

BOOK REVIEW**City Bound****By Gerald E. Frug & David J. Barron****Cornell University Press, Ithaca, 2008. 260 pages.**

Reviewed by Carrie Makarewicz

Most planning students are required to take courses on Land Use Law and Planning History, and many also take courses on Urban Development and Urban Theory. In their coursework, they learn about the legal basis for planning, the process of city decision-making, the controversies and history of urban revitalization strategies, and the theory and outcomes of urban politics and socioeconomic structure. Few planning courses combine these topics plus the legal basis for the existence of cities, within a pragmatic legal framework for understanding why cities pursue certain policies and not others. In their current book, *City Bound: How States Stifle Urban Innovation*, co-authors, Gerald E. Frug and David J. Baron make this link in an eye-opening and easy to understand analysis of state laws and city policies in major U.S. cities in seven different states; Boston, MA Atlanta, GA, Chicago, IL, Seattle, WA, Denver, CO, New York, NY, and San Francisco, CA.

They deconstruct this complex legal topic, which they state the literature has all but ignored, into three basic ways that states limit cities; regulations, laws, and financing. By controlling these three crucial areas, states affect the “kind of people who live in the city, the city’s connection to its suburbs, and the impact of transportation planning on historic neighborhoods, housing affordability, and office construction”. While recognizing that the legal structure that frames the relationship between the city and state, and each city’s very existence, is not the only issue affecting city development and operations, they convincingly argue the extreme importance of these laws, and therefore the need to more fully understand them. With greater awareness and understanding, the authors hope for change. Otherwise, cities will struggle to improve in equitable and sustainable ways, and true regional planning and cooperation will never be realized.

The authors support this assertion and their call for change by showing how various state laws and regulations help to explain many of the things for which cities are criticized; poor performing schools, traffic congestion, lack of affordable housing, downtown and tourist development at the

expense of neighborhood development, and little help for existing residents, particularly the middle class and poor. These problems stem from neglect, uneven resources, and lack of innovation, but are not solely the result of urban politics, who governs, or socioeconomic forces that cannot be changed without massive structural upheaval. They are also the result of too much state control over cities and an increasing level of control given to fairly autonomous public authorities and private companies. The lack of control granted to cities has contributed to a decline in the confidence of city leaders in their abilities to be innovative, a decline in local democracy, and a rise in government fragmentation both by geography and function.

By limiting or prohibiting more proactive or innovative ideas, the structure strongly influences the actions cities ultimately decide to pursue. Using a simplified framework of four possible city futures a city might pursue—global city, tourist city, middle class city, and regional city—they illustrate how the existing laws make it easiest for cities to pursue the global and tourist city agendas, and more difficult and often impossible to pursue the middle class or regional city agendas. The authors review the literature on these city agendas and then overlay the state legal framework to help make their case that this topic has not been fully explored in the urban theory or other urban literature.

But this book is not strictly focused on the definition of the problem. In describing why cities are unable to pursue the regional, the authors devote most of the second to last chapter to their proposal for an alternative regional legal framework instead of focusing on current obstacles. This regional model would allow cities to have more control over their futures while simultaneously encouraging more cooperation. If cities cooperate with other cities on land use planning, tax sharing, or other matters, the state could lessen some of the constraints on the city, possibly through adjustments to what the current home-rule law permits. While conventional wisdom often critiques home-rule as one of the elements that has eroded city vitality, because it allows suburbs to be protective and exclusionary, Frug and Baron offer an alternate viewpoint. Home-rule does not give cities enough power, they argue, and that is why cities so actively defend, and often overuse, the few powers they do have, such as giving land and tax breaks to compete for retail. This regional proposal is innovative and unique from the various, largely untried proposals for regional governance, including their idea of a regional legislature, rather than a regional government. They also borrow broad concepts developed by the European Union, since, like the diverse mix of cities and towns within a region, the European Union has member states of different political parties, local differences, desires for autonomy, population size, and wealth.

After the introductory and background chapters on city law, urban theory, and regionalism, and before their final recommendations, the book is divided into chapters on how the laws and regulations affect four categories: home-rule, revenue and expenditures, land use development, and education. Within those categories, sub areas address topics such as affordable housing, living wage laws, planned developments, and transportation improvements. The next four chapters summarize how these laws and regulations come together to encourage or hinder one of the four agendas a city might pursue: global, tourist, middle class, or regional. For instance, because states restrict the taxes and fees cities are allowed to levy, cities—which are nearly all short on funding, especially discretionary—will use the few tools they do have: control over land use, the imposition of some fees, and developer incentives, to generate revenue. How cities are able to expend those funds is also often limited, according to the authors. Revenue generated through parking fees—if a city controls any parking, and the state doesn't deem the fees as an unpermitted tax, might not be allowed to be spent on an unrelated use, such as affordable housing. Given few options to increase revenues, and limitations on how to spend it, the authors show how an urban theory that only addresses struggles for power, conflicts between classes, and capital flows, overlooks a powerful external force that is not sufficiently accounted for in most urban theories: state policies that were created in a different era, often more than 100 years ago when there were very different concerns about city development and control.

Throughout the book, they emphasize their main point: there is a need for a “regularized local voice in state decision making about local government law.” The wording of this goal for greater constructive participation in governance illustrates their nuanced perspective; they are not calling for more or less autonomy as the solution, as they do not see it as a problem of autonomy, but of getting the right kind of legal reform that would enable cities to pursue a substantive agenda for the future and to engage in political debate. This topic can no longer be seen as boring institutional design, as a fight for city power, or an argument to further control cities, but as an area with great opportunity for change.

The strengths of this book, and there are many, begin with the number and variation in the cases used to illustrate the differences in state law. The seven states, which represent most of the regions throughout the country, save the southwest, illustrate the diversity among states, including the interpretation of the laws by the state's supreme courts. Having lived in two of the cities used as examples, and having conducted extensive research on a third, I found the examples and back-stories they used to be among the most important issues debated by activists, local governments, and policymakers, in those cities. The local knowledge for

each case comes from the extensive background research conducted for a larger study funded by the Boston Foundation. In each city, the authors commissioned legal experts to write detailed case studies covering the state laws governing cities. The authors covered Boston, and they admit it is the case that is most familiar to them. Therefore, each topic generally begins with Boston as the base case, and then comparisons are drawn from the reference cases. Sometimes the differences within each of the other six cases are covered, while other times they limit the comparison to the most interesting differences. While the authors rarely get into the source of differences in each state's law, the mere comparison illustrates how these laws do not follow a single logic or federal guidelines and are apparently a manifestation of each state's unique history, politics, economy, or other forces.

The other strength of this book is the extreme clarity in writing and the structure of each chapter and the entire book. The introductory chapters will provide readers who are less familiar with this literature a sufficient overview, and the separate chapters by topic provide the necessary background to systematically build their argument on why state law influences which agendas cities pursue. In addition to the links and progression among the chapters, each chapter ends with a succinct summary. This organization allows the book to be an informative and interesting first read, as well as a reference book. Urban advocates and policymakers will be able to look up how various cities have pursued the issues of interest to them, and understand why such a policy may or may not be possible in their city. Academic researchers, who often reference existing strategies and best practices in their writing, sometimes without enough investigation into how many places are actually using said strategy, should use this text to become more aware of how, why and where these recommendations might be possible.

As much as I enjoyed and have already benefited from the knowledge in this text, I was disappointed in some aspects. As noted above, the authors relied on legal experts in each case city to provide the background and status of each issue in that city. While most topics are covered rather well, giving the pros and cons of one state's policies over another, the depth of analysis and commentary is not always consistent. It's clear in cases when the authors had more knowledge of a particular issue: they offered more in-depth commentary on the pros and cons of each state's particular policy, how the case cities have exercised their power within those limits, and whether the outcomes were desirable. On other issues, they simply identified the legal differences in how the state handles it and used a blanket statement to note that there may be issues but they are not covered here. This inconsistency in the level of critical analysis on the variation in city policies overlooks some very real issues with the way

some of the policies cities have enacted. In these and other cases, they could have benefitted from the advice of urban scholars and planners, rather than relying solely on legal experts and political scientists. My other frustration is their treatment of the state and state law as if they are apolitical and static objects, rather than the result of years of political debate, individual agendas, class biases, power struggles, and capital flows. So while some of the city policies we see may not be the result of local politics, they do not acknowledge that they are instead the result of state politics.

Despite these weaknesses, this book should appeal to a broad audience and it is especially timely. Many cities are regaining population and beginning to offer an improved quality of life for their residents. Yet, in the current financial crisis, funding issues persist and have been greatly exacerbated, reversing some of the recent gains. In response, to compete for jobs, residents, and revenue, cities are beginning to experiment with new policies and programs, including policies to promote a green economy, restrict handguns, provide health care, build street cars, charge for congestion, protect human rights, and improve their schools. But, not all of these innovations have been permitted. The US Supreme Court's denial of city gun control laws, the State of New York's prevention of the New York City congestion charge, and California's repeal of gay marriage are recent evidence of the limits to city power documented by Frug and Baron. The growing movements for regional equity, the right to the city, and social justice would also benefit from the information and ideas presented here. Many nonprofits that used to act mainly within neighborhoods have realized they need to expand their advocacy to the region, state and federal government. This book provides a guide for that expansion.