



FOR THE RECORD

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WHAT IS THE RATIONALE FOR LOCAL GOVERNMENT BOUNDARIES?

A Key Question in the Local Government Organization Debate

The local government consolidation debate continues to rage in Albany. On June 24, 2009, Governor Paterson signed into law the Attorney General's "New N.Y. Government Reorganization and Citizen Empowerment Act" (the Act). This legislation, which goes into effect on March 21, 2010, radically alters the current method of restructuring local government entities, making it easy for a small minority of a community's residents to initiate the consolidation or dissolution process.

THE NEED TO LEAD THE LOCAL GOVERNMENT ORGANIZATION DEBATE

Because of the ease with which consolidation and dissolution may be commenced under this Act, it is likely to cost New York's local taxpayers million of dollars to conduct the special elections and consolidation and dissolution studies that will result. In addition, because this legislation is just as likely to result in the initiation of village dissolutions as it is to result in town or district consolidations, it is likely to *increase* the number of local government entities in New York because each village dissolution results in the creation of at least four, and frequently more, special districts.

This outcome is likely because of two issues that are not addressed in the Act: (1) the requirement that village residents pay town taxes; and (2) the state's cumbersome annexation law, which makes it extremely difficult for cities and villages to grow their boundaries to reflect population growth and development. This article is the first of two that will address these two issues and their place in the local government efficiency debate.

The issue of local government consolidation and dissolution is complicated. Most people -- whether they be members of the press, state legislature, or the general

public -- do not understand what local governments do, how they are structured in New York, or how New York's State laws actually foster the number of existing districts that are currently the target of local government efficiency advocates. Thus, it is imperative that local government officials, the individuals who best understand the issues, educate the public, press, and state and local officials. To do this effectively, city and village officials must be able to quickly articulate the reasons that their local government exists to the press and the public. Moreover, it is not enough to be able to react to questions and criticism from the public. City and village officials must take the lead in the local government organization debate in their communities, counties, and regions.

Any discussion of the Act must include a recognition that the lion's share of New York's real property tax burden is not even addressed by this legislation. School districts, which account for more than 60% of all of New York's real property taxes are excluded from the Act's consolidation and dissolution provisions. Moreover, dissolution study upon dissolution study have shown that the total cost-savings from village dissolutions are nominal.

WHY THESE BOUNDARIES?

As part of good management practices, every local government should periodically review not only the quality and types of services it provides to its residents and property owners, but it should also analyze the rationality of its own boundaries. In addition to reviewing their own boundaries, city and village officials should also periodically review the boundaries of the towns and counties in which their municipality is located. This is an obvious issue for those nine villages that are located in more than one county, and those 65 villages that are located in more than one town. But even cities and villages that are not located in multiple counties or towns could potentially benefit from changing those boundaries, resulting in improved efficiency through an increase in the economies of scale,

resulting in lower taxes and improved services.

The local government consolidation and dissolution debate frequently focuses solely on the issues of (a) the services local governments provide; and (b) local control over the providing of those services and the enacting of local regulations. But these topics are inextricably tied to the geographic area which a local government serves. Unfortunately, New York's local government laws do not readily allow local government boundaries to be changed to reflect natural population growth and development. As the Office of the New York State Comptroller noted in its 2006 publication, *Outdated Municipal Structures*,

The vast majority of our cities, towns and villages were established prior to 1920. Overwhelming changes have occurred in the built environment, demographics and economy since that time, but there has been no corresponding adjustment in the underlying municipal structure or boundaries.¹

The result is that many areas outside cities and villages that were once solely rural in nature, have become partly or even wholly suburban and even urban. The Comptroller's Office notes that, currently, 29 towns are characterized as urban centers and 172 are characterized as suburban, with the remaining 731 towns still characterized as rural.²

The growth of development outside of cities and villages has resulted in many cities and villages providing services outside of their boundaries and the creation of districts to provide services to those suburban and urban areas of towns where the service is not provided town-wide.

CITIES AND VILLAGES: BEST SUITED TO FULFILLING THE NEEDS OF URBAN AND SUBURBAN COMMUNITIES

Services Provided

The reason that the distinction between urban/suburban and rural is so important and relevant to the local government efficiency discussion and the large number of special districts in the state is that urban and suburban areas generally require more services than their rural counterparts.

The United States Bureau of the Census defines as urban any location with a population of at least 2,500 and a population density of 1,000 people per square mile. While this definition can be helpful for demographic purposes, there are areas of New York with populations below 2,500 but relatively high population densities that have the same needs as municipalities many times larger; needs such as water, sewer, fire, police, sidewalks, street lighting, parks, parking, and senior and youth services. In those areas, the residents need, in most instances, and

demand in others, that those services be provided. These needs and demands raise the issue: if a local government entity cannot provide those services without creating districts, then perhaps the logical step is to either expand the boundaries of a nearby local government entity that can provide those services without having to create a district or to create a new local government entity for that area to provide services.

Democratic Representation

Another issue that must be addressed in the urban/suburban versus rural dichotomy is the democratic principle of having a population with like needs and shared interests being served by a local government with boundaries that match the urban/suburban demography. Having urban/suburban areas share a local government entity with rural areas can lead to those disparate communities operating in an undemocratic manner, neglecting the needs and interests of the minority. This undemocratic arrangement can result from urban/suburban areas with relatively large populations dominating the interests of the rural residents; conversely, urban/suburban areas with relatively small populations can have their interests and needs neglected by a dominant rural population.

As Geography Professor Ronan Paddison has noted, one theory of determining local government boundaries is that they should be based, at least in part, upon the ability of the resulting governing body to address local preferences and needs.³ To the extent that a town is so large and diverse that its governing body does not or cannot adequately represent the needs and interests of both the rural and urban/suburban constituents, a city or village may be needed to prevent an undemocratic situation.

Administrative Concerns

The argument that urban/suburban areas are best served by cities and villages is not to argue that every continuous urban/suburban area should be a single monolithic city or village. Democratic principles may warrant that multiple cities and villages abut each other. Moreover, when determining optimal municipal boundaries, local government officials should consider geographic features, governance issues, the economy, service delivery functions, administrative ease, local history, community identity, and the responsiveness of the local governments to their constituents' needs. The nature of services being provided, the distance and cost-effectiveness of providing those services, and the ability to control land uses are also factors that must be considered when assessing the rationale for determining to whom and how those services are provided and on which residents and properties a local government imposes land use and other regulations.



PROBLEMS WITH NEW YORK'S ANNEXATION LAWS



While there are many benefits of having one city or village provide services to urban and suburban areas instead of multiple districts, New York's annexation laws are employed relatively infrequently to grow the boundaries of New York's cities and villages because New York's annexation law has three substantial procedural impediments that even the most logical, well-reasoned, and economically beneficial annexation has to overcome: (1) the annexation may only be commenced by the residents or property owners of the territory to be annexed, (2) the governing boards of both the local governments from which and to which the property is being annexed must approve the annexation,⁴ and (3) then a majority of the residents in the territory, if any, must vote to approve it. Frequently, the local governing boards from which the territory is to be annexed oppose the annexation because it will negatively impact their property taxes. In addition, residents and property owners frequently object to annexation into villages because they will still have to pay a portion of the town taxes.

This issue of village residents having to pay both village and town taxes is a major impediment to growing municipal boundaries in a way that naturally reflects the population and real estate development outside of cities and villages. It will be

discussed in greater detail in the July/August 2009 issue of the *NYCOM Municipal Bulletin*.



Endnotes

1. "Outdated Municipal Structures: Cities, Towns and Villages – 18th Century Designations for 21st Century Communities," *Local Government Issues in Focus*, p.1, the publication is available online at www.osc.state.ny.us/localgov/pubs/research/munistructures.pdf.
2. *Id.* at 7.
3. Paddison, R. 2004. "Redrawing Local Boundaries: Deriving the Principles for Politically Just Procedures," (citing Hart, T. 2001, "Transport and the City." In R. Paddison, ed., *Handbook of Urban Studies*, 102-33. London: Sage). Maligrana, J. ed., *Redrawing Local Government Boundaries*, p. 27. UBC Press.
4. If one of the local governing boards does not consent to the annexation, the matter may be appealed to the courts for a determination as to whether the annexation is in the overall interest of the public.


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