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Why Don't More Cities Sell Air Rights?

Vertically inclined cities could make a lot of money allowing private developers to build high-rise apartments or business spaces above libraries, city halls and schools.

Public works projects often come at heavy expense. Whether it's building new schools, municipal halls or other facilities, such projects produce not only upfront costs, but depending on their magnitude, long-term debts. There is, however, a way to mitigate costs, or even make a project more profitable: Sell off the air rights.

This is an idea that, while holding vast economic potential, is used sparingly in America. Nowadays whenever cities build a central library, to name one example, they usually construct a single-use facility that is only a few stories tall, if that. But what if, before such libraries were built, the air rights — the undeveloped space above the roofline — were deregulated and sold off? In expensive and vertically inclined U.S. cities, private developers would pay governments enormous sums for the right to build a high-rise apartment complex or business space above public projects. This would lead to the broad maximization of public land values, and thus to enormous cash windfalls for local governments.

So why don't more cities sell air rights? It's a good question in these fiscally challenging times. Since the 1980s, the Massachusetts Bay Transportation Authority has granted development rights above its facilities in Boston. For instance, it has sold the air rights above the North Station transit terminal for \$20 million plus the cost of extensive repairs to the station. Now, a new deal above the Back Bay Station is being negotiated. Other major cities have also allowed vertical development over transportation infrastructure, most famously in New York City, when the Pan Am Building went up above Grand Central Terminal.

Generally, though, U.S. cities do not maximize their use of public properties. Walk through any city and you'll find countless examples of where modestly sized government buildings have been plopped down onto prime real estate. In Seattle, for example, substantial public money has recently gone toward a new library, City Hall and renovated convention center, none of which exceed a dozen stories in an otherwise vertical downtown.

It is in compact cities such as Seattle — along with Boston, Chicago, New York City, San Francisco and Washington, D.C. — where utilizing air rights would make the most sense. The returns would be substantial in such hot real estate markets, and besides, compact cities are best equipped to handle added density. After all, if proposed three-story schools, libraries and recreation centers could instead sit inside 50-story mixed-use towers, this would increase the supply of affordable housing and office space, further compelling people to locate centrally.

Of course, barriers now exist to making the sale of air rights a common practice. Zoning regulations — along with neighborhood opposition — often prevent public buildings from mixing with private purposes or becoming too large. But the true barrier may be a philosophical one within governments themselves. For too long, many officials have not viewed public properties as crucial assets that should be used efficiently. Selling air rights would be a step in the right direction.

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