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# Urban Improvement Districts in Germany: New legal instruments for joint proprietor activities in area development

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**Abstract** This paper is based on findings from an ongoing research project at HafenCity University (HCU) Hamburg on Business and Neighbourhood Improvement Districts (BID and NID) in Germany, generically called Urban Improvement Districts (UIDs). The City of Hamburg introduced the first legislation in Europe allowing the transfer of the proprietor-led BID model and its mechanisms of joint financing and implementing activities in the public realm to residential areas at the end of 2007. A pilot project in the housing estate of Hamburg Steilshoop is testing this new legal instrument in practice. The author describes the introduction of the UID concept in Germany and the specific attributes of the German model. The transition of the BID concept from the longstanding privatist tradition in the US to the formerly strong welfare state in Germany requires careful adaptation to make the instrument fit for purpose under different cultural, legal and fiscal circumstances. The transfer of the mechanisms from commercial districts and business-oriented tasks to residential areas demands even more adjustments. The paper specifies both the risks and the potentials of the new legal instruments for urban development and area regeneration in Germany. Owing to the so far meagre practical experience with the new legal instruments in Germany, the findings are based less on empirical evidence and more on desk research and results from debates on this new private-led urban regeneration policy with urban planners and practitioners, representatives from the real-estate sector and scholars from different disciplines.

**Keywords:** *Urban improvement districts, business improvement districts, neighbourhood improvement districts, urban governance, area development, proprietors, public-private partnership, policy transfer*

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## PRELIMINARY REMARKS

This paper is based on an ongoing research project<sup>1</sup> at HafenCity University

(HCU) Hamburg/Department of Urban Planning and Development, which started at the end of 2006 when the

Ministry of Urban Development and the Environment (*Behörde für Stadtentwicklung und Umwelt*) in Hamburg first discussed the idea of transferring the legislative Business Improvement District (BID) model to residential areas. Since December 2007, this new instrument has been applicable law in Hamburg: Law to Strengthen Residential Areas through Private Initiatives (*Gesetz zur Stärkung von Wohnquartieren durch private Initiativen*).<sup>2</sup> According to research, this is the first transfer of the BID model from commercial districts to residential areas not only in Germany, but in all Europe.<sup>3</sup>

Analogous to the BID the new legislative instrument in Hamburg is called Housing Improvement District (HID) or Innovation Neighbourhood (*Innovationsquartier*). To avoid misunderstanding in the English-speaking debate, the author uses the term Neighbourhood Improvement District (NID) instead of HID. This is meant to clarify the focus of the Hamburg model on joint private activities for area-based improvements in residential neighbourhoods and not on housing improvements in its original sense of physical improvements on single buildings. The term NID is also already established in legislation in some US states (eg Missouri, Pennsylvania and Wisconsin),<sup>3</sup> and a transfer of the BID model to residential areas was also discussed in government proposals in the UK under the term NID.<sup>4</sup>

As a generic term, one speaks of Urban Improvement Districts (UID)<sup>5,6</sup> meaning the statutory BID, HID or NID models in Germany with common constitutive features such as underlying state legislation, certain ballot procedures, joint financing from private proprietors through compulsory self-assessment and the integration of free riders. This should help to distinguish these models from the also existing voluntary, informal and/or

publicly sponsored networks of proprietors in area development and the different models of town centre management.

## POLICY FRAMEWORK IN GERMANY

A new paragraph in the Federal Building Code (*Baugesetzbuch*) (§171f BauGB) in Germany has been in place since January 2007 regarding 'Private initiatives in urban development' (*Private Initiativen zur Stadtentwicklung*). On the basis of this paragraph, the 16 German Federal States now have the authority to introduce specific laws to promote private initiatives for area-based urban regeneration and development in various designated urban areas. The Federal legislation aims to 'strengthen and develop areas in city centres, district centres, residential neighbourhoods and business parks as well as other areas with importance for urban development' (translation by the author).<sup>7</sup> The specific design of the regulations regarding the operational details for the development and implementation of these private initiatives was delegated to the responsibility of the Federal States, eg the role and responsibilities of the local authority, the specific ballot procedures for implementation, the management of initiatives, the steering and control of the planning and implementation process and the allowed duration of the UID.

The political promotion of private initiatives on different levels in Germany can be seen both as a reaction to the changing general framework for urban development (eg demographic change, growing spatial disparities within cities and regions and declining public funding) and related to the recent wider German policy agenda since the late 1990s, marked in particular by the reforms of the two Federal Schroeder governments from 1998 to 2005 under the heading

'Agenda 2010'. Private initiatives are becoming more and more important in very different spheres of German society. From the growing necessity for individual (ie personal) private initiatives to secure health insurance and pensions 'on top' of steadily decreasing public services and provisions, to the growing relevance of public-private partnerships — mainly for infrastructure developments but also for other capital improvements in urban development — and finally to the sale and privatisation of public assets and companies on a local, regional and national level. Hence, the public sector in Germany has been cooperating with private interests in many new ways for a couple of years.

Against this background, the currently applicable BID laws in six<sup>8</sup> of the 16 German Federal States can be seen as part of a general policy turn to less public provision and more private initiative, individual responsibility and self-help supported through public regulations. The ruling Christian-Democratic Government of the Hamburg City-State is following the trends on the Federal level in several ways, eg with the sale of public hospitals and public real estate. Hence, there is a broad political consensus from the Social Democrats to the Christian Democrats regarding this way forward towards the stronger influence of private actors and growing importance of private self-help in different fields of society. Some of these developments and regulations are discussed under the heading of urban governance.<sup>9</sup>

Regarding the model of UID, not only politicians from different political parties and the Chambers of Commerce as declared lobby for business interests favour this development. Shortly after the introduction of the new paragraph 171f in the Federal Building Code, stakeholders from the real estate and

housing sectors welcomed the opportunity to get directly involved in neighbourhood development and quickly called for corresponding laws in the Federal States to facilitate the establishment of NIDs. In particular, the associations of public and cooperative housing companies are clearly expressing a demand for this legal instrument.<sup>10,11</sup> So the coalition of proponents for UID is broad in Germany and not purely neoliberal as one could expect.

Another relevant development for the assessment of particularly the NIDs are the large-scale transitions of ownership which have been taking place on the German housing market since the early 2000s. Public housing — both parts of the stock and whole companies — from the State, the Länder or the local authorities is on the market or has already been sold in many parts of the country.<sup>12</sup> Foreign investors are buying housing stocks in Germany; especially US-American and British funds such as Cerberus Capital Management LP, Fortress Investment Group LLC or Terra Firma Capital Partners are breaching the German housing market with the purchase of huge stocks. Fortress, for example, is now the owner of the former public GAGFAH housing company with a huge stock in the NID pilot project in Hamburg Steilshoop (see below).

This transition of ownership is leading to a growing uncertainty on the local housing markets — not only for the affected tenants but also for local politicians and urban planners. The transfer of formerly public housing to private investors is causing a growing fragmentation of ownership and an accompanying loss of public influence on the area-based development of residential neighbourhoods and on the implementation of social housing policies.<sup>13</sup>

Hence, the importance of private activities and the influence of private investments is growing rapidly in Germany. The former post-war welfare-state with a strong sovereign influence from the public sector (eg in terms of legislation, funding, steering and implementation) is history today, and there is an ongoing transition of the social and the political system. And in this situation the German Federal Government is enabling the Federal States to promote private initiatives in urban development such as the UID model. This development is obviously not a coincidence, but should be seen as part of a wider political and ideological paradigm shift with severe implications on the future of area development and regeneration.

### **BIDs IN HAMBURG: LEGISLATION AND IMPLEMENTATION**

Urban Improvement District laws in Germany are always specific laws on the state level. There is no Federal legislation for these instruments apart from the essential general regulation in the Federal Building Code to facilitate corresponding laws. The Free and Hanseatic City of Hamburg, Germany's second largest city, with almost 1.8 million inhabitants and as a city-state one of the 16 German Federal States, was the first government to introduce a BID law in Germany. The Law to Strengthen Retail and Service Areas (*Gesetz zur Stärkung von Einzelhandels- und Dienstleistungszentren* (GSED)) came into effect in January 2005. The legal certainty of the Hamburgian legislation is not fully guaranteed so far, because a couple of proprietors in the first BIDs went to court, and the lawsuits are still pending.<sup>14</sup>

In the almost four years since legislation, only four BIDs have been

successfully created: the first one (BID Sachsentor)<sup>15</sup> in the centre of the district of Hamburg-Bergedorf and the second (BID Neuer Wall)<sup>16</sup> in the exclusive and expensive shopping street Neuer Wall in the City Centre of Hamburg. Both BIDs came into effect in 2005, shortly after the requisite legislation was put in place. The two other BIDs in Hamburg were established only in summer 2008 in the centre of the district of Hamburg-Wandsbek (BID Wandsbek Markt)<sup>17</sup> and in the centre of the district of Hamburg-Harburg (BID Lüneburger Straße).<sup>18</sup>

Each of the two longer-running BIDs are very different in terms of location, budget and tasks. The Sachsentor BID has a modest budget of €150,000 for three years, meanwhile the Neuer Wall BID can spend nearly €6m over five years. Both budgets are completely privately financed from the proprietors in the affected area. Neuer Wall BID achieved major capital improvements with complete new streetscaping to reflect the exclusiveness of the place and the resident companies (eg Armani, Bulgari, Boss, Cartier, Jill Sander, Louis Vutton), street cleaning services were enhanced, and a private service and security team was implemented. The BID Sachsentor is concentrating more on small-scale marketing and maintenance activities, making the project quite similar to traditional voluntary Town Centre Management programmes in Germany or other countries. So the Sachsentor BID does not really reflect the wider possibilities of BID activities and investments in the public realm. Similarly, the two 2008 BIDs have differing budgets and priorities: Wandsbek Markt BID will spend almost €4m in five years, with a focus on capital improvements and streetscaping; meanwhile Lüneburger Straße BID will spend €550,000 in three years on

cooperation, marketing and management of public spaces. This range of BID budgets and the corresponding activities is typical for the possible range of projects and is similar to the long-standing BID experiences in New York City.<sup>19</sup>

The BID law in Hamburg has a set of specific attributes that are briefly described below. In short, the BIDs are a self-taxing funding mechanism for a limited period of time funded by real-estate proprietors in the designated area — and not by local businesses as in the UK BID model.<sup>20</sup> The proposal for a BID needs the backing of only 15 per cent of the proprietors in the envisaged BID area, that is 15 per cent of the number of properties situated in the area and 15 per cent of the size of the total area. If the proposed Business Plan (Implementation and Financing Plan) for the BID is accepted by the public administration, a proprietor ballot will be held. If less than one-third of the affected proprietors (again in terms of both numbers and size) explicitly reject the proposal (veto), the BID will be designated by a public statute, and all affected proprietors within the borders of the BID area must pay an additional statutory levy based on the value of their properties. Businesses, residents or other parties have no right to vote on the BID proposal, only the proprietors decide. Business and Neighbourhood Improvement Districts are limited to a clearly defined area and to a maximum duration of five years. For an extended duration, the procedure is the same as for the first installation, and a new ballot must be held.

A dedicated management body or task manager (*Aufgabenträger*), which can be an agency, company or a single person, is responsible for the application and implementation. In two Hamburg BIDs this is a construction company (BID

Neuer Wall and BID Wandsbek Markt), in the third it is an agency for the promotion of economic development and marketing (BID Sachsentor), and in the fourth BID a private urban planning company is responsible for implementation (BID Lüneburger Straße). The management body receives the levy from the proprietors via the public tax authority, and its management is under the control of the Chamber of Commerce. The cooperation between the local authority and the BID body is regulated by public law and fixed in a contract between these two parties. The proprietors can additionally conclude a private contract with the commissioned BID body to retain influence on the implementation process. A Steering Committee accompanies the implementation process.

The local authority supports the initial phase of a 'BID to come' with expertise, and audits the BID proposals to guarantee that they are in line with general public interest and the urban development plans before the ballot is held. Once the BID is in place, the local authority has almost no more formal influence on its activities — apart from the regular submissions to public approval.

The private funds are used primarily for purchasing supplemental services (eg maintenance, sanitation, security and promotion) and for realising capital improvements in the BID area (eg street furniture, lighting, different material) beyond those services already provided by the city, ie 'on top' of the public standard. Part of the funds is used to pay the fee for the management of the BID body, and a small amount is an administrative fee for the local authority. It is important to stress that according to the law all BID activities have to be supplemental to the public standard. They are not supposed to be substitutes for public services. This issue is of

general importance for the debate on UID and is discussed below.

### **TRANSFER OF THE BID MODEL TO RESIDENTIAL AREAS AS NIDs**

Since the prerequisite Federal legislation for private initiatives, the responsible Ministry of Urban Development and the Environment in Hamburg has been working on the idea of transferring the BID instrument to areas other than commercial districts, especially to residential areas. From the beginning of the discussion, it was fixed that a separate NID law should be developed rather than just an amendment or extension of the existing BID law. At the same time, it was clear that the new law should be an emulation of the established BID law with only slight amendments to avoid debates on the governing BID law. The overall aim of the administration was to keep the law as flexible as possible and not to 'over regulate', in an attempt to allow flexible tailor-made practical solutions for each specific local situation. The Ministry was hoping that this would help to stimulate private initiatives for the improvement of residential areas. The team at the HCU was contracted with a concomitant research on the process from the start.

The aims for the new instrument were formulated in the proposal for a NID law, which was presented by the government of Hamburg, the Senate, in mid-September 2007 under the headline 'Strong neighbourhoods through private initiatives':

'In addition to the public programmes for urban regeneration, residential property owners will receive the opportunity to develop and realise joint activities in private initiatives to stabilise and raise the attractiveness of residential areas. The initiative for a NID, the stipulation of aims and activities as well as the

definition of the affected area lie in the responsibility of the proprietors. The public sector will merely accompany and support these private initiatives (through law, specific statute and tax-collection).' (translation by the author)<sup>21</sup>

After short political consultations, the Hamburgian Parliament (*Bürgerschaft*) passed the law in November 2007 without any votes against and, since December, it has been applicable law in Hamburg. Designated NID areas are called 'Innovation Neighbourhoods' (*Innovationsquartiere*) in law, equivalent to 'Innovation Areas' (*Innovationsgebiete*) in BID law.

Like the BID proceedings, the NID process can be divided into four main parts:

1. initiative from the private sector in the area (ie the proprietors), initial discussions and first preparations
2. development of a Business Plan (Implementation and Financing Plan) with an outline of the purposes, a definition of the envisaged area and a calculation of the levy, voluntary public consultation
3. formal application through the chosen management body or task manager with the backing of at least one third of all affected proprietors (in both number and size), audit of the proposal by the responsible public administration, public notice and proprietor ballot, dismissal if one-third or more of all affected proprietors (in both number and size) explicitly reject the proposal (veto) or formal designation by public statute
4. collection of the levy through the responsible tax authority, transfer of these funds to the management body, implementation of the NID and realisation of the activities for the maximum duration of five years.

The following activities and improvements within the designated area are eligible in a NID in Hamburg:

- preparation of concepts for area development
- realisation of services, such as additional cleaning, security or resident-related services
- capital improvements, such as the enhancement of technical infrastructures, landscaping and environmental improvements in the public realm
- implementation of image campaigns and organisation of public events
- joint procurement or purchasing of goods or services
- formal and informal lobby work for proprietor interests.<sup>21</sup>

All envisaged activities in the public realm must be additional or supplementary to the public services, ie 'on top' of the public standard. A problem with this criterion is that the standard of public services is commonly not clearly defined. Hence, the guaranteed services of general interest and their standards should be fixed between the local authority and the NID, eg the frequency and extent of street cleaning, to avoid a further decline of public standards in a NID (or BID) due to the private activities.

The main distinction from the BID law in Hamburg is the positive quorum required for the NID proposal in the ballot. In the NID law, this quorum was raised from 15 per cent to one-third of both all affected proprietors and all plot areas in the affected area. The allowed maximum negative vote (veto) was left at one-third. As in the BID, only proprietors have a right to vote; tenants or third-sector representatives have no formal rights in the process of a NID establishment. Once the ballot over the

NID proposal is successful, the levy becomes mandatory, and all owners in the area must pay their individual share based on the specific value of the properties.

Most of the other regulations for the implementation and management of a NID were transferred almost 1:1 from the BID law. This does not sufficiently reflect the fundamental differences between commercial and residential areas, mainly regarding the abilities and potentials of the differing stakeholders in both areas. While businesspeople are familiar with private investments and are prepared to be flexible, individual private tenants are, by law, specially safeguarded in their homes, which includes not only the dwelling but also the surrounding neighbourhood and the public realm. The place where people live is the centre of their lives and (usually) not a marketplace. But the question of community participation within the NID process is quite open and not defined in the law. The possibility that the NID levy will be allocated from the proprietors to the tenants as part of their lease is explicitly excluded from most of the UID literature.<sup>22</sup> But practice will show whether or not landlords will try to refund the NID levy from their tenants.

### **PILOT PROJECT FOR A NID IN THE ESTATE OF STEILSHOOP**

A pilot project for the establishment of the first NID in Hamburg has been in progress in the housing estate of Steilshoop since the beginning of 2007. The estate was built between 1969 and 1975; 14,300 inhabitants live in 6,380 dwellings in 21 large concrete building rings with a shopping centre in the middle of the estate.<sup>23</sup> Steilshoop was a formally designated regeneration area under Federal Law from 1987 to 1999. In that time, more than €13m of public

funds were invested in the physical improvement of the estate. Only shortly after the end of this public programme, problems began to occur again, mainly regarding the negative city-wide image of the estate and the bad condition of the public realm in the centre of the estate.

Property relations in Steilshoop are heterogeneous. A severe change took place in the ownership structure when the largest proprietor, with more than 2,100 dwellings in the estate, the former public GAGFAH, was sold to the US Fortress Investment Group LLC in mid-2004. Since October 2006, the GAGFAH Group<sup>24</sup> with a very large housing stock all over Germany (over 170,000 dwellings) has been a joint stock corporation listed on the stock exchange in Luxembourg. So, in a way, the issue of shareholder value interest moved into a third of the housing stock in Steilshoop. At the same time, over 20 per cent of the housing stock in Steilshoop is council housing owned by the communal housing association SAGA GWG. So a strong public voice is found in Steilshoop, too. The other half of the stock is owned by several housing cooperatives, private housing companies and owner-occupiers. Hence, the estate reflects almost the whole range of property relations possible in the German housing market. This situation makes the NID pilot both complicated and interesting for transferring to other neighbourhoods.

When a couple of Steilshoop's large proprietors started an initiative for image improvement in 2006, the public administration came in with the idea of creating a NID pilot project concomitant to the legislation, and offered public co-funding for possible activities in the public realm. At the beginning of 2007, a Steering Committee for the NID initiative was set up, including representatives of each of the largest

proprietors (altogether representing almost 70 per cent of the local housing stock) including the GAGFAH, the owner of the shopping centre, the responsible district administration from the district of Wandsbek (local authority) and the Ministry of Urban Development and the Environment (state level). Until today, the board has discussed mainly ideas for marketing and image improvement, enhanced cleaning and maintenance of adjacent public and private space in the central area of Steilshoop, improved services and security within the area and the future development of the shopping centre. An architectural competition for a complete re-design of the central pedestrian area was partly co-financed from the proprietors in 2007. This major capital improvement worth approximately €8m is the biggest crunch point in the debate in Steilshoop. At the time of writing, the partners are aiming to hand in the formal application for a NID at the beginning of 2009,<sup>25</sup> which means that the preparation procedure will take at least two years. This duration is comparable with the BID processes in Hamburg and other States.<sup>26</sup>

The HCU research team has been following the NID process in Steilshoop from the beginning. From their point of view, some comments about the nature of the process and its obstacles can be made.<sup>23</sup> So far, only the larger housing associations and the cooperatives, which were already independently active in Steilshoop, are involved in the debates over the NID to come in Steilshoop. The large group of small landlords representing almost a third of the stock in Steilshoop, eg owner-occupiers, private landlords and smaller private housing companies, is not integrated in the process yet. Nevertheless, even the interests of the proprietors involved differ very much in parts, and a consensus on



aims and activities has not been easy to achieve so far, mainly regarding the implicit possible future obligation to pay for the proposed activities. Other difficulties in the process are caused by the fragmented decision-making powers on both the private and public sides of the table. This aspect illustrates how essential it is in a UID process to have responsible partners on board who are able to make decisions on behalf of their companies or administrations, especially regarding financial commitments. Various personal changes in the Steering Committee complicate the process likewise.

Regarding the proposed tasks for a NID in Steilshoop, it is important to stress that public defaults in the past caused some of the main problems in the area today, especially regarding the mismanagement and neglect of public spaces in the centre of the estate. Combined with the fact of a very low vacancy rate in the estate at the moment, this is leading to relatively reserved commitment of the involved proprietors regarding the creation of a NID. Hence, Steilshoop will not see a purely private initiative but will need a joint public-private effort to improve the physical qualities of public and private spaces. The development of the NID parallel to the implementation of new public urban funding programmes (*Lebenswerte Stadt und Aktive Stadtteilentwicklung*) is offering a new opportunity for the area development in the estate, with the implementation of a NID as one element of an integrated public-private regeneration strategy. To achieve this integration and coordination of all public and private partners and their investments for the good of the neighbourhood and to achieve sustainable improvements, strong neighbourhood management is essential.<sup>27</sup> And this task is new for all the partners involved.

## ASSESSMENT OF THE DEBATE ABOUT UID IN GERMANY

The almost worldwide<sup>28</sup> 'travelling idea'<sup>29</sup> of the UID concept did arrive in Germany at the beginning of the millennium, but BIDs and NIDs are still a fairly new instruments in practice on the ground and can be called an 'evolving phenomena'.<sup>30</sup> Although it is too early to provide in-depth analysis of empirical evidence on this new urban policy concept, some remarks on the current German UID debate, on the shortfalls of a simple 1:1 policy transfer from the US to Germany and on the potential perspectives for urban development policies in Germany will be made.

In mid-2008, BID laws are applicable in six of the 16 German states<sup>8</sup> with relatively large similarities in the specific regulations and procedures. Some states are still discussing the introduction of this model, testing voluntary and publicly funded variations of UID as variations of traditional Town Centre Management schemes. And some states have already refused the introduction of this legal instrument. Dedicated NID legislation for residential neighbourhoods is so far applicable only in Hamburg and nowhere else in Europe.<sup>3</sup>

The number of statutory projects in their implementation is still very small in Germany. Apart from the four BIDs in Hamburg mentioned above, there are only a couple of BIDs at work in all other states with legislative pre-conditions so far.<sup>31</sup> Similar voluntary and publicly funded BID pilot projects without the underlying constitutive elements can be found in some of the other states.

Despite the meagre practical experience with the evolving UID model so far in Germany, the public debate about this concept is gaining importance and pace, both on the more promotional

lobbying side — especially through the Chambers of Commerce and City Marketing Agencies — and on the scientific side — especially in the juridical and marketing professions, but increasingly also from urban planners and social scientists.<sup>32</sup> And it is remarkable that most of the UID promoters and scholars are stressing the success of the BID model all over the world, especially in the US, and there particularly in some of the large cities on the east coast, ie New York City and Philadelphia.<sup>33</sup> This is their clinching argument for the required transfer of this instrument to Germany: If it works successfully in the US, it will work in Germany just as well — as if there were no essential differences between the political, economical, fiscal, legislative, cultural and of course urban frameworks in Germany and in the US. Despite all these differences, it is not the question of ‘whether’ but of ‘how’ to work with the BID concept in Germany for many proponents.<sup>34</sup>

But the transfer of the North American BID model to Germany needs much more than a simple ‘copy and paste’ of the constitutive key elements to reproduce a concept which is successful in certain places in the US. And the transition of the BID concept from commercial areas to residential areas needs even more careful adjustments to create a potentially beneficial new instrument for the toolbox of urban development.<sup>35</sup> And critical scholars justifiably raise immediate questions regarding the UID models. Some important aspects that need closer attention are the following:

- democratic accountability of UID activities and procedures
- community participation
- public control of these sub-municipal private-led organisations

- the menacing danger of promoting exclusion policies
- the danger of supporting the privatisation of both public services and the public realm.<sup>36</sup>

The German legislature — as in any other country — has to consider the specific circumstances on the cultural and political terrain when adopting and emulating the US legislation. Promoters of the import of the UID model must bear in mind the specific environment of the target areas, which means ‘the importance of relationships, rather than the idea itself, in translating a model from one location to another’ (Ref. 27, p. 123). One huge difference regarding the relationships is the traditional lower direct influence of the private sector on urban development in the West German post-war welfare state. Unlike the long-standing privatist tradition of urban governance and politics in the US since colonial times<sup>37</sup> — eg ‘special assessments’, ‘special districts’ or ‘homeowner and neighbourhood associations’ — the German post-war system was based on strong sovereign rights of the State regarding urban development in terms of planning, funding and implementation. In this environment, private partners such as proprietors could only act within a clear legal and fiscal framework, created by the public administration, structured ‘top-down’ and legitimised through democratic accountability of politics and administration. The facilitation of ‘bottom-up’ area developments in the public sphere and for a public purpose from private actors — as is now possible with the UID model — is a severe paradigm change for all parties involved.

The UID can be described organisationally and legally as ‘a hybrid between traditional local government and a new form of urban governance ... The State creates a conducive legal

environment for implementing UIDs, while the private sector plans and realises the improvement measures'.<sup>38</sup> The UID marks an 'in-between position' between the private and public domains. Although the influence of the local authority in the UID model is constrained, the public administration is still powerful and keeping its control function even in the privately led Improvement Districts. Local authorities are delegating influence to proprietors on the sub-municipal level, but they are not losing control over the urban development in the affected area at all. Despite the fact that UIDs are private-sector driven, they cannot exist without public legitimisation and both technical (tax collection and formal approval of the UID concept) and practical support (contacts to proprietors, information about public plans for the area). Proprietors have no suable legal right to create a UID according to the legislation in Germany so far. Only the local authority can formally create or dissolve a UID. And that means that democratic accountability is guaranteed at least for the creation of a UID if the local authority is using their rights before granting approval.

Regarding the practical experience with UID in Hamburg, so far it can be said that the Neuer Wall has increasing rent levels and improved performance on the property market since the BID was established in 2005. The proprietors in the BID Sachsentor in Bergedorf are planning an extension of the three-year duration owing to the positive effects of the instrument so far. And the NID to come pilot Steilshoop project is already making clear how important and valuable area-based communication and cooperation between proprietors and between private and public partners can be for all parties involved. Even without the formal designation of a NID, a result of this cooperation is improved

maintenance of the adjacent private and public spaces in the central areas of the estate as a result of better coordination of the different activities and efforts. This effect was made possible through better coordination of the involved partners without investing more money.

Consequently, even the idea or the 'threat' of a UID and a mandatory levy can help to improve area-based cooperation between both private and public partners. And this fact can lead to new forms of public-private-led integrated area management in the longer run.

These conditions should facilitate a broader debate on the potentials of stronger proprietor obligation for area development in Germany beyond purely ideological debates. Innovative instruments and strategies like the UID model are urgently needed, because the traditional sovereign instruments are not fit for purpose for all severe challenges in urban development ahead.

## **CONCLUSIONS AND SUGGESTIONS FOR FURTHER RESEARCH**

Almost four years after the first BID legislation (December 2004 in Hamburg), UIDs are still a new issue in Germany. And the meagre practical experience so far allows only a very cautious evaluation of their effects on the ground. The demand from the property sector for this new instrument is reserved so far, and the specific obstacles in practice are not easy to overcome. Although many possible commercial areas in different cities are discussing forthcoming BIDs, not many formal processes are under way yet. And this will probably not change in the near future, because it will take more time for private and public partners in Germany to become familiar with this new policy model and the new roles and tasks that are associated with it.

Presumably, the BID model in commercial areas will be more successful in today's circumstances than the NID model in residential areas, owing to the fact that the interests of proprietors in commercial areas are more homogeneous than those in residential neighbourhoods, eg regarding higher customer frequency and increasing rent levels. Although the UID model is academically adaptable in any area or neighbourhood, it is not fit for purpose in any urban area in practice, because relevant prerequisites for the implementation of a UID are, among other things, both professional conduct and sufficient financial scope of the proprietors and conceivable positive economic perspectives for future area development. Regarding the NID, these circumstances do more probably exist in upscale neighbourhoods with owner-occupied houses or in areas with stable stocks of rented accommodation owned by larger housing companies. Neglected and multiple deprived neighbourhoods are not the appropriate place to await major activities and improvements from private proprietors without any public support. These areas will be still in need of public interventions and the traditional instruments of urban regeneration and renewal, as in the past. But the NID model can be a long-term perspective for the time after the end of public programmes in these neighbourhoods, eg in the sense of a long-term neighbourhood management as an exit strategy for public funding.

The interrelation between the socioeconomic situation of a neighbourhood and the potential influence and effect of a UID is empirically observable in practice, eg in an analysis of BIDs in different neighbourhoods in New York City:

'BIDs in low-income communities are faced with a wider range of needs, a wider range of

stakeholders, and limited resources (revenue and expertise) to respond with. ... conversely, BIDs in high-income neighbourhoods face fewer socioeconomic problems, have fewer stakeholders, and have greater resources that enable increased investment in the physical infrastructure of the area.'<sup>19</sup>

Further research from different disciplines and intense public discourses are essential to exploit the potential and to control the risks of UID for urban development and regeneration in Germany and in other countries. Some key issues for further research and for future debates about the introduction of the UID model are:

- Which neighbourhoods are suitable for the implementation of a UID, and which areas are inadequate?
- How can combinations of public funding programmes and private initiatives be organised for the good of both sides?
- How can the standard of public services be guaranteed in the light of private-led area improvements to avoid a subtle privatisation of public services?
- Where has the public administration to change its attitudes and mechanisms to be a capable partner for organised proprietor interests?
- What are the risks of a reallocation of competences and rights of disposal to sub-municipal levels in urban development — and how can they be limited?
- What is possible to minimise the danger of social exclusion and spatial displacements through UID?

#### Notes and References

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  14. The administrative court Hamburg pronounced the first judgment in September 2008 (after finalisation of this article) with a positive decision for the Hamburgian legislation.
  15. <http://www.bid-1.de>
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