family detached dwellings are available in West End, at an average price of $128,712\(^1\). Many of these homes have historic architecture – a quality that is appealing to many homebuyers. The West End is actually one of the oldest neighborhoods in Atlanta.\(^2\) Its history stretches back to the early 1830s when it was first settled and to the late nineteenth century when business tycoons built palatial estates in the area.\(^3\) In 1991, the City of Atlanta designated sections of the West End as historic districts.\(^4\) And furthermore, because West End was established as a pre-War neighborhood with traditional neighborhood design (city blocks, sidewalks), pedestrianism is not burdensome for residents.

West End offers more modern residential spaces as well. Sky Lofts condominiums is the most appealing multifamily housing development in the area. Sky Lofts is a mixed use development with 9,000 sqft of retail space and several 1 and 2 bedroom floor plans at 898 Oak Street.\(^5\) The residential area is accessed through a gate that requires a key card and patrolled by an on-site security officer. Each keycard will only open a designated building or parking area

\(^1\) 1st Connection Comparative Market Analysis Report. This report lists houses on the market, within a half a mile of the West End MARTA station, on 04/16/2011. See also TRULIA, West End Real Estate Overview, http://www.trulia.com/real_estate/West_End-Atlanta/2679/ (citing an average listing price of $105,799 in West End during the first week of May 2011).
\(^3\) Id.
\(^4\) Id.
depending on the unit number of each owner. No one can access a building they do not live in. This is important because of the high crime rate in the area.\(^6\) Dealing with high crime is an issue; however, the cost of living offsets the burden.

The Sky Lofts project has made it possible for potential buyers to obtain up to $67,400 in down payment assistance.\(^7\) In one scenario, a homebuyer can purchase a condo for as low as $534.80 a month plus applicable HOA dues.\(^8\) Monthly mortgage payments under $550/month brings homeownership within the reach of many who would otherwise never have been able to own homes.

**Access to Public Transit**

The lower cost of housing is not the only benefit to the West End area. There are many bus routes located within one half mile of Sky Lofts and a MARTA rail station located nearby on Lee Street. When the goal is living without a vehicle, West End provides easy access by public transit to all parts of the city.

If work is located within Atlanta’s 285 Loop, the commute can be accomplished usually within an hour through the public transportation system, MARTA, which covers most of the Atlanta-Metro area. Most will board the train at West End and travel downtown for work, a ride that can be accomplished in about 8 minutes.\(^9\) MARTA allows Atlanta residents to live in one corner of the city and work in another without owning a vehicle. Bus lines 67, 68, and 71 all have stops within the same block as Sky Lofts, making the morning commute that much closer to

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\(^6\) **Atlanta Beltline, Inc.**, *Subarea I Master Plan Existing Conditions and Goals Meeting*, at 22-23 (Feb. 2, 2010), http://www.beltline.org/LinkClick.aspx?fileticket=D6Ghlp9EcyU%3d&tabid=1824&mid=8723

\(^7\) **Sky Lofts Atlanta**, http://www.skyloftsatlanta.com/ (last visited Apr, 28, 2011).

\(^8\) *Id.*

However, travelling to work is not the only challenge that residents will encounter as they attempt to live without a vehicle.

**Essential Businesses and Public Services within West End**

West End provides most of the essentials of life within a half mile. The closest medical center, West End Medical Center, is located within one-fifth of a mile on York Ave. The facility houses a variety of medical offices and a clinic. There is also a CVS pharmacy less than 500 feet from the entrance to Sky Lofts. Besides actual clinics and pharmacies, there are also many local features for those that are health-conscious.

Dean Rusk, Howell and West End Parks are all located within half a mile from Sky Lofts. For those that own bikes and want to ride on trails or play baseball, Adair Park is just eight-tenths of a mile away and offers several internal trails and a baseball diamond. Adair Park also hosts many community events and is a great way to become involved with the local activities.\(^{10}\) Alos, the Atlanta Beltline project recently opened a 2.5 mile biking and pedestrian trail between adjacent neighborhoods of Mozley Park and Westview. Besides parks, KADTS Dance Club, a community oriented dance studio, is just eight-tenths of a mile away from Sky Lofts and is a great way to get to know local residents. Also, there’s a neighborhood organization (WEND) for people committed to improving their community.\(^{11}\)

Besides maintaining health and getting involved, most will also need quick access to food, whether it be a restaurant or grocery store. The area offers several national chains and many local restaurants offering a broad range of cuisines. There are several urban grocery stores close by including Hardy’s Supermarket, Big Bear Food and West End Food Mart. For a larger selection, Kroger is only 7 minutes away by taking bus 71. For those not endowed with culinary

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\(^{10}\) **ADAI R PARK, News & Events**, http://adairpark.com/events/ (last visited May 7, 2011).

skills, the area also offers over 22 different restaurants within a half-mile. Chain restaurants include: Popeyes, Quiznos, McDonald’s, Wendy’s and Taco Bell amongst others. Local favorites include Gut Busters Cheesesteaks, Colonial Bakery, Harris New York Pizza, West End Cafeteria, and Soul Vegetarian.

West End also offers several civic centers and educational institutions. There is a public library close by and a post office on the way to the MARTA rail station. There are also several galleries and a museum in the area. Within half a mile there are at least four churches (both denominational and nondenominational)\textsuperscript{12} and a funeral home. College students can study at Clark Atlanta University, located directly north of the neighborhood. The Harland Boys Club, Angel’s Paradise Learning Center, and Kidazzle Child Care are available for those with children.

Shopping is close as well with Sky Lofts located directly behind the West End Mall Shopping Center. There are over twenty retail stores in the general area, six hair and beauty salons, and two tattoo parlors. Wells Fargo, Bank of America, and Chase Bank are also located nearby as are several quick cash, payday loan centers.

\textit{Summary of the Benefits of West End}

Overall, West End might be saddled with high crime, but concerns of crime are lessened when living in a secure compound with multiple levels of security, such as the environment provided at Sky Lofts. Plus there are many places at which residents can shop, eat, and socialize in the community. All the necessities of work, banking and medical care are also all within walking distance. These factors make West End the perfect location for a new Atlanta resident, without a vehicle, looking for cheap housing that offers a high quality of living, and has access to all the basics necessities of an urban dweller.

\textsuperscript{12} These churches are Atlanta Good Shepard, West Hunter Street Baptist Church, Pan African Orthodox Christian Church, and St. Anthony Catholic Church.
The presence of a MARTA stop at West End makes it possible for a person to live in West End without owning a car because MARTA provides residents with rail and bus transportation to a variety of job opportunities throughout the Atlanta metro area. MARTA owes its existence to local, state, and federal legislation and ordinances. This section provides an overview of how the law has made and continues to make MARTA service in the West End possible.

The Establishment of MARTA

The Georgia Legislature created the Metropolitan Atlanta Rapid Transit Authority (MARTA) in 1965 for the alleviation of traffic and transit problems in the sprawling Atlanta metro area. MARTA presently serves communities in the City of Atlanta and Fulton and DeKalb counties with rapid rail transit and bus services. Early in MARTA’s history, other adjacent suburban counties surrounding Atlanta declined participation in MARTA services, at worst out of fear of making their communities more accessible to low income people without transportation, and at best because these suburban residents were more financially able to

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14 There is also bus service to Six Flags and Cumberland Mall in Cobb County, as well as rail service to the Hartsfield-Jackson International Airport in Clayton County.

15 MIRIAM CONRAD, TRANSPORTING ATLANTA 19, (State Univ. of N.Y. Press 2009). MARTA ridership has remained overwhelmingly African-American in spite of expensive efforts to attract white ridership from northern suburbs. Id. at 49. The population of Fulton and DeKalb counties today is a little less than 2/3 African American while the entire Atlanta metro area population is more than 2/3 white.
commute by car and did not want to finance a transit system that they did not intend to use. In 1971, voters in DeKalb and Fulton counties elected to fund MARTA with a 1% sales tax. By the end of the 1970s, the first trains were serving several central areas of Atlanta; MARTA trains have been serving West End since September 1982. Because West End was already a largely African-American community of Atlanta by the late 70s and early 80s, the lower income demographic of the neighborhood desired the opportunity to participate in public transit and did not oppose the creation of a station or railway immediately adjacent to their community.

**The Ongoing Financing of MARTA**

MARTA is the largest public transportation entity in the United States that does not rely on consistently allocated state funds for operational costs. Georgia is authorized by statute, however, to provide Georgia Department of Transportation (GDOT) grants to public transit entities like MARTA, and MARTA has received some grant monies from GDOT in recent years. MARTA presently funds roughly 29.2% of its budget with fares collected from riders.

MARTA also relies heavily on continued local tax support from the city of Atlanta and DeKalb and Fulton Counties (the same 1% sales tax levied in the 1970s), and it will continue to

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16 Voters in Cobb County opted out of MARTA first in 1965; then in 1971, voters in Clayton and Gwinnett Counties declined to approve a referendum authorizing MARTA to contract with their local governments for services, and to collect a 1% sales tax in their jurisdiction to finance the system. See City of Atlanta v. Metro. Atlanta Rapid Transit Auth., 636 F. 2d 1084, 1087 (11th Cir. 1981). There continues to be much skepticism as to why the suburban counties reject expansion efforts of MARTA, especially since all three counties have created their own public transit (bus) systems.

17 Id.; Jim Cox, Rails Across Dixie 415 (McFarland & Co. 2011).


rely on this means of income through 2047. The 2011 budget anticipates about $158,524,000 in sales tax revenue (approximately 47.3% of MARTA’s $335,000,000 annual revenue). This seemingly steady income, however, is susceptible to fluctuations that accompany economic downturns, so the quality of services provided by MARTA is inconsistent from year to year; typically, bus services are cut first, but many of the rail stations have also lost amenities like bathrooms, for example.

Further complicating the availability of sales tax revenue, the Georgia General Assembly Act that created MARTA requires a 50/50 allocation of fares to operating expenses and future capital expenses. This allocation scheme has created funding headaches for MARTA because train and bus fare revenue has been immediately needed for operational costs – not long term growth or expansion projects. Fortunately for MARTA, the Georgia General Assembly has temporarily relieved MARTA of its obligation to comply with the obsolete 50/50 apportionment scheme until June 2013. The 1% sales tax and ridership fares are the only major sources of MARTA’s revenue. Thus MARTA also relies on the receipt of federal grant dollars.

In 2005, Congress passed a spending bill signed by President Bush known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, or SAFETEA-

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25 GA. CODE ANN. § 32-9-13 (“Provisions in all laws, whether general or local, including but not limited to the Metropolitan Atlanta Rapid Transit Authority Act of 1965 . . . that set forth restrictions on the use by public transit authorities of annual proceeds from local sales and use taxes shall be suspended for the period beginning on June 2, 2010, and continuing for three years.”).
26 Wall, supra note 19.
SAFETEA-LU specifically created funding from 2006-2009 of numerous highway and transit projects throughout the country, including MARTA’s automated smart card fare collection system (roughly $200,000 annually) and MARTA’s acquisition of clean fuel buses (roughly $1.2 million annually).\textsuperscript{29}

Congress more recently appropriated funds in the American Recovery and Reinvestment Act of 2009 (ARRA)\textsuperscript{30} for many government programs including transit systems like MARTA. The Act appropriated $1.5 billion for capital investments in surface transportation infrastructure,\textsuperscript{31} to be awarded as “discretionary grants . . . to State and local governments or transit agencies on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region . . . .”\textsuperscript{31} According to the federal government website Recovery.gov, MARTA is a four-time recipient of ARRA grants via the Department of Transportation.\textsuperscript{32} MARTA has received (1) $30 million for preventative maintenance for rail upgrades and train alert lights; (2) $10.8 million for solar canopies at a Decatur based MARTA bus station; (3) $57.7 million for preventative maintenance to buses and trains, procurement of 17 replacement Clean Fuel Buses with bike racks; fire protection upgrades, rail system security


\footnotesize{\textsuperscript{29} SAFETEA-LU at § 3044.}

\footnotesize{\textsuperscript{30} ARRA, 111 Pub. L. No. 5, 123 Stat. 115 (2009) (enacted for the purpose of “invest[ing] in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits”). This Act is more commonly known as “the stimulus bill.”}

\footnotesize{\textsuperscript{31} \textit{Id.} at Title XII. ARRA also appropriated an additional $6.9 billion for transit capital assistance, but 80\% of the funds were to be administered pursuant to 49 U.S.C. § 5307 (for cities with fewer than 200,000 persons), and another 10\% pursuant to 49 U.S.C. § 5307 (for areas with higher population density than Georgia – specifically, places with over 370 people per square mile). \textit{Id.} at Title XI. The remaining 10\% of transit assistance funds was also unavailable for Atlanta as it was to be administered pursuant to 49 U.S.C § 5311 (for non-urbanized areas). \textit{Id.} Thus Title XII funding appears to be the only type for which Atlanta or MARTA would be eligible.}

\footnotesize{\textsuperscript{32} \texttt{RECOVERY.GOV, Advanced Recipient Reported Data Search, \texttt{http://www.recovery.gov/pages/TextViewProjSummary.aspx?data=recipientAwardsList}} (last visited May 11, 2011). At this link, search “contracts, grants, and loans,” awarded to “Metropolitan Atlanta Rapid Transit Authority,” awarded by “Department of Transportation” agency, in “Georgia” jurisdiction.}
improvements; transit service for disabled persons, and general operating assistance; and (4) $7.4 million for fire protection upgrades.\textsuperscript{33}

\textbf{State and Federal Regulatory Oversight of MARTA}

The Federal Transit Administration (FTA) is a branch of the U.S. Department of Transportation that administers federal funds and provides technical assistance for the support of locally operated public transit systems.\textsuperscript{34} MARTA / Atlanta metro area are part of FTA Region IV (the Southeast). FTA would be involved, for instance, in financing the federal grant monies discussed above. But actual regulation of operations (i.e., what MARTA does each day, or what MARTA will plan to do regionally) is more closely regulated by Georgia agencies.

Until recently, the Atlanta metropolitan area had no powerful central agency to coordinate regional transit. The Atlanta Regional Commission (ARC)\textsuperscript{35} has existed for decades to filter federal funds and to make recommendations for long-term planning in Atlanta, including planning for transit, like MARTA. Yet the ARC lacks legal authority to require adoption of its plans and policies by local (county and municipal) governments within the Atlanta metro.\textsuperscript{36} To fill the need for a more potent regional transit agency that could curb regional environmental problems resulting from traffic congestion, the Georgia General Assembly created the Georgia

\textsuperscript{33} 	extit{Id.}

\textsuperscript{34} \textsc{Federal Transit Administration}, http://www.fta.dot.gov/regions/regional_offices_871.html (last visited May 11, 2011).

\textsuperscript{35} “The Atlanta Regional Commission (ARC) is the regional planning and intergovernmental coordination agency for the 10-county area including Cherokee, Clayton, Cobb, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Henry and Rockdale counties, as well as the City of Atlanta.” \textsc{Atlanta Regional Commission, About ARC}, http://www.atlantaregional.com/about-us/overview (last visited May 11, 2011).

\textsuperscript{36} Orlyn O. Lockard, III, Note: Solving the “Tragedy”: Transportation, Pollution and Regionalism in Atlanta, 19 \textsc{Va. Envtl. L.J.} 161, 178-79 (2000).
Regional Transportation Authority (GRTA)\textsuperscript{37} to “manage[] land transportation and air quality” in Georgia.\textsuperscript{38} Among its powers, GRTA can

(a) plan, design, acquire, construct, add to, extend, improve, equip, operate, and maintain or cause to be operated and maintained land public transportation systems and other land transportation projects;
(b) provide advisory, technical, consultative, training, educational, and project assistance services to the state and local government” by contract;
(c) coordinate and assist in planning for land transportation and air quality purposes, and
(d) operate as a receiver of federal grants, loans, and other moneys . . . for purposes related to the alleviation of [traffic] congestion and air pollution.\textsuperscript{39}

Unlike the ARC, the legislature empowered GRTA to review and approve actions undertaken by regional transit agencies (like MARTA). “Transportation plans and transportation improvement programs subject to the authority’s delegated review powers shall be approved by the affirmative vote of two-thirds of the authorized membership of the board to a motion made for that purpose. . . .”\textsuperscript{40} Finally, the statute creating GRTA attempts to assure compliance by local agencies like MARTA. “No local government which . . . fails or refuses to plan, coordinate, and implement local government services . . . shall be eligible for any state grant . . . except such grants as may be related directly to the physical and mental health, education, and police protection of its residents.”\textsuperscript{41} Thus, while local governments have the most influence over their public transit decisions, the state of Georgia has tried to use the law to force regional cooperation from communities throughout the Atlanta metropolitan area.\textsuperscript{42}

\textit{Atlanta City Ordinances and Zoning Laws Governing MARTA’s presence in the West End}

\textsuperscript{37} GRTA is pronounced “Gretta.”
\textsuperscript{38} GA. CODE ANN. § 50-32-3.
\textsuperscript{40} GA. CODE ANN. § 50-32-13 (emphasis added).
\textsuperscript{41} GA. CODE ANN. § 50-32-32(a).
\textsuperscript{42} For an explanation of how the Georgia Constitution permits GRTA to exert its control, see Arthur C. Nelson, New Kid in Town: The Georgia Regional Transit Authority, 35 WAKE FOREST L. REV. 625, 631-33 (2000) (pointing to GA. CONST. art. IX, § II, P 4 which authorizes the General Assembly to enact[] general laws establishing procedures for the exercise of [zoning powers]”) (emphasis added).
Since 1977, MARTA “Corridors” have been designated throughout Atlanta pursuant to the City’s Zoning Code. The Code restricts the issuance of building permits in a MARTA Corridor, and requires compliance with the Zoning Code’s procedures for review. The Zoning Code requires that building permits within a MARTA Corridor are subject to (non-binding) review by the Atlanta Regional Commission pursuant to Georgia law. The Code requires submission of plans to the ARC for ARC review if the proposals are “of character or magnitude of regional significance, affecting the area plan.” If the development on the Corridor would not adversely affect regional area plans, the ARC’s review is not necessary.

Similarly, but more importantly, GRTA must approve “development[s] of regional impact” which “require[] the expenditure of state or federal funds by the state or any political subdivision, agency, authority, or instrumentality thereof to create land transportation services or access to such development.” No state or federal funds can be expended “until the plan for such development . . . is reviewed and approved by [GRTA].” Cooperation with GRTA is not mentioned in the Atlanta Zoning Code (GRTA was not yet in existence when that portion of the Code was written), but compliance with GRTA’s requirements is mentioned elsewhere in the Code as a responsibility of the City’s planning bureau.

Part III of the Atlanta City Code of Ordinances (Land Development Code), Part 16, Chapter 18U regulates land use in the “Special Public Interest District” of the West End and

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43 ATLANTA, GA., CODE, Part III, § 16-23.001
44 Id.
45 See supra note 36 and accompanying text.
46 ATLANTA, GA., CODE, Part III, § 16-23.003.
47 Georgia Laws 1971, Act No. 5, Act To Create a Metropolitan Area Planning and Development Commission.
50 GA. CODE ANN. § 50-32-14. GRTA decisions are, for the most part, final and non-reviewable. See id.
51 ATLANTA, GA., CODE, Part II, § 2-241.
Adair Park\textsuperscript{52} neighborhoods adjacent to MARTA.\textsuperscript{53} These communities are further subdivided by the Code into 10 subareas.\textsuperscript{54} According to the City of Atlanta’s zoning map for West End, Subareas 1-5 and 7-8 are all within West End, and only Special Public Interest zones presently abut the MARTA right-of-way and West End MARTA station. The Code provides that “[s]tructures and uses required for operation of MARTA . . . but not including uses involving storage, train yards, warehousing, switching, or maintenance shops” are permissible within Special Public Interest zones.\textsuperscript{55} Thus, MARTA’s use of land in West End complies with the Chapter 18U of the Code, as MARTA only uses land for railways and a passenger station, but not for more physically invasive or industrial land uses. Granted, this Chapter of the Code was adopted in 2005, and is most likely a reflection of a pre-existing presence of MARTA in West End since 1982, but it nevertheless is a regulatory reason that MARTA is permitted to serve West End residents in such close proximity to their homes.

Besides the Special Public Interest zones that are currently used in West End, other zone types near MARTA in West End similarly permit MARTA rails within their zone as well. Various residential and commercial zones (R-5, R-4A, R-LC, R-G-3C, and C-3) are among the other zoned uses within a half mile of the MARTA station in West End.\textsuperscript{56}

\textsuperscript{52} Adair Park is on the east side of the MARTA rail tracks at the West End stop. It is accessible about three blocks south of the MARTA station via Lee Street.
\textsuperscript{53} ATLANTA, GA., CODE, Part III, § 16-18U.001, et. seq.
\textsuperscript{54} See ATLANTA, GA., CODE, Part III, § 16-23.001, Table SPI-21 Historic West End / Adair Park.
\textsuperscript{55} Id. at n.7.
\textsuperscript{56} E.g., ATLANTA, GA., CODE § 16-06A.003 (Code chapter for R-4A single family residential zones) (specifying that “a building or premises shall be used” for public schools, single family detached dwellings, or “[s]tructures of uses required for operation of MARTA, but not including uses involving storage, train yards, warehousing, switching or maintenance shops as the primary purpose.”).
Federal Tax Influence on MARTA Ridership

The Internal Revenue Code provides that a person’s “[g]ross income shall not include any fringe benefit which qualifies as a . . . qualified transportation fringe.” 57 A qualified transportation fringe is defined as “any transit pass” that is “provided by an employer to an employee.” 58 The monthly limitation on this benefit exclusion from gross income is currently $230. 59 Thus, Atlanta commuters whose employers provide compensation for the expense of riding MARTA can deduct the compensation they receive from their gross taxable income. This is a federally created incentive to ride public transit like MARTA, but its effects on MARTA ridership are unknown.

The Beltline: Another Potential Mode of Public Transit for West End

Finally, while the highly anticipated Beltline project 60 does not presently make it possible to live independently of an automobile in Atlanta, the completion of the project in the next decade or two will improve public transportation options for West End residents. The Beltline is a $2.8 billion project that envisions recreating and redeveloping underutilized land lying in a somewhat circular, twenty-two mile perimeter around the City of Atlanta. 61 The land is primarily abandoned railways and old industrial space adjacent to the railways. The Beltline project will convert this land into a linking network of public parks, trails, and transit (light rail and/or streetcars) connecting 45 neighborhoods, including West End. The Beltline will meet / be intermodal with MARTA on at least five stops. The Beltline project will take 25 years to complete.

58 26 U.S.C. § 132(f)(1).  This change was the result of ARRA.
60 Extensive information about the Beltline is available at http://www.beltline.org/.
61 While the MARTA lines essentially run in the shape of a cross or like spokes on a wheel coming away from Downtown Atlanta, the Beltline project encircles the city.
The certain benefits of the Beltline include (1) increasing Atlanta’s green space by 40%, (2) offering more alternatives to automobile commuting, and (3) eliminating roughly 1,100 acres of Brownfield sites on the Beltline perimeter. Ancillary, anticipated benefits along the Beltline corridor include (1) the creation of more mixed-income housing, (2) new business growth, and (3) new jobs for Atlanta’s citizens that are close to pleasant neighborhoods. Beltline’s future developments will further establish the West End as neighborhood where residents can depend upon alternative forms of transportation (pedestrianism, public transit, bicycling, etc.).

Local ordinances are primarily responsible for the development of the Beltline project. A majority of the projected funding over the twenty-five year term will come from property taxes generated within a 6500 acre tax allocation district (TAD) abutting the proposed Beltline corridor.62 The tax allocation district was created in 2005 by the approval of the Atlanta City Council, the Fulton County Commission, and the Atlanta Public School Board. The three taxing entities named above have agreed to continue to collect property taxes for 25 years at the 2005 property value rate. As the property within the TAD is improved and developed, the increased tax revenue that goes above the 2005 revenue rate is allocated to the Beltline for its operation and construction expenses.

Additionally, private sponsors (mostly businesses) and federal grant assistance programs finance the Beltline. The use of TAD financing and private dollars are a marked difference between Beltline and MARTA. Whether or not momentum will continue to thrust the Beltline project towards fruition remains to be seen, but if it is successful, it will only make West End a more accessible neighborhood for persons without personal vehicles.

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III. The Role of the Law in Affordable Housing for West End

Programs for Financing Single Family Detached Dwellings

The neighborhood of West End offers a variety of housing options. The affordability of single-family housing in West End is unique to the city of Atlanta. The area’s affordability is traceable to several factors.

**HOAP**

The Vine City / English Avenue Trust Fund (HOAP) allows for a 0% interest rate loan up to 10% of purchase price, not to exceed $15,000. The program is limited to areas that fall within the boundaries of: “Joseph Lowery Blvd. on the west; Donald Hollowell Pkwy on the north; Northside Drive on the east; Martin Luther King Jr. Drive on the south incorporated limits of Atlanta.”[^63] A portion of the West End falls within the borders of this generous trust. This allows for first time homebuyers of either a single-family house or condominium to receive up to $15,000 without interest for up to five years. The family must meet some financial requirements and live in the proposed residence.

HOAP facilitates cheaper housing by making the market more competitive. More people can now enter the market place. The increase in potential buyers allows retailers to produce more units or offer other amenities to compete with other retailers. This helps the market and creates lower priced housing while creating a new category of people to purchase a house.

**AAHOP**

Another trust program is the “Atlanta Affordable Homeownership Program (AAHOP).” The program provides $10,000 mortgage assistance in form of a 0% interest rate second mortgage and covers up to 50% of the settlement costs. This program helps keep the citizens of West End in their homes. AAHOP is available to all citizens of Atlanta and therefore available to the citizens of West End.

This program also keeps housing prices stable. By keeping families in their homes, through a second mortgage, additional houses are not placed on the market. This prevents a glut of houses creating market fallout. This stability encourages first time homebuyers and new residents to the area to purchase homes in the West End. These new homebuyers will not question their investment as much if they can be shown that their house will retain its value in a stable neighborhood real estate market.

**BAHTF**

Atlanta BeltLine Affordable Housing Trust Fund (BAHTF) is another option for homebuyers and another factor contributing to the low housing prices in the West End. The city has a brief description of BAHTF:

The City Council created a BAHTF to promote the creation and preservation of affordable housing within the Beltline neighborhoods. Grant funds from BAHTF add a necessary, flexible, and unprecedented tool to Atlanta’s affordable housing toolkit. These funds can be combined with other affordable housing programs and city incentives and leveraged with private dollars to construct or renovate affordable housing units in the city. The goal of the BAHTF is to create a balanced mix of rental and owner occupied housing units and to encourage the distribution of affordable housing around the beltline.

This fund allows for community development organizations to receive money from the city of Atlanta. The money may be used to “finance in part the acquisition, construction, or

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renovation of multifamily rental housing for low and moderate income families.

The total amount loaned may not exceed twenty percent of the project, the loan must be awarded to a legitimate community organization, and the remainder of the expenses on the project must have secured financing.

This trust allows for the creation and remodeling of housing for all properties located within the proposed BeltLine. With funding like BAHTF, the West End market has potential developers lining up to build. The increase in developers equates to an increase in choice for potential homebuyers. This increase leads to favorable market conditions and lower prices.

Besides increasing the number of houses on the market, BAHTF also decreases the overhead costs for purchasers. The developers receive generous grants, which in turn allow the developers to lower their prices. This ensures the West End will continue to have low cost affordable housing.

**Rehabilitated Historic Property Tax Abatement Program**

West End’s designation as a historic district offers another incentive to developers and potential purchasers of single-family dwellings. Programs exist to capitalize upon this characteristic of the neighborhood. Any building that qualifies for a historic designation and undergoes rehabilitation is eligible for a tax abatement. The program provides that “for purposes of tax assessment for City of Atlanta taxes . . . the fair market value is frozen at the pre-rehabilitation level for a period of eight years. In the ninth year, the fair market value is fixed at one-half the difference between the frozen value and the current fair market value.”

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66 Id.
This tax abatement allows and encourages homebuyers to purchase historic houses in the West End and then rehabilitate them to receive the tax incentive. Thus, houses that would once be vacant due to their condition are primed for redevelopment. This opens a new cost effective alternative for those looking to buy a house in the West End.

Another catalyst for cheap housing in the West End is available from the state of Georgia. Georgia offers a tax credit for houses of a historic designation that “complete a Department of Natural Resources-approved rehabilitation the opportunity to take 10% of the rehabilitation expenditures as a state income tax credit up to $5,000.” This is another great way to keep house prices in the West End low. The tax credit encourages homebuyers to purchase historic home, at a discount, and rehabilitate them. This opens an entire of genre of houses to the market. With more houses on the market and more choices then the price of homes will remain low. Developers and buyers will still be interested in investing due to the favorable financial incentives.

**Programs for Funding Condominiums and Multi-family Dwellings**

Condominiums in the West End are recently constructed and well below $500,000. The remarkably low price of recently constructed condominiums is tied to the generous policies created by the state and local government. These policies create a unique environment for West End in comparison to other locations in Atlanta. Most of the condominiums fall within the purview of the down payment and other grants mentioned above. There are special grants awarded to developers in the West End for multifamily units. These grants help keep prices low while spurring development in the area.

*UEZ*

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Urban Enterprise Zones (UEZ) offer tax abatements to developers for up to ten years. The stated purpose is “to encourage private development and redevelopment in areas of the City or on sites which otherwise would unlikely be developed due to the existence of certain characteristics of the area or site.”\(^{69}\) Any property in Atlanta can qualify for this designation. The review process is not complex but requires a solid plan of action. The plan developer must “submit a detailed UEZ application to the [City] to request that a UEZ be created for that property.”\(^{70}\) Furthermore, “[t]he UEZ program requires that each UEZ be designated on the basis of a specific development proposal, thus it does not allow the designation of a UEZ for purely speculative real estate purposes.”\(^{71}\)

There are no size restrictions but there are different categories of UEZ.\(^{72}\) The Housing Enterprise Zone (HEZ) is the most applicable to the West End. This allows for multi-family dwellings or condominiums to fall under the UEZ. The best example of a condominium complex with units priced well below $500,000 is the Sky Lofts development located in the heart of West End. The Sky Lofts received the beneficial UEZ designation and now benefit from the tax abatement until 2014. The tax abatement allows developers to keep prices low, while receiving an extra benefit to build. The tax incentives help purchasers with lower prices initially and with lowering or removing tax complications.

Again, Sky Lofts offers the perfect example of the culmination of all the incentives for developing in the West End. The Sky Lofts benefit from the tax abatements and the down


\(^{70}\) Id.

\(^{71}\) Id.

\(^{72}\) Id.
payment grants. The complex also benefits from the grants provided by the city to spruce up the area with trees and new infrastructure.

**Summary of the Law’s Influence on Affordable Housing**

Single family home prices in West End will remain below $250,000 on average due to the generous grants and investment incentives provided by the City of Atlanta and the State of Georgia. Atlanta wants to create affordable, well-designed urban housing. This housing will provide anyone in Atlanta an affordable place to live. The West End is the perfect example of the City’s attempts to create such an environment. Furthermore, the Sky Lofts of West End offer brand new affordable housing in the West End through developer grants, tax abatements, and down payment loans. These government-created incentives have provided affordable housing in an area conveniently located to a MARTA line and all the necessary essentials for living.