

4-2015

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Madeline Spolin

Macalester College, mspolin@macalester.edu

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## Recommended Citation

Spolin, Madeline, "Lawyered Up: Local Communities, Courts, and Urban Renewal" (2015). *Sociology Honors Projects*. Paper 48.  
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Lawyered Up: Local Communities, Courts, and Urban Renewal

By  
Madeline Spolin

Honors Project  
Department of Sociology  
Macalester College  
Spring 2015

## **Abstract**

What is the role of the judicial system in solving issues of urban renewal? I propose that communities use courts as a redress to become part of the decision making process on urban renewal issues, because courts provide procedural issues that are easily open to challenge in federal statute. I analyze public statements made throughout the construction of the Green Line in Minneapolis and St. Paul, Minnesota, a federally funded urban renewal project. In spite of built in public consultation processes, changes to transit design do not occur when concerns are raised at public consultation meetings; instead, they come from the attention garnered through legal proceedings that focus specifically on procedural violations. These results confirm both the judicial system's increasing involvement in resolving competing visions of urban renewal, and its increased use as a strategic tool to join decision-making processes.

## **Introduction**

Globalization and changing economic climates influence all aspects of American life, including, most notably, the American metropolitan area. Urban areas now compete in efforts to attract tourists, host events, develop institutions, and more (Richard and Hanley 2004). Developing mass-transit projects has become a large part of making cities more accessible and attractive (Richard and Hanley 2004). The Twin Cities metropolitan area has been one of many urban areas in the past few years to pursue a transit project in the hopes of revitalizing urban areas. The Central Corridor Light Rail Project, colloquially known as the Green Line, embodied the hopes of making the Twin cities an important national destination. When the Twin Cities received a competitive federal grant to build the light rail line, the decision was surrounded by celebration and fanfare. Soon, however, community activists realized that the design plans largely ignored their goals for the transit project and placed local urban planners between the community and the federal government. Despite pressures to foster development and growth, cities end up relatively powerless in the planning process, because of the reliance on federal money. In spite of the original enthusiasm and anticipation, the design and implementation of the light rail became one of the most controversial events in Minnesota's recent history, in which local community groups sued the federal government in order to modify the light rail design plans (deFiebre 2014).

Community groups have long played a crucial role in determining the outcome of urban renewal projects (Dahl 1974). In order to understand the importance of community groups, their political motivations and mobilization strategies must be understood at the community level. This local understanding will overcome the limitations of previous research: previous research tracks the rise of powerful national advocacy groups without any local, grassroots base and the simultaneous erosion of local civic associations. In *Diminished Democracy*, Theda Skocpol

supplies the backdrop of decreased civic engagement in local organizations within the United States. Before the 1960s, civic organizations relied on membership to strengthen local, state, and national relationships; however, after the 1960s civic organizations shifted towards a reliance on management, where civic engagement and organizing became concentrated in Washington D.C. civic engagement took the form of donations. In addition, these groups seek change primarily through court challenges rather than legislative change or advocacy campaigns. Based on the rise of powerful national advocacy groups, it makes sense to expect weak civic engagement and therefore little resistance to urban renewal plans, even if the plans did not align with the communities' goals. However, based on the controversy surrounding the Green Line, this is clearly not the case. This begs the question as to how local advocacy looks today, how the courts are used, and the potential impacts of legal mobilization.

This question is increasingly important within the context of the large number of federally funded, locally planned, urban renewal projects under the Obama administration. As cities compete using transit projects, residents and planners will need to reconcile their hopes for the project with the federal governments' hopes. The federal government has recently allotted 721 additional public transit grants in cities across the U.S. As cities confront the realities of being the link between the federal government and local constituents, local advocacy and the potential impacts of litigation are increasingly important questions. The Green Line was the first of many federal grants, and served to demonstrate how the courts are used and the potential impact they can have. Cities and courtrooms around the country will soon be facing urban renewal controversies just like the one in Minnesota.

This, in essence, is my research question: With the alleged decrease in civic engagement, do local community groups seek to influence public policy? If so, do local advocacy groups still rely on grassroots mobilization to influence local policymaking or, do they emulate the national

civic associations and rely mostly on the courts to influence public policy? If they do use the courts, how do they access litigation and what are the potential impacts of litigation? Through a case study analysis of public statements addressing the fight for resources surrounding the Green Line Light Rail Project, my research revealed that community groups use the courts to influence public policy. A coalition formed to protest the design plans, but instead of relying on grassroots organizing techniques, the group focused the majority of its efforts on garnering media attention and funding and organizing a federal lawsuit. The coalition gained access to the courts through a suit against the Metropolitan Council and the Federal Transportation Administration because of an incorrect environmental impact statement. Even though plaintiffs repeatedly cited their feelings of exclusion and hopes for participating in the planning process as their motivations for the lawsuit, they focused on a small procedural violation, the environmental impact statement, to take the Metropolitan Council to court. The flawed environmental impact statement gave them an angle to push for their goals within the courts, but the real aims had to do with attention to the needs of lower income communities on University Avenue. Ultimately the courts worked as a successful bargaining chip, which local organizations can use to engage in the urban planning process, rather than the traditional grassroots organizing methods. The case resulted in increased attention and support for lower income communities, and a revised design plan to reflect community needs. This case study reveals that local organizations rely on the federal courts to pursue changes in urban renewal projects, and that the courts can be used to successfully influence policy.

## **Literature Review**

The federal government has a long history of interfering with local politics to promote urban renewal projects. The Obama administration has continued with this trend, critiquing past

non-action and instead committing money to urban renewal projects (Fletcher 2009). While the federal government has the final say in design plans, the projects require community involvement through public outreach. However, there is little research on how communities influence urban planning processes beyond the mandated public consultation meetings. Much of the recent literature on creating political change focuses on the huge role of national advocacy organizations, and in particular, their reliance on court challenges and court rulings to press their agenda (Skocpol 2003). Literature on the judicialization of politics also focuses on political change created through the courts, particularly when legislative change seems impossible (Shapiro 1994). However, as transit projects spread out across the United States, it is crucial to examine if organizing occurs, what organizing strategies are used, how they are used, and the potential outcome. This literature frames the following questions: With the alleged decrease in civic engagement, how do local community groups influence public policy? Do local advocacy groups still rely on grassroots mobilization to influence local policymaking or, do they rely on the courts to influence public policy? If they do use the courts, how do they access litigation and what are the potential outcomes?

### *Urban Renewal and Federal Policy*

Urban renewal has a long legacy in American politics. From 1880 to 1930 local governments and political leaders in New York, Cincinnati, Philadelphia and other cities pushed for the development of costly railroad stations, which had the latent effect of clearing out deteriorated buildings and residents of nearby slums in the urban core. This was only the beginning; by the time the Great Depression began, local governments were accustomed to the idea that politicians could boost property values through improving urban areas. In the 1930's, the downtowns and commercial districts of American cities began to deteriorate due to urban

blight (Schwartz 2010). Blight was defined primarily as substandard buildings, often located in commercial, industrial, or residential areas. Blight prompted a dramatic exodus of people from the central cities to the suburbs. Suburban shopping malls threatened to put urban stores out of business, and middle class patrons took their business to the suburbs. As a result of deterioration and this exodus, local governments began to create programs preventing blight, which often included housing codes and zoning regulations (Schwartz 2010). These efforts demonstrated local and state governments' willingness to participate in urban renewal projects. Soon after these efforts, the federal government stepped in.

Beginning in the 1970s urban renewal policies aimed to subsidize economic development for the sake of global competition. The globalization of the economy created an endless competition for resources on the worldwide scale. The 1980s and the Reagan administration represented a conservative political turn, which included the de-emphasis of urban needs, and the belief that the unregulated market will resolve urban issues. Moreover, the Reagan administration pushed for a return to federalism, which would place the burden of cities solely in the hands of states. This "hands off" mentality left cities to struggle with any urban renewal projects including housing, business, or justice related works (Schwartz 2010). As a result, local politicians coordinated efforts for urban renewal directly with businesses to revive decaying economies.

Recently, President Obama has prioritized urban renewal by putting more funding and effort into legislation aiming to revitalize US cities. This new emphasis on urban areas involves cooperative work between agencies, organizations, and governments. In many instances, Obama has criticized prior administrations' limited efforts towards urban renewal; in 2009 he noted that previous "federal policy has actually encouraged sprawl and congestion and pollution, rather than quality public transportation and smart, sustainable development" (Fletcher 2009: 1). His

administration has represented a renewed effort toward urban growth. The present day federal legislation under Obama envisions urban renewal as creating job opportunities for residents and promoting environmentally and economically livable neighborhoods. This, the administration argues, requires imagining urban living in a much more holistic way than in previous administrations. Therefore, once again large sums of money are flooding into cities (Fletcher 2009). Throughout the different policy iterations, there has been consistent emphasis on capital from both the federal government and the private sector toward urban renewal. The Obama administration represents an increase from previous administrations. Regardless of this recent change, urban renewal history has set a precedent of focusing less on the people in the community, even though the transit project is ideally to serve those same people, and more on those who are providing the funds. This sets the stage for conflicts when the goals of the funding group do not align with those of residents. This leaves space for the analysis of how these conflicts get resolved.

### *Mobilizing Local Consent: Federal Mandates for Engaging Community Organizations*

The Obama administration has focused on developing mass public transit as a key area of urban renewal. Under these aims, the Federal Transportation Administration (FTA) mandates community engagement with local organizations for all grants. Cities hoping to receive federal transit grants are required to create a Metropolitan Planning Organization (MPO). According to the FTA, “each metropolitan area in the nation with a population over 50,000 must have an MPO and a federally-certified metropolitan transportation planning process in place in order to receive federal transportation funds” (Minnesota Department of Transportation 2005: 1). The MPOs in each region coordinate public outreach.

This mandate for community engagement was solidified in 2005 when the federal

government passed the “Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users” legislation. The law requires Metropolitan Planning Organizations, or MPOs to create public participation plans, which can include anything from private consultation meetings with interested parties, accessible public meetings, and visual techniques to spread information to the public. Specifically, the language of the law requires “early and continuous public involvement throughout the planning and programming process” (“Stakeholder Consultation the Public Involvement Process Framework ...” 2009: 1). The public involvement can influence the MPO’s agenda and parameters, but the Metropolitan Planning Organization wields the ultimate say. The Metropolitan Council serves as the Metropolitan Planning Organization for the Twin Cities; the Metropolitan Council holds the most authority in transit policy decisions, and works with representatives of different transit modes, state agency officials, and elected officials from local governments. The Council sets both long term and short term policy plans, makes key decisions on transportation projects, conducts transit studies, and determines parameters of interest.

Public involvement can take a few different forms. Sometimes, MPOs engage the public through open forums where information is shared and individuals can voice opinions. The meetings can focus on specific issues, such as public access or environmental stability, or can be broader opinion gathering events. In addition, MPO’s are required to consult community organizations representing specific groups traditionally excluded from planning processes, as well as community organizations representing areas directly impacted by the proposed transit project. While these processes of public engagement do require local governments to discern public opinion in certain ways, the Metropolitan Council on behalf of the federal government is the ultimate arbitrator of transit project outcomes; what happens when the community does not agree with their decision?

### *The Changing Civic Landscape*

Local, state, and even national governance in the United States was greatly influenced by civic volunteerism starting in the 1700's (Skocpol 2003). Voluntary associations, such as fraternal lodges or religious groups, held sway in not only local politics, but also in regional and national discussions. These voluntary associations were not isolated and strictly local, but rather "deliberately built by civically ambitious men and women with national vision and power aspirations" and these federations grew to influence widespread social programs (Skocpol 2003). Furthermore, over the course of U.S. history, "federations have both complemented and rivaled political parties in setting the course of politics and government" through "combin[ing] state and national reach with local presence" (Skocpol 2003: 124). This picture of voluntary federations as conduits between ordinary Americans and politicians or other powerful individuals, and as forces fostering democracy and active citizenship, has largely gone by the wayside.

Between the 1970's and 1990's, civic life dramatically changed. Membership organizations that had previously promoted cross-class interaction and collaboration made possible by gender or racial exclusion, were dismantled by new definitions of race and gender equality. Before the 1960's racial and gender segregation were commonplace throughout the nation; yet, after the civil rights movement and subsequent movements advocating for the incorporation of women, and gays and lesbians into normative society, membership in voluntary civic associations decreased dramatically. Membership organizations were perceived as behind in terms of racial and gender ideals, because they had been exclusionary throughout the majority of their existence. In addition, fraternal organizations vehemently supported the American military and this, too, contributed to their diminished membership support because of the unpopularity of the Vietnam War and the decreased percentages of American men involved in

the military. Furthermore, the reforms of the 1960's demonstrated that Washington D.C. was to be taken seriously as the main avenue for pursuing policy change. As a result, civic organizations relocated to Washington D.C. This migration to the nation's capital captures the transition from 'membership' to 'management' among civic organizations (Skocpol 2003). Due to the availability of new resources, including wealthy foundations with grants to fund advocacy groups in D.C., civic organizations now target only a small segment of the population to civically engage. Instead of funding organizations through membership dues from a widespread membership base, the funding comes from large foundations and a select group of wealthy individuals. While this description captures national-level changes, it also brings up questions about local level changes. Within the framework of national level changes, how do local citizens influence policy and engage civically?

Skocpol's picture of the changing civic landscape critiques the centrally-managed voluntary organizations as problematic, for they fail to democratically engage large segments of the population they way voluntary associations once did. Specifically, "professionally-managed, top-down civic endeavors simultaneously limit the mobilization of most citizens into public life" and tilt national politics towards the interests of the privileged (Skocpol 2003: 232). This discussion of the migration to D.C. highlights important implications for civic engagement. However, this critique of the national civic landscape leaves the current local landscape largely untouched. How do communities resolve regional or local issues that do not elicit widespread support from advocacy groups? Do local organizations turn to the courts to influence policy or do they focus on grassroots organizing?

An effort to answer these questions emerged through various theories about local politics after the societal reorganization in the 1960's. In the elite theory of urban politics, a select, often wealthy group of influential individuals retains control of interests in a town. Often, these

individuals do not directly involve themselves in local politics, rather the elite group interferes with politics when it appears local government may act against their personal interests. In the pluralist theory of urban politics, different groups from across the political spectrum share political influence. Therefore, organizations serve as interest groups that enter into local politics to fight on behalf of certain political outcomes. These groups all interact and compete equally with one another within the political system to influence political decisions. In a third theory known as the state autonomy theory, local governments maintain a certain degree of autonomy from community organizations and private sector interests. Thus, the local government is concerned with satisfying a majority of the population with the aim of maintaining power through reelection (Gottdiener et al. 2006). The three theories have all received support as the key representations of urban politics. However, all three of these aforementioned theories on urban political engagement fail to capture how federal intervention influences local politics. Skocpol's portrait of management advocacy organizations reveal a powerful Washington D. C., a place where advocacy can influence the local as much as the federal. In this climate of a strong and active federal government, how do local actors, including community activists, individual residents, and local groups seek to influence the federal government?

### *The Judicialization of Politics*

Theories on the judicialization of politics have sought to explain how individuals seek policy changes against local, state, or federal government entities. The courts have played an increasingly large role in arbitrating personal and political conflicts since the mass restructuring of civic life in the 1960's. After the 1960's "the court opened its doors to policy entrepreneurs seeking judicial order that would tell the government not only what it *could* and could *not* do, but what it *must* do as well" (Silverstein 2010: 1079). As a result, advocates for change increasingly

focused on legal strategies to further causes or arguments rather than political strategies. When compared with judges in France and England, judges from the United States have a “markedly higher propensity to interject themselves into major administrative decision making” (Shapiro 1994: 102). Part of this is due to the United States founding value of constitutionalism and the system of checks and balances that portrays the courts as the protector of individual rights.

However, much of the increasing judicialization of politics is due to the legacy of *Brown v. Board of Education*, where the courts became the protectors of human rights as well as individual rights. *Brown v. Board of Education* revealed the possibility of “substitut[ing] judicial policy for legislative and executive policy” based upon the argument that “in certain rare instances democracy is not self-correcting without judicial intervention” (Shapiro 1994: 104). The case also set a precedent “for major policy changes...at the behest of groups conducting conscious litigational campaigns” (Shapiro 1994: 104). The courts have since come to be a key avenue through which advocates pursue change. However, many studies show that these widespread policy decisions make changes on a national level but have been “thwarted by local norms, often held with high intensity, by local majorities or local elites” (Shapiro 1994: 104). Therefore, how does the judicialization of politics play into local level politics and decision-making processes? Furthermore, when federal policies mandate local intervention, are the courts still a necessary avenue through which to seek change?

In looking at why disputants decide to pursue legal action, theories have focused on two key aspects of legal mobilization: the goals of the disputants and the disputants’ prior experiences and perceptions of the costs and benefits. The goals of the disputants are often the deciding factor with regards to the lengths claims-makers are likely to go. Those with different types of goals often pursue different outcomes within legal action. With more concise and specific goals, the court can often satisfy parties by providing definite unchanging solutions.

With more complex and drawn out objectives, “the mobilization of adjudication will serve primarily instrumental purposes” (Sarat et al. 1975: 1212). Further, “those pursuing longer-range, and more policy-oriented, goals are likely to seek an adjudicative framework in which a record can be accumulated, and where decisions will have precedent value. A high premium will also be placed on the attainment of rule or policy change” (Sarat et al. 1975: 1212). In addition, in some instances the decision to pursue legal action is one that aims to remedy or mitigate the effects of inequalities of status, bargaining, and other resources. Legal adjudication can provide significant advantage to less powerful individuals, because decisions are generally made on a more neutral plane with less regard to power. Secondly, theory cites mobilization toward legal action is largely due to prior experiences and perceptions of costs and benefits. Those familiar with the litigation process are more likely to seek formal legal action, while those comfortable with other strategies for resolving disputes will likely remain with those.

The likeliness of legal adjudication based on prior experience with the litigation process and the disputant’s goals explain legal action at an individual level. Based on extensively documented phenomenon known as the judicialization of politics, it is clear that more than individual level disputes are being brought to the courts. Therefore, it remains to be seen how community organizations use the courts and why, or how theories of legal adjudication apply at the community level.

To look at how community organizations call upon certain tactics to protest social structures, theories of tactical diffusion aim to explain how strategies get passed between various locations around the world. Forms of local collective action are emulated because they are spread through “well-connected trust networks” known as “relational diffusion”, through modern day media and Internet referred to as “nonrelational diffusion”, and finally through “movement brokers” or “mediated diffusion” (Tarrow 2005: 102). Without tactical diffusion, the existing

repertoire for creating social change varied based on the population, specifically due to daily routines, organization, standards of equality or justice, and the populations previous experience with collective action (Tarrow 2005). When tactical diffusion is considered, one groups' new response to a structural limitation could then "be imitated and modified far beyond their origins and outside the structural regions that had produced them" (Tarrow 2005: 102). The speed of this diffusion has only increased with globalization. Therefore, community groups' use of the courts to challenge social structures point to important questions about how the strategy entered local organizations' repertoire, or in other words, why community groups decided to pursue legal action.

Furthermore, the decision to pursue legal action is again complicated by law's interaction with social groups and movements. This relationship between the two is conceptualized in a variety of ways. Some scholars focus on legal institutions as pillars, upholding the status quo and providing limited resources toward those challenging prevailing ways. Yet, other scholars center on the law as a resource "that citizens use to structure relations with others, to advance goals in social life, to formulate rightful claims, and to negotiate disputes where interest, wants, or principles collide"( McCann 2006: 22). These two competing views of the law are complicated in their interaction with social movements. Social movements are broadly defined as groups of people using a variety of tactics to press for broader societal transformation. This interaction, between the law and social movements, "does not inherently disempower or empower citizens. How law matters depends on the complex, often changing dynamics of the context in which struggles occur. Legal relations, institutions, and norms tend to be double-edged, at once upholding the larger infrastructure of the status quo while providing limited opportunities for episodic challenges and transformations in that ruling order." (McCann 2006: 19). Theories on legal mobilization have yet to firmly establish the law's role in social change.

When law is used to challenge norms and push for broader social transformation, there are potential advantages. Importantly, the law is crucial in pointing to and naming existing injustices, and in exposing times when structures are vulnerable to challenge. Furthermore, the potential impact of the courts is evident because it provides a “source of institutional and symbolic leverage against opponents” (McCann 2006: 29). However, the drawbacks of legal mobilization can require complainants to “moderat[e] claims, narrow...demands, or forfeit... other tactics” (McCann 2006: 26). This leaves room for further analysis of how social movements and the law interact and what influences the potential outcome of these interactions.

The research on past urban renewal projects, current day mandated public outreach, the changing civic landscape, and the judicialization of politics, all leave the an important gap in the literature, which raises the question as to how local community groups seek policy changes. I return to my research question: do local community groups seek to influence public policy? If so, do local advocacy groups still rely on grassroots mobilization to influence local policymaking or, do they emulate the national civic associations and rely mostly on the courts to influence public policy? If they do use the courts, how do they access litigation and what are the potential impacts of litigation?

## **Methods Section**

This is a case study of the Twin Cities’ efforts at urban renewal through the construction of the Green Line Light Rail Project. This case study allows for an in depth analysis of events in a process. A case study is crucial for examining the role of courts in the urban renewal process, and allows a model of the historical and complex unfolding of events over a longer period of time. The case involves three key conflicts that led to lawsuits or potentially threatened lawsuits, one based in communities, the others based on relatively larger organizations. As one of the first

projects granted by the FTA, the Green Line Light Rail Project is an important first case study because is at the forefront of a new trend for urban mass-transit grants. A case study allows for the necessary depth to fully consider the setting as well as how those may have influenced the lawsuit itself. In particular, in examining the emergence of the lawsuit and how communities access the courts, it is crucial to understand the context of the transit project and the community, as well as the three court cases. Due to the huge number of factors influencing legal mobilization, a case study is crucial to understanding all of the factors of legal mobilization and the context for the lawsuit.

In order to examine how local community organizations coalesced and interacted with the courts to affect changes to the Central Corridor Light Rail Project, I analyze public statements made on behalf of those involved in the urban planning process. This includes the Metropolitan Council, the Federal Transportation Administration, and statements made by community organizations, citizens involved in the planning process, the plaintiffs in the lawsuit, the University of Minnesota, Minnesota Public Radio and the lawyer representing the plaintiffs. This includes any statement made by the organization to the Metropolitan Council, as well as any statements made publicly to reporters. These public statements were made between 2006 and 2011 in either St. Paul or Minneapolis. All public statements come from the *Minneapolis Star Tribune*, *MinnPost*, *St. Paul Pioneer Press*, and *Finance and Commerce* from Minneapolis, MN.

This study requires an understanding of many elements of the process of urban renewal. Of particular importance is the coalition of local organizations, as well as the federal mandates and the larger corporations involved in litigation. The unit of analysis for this study is the Twin Cities metropolitan area. The data for this analysis is widely available, as I am only looking at statements made to the public. I examine the statements for evidence of how the courts are given

leverage in matters of urban renewal and how they decide controversies. In particular, what factors influence community member's decisions to turn to the courts and what strategies do they employ?

## **Findings**

The findings section is organized to include the problem that prompted the lawsuit, the mediation phase, and the solution. The initial section about the problem explains how the federal vision of urban renewal conflicted with local visions, where the federal government prioritized a fast and efficient transit project and the community sought an accessible and inclusive transit project. The second section, mediation, explains the organizing by plaintiffs, the motive behind the decision to pursue a lawsuit and the legal strategy employed. Finally, the solution section explains how the lawsuit was resolved to permit the use of a procedural violation as a bargaining chip, giving the local community a voice in urban planning.

### *The Problem*

The community challenged the federal government's urban renewal plans. The impasse between federal and local ideas centered on the varying distances between the stops on the Green Line. The project was originally projected to have 16 stops along University Avenue connecting downtown St. Paul and Minneapolis. The project was designed this way to meet the cost effectiveness index (CEI), a key component of federal urban renewal grants. The CEI calculates capital and operating costs divided by time saved, or more simply, cost per user benefit. Changes to certain variables alter other variables, and ultimately impact the CEI outputs in unpredictable ways. In the case of the Green Line, the federal government calculated that the ideal output

number of the CEI was less than 24. If the CEI calculator computed a number under 24, then the federal government would fund the Green Line, but if the number was greater than 24, federal funding was out of the question. For much of the process, the Green line was over budget; the CEI calculator regularly displayed a number closer to 26.

The CEI largely explains the many aggrieved parties clamoring to add or take away from the original light rail design. One such institution, the University of Minnesota, fiercely debated the Metropolitan Council over the inclusion of a tunnel for the light rail line under Washington Avenue. The University claimed that an at-level route endangered specialized research equipment because of vibrations and electromagnetic equipment. The original route had included a tunnel under Washington Avenue; however, after the University's new football stadium was built, the tunnel could no longer pass underground along the aforementioned route. The new tunnel proposed by the university avoided the stadium, but added a significant financial burden. According to chairman of the Metropolitan Council, Peter Bell, the University of Minnesota's preferred route would add more than 1 million dollars to the project. Ultimately the conflict was resolved through litigation. After compensations and guarantees on behalf of the Metropolitan Council, both parties agreed the light rail could pass at street level.

This conflict was solved through litigation, as were many others, including one between Minnesota Public Radio and the Metropolitan Council (MPR). MPR asserted that the sound waves coming from the light rail train would interfere with their radiobroadcasting tower. They too resolved the conflict through court-mandated mediation, when the Metropolitan Council agreed to install a noise buffer surrounding MPR's recording studios in order to mitigate the noise of the Light Rail train.

While these conflicts were taking place, residents took note of the intense conflicts and discussions surrounding difficult aspects of the light rail and the strategies employed to resolve

them. Residents who saw the Metropolitan Council's initial design were disheartened by the 16 stops, which were much closer together in Minneapolis than they were in St. Paul. While stops throughout Minneapolis were half a mile apart, many of those in St. Paul were a mile apart. As part of the Federal Transit Administration's mandates, the Metropolitan Council hosted four public consultation meetings. These meetings were designed, according to public announcements, to "give the public a chance to have input on the project's preliminary engineering, a key phase where important features, including station locations, of the proposed 11-mile line are set" (Star Tribune 2007). In addition, the Metropolitan Council hired four outreach coordinators to run these meetings, who as a group spoke English, Spanish, Somali, Hmong, French, Swahili, and American Sign Language.

The issue of absent stops in St. Paul was first brought up in the last of the Metropolitan Council's public consultation meetings. Not coincidentally, this meeting was located in the heart of one of St. Paul's lower income neighborhoods, and a neighborhood that did not have a stop in the original design. Most of the 144 seats in the meeting were full and at least 31 of those in attendance spoke. Those in attendance represented a variety of community groups and included residents, businesses, and other interests between Snelling Avenue and the capitol. One long time neighborhood resident spoke at this meeting, asserting, "the stretch contains struggling areas and transit-dependent residents who need a boost. Making the trains fly past them – and at the same time reducing bus service – is exactly what not to do" (Orrick 2008: 1) Another resident claimed, "I see a process whose outcome – I don't say intentions – but whose outcome is: if you are black, if you are poor, if you are old, light rail will pass you by" (Orrick 2008: 1). These residents had focused on the particular absence of three stops at Western Avenue, Hamline Avenue, and Victoria Street, three low-income areas where residents generally rely on public transportation.

While the Metropolitan Council made many efforts to listen to emerging opinions, they found themselves in a bind due to cost concerns. According to Peter Bell, chairman of the Metropolitan Council, “study of the three stops concluded any additional riders from the stations would be offset by the longer amount of time it would take the train. Meanwhile, at \$5.5 million each, the stops cost would drive the project further over budget than it already is”(Orrick 2008: 1). The federal government prioritized the Cost Effectiveness Index, which looks at the speed of the transit option as well as increasing ridership. However, this was directly in contrast with the views expressed by local residents, who hoped that additional rail stations would provide access to residents and economic benefits to surrounding neighborhoods. Peter Bell highlighted the conflict with the CEI, saying that the stations at Western Avenue, Victoria Street, and Hamline Avenue, “would add riders from those neighborhoods lowering the CEI. But, the computers said, slowing the train down to make those stops would dissuade an equal number of other riders, making it a wash. Meanwhile, added costs would raise the CEI” (Orrick 2008: 1) Because the local government relied on federal funding, it had to adhere to the fairly rigid CEI in order to gain federal funding, requiring the exclusion of community interests.

### *Mediation*

Even though local interests seem to hold a secondary position to federal interests, local community leaders spotlighted the issue of missing stops, and the issue gained statewide attention. Vic Rosenthal, co-chair of the University Avenue Community Coalition, firmly argued three more stops were crucial, saying, “one of the most important reasons is that we believe light rail, for it to work, had to be about moving people within a community as much as through a community. The way the system is set up right now, by ignoring those three intersections, it will be very very harmful as far as how development will occur” (Hanners 2007: 1). Rosenthal

further commented that “our contention is that its just too important if you’re going to try to do this system so it is fair to everyone, that it creates equitable development, you come up with a way to get the stops closer together” (Hanners 2007: 1). In addition the race for city council representatives for the first ward, which includes the area under discussion, revolved around the impending light rail. Montgomery, the incumbent in the city council election remarked that the train made her uncomfortable. Her comments on the green line marked the arrival of local elected leadership attention to the issue. She publicly noted the “fear [among her constituents] that rising property values along the rail line will price them out of their homes, drive their small businesses from University Avenue, and leave them without vital transportation link because the trains stations will be a mile apart in the first ward and will supplant the bus service” (Nelson 2007: 1). Montgomery’s challenger Melvin Carter III also criticized the lack of stops. The election was one of the closest in years, and served to garner attention for the light rail line. Melvin Carter III was the winner, remained an active participant and advocate within the Central Corridor Light Rail Project.

Although Melvin Carter III was originally less opposed than Montgomery to the light rail, less than a year later, he publicly acknowledged of a host of reservations. While serving on the St. Paul City Council, he wrote a letter to Chairman of the Metropolitan Council Peter Bell expressing discomfort with how the light rail project was being designed in St. Paul, in particular, his ward. In his letter, he wrote “there exists a rapidly growing sentiment that this project, as currently planned, holds the potential to produce both the greatest cost and the least benefit for the residents and business owners who have planted their lives in closest proximity to the corridor” (Havens 2009: 1) He comments that a “more adversarial approach—even to the extent of jeopardizing the whole line” has been rewarded (Havens 2009: 1). This was a subtle nod to the aforementioned conflicts surrounding the University of Minnesota and MPR, which

both benefitted from \$30 million dollars set aside to deal with specific complaints regarding to the light rail. These statements reveal that litigation may be a tactic in the repertoire after seeing others successfully use the courts to engage the Metropolitan Council. Finally, Carter even threatened to remove his support from the light rail line; he concluded the letter by saying, “I still believe this is an important project, but not just so we can have some tracks and a whooshing sound as a train goes by” (Havens 2009: 1). This letter, along with his threat to remove support, further mobilized the campaign to add the three stops.

Meanwhile, the Metropolitan Council found itself in an increasingly hard position. After talks with the university of Minnesota and MPR, the Metropolitan Council had drained its resources into soundproofing barriers and contingency funds. As a result, they felt particularly restricted by the CEI and couldn't offer possibilities for implementing the three stops. In desperate straits, they performed various studies on how to add the three stops through the CEI. None of the studies revealed that adding the stops could lower the CEI in any way. The community and the Metropolitan Council found themselves at an impasse.

As a response to growing attention and dissatisfaction among residents, a coalition of organizations and individuals formed that resorted to a variety of activities to garner public support and recognition. The coalition, named “Stops for Us,” spent around three years campaigning for the additional three stops. The coalition had members from over 35 different community organizations as well as individual members. The campaign began in 2007 when the groups realized that in spite of intensive public consultation, the stops were not included in the formal plan due to cost concerns. Sarah Mullins, one member of the “Stops for Us” campaign explained her work by saying: “this is our community, you cannot build a \$1 billion line and not reshape St. Paul...The people who live here matter. This isn't about a technocratic analysis; it's

about what happens to the people who live near the line” (Jossi 2011: 1). The coalition held rallies and meetings throughout 2007 and 2008.

At the same time, activists found other ways of bringing attention to the issue, including turning a parade for the former Rondo neighborhood, which was torn apart by the I-94 Freeway, into a protest in 2007. R.J. Maller, a St. Paul social worker intimately involved with the Green Line process, who began filming interviews with University Avenue residents, connected the construction of the light rail to what happened to the Rondo neighborhood. Many feel as though the light rail would have detrimental impacts on the neighborhood, just as the construction of the I-94 freeway had on the Rondo neighborhood. The University Avenue Community Coalition marched in the parade wearing a “Justice Train” made of cardboard but designed like a light rail train. One of the members of the University Avenue Community Coalition pointed out that “when you look at a map, its quite glaring that the stops are close together in downtown St. Paul and downtown Minneapolis; there are some stops that are closer when you’re near the University of Minnesota but when you get to the Summit-University and Frogtown area, the stops are a mile apart” (Hanners 2007: 1) The coalition sought attention and exposure through protests and advocacy. They also turned to legal action from the examples of the University of Minnesota and Minnesota Public Radio.

After it became clear that the Metropolitan Council could not find ways to incorporate the stops, the coalition encouraged plaintiffs from a variety of community organizations, businesses and residents along University Avenue to file a suit against the FTA and the Metropolitan Council. The suit was described as a last resort. The plaintiffs included: the St. Paul chapter of NAACP, the Aurora St Anthony neighborhood development corporation, the Community Stabilization project, Pilgrim Baptist church, Shear Pleasure and Arnellia’s Bar, as well as five individual residents. The lawsuit aimed to put a hold on construction of the green line due to

environmental planning violations. The plaintiffs sought to require the Metropolitan Council and the FTA to halt construction until the council agreed to “redo an environmental impact statement examining how construction will affect University Avenue” (Melo 2010: 1). The plaintiffs’ attorney, funded through the NAACP, filed the lawsuit focusing on the Environmental Impact Statement, because the policy around the statement contained loopholes for litigation. An Environmental Impact Statement is an FTA required document that details how the transit project, in all its phases, will impact the surrounding environment. Specifically, they hoped to stall impending construction of the light rail line until the additional three stops were added, as well as funds for residents and businesses to survive construction on University Avenue. According to Nieeta Presley, the executive director of the Aurora-St. Anthony Neighborhood Association: “I haven't turned my back on the [Central Corridor] project...there's a toolbox of different strategies we can use, and [filing a lawsuit] is one tool” (Clements 2010: 1). More tangibly, the plaintiffs hoped for an MOU, or memorandum of understanding, between plaintiffs and the Metropolitan Council, which determines who will be responsible for any damages from the construction or operation of the light rail. The plaintiffs cite the MOU between the University of Minnesota and the Metropolitan Council as a possible solution, due to the Metropolitan Council’s use of MOU’s with both the University of Minnesota and MPR. The MOU between the University and the Metropolitan Council reads:

“the parties agree that mitigation of traffic and other environmental impacts in and around the campus due to the construction of the project is essential to the integrity of campus activities and surrounding neighborhoods and the successful operation of the CCLRT line; The parties agree to cooperatively work together to explore alternatives and resolve outstanding project related matters including: mitigation impacts, design issues, construction issues, and operation matters” (Clements 2010: 1).

While the MOU was a specific solution plaintiffs advocated, they also had broader aims for the lawsuit.

The plaintiffs provide a broad rationale for the lawsuit. Nieeta Presley, one of the plaintiffs, said, “With the lawsuit, we're just exercising our rights in a democratic society...I mean, it's kind of sad if [filing a lawsuit] is how we have to do it, but...” (Clements 2010: 1). In spite of the alleged public consultation process where the issue of missing stops first came to light, the issues raised in this process were not addressed. Both the public consultation process and the CEI were federal mandates for public transportation grants, which in this case served to work against each other. In fact, the attorney representing the plaintiffs directly comments on the irony of the process, saying: "what [my clients] really want first of all is to be at the table, to be in discussions with the Met Council about what's appropriate...My clients feel strongly that they were given meetings, but they were not listened to” (Clements 2011: 1). In spite of demands to listen to local efforts, it was only through the legal system that the plaintiffs felt as though they could ensure that the Metropolitan Council listen to their requests.

Before the lawsuit began, the plaintiffs engaged in mediation with the Metropolitan Council and the FTA. According to the plaintiffs’ attorney, DeVincke, "We made a number of [mitigation] demands and the Met Council directed us to review publicly available material about mitigation measures - and then said if we wanted to set up a meeting so they could explain the material to us further, we could do that. It was a total waste of time" (Clements 2011: 1). As a result, the complainants prepared to sue the Metropolitan Council. Khaliq, the NAACP St. Paul representative within the lawsuit issued a public statement saying "I don't think they have taken the impact on this community very seriously. I just think it really leaves us no other choice” (Gilyard 2008: 1). In addition, Khaliq explained: “We certainly wouldn't move forward if we didn't have any plaintiffs. We've talked to some folks and we're going to explore all options” (Gilyard 2008: 1). Residents cite the public consultation meetings as the place they learned of the

widespread discontent, and were inspired to bring together people who could potentially serve as plaintiffs to allow the lawsuit to happen.

The plaintiffs felt as though legal action was the only possible option after observing the debate surrounding the University of Minnesota and Minnesota Public Radio. The plaintiffs repeatedly noted with frustration and anger at the attention and money given to the University of Minnesota and MPR in resolving light rail related disputes due to court-mandated mediation. This motivation prompted the lawsuit, but also provided an important public frame for the lawsuit. According to the plaintiffs' attorney, DeVincke, "The Met Council made hundreds of measurements when it came to evaluating concerns about train vibrations and electromagnetic interference affecting research labs at the University of Minnesota but there's been no quantifiable measure about how construction will affect everyday people" (Melo 2010: 1). The effort put into placating the University of Minnesota and MPR inspired legal action by the plaintiffs, and gave them a reasonable justification for the lawsuit. In addition, plaintiffs draw on the existence of the MOU between the University and the met Council as evidence of legal communication as effective communication. For example, Presley, executive director of the Aurora-St. Anthony neighborhood association asked: "Why couldn't we get a memorandum of understanding negotiated? If [the Met Council's] claim is that no businesses will be displaced, when 30 percent to 40 percent of the parking will be gone ... come on. Can't there be some way to mitigate this?" (Clements 2010: 1). The plaintiffs had learned, through witnessing repeated mediation attempts, that communication in court is an effective way to express grievances and dissatisfaction with the light rail design and construction. They saw an example of fair treatment in the conflict resolution in the University of Minnesota and MPR according to their attorney: "When you look at how the concerns of MPR and the University of Minnesota were addressed and then look at what happened with my clients...there's no objective and reasonable person who

could say that these sides were treated equally” (Clements 2011: 1). The motivations for filing the lawsuit are evident in the public’s reaction to how the Metropolitan Council treated the University and MPR.

The Chairman of the Metropolitan Council, Peter Bell, came out against the lawsuit. He commented, “I am very disappointed that these groups have chosen to file a lawsuit against the met council and the central corridor light rail project...I am firmly convinced that the project will help spur the revitalization already occurring in the corridor and provide improved access to employment educational and economic opportunities for its residents...I cannot imagine the budget being large enough to address the wide range of concerns raised by these groups” (Orrick 2010: 1). The stops, as well as funds aimed toward withstanding the hardships of construction put the Metropolitan Council far over the cost effectiveness index. Therefore, regardless of the desire to construct the stations, the Metropolitan Council opposed the lawsuit.

### *The Solution*

The lawsuit had two aims: first, to add the three additional stops located in low-income neighborhoods in St. Paul; and second, to mitigate an array of negative impacts due to construction along University Avenue. Plaintiffs hoped to halt construction until these two concerns were met. Further, the plaintiffs pointed to the specific lack of funds designated to construction mitigation on University Avenue. The Metropolitan Council budgeted \$40 million toward construction mitigation. However, as plaintiffs were quick to note, \$27 million of the aforementioned \$40 million were dedicated toward these efforts at the University of Minnesota. Khaliq, the NAACP plaintiff publicly argued, "We know there's going to be disruption, traffic is

going to be an issue, parking is going to be an issue, and I don't see anything on the table presently that's going to alleviate some of those inconveniences”(Gilyard 2008: 1).

In response, the Metropolitan Council pointed to the numerous consultation meetings they had to encourage public consultation. Baenen, a Metropolitan Council representative, pointed out that since October 2006, the Metropolitan Council has hosted more than 800 meetings for public consultation. These meetings have had drawn a total number of around 21,000 people. In addition, the Metropolitan Council pointed to the six staffers hired specifically for community outreach. The Metropolitan Council, in a public statement, asserted, “We're out in the community. We've had meetings on nights and weekends to make it convenient for people. I think we've had extensive public meetings and will continue to do so.” (Gilyard 2008: 1). The Metropolitan Council felt they had met their obligation for public outreach. Moreover, the council attempted to refute the arguments of local organizations from University Avenue, claiming, "We're just not having to do that level of work elsewhere; it's based on the work that's required... [we're] not doing business mitigation on this project, [we're] doing construction mitigation” (Gilyard 2008: 1). In spite of this defense, the plaintiffs followed through on their threats to sue the met council and the FTA.

The trial began and almost immediately garnered intense media attention. As one of the first cities under the Obama administration to receive funding for urban renewal efforts, politicians took notice of the lawsuit due to the intense, media-attracting, mobilization from the “Stops for Us” coalition. As a result, Ray LaHood, the Secretary of Transportation appointed by Obama argued for the repeal of the CEI, because it was an outdated practice used by the Bush administration to cap costs on federally funded transit projects. The suit, combined with the coalition’s media outreach, brought the issue to a bigger stage.

Throughout the lawsuit, even those at the Federal Transportation Administration began to notice the impossible nature of the situation. The cities could not figure out how to fund the stations themselves and have them built at the same time as the light rail, since bureaucratic guidelines specified that everything built had to be part of the proposal to the FTA. One of LaHood's top deputies called the situation "ludicrous" as FTA administrators sought to find a way to include the stops (Orrick 2010: 1). At this time, the CEI began to be construed as a republican policy—one that had been pushed through by a republican governor in Minnesota. The attention from the lawsuit, and the FTA's new awareness of the issue, as well as construction of the issue as republican, prompted the addition of the three stops at Hamline Avenue, Victoria Street and Western Avenue less than a week after the coalition of community organizations filed the lawsuit to block the construction of the green line. The funding cap, set in place by President George W. Bush, was removed, and according to public statement, "The Cost-Effectiveness Index (CEI), which favors high speeds and fewer stops, will no longer be the pass/fail criterion for funding transit projects" (Melo 2011: 1). Further, Peter Rogoff, the lead FTA member on the Central Corridor project guaranteed matching funds to completely build each of the stations. He further announced that these changes are crucial as they provided "opportunities for working Americans...to hold onto more of their own money and not spend it at the gas pump" (Melo 2011: 1). He placed the change to the CEI in a broader context by explaining: "The Central Corridor project was one of many projects across the country where we found that strict adherence to the 2005 Bush policy was undermining the transit goals of the Obama Administration" (Melo 2011: 1). This change represents a significant shift in federal visions of urban renewal.

In spite of this victory, the plaintiffs had no intention of terminating legal action towards the Metropolitan Council and FTA. Some St. Paul resident felt that the stops represented victory.

Metric Giles, one member of the “Stops for Us” Coalition, felt that "This is a true concrete victory. We substantiated the fact that we needed the stops. The next question was how to do it. Now, we've done that" (Orrick 2010: 1). However, many others, including the plaintiffs on the lawsuit felt as though the added three stops only represented a partial victory. Khaliq, the NAACP St. Paul Chapter plaintiff publicly stated: "We're happy for these stations but very disappointed there's been no movement on these other issues... If we have the three stops without these other issues, then it's all meaningless" (Orrick 2010: 1). In addition, the plaintiffs remained disappointed about how their complaints had been treated in relation to earlier aggrieved parties.

The plaintiffs continued with the lawsuit to ensure that they were able to join in conversation with the Metropolitan Council. The rest of the lawsuit was resolved through a trial. Judge Frank ruled that the environmental planning report published by the Metropolitan Council on behalf of the FTA was not sufficient. Frank wrote publicly that the Environmental Impact Statement prepared by the Metropolitan Council and the FTA "is inadequate insofar as it fails to address the loss of business revenues as an adverse impact of the construction of the CCLRT" (Clements 2011: 1). He further ordered defendants to "supplement its analysis of business interruption impacts" (Clements 2011: 1). Frank acknowledged the severity of issues facing those on University Avenue, saying: "This does not diminish the valid concerns of those in the affected neighborhoods, and in particular the Rondo neighborhood that was devastated by the construction of I-94, regarding the future of their communities" (Doyle and Havens 2011: 1). Additionally, the judge reported that, "the court is hopeful that with further discussions and negotiations between the parties, along with the implementation of the mitigation measures discussed in the record, plaintiffs' racially, ethnically and culturally diverse community will avoid disproportionate impacts from - and will experience the anticipated benefits of - the

CCLRT Project...The communities within the Central Corridor deserve no less” (Clements 2011: 1).

However, in spite of previous comments he was unwilling to halt construction the recently started construction on the green line. The judge stated that, "At this stage, the Court concludes that the interest of the general public to keep this important project moving forward outweighs the harm to plaintiffs” (Doyle and Havens 2011: 1). The plaintiffs publicly stated that they "see the court's decision with optimism” (Clements 2011: 1). The Metropolitan Council reported being "encouraged" by the judge's decision and committed to "continue to work closely with our project partners and community groups as we move forward toward the successful completion of this project” (Clements 2011: 1). The Metropolitan Council was required by Judge Frank to sit down with the plaintiffs to discuss future Green Line decisions regarding University Avenue in St. Paul. These discussions caused the dedication of added funds to construction mitigation on University Avenue and a rewritten environmental impact statement.

## **Conclusion**

I return to the questions: With the alleged decrease in civic engagement, how do local community groups influence public policy? Do local advocacy groups still rely on grassroots mobilization to influence local policymaking or, do they emulate the national civic associations and rely mostly on the courts to influence public policy? If they do use the courts, how do they access litigation and what are the potential impacts of litigation? Through the case of the Green Line Light Rail Project, where local community groups used the courts to influence urban planning processes, it is clear that community groups successfully engage in the urban planning process through the legal system. While grassroots coalitions do form, they turn to the courts in order to join urban planning discussions. The problem section reveals that even when complaints

are made during public consultation, enacting policy changes requires a more forceful effort. The mediation section points to the fact that although plaintiffs point to feelings of exclusion and hopes for participating in the planning process as their motivations for the lawsuit, the environmental impact statement, a small procedural violation, served as the key to the lawsuit. The lawsuit allowed activists to highlight community needs, although it focused on a narrow procedural violation. The case study provides a crucial example of how social movements and the law can interact in a positive way. Finally, the resolution section reveals the importance of the courts as key players in local politics and point to an image of local politics that is just as tied to the nations capitol as federal politics are.

Furthermore, even when given the chance to engage with an issue on a local level, community organizations chose to plead their case to a larger audience through a dedicated media campaign and the pressure from the lawsuit. The lawsuit was a strategic tool to pressure the federal government. This case study provides a key picture as to how the courts are playing larger roles in roles in urban politics and the factors that influence legal mobilization on a community level. The example of previous successes with the University of Minnesota and MPR clearly influence legal mobilization, as do disputants' goals and successes in other organizing strategies. This provides key support for the theory on diffusion. In this case, the relational diffusion of tactics from the University of Minnesota and MPR were crucial in helping community organizations develop their strategy. Although the federal government sought to allow the local community a voice in a town hall, membership fashion, local organizations sought change through court challenges. Without the example and justification from MPR and the University of Minnesota, the plaintiffs would not likely have pursued legal action, because the earlier court challenges demonstrated the Metropolitan Council's vulnerability to court

challenges. In addition, this success may be somewhat restricted to transportation policy due to the loopholes that come from federal funding guidelines.

This study is limited in that it is done in only one metropolitan area around the United States. As the first of many urban renewal grants under the Obama administration, local organizations from around the country will soon face similar issues. These findings present crucial opportunities for further research. A comparative analysis with other cities would help reveal permanent fixtures of the process of resolving conflicts between the federal governments vision of urban renewal and local visions of urban renewal. My findings show how community groups successfully challenge federal statutes and use the courts as leverage to become part of the decision-making processes in urban planning. These findings reveal the relevance of federal intervention in repainting our image of local politics, and the pertinence of the judicial system in understanding the courtroom as the modern town hall.

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