

The Home Town Advantage Bulletin

Issue #11 - August 2002

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ABOUT THIS BULLETIN

In communities across the country, citizens are taking action to defend and strengthen their local economies. The Institute for Local Self-Reliance (ILSR) has been tracking these efforts and will use this bulletin to provide bimonthly updates on significant developments. We hope it will serve as a tool for making connections and sharing strategies within this growing movement. We encourage readers to share news and resources by sending email to smitchell@ilsr.org.

Many thanks to the foundations and individuals who've provided funding for the production of this bulletin, and to the Boulder Independent Business Alliance (<http://www.boulder-iba.org>) for funding the cost of our email publishing service and thereby keeping this bulletin ad-free.

ILSR is a nonprofit organization providing research, analysis, and innovative policy solutions for building healthy communities and strong local economies. This bulletin is part of ILSR's New Rules Project (<http://www.newrules.org>), which publishes a quarterly journal, The New Rules; several electronic bulletins on specific issues; and books, including *The Home Town Advantage: How to Defend Your Main Street Against Chain Stores and Why It Matters*. We also maintain a web-based clearinghouse of model public policies at <http://www.newrules.org>.

Another good source of news on local efforts to keep megastores at bay is the NewsFlash! section of the Sprawl-Busters web site (<http://www.sprawl-busters.com>). Additional links and organizations are listed at the end of each story.

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I. NATIONAL NEWS

NEWSPAPERS SUFFER WHEN LOCAL STORES CLOSE

Local newspapers suffer a double blow when giant chains like Home Depot or Wal-Mart come to town. Not only do these companies rarely advertise in local newspapers, but they usually force dozens of independent retailers to close, eliminating significant sources of newspaper ad revenue.

In a recent article in Editor & Publisher, Mark Fitzgerald describes the deadly impact that the rise of corporate chains and decline of locally owned businesses has had on local newspapers.

In Kirksville, a town of 17,500 in northern Missouri, the arrival of a Wal-Mart supercenter a few years ago put four clothing stores, four grocery stores, a stationery store, a fabric store, and a lawn-and-garden center out of business. The Kirksville Daily Express has struggled ever since.

Wal-Mart generally relies on direct mail and national television ads. Only occasionally does the company run newspaper ads or inserts. Wal-Mart's first generation of stores were bad enough for local newspapers, but its new supercenters are proving to be especially damaging. Supercenters are about twice the size of the earlier Wal-Mart stores and include a full-service supermarket. Wal-Mart's entry into the grocery business in the mid-1990s caused a wave of mergers among existing supermarket chains and forced many chain outlets as well as independents to close.

Newspapers rely heavily on revenue derived from supermarket inserts. "These are \$20,000 to \$60,000 accounts," notes Scott Champion, executive vice president of Liberty Group Publishing, which owns several small town newspapers. "How do you make that up? It's impossible."

Newspaper ad revenue from grocery stores fell 10 percent between 1995 and 2000, according to the trade magazine Presstime. The decline is expected to continue as Wal-Mart rolls out more supercenters and the sector further consolidates.

Consolidation in other sectors is also taking a toll. Home Depot usually heralds the death of eight or nine small-but-reliable accounts, John W. Kelly, advertising director of The News Tribune in Tacoma, Washington told Presstime. Home Depot does buy some advertising, he says, but those dollars "don't offset what you lose" when lumberyards and hardware stores close.

-- "Wal-Mart's Deadly Impact on Advertising" by Mark Fitzgerald in the May 27, 2002 issue of Editor & Publisher:

http://www.mediainfo.com/editorandpublisher/features_columns/features.jsp

-- "This Year's Retail," by Elise Burroughs in the March 2001 issue of Presstime:

<http://www.naa.org/preview.cfm?AID=1820>

BIG BOX SPRAWL CAUSES SHARP RISE IN POLICE COSTS

Many city officials welcome large chain retailers for the tax revenue that create. Rarely do they consider the other side of the balance sheet: the tax losses that occur when chains

displace local stores and the added costs of providing roads, sewers, police, fire, and other public services to the sprawling new development.

Added police costs are proving especially difficult for many communities that once welcomed big box stores. Take Port Richey, Florida, for example. This small town of about 14,000 people on the state's western coast was thrilled to attract a Wal-Mart supercenter last year. The store generates about \$75,000 annually in tax revenue.

But be careful what you wish for. The town now says that new police costs associated with the store far exceed the new revenue. According to a report in the St. Petersburg Times, the supercenter generates a large number of police calls and accounts for one in four arrests. Many of these calls are for suspected shoplifting, which requires several hours of police time, during which there are no patrols of the streets. Non-emergency response times have risen dramatically. The number of traffic citations issued has been cut in half. Overtime hours have mushroomed. The department started the year with an overtime budget of \$22,000, but has already spent \$70,000.

Port Richey is not alone. In North Versailles, Pennsylvania, big box development caused the police force to grow from 10 to 26 officers over the past four years. In Tappahannock, Virginia, Police Chief James Barrett described a new Wal-Mart as "a strain on services."

Police departments are increasingly weighing in on proposals for new retail development. Earlier this year the Dallas Police Department issued a memo stating that a proposed Wal-Mart would dramatically increase the department's workload. In Greenland, New Hampshire, both the police and fire departments have cautioned city officials about the costs of a proposed shopping center.

II. ALLIANCES AND COOPERATIVES

"INDEPENDENTS WEEK" CELEBRATED IN TAMPA

Posters declaring "Celebrate Independents Week!" greeted customers of local stores in Tampa, Florida, during the week of July 4th. "As we celebrate our nation's independence, we invite you to join us in celebrating our great local independents," the posters read.

Independents Week was conceived by Carla Jimenez, co-owner of Inkwood Books. For several years, Inkwood has used Independence Day as an opportunity to remind customers of the importance of locally owned businesses to the community. "At the last minute this year, I decided to see if other local businesses wanted to get involved," explains Jimenez.

She called around and seventeen businesses agreed to sign-on. They included a record store, hardware dealer, several restaurants, a natural foods store, and a print shop. In addition to displaying the posters and talking to customers, each business held a drawing at the end of the week, where customers could win \$60 in gift certificates for the other participating businesses.

They also sent out a press release. The Tampa Tribune responded with extensive coverage on the front page of the metro section. The local Fox affiliate decided to broadcast its morning news show from a different independent business every day that week.

"The key was that it was so simple. There were no meetings and very little time involved," says Jimenez, who has long wanted to organize the community's local retailers for joint promotional and educational events, but has never found the time. Based on comments from her own customers, she says, "It was definitely worth it."

The seventeen merchants plan to get together in August to discuss the response to Independents Week and perhaps plan another event for the fall. Jimenez hopes this will lay the foundation for further collaboration and a permanent association down the road.

COMMUNITY HERO CARD PROMOTES LOCAL BUSINESSES AND VOLUNTEERING

A new program in Minneapolis rewards residents for supporting locally owned businesses and volunteering at local nonprofits. Developed by CHC Data Inc., the new Community HeroCard enables residents to earn rebates by shopping at more than 40 local stores. The rebate doubles if the cardholder volunteers at a nonprofit organization.

The card looks like a credit card with a magnetic data strip that works in a standard debit card machine. Swiping the card accesses the customer's account and enables merchants to add and subtract rewards.

The card functions in part like a loyalty card program, similar to those offered by many national chains, but with the added advantage of allowing customers to spend rebates earned at one business at any of the participating stores. Each business decides how much of a rebate to provide. Rebates range from 5 to 20 percent, and average just over 10 percent.

In a typical transaction, a \$50 purchase would generate a rebate of \$5 from the merchant. CHC Data would collect \$1 to fund the program and cover marketing costs. The cardholder would earn a \$2 credit that could be spent at any of the participating stores. The remaining \$2 would also be credited to the cardholder if s/he volunteers at a local nonprofit. If not, then the \$2 is donated to the cardholder's chosen nonprofit.

The Community HeroCard grew out of a two-year pilot program started in 1997 and funded largely by foundation grants. The original paper-based system generated interest among local businesses, but was too cumbersome and time-consuming. CHC Data spent the next few years developing an electronic system compatible with standard debit card technology.

The first cards were issued in January. About 1,300 are currently in circulation. A full roll-out and extensive marketing campaign is planned for the fall. CHC Data hopes to have 40,000 cards circulating by the end of the year.

Part of the marketing effort will be undertaken by nonprofit organizations, which plan to sell the cards at fund-raisers. They will receive a portion of the \$10 purchase price, plus the opportunity to earn rebate dollars and volunteer hours. About two dozen organizations are participating, including the Green Institute, Lyndale Neighborhood Association, Asian Media Access, and Hennepin County social service agencies.

Other components of the marketing effort include print and bus-stop advertisements, direct mail, and window and cash register decals displayed at local stores.

To participate, local businesses must buy a second debit card machine or upgrade to a machine capable of handling two channels at a cost of \$250 to \$575. Aside from this and the rebates themselves, there are no other costs.

One of the major benefits for local businesses is the ability to offer customers a sophisticated incentive card similar to cards offered by many chains, but normally too costly for a small business. Additional advantages include reaching customers of other local stores, being listed in all Community HeroCard advertisements, and, of course, contributing to a stronger community.

CHC Data plans to expand to other cities, with Atlanta, Boulder, and St. Louis currently topping the list of potential sites.

-- Community HeroCard: <http://www.communityherocard.com>

III. E-COMMERCE

IOWA RECONSIDERS LINK TO AMAZON ON STATE WEB SITE

The state of Iowa is in the process of removing a direct link to Amazon.com from the homepage of its official web site (<http://www.iowa.gov>). Under the new policy, visitors who click on the prominently placed graphic, "Looking for books about Iowa? Click Here Now,"

will be directed instead to a page with links to both Amazon.com and Booksense.com, an e-commerce site for independent bookstores.

The decision followed a letter sent by the owners of nine Iowa bookstores. "For the state government of Iowa to send business out of state is bad enough, but to then compound the problem by further draining state sales tax revenues is unconscionable," they wrote. Federal policy exempts out-of-state web and mail order firms from collecting state and local sales tax.

Iowa's director of digital government, Dan Combs, said that the state had also received a number of letters from concerned citizens. He said there had been no "detailed thought process" regarding the decision to link to Amazon.com. The state receives a percentage of any sales resulting from the link through Amazon.com's affiliate program.

Booksense.com offers a comparable affiliate program. Launched 18 months ago, Booksense.com was created by the American Booksellers Association, a trade group representing some 3,500 independent bookstores. The site offers more than two million titles. Purchases are credited to the customer's nearest participating bookstore, based on his or her zip code.

Currently 500 nonprofit organizations, businesses, and authors link to Booksense.com through its affiliate program. About five percent of the site's total sales are driven by these links.

-- To learn more about Booksense.com's affiliate program:
<http://www.booksense.com/affiliate/more.jsp>

IV. NEW RULES

OLD SAYBROOK, CONN. BANS SUPERSTORES

After more than four years of fighting to block three big box retailers, the town of Old Saybrook, Connecticut, has adopted an ordinance banning stores over 88,000 square feet. That's about the size of two football fields, but smaller than a typical Home Depot or Target store. The new law also restricts commercial buildings in some parts of town to no more than 25,000 square feet.

Although developers and members of the town's economic development committee characterized the ordinance as "anti-growth," zoning commission members cited traffic concerns, strong citizen opposition to additional large-scale development, and a need to protect the town's character and individuality. Over the last four years, the town has turned down Lowe's, Home Depot, and a Wal-Mart supercenter.

-- See the New Rules web site for examples of similar ordinances:
<http://www.newrules.org/retail/size.html>

BIG BOX MORATORIUM ON BALLOT IN ELLSWORTH, MAINE

A grassroots group, Citizens Organized for Responsible Development (CORD), in Ellsworth, Maine, has gathered the 1,109 signatures needed to place a measure calling for a temporary moratorium on new retail development on the November ballot.

If it passes, the referendum will suspend construction of retail stores larger than 80,000 square feet on undeveloped land and commercial expansion of more than 40,000 square feet on developed land for a period of six months.

The purpose of the moratorium, according to CORD member Audie Tunney, is to give the city time to address large-scale retail development in its new comprehensive plan. Ellsworth began revising its comprehensive plan in 2000 and is expected to complete the process this year.

Ellsworth has a population of 6,500 and is located two hours northeast of Portland. Tens of thousands of visitors pass through the town each summer on their way to Acadia National Park.

CORD formed a few years ago in response to large-scale strip development rapidly overtaking part of the community. "There's a lot of land available along Route 1A, and nothing to preclude that land from becoming one strip mall after another," says Tunney.

Last year CORD fought a 208,000 square foot Wal-Mart supercenter. CORD encouraged residents to contact the Maine Department of Transportation regarding traffic impacts. MDOT subsequently required Wal-Mart to pay \$4 million in mitigation fees for road improvements. The company chose to drop the project instead.

-- For more on development moratoria, see: <http://www.newrules.org/retail/moratoria.html>

V. LOCAL BATTLES

DALLAS REJECTS URBAN SUPERSTORE

With much fanfare and, it seemed, the expectation of much praise, Wal-Mart unveiled plans in April for an "urban" style supercenter in downtown Dallas. The 220,000-square-foot

supercenter would be situated on Mockingbird Lane in a residential neighborhood near Love Field. Unlike the standard suburban Wal-Mart, this one would feature a Spanish-style façade, landscaped gardens, underground parking, and a door that opened onto the sidewalk.

But residents protested that a nice paint job and a few trees couldn't make-up for the impacts of such a massive store. "You put red lipstick on a pig, it's still a pig," said Ronnie Holman, head of a coalition of neighborhood organizations that fought the development.

The coalition argued that the store, far from being "smart growth," was completely at odds with the small-scale nature of most urban retail. It would loom over the area and dwarf every building around it, Holman argued. It would lead to numerous small business failures and an estimated 11,000 to 18,000 additional vehicle trips each day.

In June, as several hundred residents packed city hall sporting red and green "No" stickers, the Dallas Plan Commission voted unanimously to reject Wal-Mart, calling it an "oversized guerrilla."

Wal-Mart had invested heavily in trying to gain approval for the store, which it hoped would provide a model for building urban supercenters throughout the country. The company contracted a media consultant, conducted an extensive direct-mail campaign to sway public opinion, and employed a former City Council member to present the proposal to officials.

Wal-Mart has said it will appeal to the Dallas City Council, where it will need to muster twelve of fifteen votes to override the Plan Commission's decision. The Council is not expected to take up the matter until late August.

NEW YORKERS FIGHT CHAIN INCURSION

"We have a strong sense of community here," says Krista Wergeland, a resident of Manhattan's Upper West Side and member of a neighborhood group working to block an incursion of fast-food restaurants and chain stores.

Long known for being unique and down-to-earth, the Upper West Side is increasingly popular with national retailers like Starbucks, the Gap, and Barnes & Noble. "You wake up and ask yourself: What's happening to the identity of this community?" said one resident. "This should be a neighborhood that meets local needs."

In less than two months, neighborhood activists have gathered more than 3,200 petition signatures against a plan by Tricon Global, which owns several fast-food chains, to open a Kentucky Fried Chicken on 106th and Broadway.

Tempted by Tricon Global's offer to pay double the going rent, the landlord has already kicked out Sambas Deli, a beloved family-owned business. Sambas was a bit shabby looking, says Wergeland, but it was a great store that focused on meeting the needs of nearby residents, unlike Tricon Global, which "doesn't care and doesn't have a sense of neighborhood."

The group is planning a large protest when KFC opens in about a month, which will be followed by continuous picketing and a boycott. Last year, a similar boycott of a new CVS, which replaced a local grocery store, succeeded after just six months when the chain cited substantial losses and closed the store.

Wergeland hopes KFC will likewise fold. She'd also like to see the group find a new location for Sambas, as residents did last year for Broadway Farm, a fruit and vegetable market evicted for a Victoria's Secret outlet.

-- Neighbors United Against KFC: <http://www.digitalshiver.com/groundswell>

HOOD RIVER RESIDENTS LINK "ARMS AROUND OUR TOWN"

More than 200 residents of Hood River, Oregon, linked arms to form a giant circle around their downtown one Friday afternoon in late May. Organized by the Hood River Citizens for Responsible Growth (CRG), the "Arms Around Our Town" event was designed to demonstrate community support for locally owned businesses, and to illustrate just how large a proposed Wal-Mart supercenter would be and how many local stores would be threatened.

"It was a great event," said Stuart Watson, CRG co-chair. "It really helped to remind people that this issue isn't dead." Earlier this year, both the town and county of Hood River enacted ordinances limiting new retail stores to no more than 50,000 square feet and establishing a special review process for commercial development between 25,000 and 50,000 square feet.

The county's new size limit does not apply to a proposed 185,000-square-foot Wal-Mart supercenter slated for land just outside the town limits, because the developer submitted an application for the project before the ordinance was adopted.

Nevertheless, the county should still reject the development based on its comprehensive plan, contends CRG. "Wal-Mart is directly at odds with several aspects of the plan," argues Watson. The plan stipulates that commercial activities should be centralized and strip development should be avoided. The plan states, "The unspoiled scenic beauty is the Columbia Gorges drawing card. Jeopardizing this for short term profit may likely have negative effects on the long-term economy of the area and its adjacent commercial centers."

"There are more than 3,000 Wal-Marts but there is only one Hood River," noted Al Norman of the national organization Sprawl-Busters in a debate with a Wal-Mart spokesperson held the Hood River Rotary Club. "Anyone who reads the comprehensive plan for the county will realize this is a bad fit, it just doesn't make sense."

CRG has organized a letter-writing campaign and produced two posters that focus on the supercenter's impact on quality of life and urge adherence to the comprehensive plan. A public hearing on the development is scheduled for July 31.

-- Hood River Citizens for Responsible Growth: <http://www.hooddriversfuture.org>

-- Sprawl-Busters: <http://www.sprawl-busters.com>

DENVER'S ASIAN BUSINESSES FORCE WAL-MART RETREAT

Strong protest from dozens of Asian small business owners has led Wal-Mart to drop plans for a giant supercenter in west Denver.

Wal-Mart had been working with the Denver Urban Renewal Authority (DURA) to condemn and bulldoze Alameda Square, a shopping center housing some 25 Vietnamese, Cambodian, Laotian and Chinese businesses, including the city's largest Asian grocery store. This spring, DURA declared the center "blighted," the first step in evicting the businesses and clearing the way for Wal-Mart. DURA also planned to provide Wal-Mart with \$10 million in tax subsidies.

Alameda Square's small businesses, which have turned this once derelict shopping strip into a thriving community center, mobilized after learning of the plan in February. They hung signs in storefront windows urging residents to contact the city, circulated a petition that gathered more than 1,200 signatures, and generated hundreds of letters to city officials and local newspapers.

"The message the city sends to them and to all small business owners in economically depressed areas is this: Don't risk your blood, sweat and tears on trying to turn around a struggling area, because once you make it a success, we will replace you with a national chain," wrote Douglas Hsiao.

Wal-Mart backed out in late June. City officials are now in talks with property owner Khanh Vu, who wants to upgrade the buildings while maintaining the center's existing merchants.

SMALL BUSINESSES FIGHT ABUSE OF EMINENT DOMAIN

Denver's Asian stores are not alone in facing condemnation for a national chain. In a growing number of court cases around the country, small business owners are challenging attempts by local and state governments to seize their property for chain store development.

Traditionally, eminent domain---the power of government to take private property for public use, provided that the owner receive market value---has been used for schools, roads, and other public infrastructure. In recent years, however, state and local governments have increasingly used eminent domain to seize homes or small businesses for chain retail development.

In Pemberton, Pennsylvania, for example, officials want to seize an obstetrician's office and a small clothing store to make way for a CVS pharmacy. In Wheeling, West Virginia, city officials plan to condemn several downtown buildings, oust the current businesses, and open dozens of outlet stores in the same buildings. In New York, the state redevelopment authority has moved to seize a 75-year-old Harlem woodworking shop to create room for Home Depot and Costco.

The government officials behind these projects claim that economic development is a "public use" that justifies seizing property.

"By that logic, anything goes," contends Scott Bullock, senior attorney for the Institute for Justice, a libertarian public interest law firm that is representing small businesses in several lawsuits challenging the constitutionality of condemning property for private development. "Any business will create more jobs and tax revenue than any home, and a large business will create more than a small business. So there's no end to it."

Bullock says the tide is beginning to shift; courts are increasingly siding with small businesses and setting limits on the use of eminent domain for private development.

In the New York case, Bill Minnich, owner of Minic Custom Woodwork, lost in a federal district court on a procedural issue but has appealed the decision. In California, a federal court concluded that the city of Lancaster's attempt to seize a 99 Cent Store for a Costco expansion was unconstitutional. The city has appealed. In Illinois, the state Supreme Court recently blocked a state agency's attempt to seize property for a race track expansion. That decision could derail another eminent domain action initiated by the same agency for a Home Depot development.

Similar cases have been brought in Connecticut, Michigan, Minnesota, and New Jersey.

-- See Institute for Justice at <http://www.ij.org> and the Castle Coalition at <http://www.castlecoalition.org>.

WAL-MART DECISION CHALLENGED IN NEW ORLEANS

Opponents of a massive Wal-Mart supercenter approved by the New Orleans City Council in April are fighting the so-called "done deal" on several fronts.

A coalition of organizations has filed two lawsuits challenging the decision. The plaintiffs include Smart Growth for Louisiana, the Coliseum Square Association, the Louisiana Landmarks Society, the Historic Magazine Row Association, and the Urban Conservancy.

One case in federal court charges that HUD's local agency, the Housing Authority of New Orleans, failed to comply with regulations governing the use of HOPE VI funds and violated the National Environmental Policy Act and the National Historic Preservation Act.

A second suit in state court charges that the City Council violated its own rules when it threw out 31 conditions for the project set by the City Planning Commission and replaced them with provisions favored by Wal-Mart without input from the public or the Planning Commission.

Meanwhile, opponents are organizing a letter-writing campaign to the State Bond Commission, which must approve the creation of a special Tax Increment Financing (TIF) district and issue \$30 million in bonds for the construction of the store. The financing essentially amounts to a 38 percent reduction in Wal-Mart's property tax bill, a subsidy opponents say is unavailable to locally owned businesses and threatens the city's budget.

The Urban Conservancy has also requested that Congressman William Jefferson initiate a federal review of the project which is financed largely by HOPE VI funds.

-- For the sordid history of this development, see the May issue of this Bulletin at <http://www.newrules.org/hta/hta0502.htm>

-- For more on the recent developments, see the Urban Conservancy at <http://www.ucno.org>.

VI. ANTITRUST

AT BORDERS, MEGA-PUBLISHERS GET THE KEYS TO THE KINGDOM

Leading publishers will be involved in determining which books are carried at Borders Books stores under a new "category management" plan being phased in this year.

Under the plan, Borders is assigning each of 250 book categories---ranging from thrillers to romance novels---to one of the top publishers in that category. Borders will provide this "category captain" with detailed sales data for all titles in the category, including those of competitors. The publisher will analyze this data alongside its own research and prepare a plan outlining which titles should be stocked and how those books should be displayed and promoted.

Three categories have already been assigned. HarperCollins, a division of News Corp., will oversee the cooking and romance categories, while Random House, a unit of Bertelsmann, will be responsible for young children's books. Borders expects category captains to fork over about \$110,000, plus incur a variety of expenses associated with fulfilling their duties.

Such a cozy relationship between large publishers and Borders, which controls about one-quarter of all bookstore sales in the U.S., could undermine competition and devastate small presses, contends Marilyn Ross, executive director of the Small Publishers Association of North America (SPAN). "Is anyone naive enough to believe these behemoths will make a genuine effort to include the works of the little guys?" she asks.

As criticism mounts, Borders CEO Greg Josefowicz has tried to play down the role of big publishers, noting that the "fundamental truth of category management is that customers drive the process." He insists that Borders will retain final say over which titles are stocked.

But experience in the supermarket industry, where category management first took root in the mid-1990s, suggests that, in practice, final say is rarely more than a rubber stamp. "In reality, the category captain has a vast advantage in information," notes Albert Foer, president of the American Antitrust Institute. "Even if the retailer occasionally turns down or modifies the category captain's proposal, the odds are that in general the category captain will prevail."

A Federal Trade Commission report released last year outlined several potential antitrust problems with category captains, but the agency has no plans for further research or action.

-- FTC report (see Part III): <http://www.ftc.gov/os/2001/02/slottingallowancesreportfinal.pdf>

-- SPAN: <http://www.SPANnet.org>

-- American Antitrust Institute: <http://www.antitrustinstitute.org>

MEXICO INVESTIGATES WAL-MART FOR ANTITRUST VIOLATIONS

In late May, Mexico's antitrust agency, the Federal Competition Commission, opened an investigation into Wal-Mart for "monopolistic practices." The action was prompted by charges that Wal-Mart has abused its market power by pressuring suppliers to sell goods

below cost or at prices substantially lower than those available to other retailers (even after accounting for reasonable volume discounts).

Wal-Mart is Mexico's largest retailer with 563 stores and \$9.4 billion in annual revenue, three times the size of its nearest rival. Wal-Mart entered Mexico in 1997 when it purchased a controlling stake in Cifra SA, then the country's largest retailer.

No timetable for the investigation has been announced.

Wal-Mart has been formally accused of antitrust violations on several occasions. Last year, the Wisconsin Department of Agriculture, Trade, and Consumer Protection charged the company with predatory pricing at several of its stores in an attempt to put smaller competitors out of business. Wal-Mart reached an agreement with the agency, but admitted no wrongdoing. In 2000, German antitrust authorities charged Wal-Mart with similar predatory tactics. The company is currently appealing the charges through the German courts. A private antitrust lawsuit brought by a small grocery store chain in Oklahoma is still pending.

-- Comision Federal de Competencia (Federal Competition Commission):

<http://www.cfc.gob.mx>

-- For more on the antitrust cases in Wisconsin, Germany, and Oklahoma, see the November 2000 and October 2001 issues of this bulletin at <http://www.newrules.org/hta/index.htm>.

VIDEO STORE LAWSUIT DISMISSED

A federal judge has dismissed all charges in the antitrust case brought by three independent video rental businesses against Blockbuster Video and several major Hollywood studios. The defendants were charged with price discrimination and conspiracy to prevent independent stores from gaining access to the same revenue-sharing deals available to Blockbuster.

In a move that surprised attorneys on both sides, the judge ruled that there was insufficient evidence of conspiracy and a link between discriminatory revenue-sharing deals and the demise of the independent stores.

Two studios, Warner Bros. and Metro-Goldwyn-Mayer Inc., had already reached a \$15 million settlement with the plaintiffs.

Since the lawsuit was initiated three years ago, less expensive DVDs have displaced VHS and given independents access to more equitable pricing.

-- For more on the ruling see <http://www.latimes.com/business/la-fi-blockbuster28jun28.story>.

-- For more on revenue-sharing and background on the suit, see the November 2000 issue of this bulletin at <http://www.newrules.org/hta/hta1100.htm>.

VII. RESOURCES

DEVELOPMENT MORATORIA

The US Supreme Court's 6-3 decision in *Tahoe-Sierra Preservation Council v. Tahoe Regional Planning Agency*, finding that a temporary development moratorium enacted by a local government did not constitute a taking of property requiring compensation, has renewed interest in moratoria as planning tools. Several communities have used moratoria to suspend retail development while evaluating the impacts of superstores and revising local zoning rules accordingly. We've added information, links, and ordinance examples to the New Rules web site at <http://www.newrules.org/retail/moratoria.html>.

COMMUNITY & ENVIRONMENTAL DEFENSE SERVICES

Community & Environmental Defense Services (CEDS) works with citizens to defend their communities from bad development, including shopping centers, highways, landfills, mines, and golf courses. CEDS helps citizens identify and document the impacts of a proposed development and craft a strategy to block the project or mitigate its impacts. CEDS can assist with everything from attracting volunteers to raising funds and finding experts to testify. CEDS offers free advice and free publications. Many communities find that these free services are all they need; others hire the organization to carry out their campaigns.

-- Be sure to check out CEDS free publications, starting with "Preserving Neighborhoods and the Environment from Unsustainable Land Development Projects: A Citizen's Guide to Forming a Winning Strategy," at <http://www.ceds.org/publications.html>

BIG BOXES: UNWISE INVESTMENTS

PricewaterhouseCoopers and Lend Lease Real Estate Investments Inc. have released their annual guide for real estate investors. For several years, the guide has advised investors to shun big box retail. "Emerging Trends in Real Estate 2002" continues this advice. "America is overstored---too many formats cannibalize each other," the report notes. "Dead and dying malls litter the nation's suburbs. . . Most power centers [i.e., big box developments] are risky propositions. . . The only sure thing is that owners will be challenged to re-lease empty boxes

abandoned by the losers. . . It's just more of the same retailer merry-go-round: rob Peter to pay Paul."

For failing malls and shopping strips, there are "no exit strategies." The same might be said for communities that hitch their futures to absentee-owned sprawl. The report says traditional small-scale, mixed-use neighborhoods are the way to go: "[Investors] have come to realize that properties in better-planned, growth-constrained markets hold value better in downmarkets and appreciate more in upcycles. Areas with sensible zoning (integrating commercial, retail, and residential), parks, and street grids with sidewalks will age better than places oriented to disconnected cul-de-sac subdivisions and shopping strips, navigable only by car."

-- Emerging Trends in Real Estate 2002: <http://www.lendleaserei.com>.

CORPORATE CHAINS AT THE PUBLIC TROUGH

Despite evidence that chain stores harm local economies and destroy about as many jobs as they create, local and state officials continue to give these companies substantial tax breaks and subsidies. Although no one knows how much public funding the major retailers have received, these subsidies are widespread and have created an unlevel playing field for locally owned businesses which rarely receive any kind of tax break or subsidy. The following are just a few of many recent examples culled from the past two months:

- * Austin officials are considering a \$2.1 million tax break for a development anchored by Borders Books & Music. The development is just blocks from two of the city's biggest and best---and unsubsidized---independent retailers, Book People and Waterloo Records.
- * Chicago plans to provide a \$5.5 million tax subsidy for a development that includes a Borders Books and Music.
- * Home Depot has applied for \$300,000 in state tax breaks for a new superstore in Denham Springs, Louisiana.
- * Palm Beach County, Florida, gave preliminary approval for \$1.1 million tax break for Walgreens.
- * Ohio provided \$10 million in incentives for three new Wal-Mart facilities. The nonprofit Policy Matters Ohio has criticized the deals in a new report available on line at <http://www.policymattersohio.org/walmartintro.htm>.

ELSEWHERE IN THE MEDIA

Sales Tax Fairness:

-- "The Untaxables: Before Congress revisits the Internet-sales issue, states are developing a simpler and more uniform tax-collection process," an update on the Streamlined Sales Tax Project from the July 2002 issue of Governing: <http://www.governing.com/7tax.htm>.

Wal-Mart's Labor Practices:

-- "Suits Say Wal-Mart Forces Workers to Toil Off the Clock" by Steven Greenhouse, New York Times, June 25, 2002:

http://www.walmartwatch.com/info/internal.cfm?subsection_id=130&internal_id=364

-- "Union Blues at Wal-Mart" by John Dicker in the June 28, 2002 issue of The Nation:

<http://www.alternet.org/story.html?StoryID=13490>.

-- "How Wal-Mart is Remaking our World," by Jim Hightower, Hightower Lowdown, April 26, 2002: <http://www.alternet.org/story.html?StoryID=12962>

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