

## Touro College Jacob D. Fuchsberg Law Center

---

From the Selected Works of Michael E Lewyn

---

Summer 2014

# Suburban Sprawl: Weaker but Still Alive

Michael Lewyn, *Touro Law Center*



Available at: <https://works.bepress.com/lewyn/93/>

## **Zoning and Land Use Planning**

*Michael Lewyn*\*

Review, *The End of The Suburbs*: Leigh Gallagher (2013)

### **Suburban Sprawl: Weaker But Still Alive**

#### **Introduction**

In *The End Of The Suburbs*, journalist Leigh Gallagher discusses the rise and fall of suburbia. Despite the book's inflammatory title, Gallagher does not claim that suburbs will literally disappear; instead, she writes that "[t]here will still be exurbs for people who like to live that way and can afford to do so. But . . . there will be many more options."<sup>1</sup> Gallagher begins by explaining how suburbs began to overtake cities, and then argues that this trend should and will reverse itself.

#### **I. The Growth of Car-Dependent Suburbia**

As early as the 1800s, Americans began to build communities that were, in a sense, suburbs- neighborhoods outside downtown, centered around streetcar stops and railroad stations.<sup>2</sup> These streetcar suburbs were far more compact than modern suburbs: before automobiles became widespread, residents typically walked to rail and streetcar stops, so houses needed to be within walking distance of stations.<sup>3</sup>

Obviously, the automobile made modern suburban sprawl (by which I mean, suburbs in which life is virtually impossible without an automobile) possible. But Gallagher points out that automobile-oriented suburbs were not just a creation of technology, but also of government intervention. For example:

\*Even before the interstate highway system, government opened up suburban land for development through road-

---

\*Michael Lewyn is an Associate Professor, Touro Law Center. B.A., Wesleyan University; J.D., University of Pennsylvania; L.L.M., University of Toronto.

<sup>1</sup>LEIGH GALLAGHER, *THE END OF THE SUBURBS* 209 (2013).

<sup>2</sup>*Id.* at 30.

<sup>3</sup>*Id.*

building. Between 1921 and 1936, government built more than 420,000 miles of roads.<sup>4</sup> In 1956, the federal interstate highway program added another 41,000 miles of highway, making it even easier for houses to be built far from public transit.<sup>5</sup> Urban neighborhoods were often destroyed in order to make room for these freeways.<sup>6</sup>

\*In the 1920s, cities and suburbs began to implement single-use zoning: that is, zoning that artificially separated houses from offices and stores.<sup>7</sup> Later, the Federal Housing Administration (FHA) only insured mortgages in areas governed by such zoning.<sup>8</sup>

\*The FHA only insured homes far from economically unstable areas, and favored new construction over renovating existing homes.<sup>9</sup> These policies favored suburbs, which tended to be newer and more economically homogenous than cities.<sup>10</sup>

Although Gallagher's discussion is correct as far as it goes, it is incomplete in two respects. First, Gallagher overestimates the importance of single-use zoning as such. Because zoning is nearly universal in urban and suburban America, many city neighborhoods and streetcar suburbs are quite walkable and yet have single-use zoning.<sup>11</sup> This is the case because single-use zoning can coexist with pedestrian comfort where the zones are small- for example, in a streetcar suburb where every residential block is within a few blocks of commerce. By contrast, in some modern suburbs zones extend for many miles, so that only those who

<sup>4</sup>*Id.* at 34. Cf. Nathaniel Baum-Snow, *Did Highways Cause Suburbanization?*, at 2, available at [http://www.econ.brown.edu/fac/Nathaniel\\_Baum-Snow/hwy-sub.pdf](http://www.econ.brown.edu/fac/Nathaniel_Baum-Snow/hwy-sub.pdf) (Estimating that "each new highway causes . . . central city population to decline by about 18 percent, all else equal.").

<sup>5</sup>See Gallagher, *supra* note 1, at 38.

<sup>6</sup>*Id.* at 44.

<sup>7</sup>*Id.* at 40. See *infra* note 12 and accompanying text.

<sup>8</sup>See Gallagher, *supra* note 1, at 152.

<sup>9</sup>*Id.* at 61.

<sup>10</sup>*Id.* ("FHA loans overwhelmingly favored single-family detached houses in the suburbs.").

<sup>11</sup>For example, Gallagher cites Lake Forest, Illinois, Edina, Minnesota, and San Mateo, California as examples of walkable suburbs. *Id.* at 41. But these suburbs, like any other suburb, have blocks that are devoted solely to housing. See Google Maps, at [maps.google.com](http://maps.google.com) (go on "Street View" feature to see individual streets).

live on the fringes of such zones can live within walking distance of shops.<sup>12</sup>

Second, I wish Gallagher had discussed in more detail a variety of other anti-walkability regulations, such as:

\*Strict limits on neighborhood density.<sup>13</sup> For example, the city of Atlanta, Georgia has one residential zone where every house must gobble up two acres,<sup>14</sup> and another where houses must sit on one-acre lots.<sup>15</sup> Such regulations increase automobile dependence, because a neighborhood must usually have at least seven to fifteen dwelling units per acre to support significant transit ridership; less compact areas do not have enough people living within walking distance of a bus or train stop to support significant public transit service.<sup>16</sup>

\*Regulations requiring apartment complexes and commercial landowners to provide their tenants and visitors

<sup>12</sup>For example, in Jacksonville, Florida, one residential zone is six miles wide, thus ensuring that some residents of the zone will be three miles from commerce in any direction. See JACKSONVILLE PLANNING AND DEVELOPMENT DEPARTMENT, 2030 COMPREHENSIVE PLAN, FUTURE LAND USE ELEMENT 155, at <http://www.coj.net/departments/planning-and-development/community-planning-division/comprehensive-plan.aspx> (“JACKSONVILLE LAND USE PLAN”) (go to “Land Use Element” link; future land use map at page cited shows large low-density residential zone between San Jose Boulevard and Interstate Highway 95, ending at city’s southern limit).

<sup>13</sup>See Richard Briffault, *Smart Growth and American Land Use Law*, 21 St. Louis U. Pub. L. Rev. 253, 253 (200) (“Hallmarks of American land use law . . . [include] reducing population density”). Gallagher does mention that the FHA “established minimum requirements for lot size . . . pushing lending activity toward suburban-style homes”, Gallagher, *supra* note 1, at 61-62, but does not explain why density matters or how extensively local governments have addressed density.

<sup>14</sup>See Atlanta, Georgia, Code of Ordinances, Part 16, Sec. 16-03.007(2) (minimum lot size in R1 zone), available at [http://library6.municode.com/default-now/home.htm?infobase=10376&doc\\_\\_action=whatsnew](http://library6.municode.com/default-now/home.htm?infobase=10376&doc__action=whatsnew) (“Atlanta Code”).

<sup>15</sup>*Id.*, Sec. 16-04.007(2).

<sup>16</sup>See Robert H. Freilich, *The Land Use Implications of Transit-Oriented Development: Controlling the Demand Side of Transportation Congestion and Urban Sprawl*, 30 Urb. Law. 547, 552 & n. 18 (2009) (because commuters generally will not walk more than quarter mile to transit station, residential densities of at least 7-15 dwelling units per acre required for significant transit ridership).

with off-street parking.<sup>17</sup> Because land that is used for parking cannot be used for housing or commerce, these regulations also reduce density and thus make cities and suburbs more automobile-dependent.

Moreover, minimum parking requirements often combine with other regulations to encourage landowners to surround their buildings with parking. Municipal zoning ordinances often require commercial buildings to be set back far from a sidewalk or street.<sup>18</sup> Landowners must put something between the street and their buildings in order to comply with setback regulations, and that something might as well be a parking lot,<sup>19</sup> because the landowner can then comply with both setback regulations and minimum parking requirements.<sup>20</sup> But where shops are surrounded by a sea of parking, they are anything but inviting for pedestrians. In such situations, pedestrians must waste time walking through parking lots and risk life and limb dodging automobiles in those parking lots.<sup>21</sup> By contrast, where shops and

---

<sup>17</sup>See Donald C. Shoup, *The High Cost of Free Parking* 22, 25 (2005) (similarly, minimum parking requirements “virtually universal” in the United States). Gallagher does acknowledge the existence of minimum parking requirements, but again does not really explain why they are harmful beyond noting that such requirements are occasionally excessive. See Gallagher, *supra* note 1, at 63 (describing parking requirements for taverns as “border[ing] on the ridiculous” and noting that sometimes a city “tears down so many buildings to create parking spaces that people stop going there because its no longer an appealing place to visit”).

<sup>18</sup>See Michael Lewyn, *New Urbanist Zoning for Dummies*, 58 ALA. L. Rev. 257, 279 (2006) (setback requirements common).

<sup>19</sup>*Cf.* Chad Emerson, *Making Main Street Legal Again: The Smart-code Solution to Sprawl* 71 Mo. L. Rev. 637, 645 n. 36, (2006) (Under conventional American zoning codes, “front setbacks must be either a 25-foot grass yard or a paved parking lot.”) (citation omitted).

<sup>20</sup>Also, a parking lot in front of a building is more visible to (and thus convenient for) customers than a parking lot in back. See Shoup, *supra* note 17, at 107. Of course, it could be argued that in order to cater to customer desires, businesses will supply such parking even in the absence of minimum parking requirements. But without government regulation, landowners would weigh this impulse against their desire to build more stores and thus obtain more revenue.

<sup>21</sup>*Cf.* Jil McIntosh, *It's no cakewalk being a pedestrian*, Toronto Star, July 18, 2009, at W2, 2009 WLNR 13724302 (parking lots “dangerous” because drivers “busy looking for spots or avoiding cars backing out, making pedestrians vulnerable”).

other destinations flank the sidewalk, pedestrians can reach their destinations quickly and conveniently.<sup>22</sup>

Gallagher does mention that American streets tend to be designed for high-speed traffic that is dangerous for pedestrians.<sup>23</sup> However, I wish she had explained how government regulations sometimes require this sort of design. For example, Jacksonville, Florida requires that major arterial streets (that is, the most heavily trafficked streets)<sup>24</sup> be 150 feet wide, and that minor arterials be 120 feet wide.<sup>25</sup> Assuming that the city typically devotes about 20 feet of right-of-way to sidewalks and shrubbery,<sup>26</sup> these requirements mean that a major arterial might have about 130 feet of pavement and minor arterials 100 feet. Since the plan also requires most traffic lanes to be 12 feet wide (and 16 feet wide for “outside” lanes closest to intersections)<sup>27</sup> it logically follows that major arterials could have as many as ten 12-16 foot lanes, and even minor arterials might have seven or eight lanes. Such streets are both inconvenient and dangerous for pedestrians and bicyclists—inconvenient because a wide roadway takes more time to cross than a narrower street,<sup>28</sup> and dangerous because the more time a

<sup>22</sup>And enjoyably as well. See Douglas G. French, *Cities Without Soul: Standards for Architectural Controls with Growth Management Objectives*, 71 U. Det. Mercy L. Rev. 267, 280 (1994) (suggesting that pedestrians find such places more aesthetically appealing because “small setbacks and shopfront windows provide more interesting scenery for pedestrians and create a feeling of connection between the buildings and the public spaces bordering them.”).

<sup>23</sup>See Gallagher, *supra* note 1, at 83-84.

<sup>24</sup>See JACKSONVILLE, FLA. ORDINANCE CODE, sec. 654.106(mm)(6) (defining term).

<sup>25</sup>CITY OF JACKSONVILLE 2030 COMPREHENSIVE PLAN, TRANSPORTATION ELEMENT 35 at <http://www.coj.net/departments/planning-and-development/docs/community-planning-division/2030-comp-plan-postings/2030-transportation-element—january-2013.aspx> (“JACKSONVILLE TRANSPORTATION PLAN”).

<sup>26</sup>Sidewalks are typically five feet wide. *Id.* at 37 (sidewalks in non-residential areas should be five feet wide). So if sidewalks take up 10 feet (one for each side of the street) and nearby shrubs take up a similar amount of space, it follows that streets could consume all but 20 feet of the required right-of-way.

<sup>27</sup>*Id.* at 33.

<sup>28</sup>See *Donovan v. Jones*, 658 So.2d 755, 765 (La.Ct. App. 1995).

pedestrian or bicyclist spends on such a street, the more time he or she spends exposed to vehicle traffic.<sup>29</sup>

\*American zoning codes sometimes encourage cul-de-sacs (that is, dead end streets that do not link up to other streets).<sup>30</sup> Subdivisions dominated by cul-de-sacs are less walkable than neighborhoods full of interconnected “grid” streets, because in the first type of neighborhood, people cannot walk to visit their neighbors without going out of their way to a major street connected to the cul-de-sac.<sup>31</sup> By contrast, in a gridded neighborhood, people can take the shortest possible route to visit their destination.<sup>32</sup>

In sum, Gallagher begins to explain the growth of suburbia; however, her explanation could be a little more detailed.

## II. Suburbia And Its Discontents

Gallagher admits that suburban sprawl was at first quite popular.<sup>33</sup> But she asserts that suburbia should change and in fact is changing, for a variety of reasons.

### A. What’s Wrong With The Status Quo?

Gallagher notes that many Americans want alternatives to automobile-dependent suburbs, for several reasons.

First, automobile dependence reduces physical activity, thus making suburbanites less healthy. In 1969, roughly half of all children walked or biked to school, as opposed to 15% today.<sup>34</sup> The collapse of regular exercise is largely a suburban phenomenon: children are almost four times as likely

<sup>29</sup>*Id.* See also WALLACE IMMEN, CITY SEEKS SOLUTION TO COMMUTE CRUNCH, *Globe and Mail*, APRIL 26, 2002, at A22, 2002 WLNR 12038490 (in downtown Toronto, pedestrians “have to run to beat the changing light” on wide streets).

<sup>30</sup>See, e.g., Sandy Springs, GA. Code, Sec. 103-74(b) (Local streets “shall be laid out so that their use by through traffic will be discouraged.”); Alpharetta Code, Art. 3.5.2E (same).

<sup>31</sup>See Brian W. Ohm and Robert J. Sitkowski, *The Influence of New Urbanism on Local Ordinances: The Twilight of Zoning?*, 35 Urb. Law. 783, 792 (2003) (cul-de-sacs “force the major circulation pattern of a community onto a few major roads”). As Gallagher notes, where these major roads are designed for high-speed traffic, cul-de-sac residents are essentially trapped on their street. See *Gallagher*, supra note 1, at 55 (Discussing one cul-de-sac resident whose loop terminated in such a road, and as a result “neither she nor her children could leave the subdivision on foot or on bike . . . the cars went too fast.”).

<sup>32</sup>See Ohm and Sitkowski, supra note 31, at 792 (grid “creates multiple and more direct routes”).

<sup>33</sup>See Gallagher, supra note 1, at 48 (describing appeal of suburbia).

<sup>34</sup>*Id.* at 88.



to walk to schools built before 1983 (and thus presumably in older, closer-in areas).<sup>35</sup> During this period, children have become more likely to become overweight, and more likely to suffer from type 2 diabetes.<sup>36</sup> Although driving is not the only cause of these problems, automobile dependence does contribute to them. Gallagher cites one study showing that adding 10 years to the age of a neighborhood decreased obesity rates by 8% for women and 13% for men, implying that the newer the suburb, the less conducive it was to exercise.<sup>37</sup>

Second, Gallagher suggests that the rise of long-distance car commuting has led to increased traffic congestion<sup>38</sup> and general unhappiness.<sup>39</sup> But Gallagher's equation of long commutes with sprawl is a bit simplistic. The movement of many jobs to suburbia means that a suburban address need not equal a long commute. In fact, residents of walkable, transit-oriented New York City have longer commutes than residents of more sprawling, suburb-like cities.<sup>40</sup> Moreover, Gallagher's equation of sprawl with congestion is more true in some regions than in others; although traffic congestion is common in the largest regions, it is less so in smaller cities.

Third, Gallagher points out that as oil prices have risen, driving has become more expensive; thus, the growth of automobile-dependent cities and suburbs has effectively reduced the American standard of living by forcing Americans to spend money on gasoline that could otherwise be spent on other commodities. In 2003, the traffic suburban household spent \$1,422 in gasoline; in 2008, that sum had more than doubled, to \$3,000.<sup>41</sup> Here, Gallagher actually understates her case, by failing to mention all the other costs of car ownership. In fact, only about one-fourth of consumer transportation expenditures go to gasoline; the

---

<sup>35</sup>*Id.*

<sup>36</sup>*Id.* (prevalence of overweight children has doubled since 1980, and diabetes has doubled over past 15 years).

<sup>37</sup>*Id.* at 89.

<sup>38</sup>*Id.* at 99.

<sup>39</sup>*Id.* at 96-98 (citing examples).

<sup>40</sup>See Matthew J. Perlman and Stephen Rex Brown, New Yorkers have longest commute times in the U.S.: report, at <http://www.nydailynews.com/new-york/new-yorkers-have-longest-commute-times-article-1.1426047> (New Yorkers spend 48 minutes daily getting to work, 13 minutes more than national average.).

<sup>41</sup>Gallagher, *supra* note 1, at 99.



rest go to vehicle purchases, maintenance, insurance and other expenses.<sup>42</sup>

### **B. Is Sprawl In Fact Declining?**

Gallagher shows that concerns about the costs of car dependence have in fact begun to affect Americans' behavior in a variety of ways.

First, Americans are in fact beginning to drive less than in the past: the total number of miles driven in the United States has actually been declining since 2007.<sup>43</sup> Gallagher adds that the decrease in driving is not solely due to the recent economic downturn; vehicle miles driven per capita actually peaked in 2004, long before the late 2000s recession.<sup>44</sup> The decline in driving is especially pronounced among younger Americans: only 47 of all 17-year-olds now have a driver's license, down from 66% in 1980.<sup>45</sup>

Second, as driving has decreased, transit ridership has grown. Since 1971, overall transit ridership has increased by over 50%.<sup>46</sup> Furthermore, recent public transit growth has outstripped population growth. Since 2004, transit miles traveled has risen by 15%, faster than population (which rose by 7%) or highway travel.<sup>47</sup> Thus, it appears that Americans, whether they live in or cities or suburbs, are driving less and using transit more.

Third, Gallagher suggests that some suburbs are becoming less vehicle-dependent, because of the growth of the "new urbanist" movement. New urbanists favor development with streets narrow enough to be safely crossed on foot, mixed-use "Main Streets" with both housing and commerce, and houses built close to the street to encourage neighborliness.<sup>48</sup> There are about five to six hundred new urbanist developments throughout the United States, many of which are in

<sup>42</sup>See U.S. CENSUS BUREAU, STATISTICAL ABSTRACT OF THE UNITED STATES: 2012 at 448 (in 2009, average household spent just over \$7600 on transportation but less than \$2000 on fuel), 450 (breaking down spending in more detail).

<sup>43</sup>*Id.* at 107.

<sup>44</sup>*Id.*

<sup>45</sup>*Id.* at 110.

<sup>46</sup>See American Public Transit Association, 2013 Public Transportation Fact Book 10-11 (American public transit ridership under 7 billion trips in 1971, as opposed to 10.3 billion in 2011.).

<sup>47</sup>*Id.* at 11.

<sup>48</sup>See Gallagher, *supra* note 1, at 119-120.

suburbs and even rural areas.<sup>49</sup> Gallagher describes one such development, Kentlands in suburban Washington, D.C.: “Main Street turns into a narrow village street packed with small storefronts . . . The streets are narrow, with the largest measuring thirty-six feet curb to curb.”<sup>50</sup> Sidewalks are “wide and pleasant.”<sup>51</sup> As a result, “everyone walks to drop their kids off [at school] except those who come by bike.”<sup>52</sup> But unlike in many urban neighborhoods, single-family homes are common.<sup>53</sup> New urbanist developments are popular with the market: one study showed that buyers paid a 15% premium for Kentlands homes over homes of similar age in nearby, more automobile-dominated subdivisions.<sup>54</sup> In sum, the growth of new urbanism shows that even in suburbia, the market favors alternatives to automobile-dependent sprawl.

Gallagher also suggests that cities are becoming more attractive, based on evidence that downtown populations are growing: for example, in New York City, population within a two-mile radius of City Hall grew by nearly 40,000 people between 2000 and 2010, and similar growth occurred in the downtowns of Chicago and Philadelphia.<sup>55</sup> Indeed, the growth of downtowns was a nationwide trend: throughout metropolitan America, population grew within 2 miles of City Hall.<sup>56</sup> This growth was most pronounced in the largest regions: in metropolitan areas with over 5 million people, downtown population grew by 13.3%, twice that of the regional growth rate of 6.2%.<sup>57</sup> In regions with 2.5 million to 5 million people, downtown population grew by 6.5%, lower than the regional average.<sup>58</sup>

However, Gallagher overlooks the difference between

<sup>49</sup>*Id.* at 120-25.

<sup>50</sup>*Id.* at 122-23.

<sup>51</sup>*Id.* at 123.

<sup>52</sup>*Id.* at 124.

<sup>53</sup>*Id.* (describing examples).

<sup>54</sup>*Id.* at 131-32.

<sup>55</sup>*See* Gallagher, *supra* note 1, at 167.

<sup>56</sup>*See* U.S. CENSUS BUREAU, PATTERNS OF METROPOLITAN AND MICROPOLITAN POPULATION CHANGE: 2000 TO 2010 27, at <http://www.census.gov/prod/cen2010/reports/c2010sr-01.pdf> (“PATTERNS”) (1.7% population growth in this category).

<sup>57</sup>*Id.*

<sup>58</sup>*Id.*

downtown growth and urban growth: in many regions, downtown grew but the rest of the city declined. In regions with over 5 million people, neighborhoods within 2-9 miles of downtown actually lost population, while neighborhoods more than 30 miles from downtown grew as rapidly as downtowns or even more so.<sup>59</sup> Similarly, in regions with 2.5 to 5 million people, neighborhoods 2-4 miles from downtown actually lost population, neighborhoods 5-9 miles away grew by only 1.9%, and the population of neighborhoods 20-40 miles from downtown increased by 20-30%.<sup>60</sup>

It therefore seems that in the 2000s, most metropolitan areas experienced not a reversal of sprawl, but a kind of geographic polarization: both downtown neighborhoods and faraway suburbs grew, but the “outer city/inner suburban” areas in between frequently grew slowly or not at all. And in smaller metropolitan areas, sprawl continues: for example, in areas with 1 to 2.5 million people, areas within two miles of downtown (as well as those 2-4 miles away) actually lost people.<sup>61</sup>

Gallagher relies not only on the growth of urban populations but on the growth of urban property values: she suggests that suburbs are becoming less fashionable because suburbs are experiencing increases in poverty and crime,<sup>62</sup> and notes that housing prices in the most desirable urban neighborhoods are skyrocketing ahead of suburban prices.<sup>63</sup> Indeed, the economic gap between cities and suburbs is narrowing— at least in some metropolitan areas.<sup>64</sup> But cities are still far poorer than suburbs: 21.7% of central city residents have poverty-level incomes, as opposed to 12.1% of suburbanites.<sup>65</sup> Similarly, the average city still has more crime than the average suburb: the average city with over

<sup>59</sup>PATTERNS, *supra* note 56, at 27 (population in areas 10-30 miles from downtown increased by less than 10%, while areas 30-40, 40-50, 50-60, and over 60 miles from downtown grew by between 13 and 17.2%).

<sup>60</sup>In particular, areas 30-39 miles from downtown grew by 31%, 20-29 miles out by 28.1%, and 40-49 miles away by 21.2%. Areas 10-20 miles away grew, but by slower rates. *Id.*

<sup>61</sup>*Id.*

<sup>62</sup>See Gallagher, *supra* note 1, at 177-79.

<sup>63</sup>*Id.* at 188.

<sup>64</sup>See Michael Lewyn, *Gentrification, Shmentrification*, at <http://www.planetizen.com/node/65386> (citing examples).

<sup>65</sup>See Elizabeth Kneebone and Jane Williams, *New Census Data Show Metro Poverty's Persistence* at 2012, at 1, at <http://www.brookings.edu/me>

250,000 people has 10 murders and 292 robberies per 100,000 people, while the average suburb has just under three murders and 56 robberies per 100,000 people.<sup>66</sup>

In sum, Gallagher is partially right but sometimes overstates her case. Suburbs *are* becoming less car-dependent, and the most urban parts of many cities *are* rebounding. However, the outermost suburbs are also growing rapidly, and suburbs are still on average safer and less poverty-ridden than central cities.

### C. Will The Decline of Sprawl Continue?

Gallagher argues that the urban recovery of the last decade will continue in future decades, for a couple of reasons. First, she asserts that tastes have changed. Millennials— that is, young adults between 18 and 35<sup>67</sup>— are less likely than earlier generations to favor suburbia. She cites one survey showing that 77% of millennials prefer to live in an urban core, and another showing that 62% prefer a mixed-use area than in a community with large houses and no sidewalks.<sup>68</sup>

Empirical data supports her views: in particular, millennials have been more willing to live in cities than earlier generations of 20- and 30-year olds. For example, the net positive migration to Manhattan among 20-24 year olds was 108 per 100 people, as opposed to 33 per 1000 in the 1970s.<sup>69</sup> Similarly, in Washington, DC, net migration among this group was 119 per 100 in the 2000s, up from six per 100 in the 1970s.<sup>70</sup>

Of course, there is no way of knowing how many of these millennials will move to suburbs once they start having children. Although cities are becoming more popular, this urban advantage may be balanced out by the high housing

[dia/research/files/reports/2013/09/19%20census%20data%20poverty/poverty2012update.pdf](http://www.fda/research/files/reports/2013/09/19%20census%20data%20poverty/poverty2012update.pdf).

<sup>66</sup>See FEDERAL BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES 2012, TABLE 12, at [http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/12tabledataadecpdf/table\\_12\\_crime\\_trends\\_by\\_population\\_group\\_2011\\_2012.xls](http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/12tabledataadecpdf/table_12_crime_trends_by_population_group_2011_2012.xls) (raw data on website; rates per 100,000 calculated by author).

<sup>67</sup>See Gallagher, *supra* note 1, at 152 (after introducing topic, adding data on persons 18-35).

<sup>68</sup>*Id.* at 157.

<sup>69</sup>See Michael Lewyn, *Who Is Migrating to Cities?* At <http://www.planetizen.com/node/66105>.

<sup>70</sup>*Id.* For more data from other cities, go to *Net Migration Patterns for US Counties*, at <http://www.netmigration.wisc.edu/>.

prices of the most desirable cities.<sup>71</sup> Thus, some millennials who may wish to stay in cities may not be able to afford to do so, and thus will be forced into suburbia as a result.

Second, Gallagher relies on the likelihood that as baby boomers retire and American society ages, many suburbs will become dominated by the elderly.<sup>72</sup> She argues that this trend will make suburban schools less desirable, because senior-dominated electorates will allocate revenues away from schools and towards other social needs more directly relevant to the elderly.<sup>73</sup> Gallagher's view is based on the assumption that parents perceive suburban schools as better than urban schools because suburban schools spend more. This claim is not borne out by the facts; even in regions where urban schools spend more than their suburban counterparts, middle-class parents prefer suburban schools.<sup>74</sup>

Nevertheless, Gallagher may be partially right- albeit for a very different reason. The real reason suburban schools have higher test scores (and thus better reputations) than urban schools is not because they spend more, but because suburban schools have more students from affluent backgrounds. How do we know this? Because when an urban school in a low-prestige urban school district becomes predominantly middle- and upper-class, that school's test scores improve. For example, as Chicago's North Side has gentrified, the test scores of the North Side's neighborhood schools have improved.<sup>75</sup> It logically follows that if cities continue to become more desirable, at least a few urban neighborhood schools will become desirable as well.

### III. Conclusion

Gallagher adequately explains why automobile-dominated suburbs have become less popular, and reasonably argues that the economic gap between city and suburbs may continue to narrow. However, she sometimes overstates her

<sup>71</sup>See *supra* note 63 and accompanying text (noting increase of housing prices in desirable city neighborhoods).

<sup>72</sup>See Gallagher, *supra* note 1, at 147-49.

<sup>73</sup>*Id.* at 150.

<sup>74</sup>See Michael Lewyn, *Suburban Sprawl: Not Just An Environmental Issue*, 84 MARQ. L. REV. 301, 377 (2000) (citing Kansas City and Milwaukee as examples).

<sup>75</sup>See Daniel Hertz, *Chicago: Gentrification Comes to the Neighborhood School*, at <http://www.urbanophile.com/2013/11/26/chicago-gentrification-comes-to-the-neighborhood-school-by-daniel-hertz/>.

case, and as a result is unduly optimistic about the possible decline of sprawl.