Hearing on The Opportunity Zone Program and Who It Left Behind

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT

OF THE

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTEETH CONGRESS

FIRST SESSION

November 9, 2021

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ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE CONTACT: (202) 225-3625
November 9, 2021
No. OV-6

Chair Pascrell Announces Oversight Subcommittee Hearing on
The Opportunity Zone Program and Who It Left Behind

House Ways and Means Oversight Subcommittee Chair Bill Pascrell, Jr. announced today that the Subcommittee will hold a hearing on "The Opportunity Zone Program and Who It Left Behind" on Tuesday, November 16, 2021 beginning at 2:00 PM EST. The hearing will take place in 1100 Longworth House Office Building in addition to being accessible via CISCO Webex.

Pursuant to H. Res. 8, Members are encouraged to participate remotely in this hearing. Members will be provided with instructions on how to participate via the Cisco Webex platform in advance of the hearing. Members of the public may view the hearing via live webcast available at https://waysandmeans.house.gov/. The webcast will not be available until the hearing starts.

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record can do so here: WMdem.submission@mail.house.gov.

Please ATTACH your submission as a PDF in compliance with the formatting requirements listed below, **by the close of business on Tuesday, November 30, 2021.**

For questions, or if you encounter technical problems, please call (202) 225-3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but reserves the right to format it according to guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

All submissions and supplementary materials must be submitted in a single document via email, provided in PDF format and must not exceed a total of 10 pages. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

ACCOMMODATIONS:

The Committee seeks to make its facilities and events accessible to persons with disabilities. If you require accommodations, please call (202) 225-3625 or request via email to WMDem.Submission@mail.house.gov in advance of the event (four business days' notice is requested). Questions regarding accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available at https://waysandmeans.house.gov/

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COMMITTEE ON WAYS AND MEANS
Subcommittee on Oversight
Hearing on The Opportunity Zone Program and Who It Left Behind
November 16, 2021 – 2:00 PM
Witness List

Jessica Lucas-Judy, Director of Strategic Issues, Government Accountability Office

Brett Theodos, Director, Community Economic Development Hub & Senior Fellow, Urban Institute

David Wessel, Director, Hutchins Center on Fiscal and Monetary Policy & Senior Fellow, Brookings Institution

John Persinger, Chief Executive Officer, Erie Downtown Development Corporation

RPTR WARREN
EDTR ROSEN

THE OPPORTUNITY ZONE PROGRAM AND WHO IT LEFT BEHIND
Tuesday, November 16, 2021
House of Representatives,
Subcommittee on Oversight,
Committee on Ways and Means,
Washington, D.C.

The subcommittee met, pursuant to call, at 2:15 p.m., in Room 1100, Longworth House Office Building, Hon. Bill Pascrell, Jr. [chairman of the subcommittee] presiding.

Chairman Pascrell. Good afternoon and welcome.

I call to order the Subcommittee on Oversight.

Thank you, every, for joining today. We are holding this hearing in a hybrid format in compliance with the regulations for remote committee proceedings pursuant to House Resolution 8.

Before we turn to today's important topic, I want to remind members of a few procedures to help you navigate this hybrid format.

First, consistent with the regulations, the committee will keep microphones muted to limit background noise. Members are responsible for unmuting themselves when they seek recognition, or when recognized for their 5 minutes. Committee staff will mute members only in the event of inadvertent background noise.

Second, when members are present in the proceeding via Webex, they must have their cameras on. If you need to step away to attend another proceeding, please turn your camera and audio off rather than logging out of the platform.

Finally, we will dispense with our practice of observing the Gibbons rule. Instead, go in order of seniority for questioning and alternating between the majority and the minority, beginning with members of the Oversight Subcommittee.

I thank you all for your continued patience as we navigate these procedures to continue serving our country together in this great time of need.

And with that, I will now turn to the important topic of today's hearing, "The Opportunity Zone Program and Who It Left Behind."

So, good afternoon, everyone, and welcome to the Oversight Subcommittee's hearing on, "The Opportunity Zone Program and Who It Left Behind."

I welcome the chance for our subcommittee to examine the Opportunity Zone Program enacted in May the 2017 Tax Cuts and Jobs Act. Our Tax Code offers many incentives for economic growth, investment, and job creation, particularly in distressed communities. It does this by providing Federal tax benefits to businesses and individuals located in those communities. From the enterprise zones to the empowerment zones, the tax writing committees have struggled for years to use the Tax Code to address pervasive poverty with limited success.

Based on a proposal from Senators Tim Scott and Cory Booker, the 2017 tax law created a new place-based tax incentive, a program to encourage investments in certain low-income communities called opportunity zones. The Opportunity Zone Program tries to take a different approach by focusing on the lack of capital investment in poor communities. The program provides generous capital gains tax relief for investments in zones chosen by the State governors.

I believe places like my own hometown of Patterson, New Jersey, which does have census tracts designated as opportunity zones, is the type of city that the creators of the incentive had in mind. The program started with some embarrassing hiccups. Tract one zone designation was reportedly expanded to benefit friends of the former President and Treasurer Steve Mnuchin. I expressed my outrage about that in sending a letter to the Treasury, which 4 years later, I still do not have an answer, but so be it.

The Opportunity Zone Program is also deliberately structured with few, if any, strings attached to attain capital gains relief, nor is there a cap on the amount of relief an investor can receive. Traditional metrics of community benefit, such as job and new business creation, or the addition of affordable housing units are not required to qualify for the capital gains relief.

Without requiring such demonstrations, it is difficult to assess whether investments are going into the neediest communities. We cannot determine if the program is effective and producing positive economic change for residents and businesses in need. We need such reporting requirements to know, are opportunity zones yet another tax incentive making the rich even richer? Is this program crony capitalism on steroids with the government picking the winners and the losers?

Sadly, in my hometown, there is scant evidence that the Opportunity Zone Program is providing much benefit. Nationwide there is concern that the benefits are mostly flowing to those zones that are already ripe -- that were already ripe for development and could provide certain returns on investments.

Robust reporting requirements will improve accountability and transparency. I am eager to hear our witnesses' views on how to do this. This hearing is especially timely, as we have just received a second report on the opportunity zone, the Opportunity Zone Program from the Government Accountability Office.

Both GAO reports help us ascertain whether this program is operating as Congress intended. It does not appear to be helping the neediest communities. Questions remain about who this program is helping, and who is it leaving behind? And concerns persist as to whether the IRS even can tell if the participants in the program are complying with the rules.

I want to welcome our expert witnesses today. All of them have valuable information and insights to share on the Opportunity Zone Program. I am confident their testimony will help us evaluate its operation and determine what changes should be made to improve it.

But before proceeding, I yield 5 minutes to my friend, Mr. Kelly, our ranking member, for his opening remarks.

Mr. Kelly, you are on.

Mr. Kelly. Thank you, Mr. Chairman, and thank you for holding this hearing on an important tax incentive, opportunity zones.

Before we go any further today, let's remember how we got here. Despite what you might hear at this meeting, the opportunity zone tax incentive is bipartisan. Crafted in 2015 over many months, it was introduced by a bipartisan group of members in 2016.

Primary sponsors of the initiative included our friend, Pat Tiberi from Ohio, who was hardly a tax novice, and my Democrat friend from Wisconsin, Mr. Ron Kind, as well as Democratic Senator from Mr. Pascrell's home State of New Jersey, Senator Cory Booker, and my good friend, Senator Tim Scott. These are serious legislators. This bill was reintroduced with the same sponsors in 2017 and garnered nearly 100 bipartisan sponsors, cosponsors, many of which came from this committee, including Chairman Neal.

Prior to it being included in the Tax Cuts and Jobs Act, the bipartisan group of members recognized that far too many communities across the country were defined by a lack of economic growth and limited economic opportunity. The goal of their work, as stated in a July 2015 press release from Senator Booker, was to work together to develop new solutions to help revive economically distressed communities.

Since being codified, opportunity zones are on track to spur investment into thousands of communities across our country, with investment totaling more than $29 billion in private money in 2019 alone, according to the GAO. And that is just the beginning. The bipartisan opportunity tax incentive allows greater investment in local communities to help lift Americans out of poverty and strengthen small businesses.

That is the truth about opportunity zones, and keep in mind, we are still incredibly early in the process of implementing this new tax incentive. And we only have partial data from the year prior to the IRS implementation of the policy. Much has changed since then, but the limited data that we do have is pointing to success.

Now this is the point in my statement where I would normally comment on how I am looking forward to hearing testimony from our witnesses, but I am having a hard time saying that today. Unfortunately, the witness panel the majority has put together is not balanced, and is not designed to give us as fair an oversight hearing as this tax incentives should get. This is truly regrettable, because opportunity zones have always been bipartisan. Even the effort to add transparency and reporting requirements to the tax incentive after it was codified has been bipartisan.

We have worked tirelessly with our colleagues, Mr. Kind, as well as Senator Scott and Senator Booker, to craft their legislative proposal to add more reporting requirements for those engaging in opportunity zone transactions. Despite the rhetoric that we might hear today from the other side of the aisle, the opportunity zone tax incentive is a model of how tax policies can really help bolster communities that are in need.

One witness that I am looking forward to comes from my home district. His name is John Persinger. John is the CEO of the Erie Downtown Development Corporation. John is in the trenches. He is doing the hard work of bringing new life to a forgotten community. And you know what? It is working. Next week, John and his team will open a food hall. It used to be an abandoned building. The vendors there have some incredible stories of overcoming adversity. Anyone who has questions about whether opportunity zones are working, I challenge you to come to Erie, Pennsylvania, and talk to the people there. Talk to people who are having their lives changed because of the work John is doing.

I wish we had more witnesses on today's panel like John to share a perspective on how this policy is working for real people. Instead, I worry that this is an effort sometimes just to pick a partisan fight that is really aimed at the Tax Cuts and Jobs Act. I hope that I am wrong, and I hope that we can work together to strengthen the opportunity zone incentive rather than sack it.

Thank to you all our witnesses for your time. We appreciate you being here today.

With that, Mr. Chairman, I yield back.

Chairman Pascrell. I can assure you this is not a partisan hearing. There is no intent whatsoever that I have heard from any of the witnesses beforehand in inviting them or myself. Since I am the chairman, I am going forward.

So I want to welcome our colleague from the other Chamber, Senator Scott. You are remote, but you are not remote. You are near us, Senator, who is here today at the invitation of Ranking Member Kelly.

Senator Scott, welcome. And you are now recognized for 5 minutes for the purposes of a statement. Welcome aboard.

STATEMENT OF THE HON. TIM SCOTT, A UNITED STATES SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator Scott. Thank you, Chairman Pascrell, as well as Ranking Member Kelly. Good afternoon to both of you, and thank you for allowing me to speak today.

Let me say this before I go on to my prepared remarks that I do think that it is important for us to remember how we crafted the opportunity zones. One of the things that we did was we started with giving the governors, not the President, not Congress, the power of actually designating within their States where they wanted the opportunity zones to be. And that is really important.

The second thing I think the chairman spoke about and chair -- and Ranking Member Mike Kelly referred to as well, which is the importance of having reporting requirements. I think we all want reporting requirements and I would encourage every single person out there who has a vote to vote yes for the IMPACT Act that would allow for us to have reporting requirements so that the IRS could see exactly what people are doing with the resources and the benefits and the incentives so that we can judge fairly.

Without those reporting requirements, there is no possible way to have an honest, balanced hearing around the benefits that are really important to the poorest people in this country.

And I say that as a kid who grew up in poverty. And I recognize there are a lot of talent and a lot of potential in the poorest neighborhoods like the one I grew up with in Charleston, South Carolina, that might never see the light of day without an opportunity to succeed.

From my perspective, there are two ways we can help facilitate the creation of opportunity in low-income areas. Option one is by government fiat. This is where the government confiscates money from the wealthy, cycles it through the Federal bureaucracy, while siphoning off government overhead cost, and then redistributing it, whatever is left. While the intentions behind this option might be good, we know this is a failed strategy. The poverty rate in the poorest parts of America since 1965 have been, at best, stagnant under that plan and we never truly created a pathway out of poverty.

So the question is: Is there a better way? I believe the answer is absolutely, and that is why I worked in a bipartisan fashion to secure opportunity zones. This is our second and better option for ensuring investments make their way into the communities that need it the most, like the ones I grew up in.

Why is this a better way? Well, first, you can measure the results. Look at the numbers. We have seen historic capital being poured into low-income communities. GAO notes that in the just the first year of opportunity zone programs, we have seen $29 billion in 2019, $29 billion have been invested in low-income, high-poverty, racially-diverse areas.

Second, you can measure whether or not these communities are seeing people forced out, i.e., gentrification, or are they remaining in? Well, we know that the gentrification rate in opportunity zones is less than 5 percent, meaning that people are staying where they are, finding jobs, and seeing their standard of living increase, some for the first time in generations. That is the power of OZs.

And lastly, you can see and hear from local leadership exactly what the impact has been. Mayor Bowser here in Washington, D.C., not to be confused with a Republican, stated "Through the opportunity zones program, we are doing more to meet the needs of D.C. residents right now and preparing for our collective future."

Mayor Steven Benjamin of Columbia, South Carolina, and the former president of the

U.S. Conference of Mayors, has celebrated the opening of new businesses in his city, saying "The opportunity zones in Columbia were some of the first in the Nation that created jobs for kids living in the inner city."

Mayor John Gettys from Rock Hill, South Carolina, a suburb of Charlotte, North Carolina, said opportunity zones is providing him for the first time in almost three decades the ability to create affordable housing within the downtown part of his community. This, plus local innovation, is securing more investments for the future.

And, finally, Mayor Michael Tubbs, a Democrat from California, he says "Opportunity zones will be a way to not just invest in land and buildings, but to also invest in our people."

Those are the voices of local leaders, who are probably the best sources we have on the real-world impact of opportunity zones. But we also have data from the nonpartisan, apolitical GAO report that celebrates that opportunity zones have a lower income, higher poverty and greater non-White or, said differently, majority-minority communities within their census tracts.

With opportunity zones, we get a package that has a punch. We are incentivizing the local business community to invest in their community rather than going somewhere else. And it is not just about the financial impact. It is also about empowering and inspiring innovation and securing a better future for the individuals living within the zones, places like the Charleston tech corridor that is helping create opportunities for local residents where kids in the future can take coding classes and come out with world-class career opportunities.

My neighborhood didn't have that growing up, but now it does thanks to OZs. OZs have helped communities across this country from the south side of Chicago, yes, Mike Kelly, to Erie, Pennsylvania.

So, overall, we can look at the facts about opportunity zones, not merely the rhetoric. And we are seeing businesses making historic investments in places with low levels of gentrification and a place where local leaders are seeing and celebrating the positive impact.

As many of you all on this committee know all too well, it is often when the Federal Government gets out of the way that true upward mobility is most dynamic. And that is exactly the function of opportunity zones. Thank you all for giving me this opportunity to speak about an issue that I have spent 5 years working on. And I am now celebrating the positive impact that it is happening throughout this country.

God bless your efforts. I look forward to hearing the rest of your hearing.

[The statement of Senator Scott follows:]

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Chairman Pascrell. Thank you, Senator Scott.

Senator Scott. Thank you, Chairman.

Chairman Pascrell. Your introduction -- introductory remarks are taken to heart. So consistent with the committee practice, we will not ask you to stay for questions.

Now we will turn to our panel of invited witnesses, turn to them who have joined us here in person, and virtually, to discuss this very important issue.

I will introduce our four witnesses and then turn to each of them for their testimony.

Our first witness is Jessica Lucas-Judy. She is the Director of Strategic Issues at the Government Accountability Office and is joining us in person. Thank you very much for being here.

Our second witness will be Brett Theodos. He is director of the Community Economic Development Hub, a Senior Fellow at the Urban Institute. He is also joining us in person today. Thank you.

Our third witness is David Wessel. He is a Senior Fellow in Economics Studies and Director of the Hutchins Center on Fiscal and Monetary Policy. And his book, "Only the Rich Can Play," is sitting right up here, good book.

Our final witness is Mr. John Persinger. He was with us just a few months ago. He is the CEO of the Erie Downtown Development Corporation, and he is joining us virtually. And I thank him for being here today.

Each of your statements will be made a part of the record in its entirety. I would ask that you summarize your testimony in 5 minutes or less. To help you with that time, please keep an eye on the clock that should already be pinned to your screen. If you do go over your time, I will notify you with a tap of my gavel.

Ms. Lucas-Judy, you may begin.

STATEMENT OF JESSICA LUCAS-JUDY, DIRECTOR, STRATEGIC ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE

Ms. Lucas-Judy. Chairman Pascrell, Republican Member Kelly, members of the subcommittee, and the panel, thank you for inviting me to testify on opportunity zones.

GAO's report released last week covers multiple topics, but today, I want to focus on just two. First, what is known about opportunity zone investments; and second, IRS's plans to ensure taxpayer compliance with the rules.

According to our analysis, the nearly 9,000 designated census tracts are home to more than 10 percent of the Nation's population and have lower income, higher poverty, and greater non-White population than other eligible but non-designated tracts.

Regarding what is known about opportunity zone investment, the short answer is, not much. You will hear the word "limited" a lot in my statement.

Starting with what we know from IRS data, in tax year 2019, more than 6,000 funds held almost $29 billion in qualified property. In that same year, almost 18,000 taxpayers reported being invested in those funds. However, these numbers are based on partial data. Data are limited, in part, due to longstanding issues that are not unique to opportunity zones including IRS's decisions around transcription of paper-filed returns.

For example, some of IRS's preliminary data on investors and on funds is based only on information captured from forms that are submitted electronically. Other information from forms that were mailed to IRS was not fully transcribed into IRS's information systems. As a result, comprehensive, aggregated reporting and analysis would be time- and labor-intensive for IRS to produce. In addition, COVID-19 led to delays in reporting and contributed to a processing backlog, particularly for paper returns.

Now that is about opportunity zone investment, but it is also worth noting the limited data available to determine opportunity zone outcomes. It is hard to know whether the incentive is having the intended effect on communities.

In October 2020, we suggested that Congress consider having Treasury collect data to evaluate outcomes. To date, no legislation has been introduced in this Congress that would address the issue.

Turning to IRS's plan to ensure compliance, I want to emphasize the IRS did begin developing such a plan right away. However, now that time has passed and it is clearer how the opportunity zone incentive is structured, we found IRS's initial plan relies in part on matching data that are not readily available for analysis. We recommended that IRS assess and mitigate risks caused by the limited data, and IRS agreed to do so.

In addition, we found risks from certain complex transactions and taxpayers. IRS's Small Business/Self-Employed Division, SBSE, has the lead for opportunity zones. But IRS data, and our case studies, suggest that a significant number of funds and their investors are taxpayers who would typically fall under the purview of IRS's Large Business and International Division, LB&I.

For example, about 86 percent of the funds that we reviewed are partnerships. Some of these involve complex real estate transactions with hundreds of partners and hundreds of millions of dollars. IRS's compliance plan does not specifically account for risks posed by these types of taxpayers. So we recommended IRS research and mitigate these risks, and IRS generally agreed.

So in conclusion, I urge Congress and IRS to implement GAO's recommendations in all of these areas. First, Congress should provide Treasury with authority and responsibility to collect data and to report on the opportunity zone incentive's performance, and identify questions about the incentive's effects that it wants Treasury to address, such as the effects on employment or on housing.

Second, Internal Revenue Service should address the risks caused by limited data availability, and should also research compliance risks of certain types of investors and funds. Doing so will help IRS better identify and address taxpayer noncompliance.

Chairman Pascrell, Republican Member Kelly, members of the subcommittee, this concludes my prepared remarks. And I am happy to answer any questions that you have.

[The statement of Ms. Lucas-Judy follows:]

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Chairman Pascrell. Thanks, Ms. Lucas-Judy.

Mr. Theodos, you are now recognized for 5 minutes.

STATEMENT OF BRETT THEODOS, SENIOR FELLOW, URBAN INSTITUTE

Mr. Theodos. Thank you, Mr. Chairman, Mr. Ranking Member, and members of the committee, for inviting me to speak with you today. These views are my own and should not attributed to the Urban Institute.

I would like to start with some context. Rural areas in the U.S. get one-fourth of the per-person investment that large urban areas do. Sixteen percent of adults are Latino people, but firms they own earn just 3 percent of revenues. Twelve percent of adults are black people, but firms they own earn just 1 percent of revenues. Wealth is increasingly concentrated among a smaller share of American places and people.

Opportunity zones are not helping to reverse this trend. Research from the JCT revealed that just 1 percent of zones got nearly half of investment, and 5 percent of zones got nearly 90 percent of investment. Zones that got OZ investment were better off than zones that didn't or, as the JCT analysis showed, OZ capital has been spatially concentrated and gravitates towards census tracts with higher education levels, incomes, and population growth.

Why this is so? The fundamental design of the incentive is preferenced against smaller and rural projects, against operating businesses, and against the types of mission-aligned projects that could deliver benefit.

OZ is disadvantaged projects that can best support these communities in four key ways: First, the tax exemption is structured to provide the largest financial benefits to projects that provide the highest returns, not the highest impacts.

Second, the incentive does little to broaden community investing or ownership.

Third, the 10-year time horizon of OZ investments is not long enough for many beneficial projects such as affordable housing, healthcare centers, or schools. But, conversely, 10 years is too long and too illiquid to encourage non-real estate business investments.

Fourth, despite its considerable expense to the U.S. Treasury, the incentive is rather shallow as a boost to returns on the front end, while on the back end, benefit, while potentially large, is highly speculative, meaning investors use OZs, but not to take real risks.

Therefore, OZs largely promote market rate private equity investment into multifamily and commercial and industrial real estate, which is a poor vehicle to deliver investments into small businesses, affordable housing, schools, childcare centers, and healthcare centers.

Where OZs have been impactful, they have typically relied either on highly altruistic investors, or have drawn in substantial other government subsidies.

The OZ program is not standing on its own two feet to produce impact. But Congress can act. It could create a more rigorous certification process, rather than allowing funds to self-certify and give preferences to CDFIs or other mission-controlled vehicles. Congress could adapt legislation to a more narrowly defined set of needs like real estate where the operating business is the owner-occupant, or housing that is affordable.

Congress could introduce a "but for," or substitution test for investments. Congress could deepen the step-up in basis with very strict conditions including that they be targeted to the level of distress of zones.

Congress could create a refundable tax credit that could open up opportunities for those seeking to invest in their own communities.

Congress could require basic transaction level reporting on projects, including who, what, when, where, and how much was invested.

In addition, there are a few things the Treasury can consider. Treasury could, right now, institute a rigorous certification process for opportunity funds; Treasury could empower a subagency with staff to oversee opportunity funds to collect, aggregate, and share data about investments with the public; and Treasury could require transaction level reporting, not by entering information on the tax form, but through the certification process.

In conclusion, it is the legitimate work of the Federal Government to help communities that are poorly connected with capital markets achieve economic growth. Programs like the Community Development Block Grant, New Markets, USDA, and EDA help push capital to places the mainstream market doesn't serve well.

However, we also have programs such as 1031 exchanges and EB-5 visas that are poorly targeted to need. At present, the Opportunity Zone Program is more like the latter. If it continues to exist, we need it to look more like the former.

Thank you for your consideration, and I am happy to answer any questions.

[The statement of Mr. Theodos follows:]

******** COMMITTEE INSERT ********

Chairman Pascrell. We have just been called to vote. There will be three votes. We are going to continue the hearing. So, choose your own situation.

Mr. Wessel, you may begin your testimony.

STATEMENT OF DAVID WESSEL, DIRECTOR, HUTCHINS CENTER ON FISCAL AND MONETARY POLICY & SENIOR FELLOW, BROOKINGS INSTITUTION

Mr. Wessel. Thank you, Chairman Pascrell, Ranking Member Kelly, and other members of the committee. I appreciate the invitation.

As you noted, I am a Director of the Hutchins Center on Fiscal and Monetary Policy at the Brookings Institution. But nothing I say here should be taken as representing the views of the institution or my colleagues there.

And I am, as you said, the author of a new book on opportunity zones, "Only the Rich Can Play," which reprises the history of place-based policies such as Jack Kemp's Enterprise Zones, Bill Clinton's New Markets Tax Credit, and tracing the origins of the opportunity zone legislation to Sean Parker of Napster and Facebook fame, and the think tank he funded to propel it into law, the Economic Innovation Group. The book then looks at what happened after the law was passed, and governors' offices and at the Treasury, and at this admittedly early stage, what I found in 2 years of reporting in opportunity zones across the country.

The problem that opportunity zones were supposed to address is a significant one, the large and widening gap between communities that are prospering, and those that are being left behind. Proponents of opportunity zones see this capital gains tax break as a solution, and it sounds good. And I think it sounded good to many of the sponsors whom Representative Kelly and Senator Scott mentioned. But I am not convinced the details are realizing the objectives, which, as the IRS puts it, is to spur economic growth and job creation in low-income communities, while providing tax benefits to investors. They have got the tax benefits. I am not convinced they have got the economic job growth and job creation.

Now I want to be clear. Without question, there are places where opportunity zones are working as the proponents promised, including downtown Erie, Pennsylvania, which John Persinger will discuss, and SoLa Impact which is using OZ money for affordable housing in South LA. But there are 8,764 opportunity zones, and nothing in law or regulations requires OZ investors to put their money into census tracts that are most in need of capital, or into projects that will benefit the people who live in the zones.

Unfortunately, we have very little hard data on how much opportunity zones is falling and to where. The GAO report, quoting the IRS, says OZ funds raised at least $29 billion through 2019. I suspect at least as much has been raised since the end of that year, but we don't really know.

And as Brett Theodos noted, the Joint Committee on Taxation got access to some but not all of the opportunity zone fund tax returns for 2019. What they find is that census tracts that were eligible and chosen as opportunity zones are poorer than those that were not eligible, but 84 percent of the zones got no money at all. Half the money went to the best-off 1 percent of zones. And they say -- this is the authors of that work -- "The preliminary descriptive evidence suggests that OZ capital may disproportionately benefit a narrow subset of tracts in which economic conditions were already improving prior to implementation of the tax subsidies."

This is not surprising. Most, though not all, investors are looking for the highest return with the lowest risk, rather than the highest social impact. Because there is no requirement or even incentive for OZ funds to create new, good jobs for zone residents or increase the supply of affordable housing, almost anything goes. So we get hotels and condos, self-storage facilities, high-end student housing in university towns that show up as poor on census data, because students have very little income.

Now, I think there are a number of reasons for this that we can discuss, but let me conclude by making my recommendations. Assuming the provision isn't repealed, I offer the following:

One, we need better data. Treasury should, and if it doesn't, then Congress should insist on getting more data and soon, so that -- and that is something that fans and critics of opportunity zones agree on. Where is the money going? How much to which zones? For what, and for whose benefit? It is important, as Brett said, that this data not be collected by the IRS in a way that limits public disclosure or evaluation of the zone-play independent scholars.

We should revisit the zone designations. The GAO report found that half the States and territories would like to change tracts designated as OZs. Governors did choose. Some chose very wisely. Some chose poorly. Twenty-five percent of the opportunity zones in the State of New York are in Brooklyn. Austin asked for four opportunity zones. The Governor gave them 21, and that is one of the fastest-growing metro areas in the country.

Third, we need to limit the projects for which the opportunity zone break can be used. We don't need tax incentives for projects like self-storage, or luxury student housing. We should, as Brett said, consider bigger tax incentives for projects in the most economically depressed communities. And I think you should find a way to link opportunity zone tax breaks with requirements or incentives for hiring and training opportunity zone residents.

Thank you for your attention, and I look forward to answering your questions.

[The statement of Mr. Wessel follows:]

******** COMMITTEE INSERT ********

Chairman Pascrell. Thank you, Mr. Wessel.

And now we are going to hear from a gentleman who was with us a short time ago, Mr. Persinger. Welcome aboard.

STATEMENT OF JOHN PERSINGER, CEO, ERIE DOWNTOWN DEVELOPMENT CORPORATION

Mr. Persinger. Thank you, Chairman Pascrell. Thank you Ranking Member Kelly. And thank you to all of the distinguished members of the subcommittee for giving me this opportunity to discuss how opportunity zones have been the single most impactful Federal policy for my hometown, Erie, Pennsylvania.

I am the CEO of the Erie Downtown Development Corporation, a nonprofit formed in 2017 by community leaders to revitalize downtown through property development.

Over the next 3 years, EDDC and our partners are investing more than $100 million to develop twelve projects across three blocks. This will result in the following: 478,000 square feet of new and revitalized space; eight historic properties restored; 140 new residential units; 25 new businesses and more than 250 new jobs; over 150 construction jobs; and a grocery store in a USDA-designated food desert. Out of the $100 million of investment, $40 million is coming from opportunity zone funds.

The story of Erie is similar to many postindustrial communities that each of you represent. Our population peaked in 1960 with approximately 140,000 residents. As manufacturing jobs moved away or became automated, that population shrunk to approximately 95,000 people, leaving a number of blighted properties throughout our community, especially in our downtown core.

We bear the unfortunate title of being home to one of the American's poorest ZIP codes. The median income in 16501 is approximately $10,800. Thanks to opportunity investments, though, these properties and the city spirit are being transformed. Opportunity zones are giving Erie a chance to succeed where other Federal policies have failed, and here is why.

First, there are no gatekeepers holding Erie back. Unlike other tax credit programs, opportunity zones don't require us to chase scarce resources from the Federal Government, or a community development entity with no ties to our community. For example, we have hired a consultant to help us with New Markets tax credits. But to date, we have struck out with 35 different CDs.

Second, there are no extended application and funding cycles. Many government grant or loan programs keep applicants in limbo for months which can kill a project. In contrast, OZs allow communities to move at their own pace. This is why we were able to attract $100 million of private investment in just 3 years. If Erie had to wait on approvals from the Federal Government, these vital projects would not happen.

Third, opportunity zones provide flexibility for communities. If there is one thing that we can all agree on today, it is that we live in a diverse country. Federal programs that mandate one-size-fits-all policies can end up having no impact on entire swaths of the country. The flexibility of opportunity zones allows us to attract investment to projects that the community here in Erie needs.

Fourth, opportunity zones require far less dependence on expensive consultants, lawyers, or accountants than tax credit programs. We spent over $300,000 on lawyers, accountants, and consultants to monetize $600,000 of Federal historic preservation tax credits. Furthermore, because of the 10-year hold period, OZ investors have a vested interest in the long-term success of these communities.

In addition to the flexibility that opportunity zones provide to communities, opportunity zones are having an underreported economic impact. Here are a few of those ways.

First, the opportunity zone construction boom creates local jobs. On any given day you can walk in downtown Erie and find over 150 local tradesmen and tradeswomen on our projects. These are jobs that cannot be outsourced to another country, or to remote workers. OZs are creating American jobs in American communities.

Second, opportunity zone investments create new workforce housing opportunities. When we acquired our initial 12 properties, there were only 14 available residential units. When we are done, there will be over 140 new residential units, which is critical to attracting employees needed to fill the jobs in our community.

The final, and I think the most important, economic impact is that opportunity zones provide an economic boost for our school district, city, and county. In Pennsylvania, municipalities generate most of the revenue from property taxes. When we acquired our 12 properties, we were paying $176,000 in property taxes. When we are finished, we will anticipate that we will pay somewhere between $2.3 and $2.5 million in property taxes. This will help buy more textbooks, pave more roads, and provide more social services to the most vulnerable members of our community.

Thank you and I look forward to your questions.

[The statement of Mr. Persinger follows:]

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Chairman Pascrell. And now we are going into -- we are going to open up for questions.

Without objection, each member will be recognized for 5 minutes to question the witness -- witnesses. If the witnesses will respond with short, concise answers, all the members should be able to ask questions.

As mentioned earlier, we will not observe the Gibbons rule in this remote setting, and will instead go in the order of seniority for questioning, alternating between the minority and majority, beginning with members of the Oversight Subcommittee itself.

Members are reminded to unmute yourselves when you are recognized for your 5 minutes.

I will begin by recognizing myself to begin the questions.

Ms. Lucas-Judy, thank you for your testimony. We appreciate the work that the GAO has done for us on opportunity zones. Let's get that straight from the beginning.

According to the GAO's October 2020 report, the opportunity zone report, there are insufficient data available -- you mentioned it in your testimony -- to evaluate opportunity zone performance. Well, why aren't sufficient data being collected? And how does the opportunity zone incentive compare to similar tax incentives in this regard?

Ms. Lucas-Judy. Thank you, Chairman Pascrell. And thank you for your kind remarks. I do appreciate that.

So, first of all, some data actually are being collected. There are data, quite a few types of data, that are being reported to the IRS. But as I mentioned in my testimony, those data are not necessarily being transcribed or otherwise used in a way that is electronic, so that they can be evaluated easily across the board. There are also quite a few privacy concerns around Federal taxpayer data. And so, being able to report on some of that information at the census tract level, for example, or the project level, would be very difficult.

In terms of other data that are available, as I mentioned in our earlier report on outcomes, that was something that was not required. There is not a Federal agency that was tasked with having responsibility or oversight for evaluating the outcomes. And so, that is why we suggested that Congress consider tasking Treasury with collecting data and reporting on outcomes, and also that Congress indicate what kinds of questions, what kinds of goals it wants for the program, and what kinds of information would be helpful to be able to evaluate those outcomes.

Chairman Pascrell. Thank you very much.

Mr. Wessel, from Brookings, thank you for sharing the insights you have garnered from your research and reporting and reporting on the Opportunity Zone Program.

At the conclusion of your testimony, Mr. Wessel, you suggested a number of changes that you think should be made to ensure the Opportunity Zone Program reaches those who most need it. Going back to listening to the author, one of the authors, it is exactly what they said. They set this program up to try to direct and target those in most need.

You prefaced those recommendations with a cautionary statement, "if it is not repealed." Do you think the Opportunity Zone Program should be repealed, or is it too flawed to fix? What are you saying?

Mr. Wessel. Thank you, Congressman.

As a political matter, I doubt it will be repealed, in part, because it has become so popular with mayors and governors who are ready for any tool they can possibly get. I think we should try and fix it before we repeal it. But if we can't fix it, we should repeal it.

Chairman Pascrell. Thank you.

Mr. Theodos from the Urban Institute, I want to thank you for sharing your extensive knowledge of opportunity zones and other community development programs with us.

You have outlined in your testimony a number of legislative, but also non-legislative changes that should be made in the Opportunity Zone Program to make it more effective.

Could you expand on the recommendations you make for actions that Treasury could take today to improve this program without legislation?

Mr. Theodos. Thank you, Mr. Chair.

There are a number of substantial steps that the U.S. Department of Treasury could take today. The most important leverage point or access point is through certification. Original intent of the legislation, if we look back at legislative drafts, were that there would be a robust certification process as is done under the New Markets Tax Credit program.

The previous administration elected to create a self-certification process for opportunity zones, a check-the-box exercise on the tax form. But if we have a robust certification process through which all of our reporting desires can be met, then we could have a program that, indeed, is better reaching its means, its ends.

Chairman Pascrell. Thank you.

And I have an additional question for Mr. Wessel.

In your testimony, and in your book, you are critical of using the Opportunity Zone Program for certain types of activities that appear to produce little or very -- or no benefit to zone residents. While there is a quote, unquote, "sin list" of prohibited zone investments already, do you believe it should be expanded? For instance, should an investment like the one by the former Governor of New Jersey, his opportunity zone fund in the four-story, 100,000-square-foot CubeSmart Self-Storage facility along I-95 in Connecticut be disallowed? Is this what have you in mind?

Mr. Wessel. Yes, sir, Mr. Chairman, I do.

As you note, referencing an earlier statute, Congress excluded from OZ eligibility golf courses, country clubs, massage parlors, hot tub facilities, racetracks, and other gambling facilities and liquor stores. But that is the whole list. Anything else goes.

I noticed recently that an opportunity zone fund called Bit Capital is raising money to acquire large inventories of computers that generate income by processing transactions on blockchain ledgers in order to yield digital currencies for the fund's limited partners. The self-storage facilities to which you refer are a very good examples of something that isn't creating jobs. They are fine to have self-storage facilities. But why should taxpayers subsidize them? And as you point out, the former Governor of New Jersey is involved in an opportunity zone investment in self-storage in New London.

So, yes, if we are going to keep opportunity zones, we ought to limit their use to projects that clearly benefit the communities in which they are located, such as affordable housing, small businesses, and the like.

Chairman Pascrell. Thank you.

I want to recognize Mr. Kelly for 5 minutes to ask his questions.

Mr. Kelly.

Mr. Kelly. Thanks, Chairman.

And I apologize to all of you. We are in this vote process right now. And as much as we would all like to be here, you came a long way to be with us.

But I want to direct my questions to Mr. Persinger, because I am so familiar with what is going on in Erie, and I see the direct results that are happening right now with opportunity zones.

You know, John, when we talk about this, this whole idea of taking properties that absolutely no investor, private investor, would be interested in for obvious reasons, because there is no return on that investment. So the whole idea behind opportunity zones is, why don't we take properties that really have no attraction for investors and say let's do something that would incentivize them to put money into these types of situations.

So when you look at downtown Erie, and look what you have been able to create, because I have been through several times, from the very launch of reclaiming those properties as to what is going to be there, next week we are going to have a grand opening. We have a food court, and we also have a grocery store in the middle of what was once called a food desert. But there is a lot of other revenue that is going to be generated by that.

You mentioned in your testimony -- and I thought this was incredible -- so from $176,000 in revenue, we are going to be looking at a projected $2.3 to $2.5 million in tax revenue. But that doesn't take into effect wage taxes and all the other taxes that will be collected, the sales taxes that will be collected, as we improve these properties.

So if you could, just expand a little bit on what you have seen happen in Erie, Pennsylvania, and the dramatic effect it has had on our downtown. And it is going to attract even more and more businesses to come into an area that before people were staying away from because it just wasn't what I think is the most attractive part of the city. The architecture there is unbelievably gorgeous and would never be replaced again.

But if you could, just go over a little bit about what you see in increased revenues that are going to take place in the creating of jobs and the creating of residential areas where people are going to be living where nobody was living before.

Mr. Persinger. Certainly. Thank you, Congressman. And I appreciate -- we have appreciated all the support from you and your staff throughout this process.

These have been challenging buildings to transform, these 12 projects across these three blocks that are right in the heart of downtown Erie. We are spending $100 million to turn them around. When we acquired them, we were paying $176,000 in property taxes. We anticipate, after we are done, paying somewhere between $2.3 and $2.5 million. That is a significant increase, but it is not the increase we want, because that is taking into account that these properties will appraise at only 65 percent of what we are spending on them.

So to give you an example, in a healthy market, normally a property would appraise for 100 percent of what you would spend to acquire and transform. But in Erie, we have such a soft real estate market that it is nowhere near 100 percent.

To give you an example, we are spending $26 million to acquire and redevelop two properties right that overlook our Main Street and overlook our central park, our town square. It is a total of 62,000 square feet. The ground floor will host, as the Congressman mentioned, a food hall which has majority of minority business owners, several first-time business owners. There will also be what we call Flagship City Public Market. It will be a grocery store in a USDA-designated food desert. There will be 28 residential units where previously -- [inaudible].

Mr. Kelly. We lost your voice, John.

Mr. Persinger. Can you hear me all right?

Mr. Kelly. There we go. There we go.

Mr. Persinger. So we are spending $26 million on these two properties, and they appraised for $8 million. Without opportunity zones, we would never be able to transform these projects. We tried to get New Markets tax credits. We have struck out 35 different times. In the 20 years of the program, there has only been one allocation to the city of Erie. It was an allocation of $8 million last year, and it wasn't our project.

So when you take 20 years of New Markets and $8 million, when $66 billion have been allocated across the country, and when you take essentially 2-1/2 years of the Opportunity Zone Program, and we have attracted $40 million projects, there is, probably another $10 million around town, $50 million, that is a pretty good ratio.

So these are going to support local jobs. It is going to transform infrastructure, and it is going to support our county, our city, and our school district which provide so many social services to the entire community.

Mr. Kelly. You know what, John. I think that one of the -- also one of the things we need to point to is the Erie Downtown Development Corporation. By putting their own money up first, they have created a situation that has attracted other investments. So thanks so much for joining.

And to you all on the panel, I think we both feel the same way, Mr. Pascrell. We have no control over the votes. I hate to get up and leave you now because you came so far to talk to us, but thank you again for investing your time. And the idea behind it, these things work when we all work together. So I am excited about this. But, again, thanks for your opinion. Keep coming back with us. Let us know what you think we can do better. Okay? Thank you so much, and I am going to go vote.

Chairman Pascrell. I thank the witness.

And thank you, Mr. Kelly.

The chair now recognizes Ms. Chu for 5 minutes.

Ms. Chu.

Ms. Chu. Yes. Thank you.

Mr. Theodos, as a member of the Small Business Committee, I am interested in ways that Congress could reform the opportunity zones to ensure that small businesses are able to access this valuable capital, especially as we work to recover from the pandemic.

But according to Novogradac's most recent data through the end of September 2021, only $680 million of the $20 billion that has been invested in opportunity zones has been invested in operating small businesses. That is just 3.5 percent.

In your testimony you point to both the 10-year investment window as being too long to attract investors to small business investments, which typically need a shorter window, as well as a need for deeper subsidies for small businesses to really benefit from this tax incentive.

So could you discuss what changes should be made to encourage investing in actual small businesses? Could small business investment companies or Community Development Financial Institutions be good vehicles for these type of investments?

Mr. Theodos. Thank you, Congresswoman.

Absolutely. It is important to start with the context and the reminder, when we look at venture capital and we look at equity investments and operating businesses, just three States account for 75 percent of investment of venture capital in this country. So we need public-backed programs that can change that story, that can create a different narrative. And that is why we really need opportunity zones to act in that way.

And so, we need a number of changes. We need an increase to liquidity. We need more flexibility. We need CDFIs and SBICs to be able to work in ways, but we also need the fundamental structure of the incentive to be different. For example, things like debt with equity-like features, convertible debt, debt with royalties will go a long way to allowing some of these other actors the ability to deploy capital.

Ms. Chu. And we talked about CDFIs. Now more members of Congress are familiar with these Community Development Financial Institutions after the great success that CDFIs had in reaching small businesses with the Paycheck Protection Program during the pandemic.

In fact, CDFIs reached financially underserved businesses with a higher proportion of their loans compared to every type of other PPP lender. And they facilitated more than 250,000 loans totaling more than $5 billion during the pandemic.

Now I know they were entrusted in the opportunity zones, but they had problems. They found that the opportunity zone tax incentive is not a good match for the kind of neighborhood revitalization deals of interest to CDFIs. And so, how could Congress better utilize CDFIs to ensure meaningful investments in opportunity zones?

Mr. Theodos. A few CDFIs are making opportunity zone investments work. It is challenging. They are resourceful. Most have decided that opportunity zone incentives fundamentally does not work for their investment model, but it could be reformed to prioritize, or preference, mission-driven actors through the certification process. It could allow equity investments into those institutions, or vehicles that they control. We could have more flexibility with respect to repayment, with respect to exit, with respect to allowing debt with more equity-like features.

Ms. Chu. Thank you.

Then I also wanted to ask about the fact that the tax benefits for investing in opportunity zones is really seen only by the wealthy that have capital gains, but opportunity zones fail to support investments from community stakeholders who would have a lot to gain from the improvements in their neighborhoods that don't have capital gains.

You suggest that Congress provide a refundable tax credit. Why would this benefit the investments from traditionally underrepresented groups such as women, immigrants, and minorities?

Mr. Theodos. Ninety-four percent of taxable capital gains are held by households earning over $100,000. So if we want to create a scenario where people living in opportunity zones can become owners, and can have a share of their local economy, where they can invest locally, we are going to need to think through alternative structures and vehicles. So we can think through a refundable tax credit. We could think through small-dollar incentives. But working with and through capital gains truly restricts this program to being able to be used by the most wealthy.

Ms. Chu. Thank you. I yield back.

RPTR ZAMORA

EDTR ROSEN

[3:15 p.m.]

Mr. Pascrell. Thank you. Thank you for your questions, and thank you for your testimony.

The chair now recognizes Mrs. Walorski for 5 minutes.

Mrs. Walorski. Thank you, Mr. Chair, and thank you so much for having a live hearing. It is good to see you, Mr. Chairman. And thank you to our witnesses for being here as well.

The Opportunity Zone Program has been critical for my district in my home State of Indiana. It is real money that is being invested in rural, urban, and suburban Indiana that otherwise wouldn't have been directed there at all.

In one example, a business located in my district is partnering with other entities in Indiana to develop renewable energy facilities as a direct result of this program. This is one of the many examples in Indiana of how good this program is doing. That is why it is so disappointing that we have someone looking to tear down this program, which has historically enjoyed bipartisan support, for purely cynical reasons.

Starting with you, Ms. Lucas-Judy, GAO found statistically significant differences between census tracts that were designated as opportunity zones and ones that were eligible but not selected. What were the key differences, and how does the average opportunity zone compare to other low-income census tracts in terms of economic and demographic indicators?

Ms. Lucas-Judy. Thank you. So what we found was that the designated zones did have higher proportions of non-White populations, so higher proportions of Black and Hispanic populations. There were larger proportions of the population that were not native English speakers, differences in income, differences in poverty rates. The poverty rates were somewhat higher, and also educational attainment.

So in general, on average, the selected, or designated opportunity zones had higher population that was high school education or less compared to others. And that held true both for those that were the designated tracts that were low income and also those that were the contiguous tracts, the ones that were allowed to be because they were nearby another tract.

Mrs. Walorski. Thank you.

Moving to you, Mr. Wessel. I want to discuss the hard data behind your claims about this policy. What is the most comprehensive and up-to-date data on which you are relying to draw your conclusions?

Mr. Wessel. Well, thank you, Congresswoman. Unfortunately, there is not a lot of hard data, so I am relying on the data we have, which is from the GAO and from Novogradac and from the two economists who got access, thanks to their connection to the Joint Committee on Taxation, to 75 percent of the OZ fund returns that were filed in 2019.

Without hard data, we are forced to resort to what some people deride as anecdotes, and I call reporting. So I looked as hard as I could across the country and generalized from what I saw. If the data showed that I am wrong, that the bulk of the money is going to projects that will benefit the people who live in the community that are so designated, I think I will change my mind.

But I don't think we have to wait for hard data to fix a program for which there is no requirement that the money goes to those communities that really need it, or to projects that benefit the people who live in them. Getting designated opportunity zones does not guarantee you get any money.

Mrs. Walorski. So to summarize, the best data is 2 years out of date; it covers the period prior to opportunity zones' regulatory implementation by the IRS. On top of that, it doesn't even account for the full year's worth of 2019 tax filings. GAO itself found more than 50 percent greater level of investment in 2019 than in the study that you cited in your testimony.

Just curious, Mr. Wessel, out of the 8,700 census tracts across the States, how many did you personally visit?

Mr. Wessel. I visited about a dozen, and I talked to people in many others. But I am the first to admit that we do not have hard data. And what is -- unfortunately, if you like opportunity zones, you can find plenty of examples like Erie, Pennsylvania, or south L.A., and if you don't like them, you can find examples like the Ritz Carlton going up in Portland, Oregon.

Mrs. Walorski. Well --

Mr. Wessel. My book has both -- I believe that the bulk of --

Mrs. Walorski. -- to your point, Mr. Wessel, to summarize, your verdict of the Opportunity Zones Program is based upon incomplete, outdated IRS data covering the period before IRS rules have been implemented.

And since you mentioned the situation with the Portland Ritz Carlton tower, Mr. Chairman, I would like to enter an article from the Portland Business Journal into the record called, "Investors Snub Portland Ritz Carlton Tower Despite Incentives."

Mr. Pascrell. Thank you.

Mrs. Walorski. So ordered?

Mr. Pascrell. So ordered.

[The information follows:]

******** COMMITTEE INSERT ********

Mrs. Walorski. Thank you. Mr. Chairman, I yield back.

Mr. Pascrell. Thank you for your questions, and thank you for your testimony, our witnesses.

The chair now recognizes Ms. Plaskett for 5 minutes.

Ms. Plaskett. Thank you.

Ms. Moore. I am here, too, Mr. Chairman, Gwen Moore.

Ms. Plaskett. Thank you, Mr. Chairman.

I want to thank you to the witnesses for being here and for your honesty in the assessment of the lack of data, and how that hinders us understanding truthfully the effectiveness of the program, both good and bad.

And I think as legislators, it is our responsibility to be very open-eyed about the good and the bad, and if things need tweaking, to be willing and ready to do that so that the intent, which I believe was good on the part of individuals like Tim Scott and Cory Booker, Jim Clyburn here in the House, and others, who really wanted to make places like my own home, the Virgin Islands, better through the opportunity zones can actually make that effective.

Mr. Theodos, one of the things that I thought was absolutely fascinating was in your discussion of ways that we could make this better, and your discussion of utilizing but-fors. Can you explain that very briefly and how that would work?

Mr. Theodos. Thank you for the question and the time. Different Federal programs have requirements that the users of those programs certify that they truly need the capital to move forward. And the way that opportunity zones works currently is it adds a couple of percent return to a project in the typical straightforward way. And so, what that means is it is actually not often making projects that truly would not have happened become projects that are happening.

When you speak to developers and other project sponsors, and I have spoken to dozens and dozens of them, what they often describe is that it takes -- it makes a good project great, so it adds a little bit of sweetener to a project. Often what opportunity zones does not do is make a project that wouldn't happen happen, and that is why the but-for substitution test matters even more in this context than others.

Ms. Plaskett. Thank you. So utilizing that but-for test, along with the other component that you talked, was the restructuring to size the incentive based upon the impact would be additional mechanisms that could make areas that usually do not have, whether it is opportunity zones, new market tax credits, build America bonds, whatever we want to call them, those areas that usually are not addressed because the profit margin is not as great for them, for developers that would address that. Is that correct?

Mr. Theodos. Absolutely, yes.

Ms. Plaskett. Mr. Wessel, one of the things you discuss -- and, Mr. Chairman, you are going to have to get me a copy of that book. I have got to read that book that you say is a good one. I am always looking for airplane ride books, so that will be helpful.

One of the things I wanted to ask you about was, in looking at the developers that are utilizing these programs as well, who are the CDFIs that are receiving this funding? One of the things that I know that the opportunity zone and many of us on this committee are concerned about is not just the communities that they are going to but the makeup of the investors that are actually being able to utilize this project.

Do we have data with regard to the amount of minority CDFIs, the amount of new entrants into the market to utilize some of these opportunity zones? Do we know what they look like? And are there ways in which we can incentivize those individuals who would potentially have more in the game, more skin in the game, because it is the communities that they came from, or that they live in that they would be willing to support them?

Mr. Wessel. I am not aware of any great data on the involvement of CDFIs in the Opportunity Zone Program. I think there is some obstacles to that. But it is very important to recognize that the way the program is structured, one can only play if one already has a substantial capital gain.

The Joint Tax Committee economist found that the average investor in an opportunity zone had annual income in 2019 of $1.1 million. So Brett's suggestion that we have a refundable credit, that is to allow people who live in a community to invest in an opportunity zone project even if they are not already rich enough to have the capital gain to participate is one way to achieve the aim that you say.

Ms. Plaskett. Thank you.

I know that, you know, Ms. Lucas-Judy, one of the things that I would be interested in is I saw that there was information with regard to Puerto Rico. They are not with regard to the smaller territories. I am wondering if that is the lack of utilization of opportunity zones in those areas because of our remote area, because of our size. I think what we have just been talking about -- and investors are not incentivized to be in those locales. I am wondering if you have any thoughts about that, and then I yield back?

Mr. Pascrell. Ms. Lucas-Judy, I would ask you to submit that answer to the Congresswoman, and in writing, if you have the opportunity to do it in the next few days, because we have got to move along here.

Ms. Lucas-Judy. Certainly.

Commented [LJJK1]: See attachment

Mr. Pascrell. Thank you for your testimony. Thank you for your question.

Ms. Plaskett. Thank you.

Mr. Pascrell. I now want to recognize Mr. Wenstrup for 5 minutes, sir.

Mr. Wenstrup. Thank you, Chairman Pascrell, and thank you for convening this hearing today.

I want to thank the witnesses also for joining us.

And, Mr. Persinger, it is good to have you here again.

You know, some say that opportunity zones aren't working, that they aren't serving underserved communities, instead they are just lining the pockets of rich investors. Let me highlight a couple of these projects in and around my own community in Ohio, Chillicothe, Ohio, a blue-collar town in southern Ohio, and has seen much of its industry leave over the past few decades.

The city, however, has continued to flourish by tapping into the beauty of the region, refocusing on tourism, travel, attracting outside visitors. Build Chillicothe is a qualified investment fund that was created in May of 2020 in the middle of COVID pandemic to help this community get back on its feet. They are buying properties within the community, investing in them, and the results are residents returning to downtown areas, and jobs are being created for those working in and around those properties, and on those properties.

And then, of course, the obvious, and we have talked about this one before, Cincinnati's historic Over-The-Rhine area. It is a neighborhood in Cincinnati, Ohio, that my entire life was one of the most dangerous, poverty-stricken neighborhoods in America.

And as one gentleman who was a pastor down there in that area, for years, for years and years, decades, he said, “We saw our Federal government dump so much money in this area over the last 50 years or so, and nothing ever changed.” But something did change, using New Markets Tax Credits and historic tax credits, and the local businesses wanting their city to be a safe place decided to invest.

And as that pastor said, one of the things that has come out of this is people now have an opportunity for work in their neighborhood, which they never had before, and their property values have become worth something. So you see, it does make a difference.

Small businesses are being opened up in this area and a lot of jobs.

So, Mr. Persinger, I know that the last time you were here, we were able to talk about 3CDC, which it is called, which was the Cincinnati Center City Development Corporation, and they were able to use New Markets Tax Credits, historic tax credits. I know Erie was not able to do that, but the premise is the same.

So, you know, given the range of Federal programs available, are the tens of millions of new investments flowing directly into Main Street Erie the norm, or is it something new because of opportunity zones?

Mr. Persinger. Thank you, Congressman, and we owe a huge debt of gratitude to 3CDC. Steve Leeper and his team out there has been incredibly generous with their time and their resources and the expertise to help us get along.

And when we were formed, the EDDC, in 2017, we were formed with the mission to revitalize downtown Erie, and we targeted these twelve properties. We estimated that it would be about $100 million to acquire and redevelop these properties. Our board had raised just over $27 million to start this work, but there was this big question of where we would get the remaining $73 million.

Other communities had pointed us to the existing tax credit programs, new market tax credits, historic tax credits, and they are all wonderful tools as part of the economic development toolkit, but for multiple reasons, they didn't fit here, or we couldn't get an allocation of tax credits. We would not be able to do this work without opportunity zones. It has allowed us to move at our own pace, so we are going to be finished with these twelve properties by middle of 2023.

And I think the reason -- to answer your question, we are a bit of an outlier because we got started before the Tax Cuts and Jobs Act. But since starting these projects, I have been in touch with communities across the country, Batavia, New York; Butler, Pennsylvania; Olathe, Kansas; Moline, Illinois; Akron, Ohio. They are all interested in how we are doing this in downtown Erie, because those communities like Erie have been devoid of these tax credit programs.

So they are trying to figure out ways that they can revitalize their downtown, or turn around blighted properties or brownfields, and for whatever reasons, the existing tax credit programs have not been applicable or successful in these communities. So as Congress looks at the legislation, I just ask that you look at Erie, why it has been successful, and make sure communities of Erie size aren't overlooked going forward.

Mr. Wenstrup. Thank you.

I yield back. Thanks, Mr. Chairman.

Mr. Pascrell. Thank you, Dr. Wenstrup.

And now we are going to call on Mr. Horsford for 5 minutes. Mr. Horsford, it is all yours.

Mr. Horsford. Thank you, Mr. Chairman. Thank you so much for holding this hearing on the Opportunity Zone Program.

I want to thank our witnesses for their insight and their testimony.

And, Mr. Chairman, as you know, since returning to Congress in 2019, the Opportunity Program has been a top priority on my list to improve, because I understand what this tax incentive program could mean for residents living in historically underinvested communities if done right.

Now, sadly, when the bill was first passed, it was rushed through, and here we are 4 years later and we do not have adequate data to assess whether the program is really benefiting the residents and the communities that it was intended for. And I want to emphasize that this only works if residents currently residing in designated opportunity zones are actually benefiting from the job creation, improved living conditions, and investments over time.

If the displacement and gentrification are occurring more rapidly now than before the Opportunity Zone Program, then this would be a major failure, because the program is supposed to help current residents in my view. This should be a mutually beneficial program for investors and current residents, and investors should be reaping -- the investors should not be reaping the lion's share of the benefits alone.

So, first, I want to thank our witness, Jessica Lucas-Judy and GAO for producing their report. One of the concerns I have had with the Opportunity Zone Program was the lack of community involvement required. Nothing requires investors to have to put on projects from local-elected officials, community leaders, or even congressional representatives.

In the survey sent out by GAO to State officials, responses indicated that officials in Nevada are not sure how many investments have been made through the Opportunity Zone Program. Regardless, investments have been made, it is a major problem if State-elected officials are unaware of them, and we need to fix that.

So my first question to Ms. Lucas-Judy, what recommendations do you have on how -- by providing simple data on the opportunity zone, how that would help influence the effectiveness for the public to know how this is actually working?

Ms. Lucas-Judy. Well, first off, as I mentioned in my opening statement, it would be important to have information on outcomes of the program. What is it that Congress wants to achieve through the opportunity zone incentive, and what kinds of questions would it want answered? And then to task an agency, such as the Treasury, with collecting the data and reporting on it to have some sort of accountability. This would be similar to what happens with the new markets tax credit, where you have an agency that is responsible for overseeing the outcomes and reporting on certain data.

And then also, it is important to have information about compliance and for IRS to be able to have data that would help it to ensure that taxpayers are paying their fair share, and are using the program properly, and that is why we recommended that IRS study the risks posed by the lack of data.

Some of the States that we heard from the --

Mr. Horsford. Thank you.

Ms. Lucas-Judy. Oh, sorry. Go ahead.

Mr. Horsford. Excuse me. I also want to highlight a report issued by the Congressional Black Caucus Foundation in June of last year that assessed the opportunity zone. And I know Mr. Theodos, in your analysis, you found that African Americans make up 13.29 percent of the census tract, yet 24 percent of those living in opportunity zones are African Americans; and Hispanics make up 17 percent of all census tracts, yet 30 percent of Hispanics live in opportunity zones. So with the high concentration of people of color, it is important that we pay close attention to the effect of programs that encourage investments in these communities of color.

So, Mr. Theodos, I know that you have been working on this issue over the past few years, and I just wanted to ask if you could elaborate on any areas around job training, affordability, transparency, and collaboration that came out of your report.

Mr. Pascrell. We are out of time here. We are going to get an answer back to you, Mr. Horsford, from the witness you asked it of. Where is the witness? You will provide an answer to the gentleman. That is a very good question. I wish we had time to get into the answer right now. Yes?

Mr. Horsford. Appreciate it, Mr. Chairman.

Mr. Theodos. Thank you.

Mr. Horsford. I yield back.

Mr. Pascrell. Appreciate that. Very well.

Thank you, Mr. Horsford.

The chair now recognizes Mr. Smucker for 5 minutes.

Mr. Smucker. Thank you, Mr. Chairman. Appreciate the hearing on this issue. And I, as everyone else, I know we have been going in and out for votes, so I apologize. I haven't heard a lot of the discussion, so I am not sure if I will be asking repeat questions here.

But I am very interested in this topic. And just by way of background, when I was in the Pennsylvania State Senate, I represented Lancaster City, and we did a program there that I authored called the community revitalization investment zone, which worked -- had similar goals of driving investment in areas that needed that investment, areas where investors typically would not invest. And we have had some success with that.

But I guess, I have been listening to some of your testimony and I do have a question. And I believe it was Mr. Wessel, you had talked about the money going, Mr. Wessel, to maybe some of the more well-to-do areas. So we have like 8,000 areas that are designated as opportunity zones, and you felt like we needed to find ways to drive additional investment to some of the lower income zones, which I think is the original intent. So do you think our definition of a zone is too broad? Should we have limited areas that could have been designated an opportunity zone?

Mr. Wessel. So as I understand, the proponents of opportunity zones thought that the reason that we didn't get more investments through the new markets tax credit was because we had a cap on it, and so they created a program with no cap.

I do think we need to revisit the designation of the zones. Some governors made wise decisions, some made foolish ones. I think that if Congress acts on that, which I notice a number of States have recommended in the GAO survey, I think the zone should be made public for a public comment before the final designation is made.

I think it is also important that we use the most current data because the data that was used by the Treasury in 2017 was the best they may have had at their hands, but it rewarded some communities that were already drawing lots of money. So, yes, I think we should revisit the designation, and we should be a little narrower on what it constitutes the communities that deserves this taxpayer subsidy.

Mr. Smucker. And did I just hear you correctly, you said one of the issues is it has a limit on the credit that can be made available?

Mr. Wessel. So there is no limit. So when you say the investors, who are perfectly legally and prudently seeking the highest return, and they have 8,764 opportunity zones to choose from, it is not surprising that they have spotted the ones that probably shouldn't have been designated, zones that are already attractive to private investment, like parts of Brooklyn, New York, Austin, Texas, or downtown Portland. So I do think that we should narrow the definition so that we are not adding reasons to invest in places that are already, the market is showing us, are drawing lots of money.

Mr. Smucker. And if I may ask you just one additional question. I think you were perhaps the witness here who has been maybe most critical of the outcomes here. Maybe that is not the right way to say it. I don't mean that in the way that came out. But do you believe that this could be an effective program with the right parameters, or would you prefer an entirely different program?

Mr. Wessel. So, Congressman, the problem is that we know there are lots of opportunity zone investments, some of which have been discussed today, that seem to be delivering on the promise of the program. But given that there is no requirement, or even incentive to invest in those kinds of projects, ones that will benefit the residents of the community, my position is we should try and fix this.

I am disappointed that the Treasury has not acted on President Biden's campaign promise to reform the program. I am disappointed that the reconciliation bill has no provisions for opportunity zones. So I think we should try and fix it because it is trying to address a really important problem in America, but if we can't fix it for whatever reason, then we should repeal it.

Mr. Smucker. I think you cut out in the last part, but I think we got most of that. Thank you.

And, again, I would like to thank the chair for doing that. I think it is a good discussion, and I think there is a lot of agreement in this room that we want this to be an effective program, and so, look forward to working with the chair and others to try to ensure that happens, because I think this investment in our underserved communities is very, very important, and something that should have bipartisan support, so thank you.

Mr. Pascrell. I think your questions were cogent, on target, and I think your answers -- the answers you got were pretty specific. Nobody here is trying to get rid of this program. Let's get that straight. But I think when we examine all the facts, as many facts as we can, I think we will conclude it could be made much, much better, and much more available to the people who it was intended to do in the mission of the bill when it first came out, and back when it first was passed on.

And I don't think there is any doubt in that. Nobody wants to cut this program off, but it cannot -- I don't think it is going to continue to exist the way it is, and I don't think that is a Democratic or Republican conclusion. But thank you for your questions, and thank you for your responses.

And now I would like to turn to Mr. Doggett for 5 minutes.

Mr. Doggett. Thank you very much, Mr. Chairman.

Opportunity zones have been hailed as a great opportunity to lift up poor communities when, in fact, they are mostly an opportunity to lift out of taxation investment earnings of the ultra-wealthy to help the wealthy get wealthier with totally tax-free earnings. And they are unlimited, as our witnesses have explained.

And, of course, the opportunity to enact these opportunity zones was buried in the Trump tax scam, hundreds of pages, never had a single witness like we have today come forward to explain or defend it, never had much of any discussion, even when the bill was marked up. No, it was hidden.

The only discussion was between a very wealthy lobbyist and his Republican allies, and as a result, we have an expenditure of almost $2 billion, every year a tax expenditure, and when you talk about cutting out waste, this is a good place to look at it.

This doesn't mean that there are not some worthy and beneficial opportunity zones. We have heard about some of them today. I don't question that. But it does mean that it comes about with a very high cost, and the benefits are concentrated in a very small number of places where investment would have likely occurred anyway without tax-free profits, or without such a tremendous incentive.

Under the guise of incentivizing investment in left-behind communities, billionaires can now avoid taxes, investing in high-end real estate and a small number of rapidly gentrifying census tracts as has occurred. Indeed, we have heard that 87 percent of all this opportunity zone investment is going in to just 5 percent of the zones across the entire country.

As Mr. Wessel has appropriately entitled one of the chapters in his very important history of opportunity zones, "An Archipelago of Tax Havens." But these tax havens, these opportunities to pay absolutely no tax whatsoever on your earnings, they are not available to everyone. No American can qualify for this program to invest in opportunity zones unless they have an annual income that -- at least $1 million. That is the kind of special-interest provision that was tucked into this big Trump tax giveaway.

As President Biden has said, We cannot close the racial wealth gap if we allow billionaires to exploit opportunity zone tax breaks to pad their wealth rather than investing in projects that benefit distressed, low-income communities. I think the Treasury should and could do more about this.

But over the last year, I have developed legislation that I will introduce in the near future, the Opportunity Zone Reform Act, to close some of these loopholes, require community input in investment decisions, increase transparency and accountability, and tie the tax breaks to community benefits like job creation and affordable housing construction.

Ms. Lucas-Judy, your report from GAO is very important.

Mr. Wessel, your book serves a real important public service, as does your work there at Brookings. Let me ask you, there has been discussion about the need for data and certainly there is, but don't we need much more than data to reform this law? I refer to the interview you had recently with Bloomberg where you concluded that instead of helping disadvantaged areas these opportunity zones have actually worsened in equality. Could you comment on that?

Mr. Wessel. Yes. Thank you, Congressman. I do think we need data in order to convince people that the program is working well, or not working well, because as we have heard today, people start from different positions and come up with different examples.

I think that any -- I am afraid that the data will show us that this is doing more to reduce the taxes of already wealthy people than it is helping the residents of the communities it was intended to serve, and in that sense, it would be increasing inequality rather than reducing it.

Mr. Doggett. Mr. Theodos, is it important to tie these tax breaks to actual benefit rather than to have a truly wasteful tax expenditure?

Mr. Theodos. When we designed Federal programs, we should be confident what it is that we are purchasing for our price. And so, I would encourage the program to articulate clearly what it wants to achieve, and put in place the mechanisms that it can to do so.

Mr. Doggett. How could a certification program, one that required community input and a stated explanation of the benefit, help improve the opportunity zone legislation?

Mr. Theodos. Very greatly, sir, by limiting the scope of the program to people who have community interest and longstanding commitments in mind.

Mr. Doggett. Thank you very much, and thank you for your important work at the Urban Institute.

Mr. Chairman, I yield back.

Mr. Pascrell. Thank you, Mr. Doggett. The questions were on target, and the witnesses, I think, were very, very specific.

And my friend, Mr. Kelly, I think would agree, the last thing we need is further broadening of the dual-tax system that we have in this country. We used to tax assets. The economy shifted, and now we are taxing income, and folks who had those assets are able to, with 100 lawyers, you know, void themselves of passing those, or taking advantage of it, and they are able to do whatever the heck they want. And that is what people understand, a two-tax system.

If this contributes to the dual-tax system that we are trying to quiet so that there is one system so people feel they are fairly treated, I am for that, 100 percent. I am for this program, but I want it changed, because I see it heading for the cliff in terms of all the data, not much of it, that we have seen. We haven't seen much of it. So I think we can work something out if we work together on this. That is my point.

Now I would ask Ms. Moore, the great Congresswoman from the Midwest, 5 minutes.

Ms. Moore. Thank you so much, Mr. Chairman, and thank you for allowing me to waive on to the committee.

It has been very, very powerful testimony. I have been listening very carefully to Mr. Persinger, Mr. Wessel, Mr. Theodos, and, of course, to our GAO specialist. And what seems to be the case, as I look at the projects, the projected projects in my community, is that they are communities like Erie, for example, that are very, very successful, and then they are the things like the Ritz-Carlton that would have been done already. And so as to not burn up all my time, I won't necessarily go through one by one the projects in my district that I think fall into those two categories.

I just want to make the observation and ask Mr. Wessel and Mr. Theodos and maybe even Mr. Persinger to comment on it, don't you think that the difference in Erie and a Ritz-Carlton project is the incentive structure? Those programs that Mr. Persinger criticizes, like the new market tax credits and the low-income housing tax credits, for example, involve the community coming together, just like this Erie group came together and decided what the priorities were, and then they sought the investors versus investors out there looking out for -- and I am fine with that -- with their own bottom line, and ways in which to improve their portfolio, seek projects to invest in for that purpose.

I am just wondering, Mr. Wessel, if you don't see that as the basic difference in the incentive structure as to why many of these projects are not really matching the community need.

Mr. Wessel. I agree with your observation, Congresswoman. I think that one big difference is that when people say they can't get new market tax credit money because there was a fixed pool, that means that the Treasury had to decide who gets the money and who doesn't, and there are a couple of ways to address that. One way, of course, would be to make the pool of money more available.

But I think your point is an excellent one. I am afraid, though, that there are -- Erie is a very interesting case and has the benefit of a big insurance company that is locally owned, and it was willing to support downtown development. I am afraid that there are a lot of communities that work very hard and put together very nice prospectuses, but yet were unable to get opportunity zone money.

I spent a lot of time in Baltimore, and there are a lot of disappointed people there who thought opportunity zones were going to be the solution to their problems and they find that they haven't been.

Ms. Moore. That is exactly right. Instead of us using governmental programs and our leverage to incentivize, to get the money and then redirect it in ways, the investor has to be interested. I have the same sort of problem with Century City in my district. It is the 30th Street corridor. It is an area that really needs to be revitalized, and it has been very, very slow in attracting these investments.

In terms of jettisoning the program, or in terms of reforming the program, you know, the program really is, as many people have pointed out, a way for people to avoid the realization of those capital gains, and to make those investments, which is just fine as long as there is a match.

And, Mr. Persinger, you have criticized the new market tax credit structure, or low-income housing tax structure, but I think that you -- I just want to know if you admit that at least it is possible that with some programmatic changes and the -- that we could target it better with regard to meeting the needs of the community and even having -- I am not going to get into whether or not we ought to have tax credit investors, but even if we have the same structure with capital gains exclusion, that the structure, which allows a CDFI, for example, to administer the program would be better.

I know you don't like the paperwork, but I fear, as Mr. Wessel and others have said, that we are going to find that here is a program that is funding stuff like national hardware store right across from Fiserv Forum, the basketball stadium, and parking structures next to the basketball stadium instead of things that the communities really need. Should we reform the new market tax credit and make this program more like that only with some changes to how it operates, Mr. Persinger?

Mr. Persinger. Congresswoman, I think you and I both agree that we would rather see communities in control than gatekeepers in Washington in control. And what you have with these tax credits, particularly the new markets program, there is allocations distributed by Washington. In contrast, the genius of opportunity zone legislation is it leaves it up to the communities on the ground to figure out what projects are the most impactful, what are needed in their communities, and how they --

Ms. Moore. But, Mr. Persinger, my time is up, so just let me make this closing comment.

Mr. Persinger. Certainly.

Ms. Moore. Erie, I think, is a good example, but mostly I think investors just come in and invest in what they want to, and they don't listen to the community at all. Erie, you guys are really lucky to have had that collaboration, but we ought to require that collaboration everywhere.

And, Mr. Chairman, thank you for your indulgence, and I yield back.

Mr. Pascrell. Thank you, Ms. Moore. Thank you for your questions, and thank you to the witnesses' response.

And now I would like to call on, for 5 minutes, Mr. Kildee from Michigan.

Mr. Kildee. Thank you, Chairman Pascrell and to all the witnesses for this very important hearing. I have been anxiously awaiting having this conversation for quite some time, and I do appreciate the opportunity to join the subcommittee briefly to address this.

We know the history here. I mean, opportunity zones developed with the promise of helping the economic distressed areas get a kick start -- looks like it might be Gwen, speaking of a kick start. But, you know, the focus was very sincere. And, you know, the concern that I think a lot of us has is not impugning the intent or the goal here, but really thinking through critically whether the program is achieving its intent. You know, the intent was to help these communities and places in communities that have been overlooked for a long, long time.

I represent Flint, Michigan, I represent Saginaw, other parts of central part of the State of Michigan, perfect candidates for opportunity zones. So while the intent was clearly admirable, it is my view, and from what I have been able to glean from listening virtually, is that the witnesses share some of the concerns that I have had.

In fact, as Ms. Lucas-Judy points out, part of the problem is the lack of clear reporting responsibilities. It is just not good data on where the investments are going, although there is good anecdote, but the plural of anecdote is not data. There is just not good data. And so, it is hard for us, you know, to do the work we are supposed to do, weigh the value of these taxpayer dollars and whether they are achieving the intended goal without having the ability to look at really serious information.

The other problem, of course, is that this program repeats some of the mistakes that other economic development tax credits have made. Capital will go to the path of least resistance where the greatest return is available. And because of the way this program is structured, clearly, those communities with the greatest need also have the greatest hurdles to overcome in development, and, therefore, present a greater risk to investors. Investors' capital is going to go where the risk is least and the likelihood of return is greatest.

So I wonder, starting with Mr. Theodos, if you might just comment on the value of enhancing or adjusting tax incentives for those slow growth, chronically distressed places, whether there is a way for us to take what we have and make it serve the intended purpose more by focusing and sharpening, perhaps enhancing credits in those areas that are so distressed.

Mr. Theodos. Thank you, Mr. Kildee. One of the sad ironies of the opportunity zone incentive, it is both to the U.S. Treasury quite expensive, but also on a per-project basis not that deep a subsidy.

Mr. Kildee. Right.

Mr. Theodos. And, so, I would support, with appropriate guardrails and targeting, a deepening of subsidy to projects and to communities that are truly merited.

Mr. Kildee. Thank you. I appreciate that. One other very specific issue that maybe I will ask Ms. Lucas-Judy to answer, there is a specific issue, and this is really a bitter irony for me, where opportunity zones would clearly have been beneficial.

In the heart of my hometown -- I do occasionally mention my hometown of Flint -- there is an abandoned manufacturing site. It was one of the largest manufacturing sites in the world at one point in time. It is called Buick City. It is now the biggest brownfield for miles and miles and miles, a massive, abandoned property that would have greatly benefited from these tax incentives. However, it lies within a census tract with no population whatsoever.

And so this ideal place for these sorts of incentives, all the other problems that we have addressed in this hearing notwithstanding, is ineligible for this. So I wonder just what your thought is on whether there is a handful or more of these technical fixes, and I would wonder if you would opine, Ms. Lucas-Judy, on this specific issue where we have abandoned sites that are census tracts under themselves seem ideal and they were left out.

Ms. Lucas-Judy. States had to -- or the governors had to designate the census tracts relatively quickly after the program was put in place, and they were doing so without full information about what the program was going to look like. And so in our survey we did hear from some of the States that if they had the chance they would potentially select different census tracts from the ones that they originally selected.

But I think also the program was set up to be similar to the new markets tax credit, and so used the same set of parameters around those census tracts. And, so, that is something that Congress could consider if it wanted to make changes to the program: to put different parameters around the tracts that could be eligible.

Mr. Kildee. And if I might just say, one technical fix would be allow a tract with no population that is surrounded by otherwise eligible tracts. And it is the most logical place for development to be incentivized, should certainly have been eligible, and the reason the governors didn't put them in is that they were not eligible, and that ought to be addressed. Thank you.

Mr. Pascrell. Thank you very much for your questions and testimony.

I now would like to call on my friend from Wisconsin, Mr. Kind. You have 5 minutes.

Mr. Kind. Great. Thank you, Mr. Chairman. And, Mr. Chairman, thank you for teeing up this hearing. I think it is long overdue, and we need more information about the opportunity zone legislation, how it is working. We appreciate, you know, the witnesses' testimony and feedback that we have here today.

As one of the original sponsors of the opportunity zone, I can certainly assure you that the intent was, I think, a noble enterprise in trying to get that early-stage capital in harder-to-reach areas. It was a recognition that 80 percent of the all the VC and private equity investments occurring in the country are happening in just three States: California, New York, Massachusetts, 80 percent in just three States. And so there was FlyOver

America that was missing out on that early-stage capital, and that was really the intent behind the opportunity zone legislation.

And we have heard testimony today from Mr. Persinger from Erie, Pennsylvania, on the success that they have had, and I congratulate them for finding out the key in how they can attract that type of investment.

It is one of the ideas that we are working on legislatively, how we can have a best practices clearinghouse so that communities, either large or small, don't have to recreate the wheel, and try to figure out on their own of how to attract this capital in, because it is a bit complicated and difficult in making these pitches to get that investment in these hard-to-reach areas.

But I can also, you know, certainly appreciate Mr. Wessel's testimony and the book that he recently wrote. I had a conversation with him a while back about the opportunity zone legislation, and I understand what he is trying to get at, but I would just caution him to be a little more cautious himself in ascribing motives to us behind the legislation in either your oral or written comments.

I am referring specifically to page two of your written testimony, in which you state, and I quote, "Proponents and drafters of opportunity zone legislation were so determined to make tax break attractive to wealthy investors and so allergic to oversight from Washington, which they argued limited the effectiveness of other place-based policies, that they avoided the guardrails and oversight that might have attracted more money to places and some people most in need of private investment."

And if you looked at the original legislation, Mr. Wessel, there were reporting requirements in it. There was greater transparency. Unfortunately, those provisions were dropped because of arcane Senate rules under reconciliation where they weren't allowed in.

And since then, we have been working in a bipartisan fashion of restoring those provisions that did get dropped, with my good friend Mr. Kelly and Ms. Sewell here on this committee, and also working with Senators Scott and Booker now in the Senate, we are trying to address that, which was not allowed under the reconciliation rules during the TCGA markup, and how this legislation came to be. And we are still working on that and looking for good feedback and how we can best accomplish it.

But, Ms. Lucas-Judy, certainly appreciate GAO's report. Much of what we are drafting legislatively is in response to the first, and now second GAO report looking into it. One thing I am not clear on, however, you say we need better information on the investments, but also the return, what is resulting from those investments. What I wasn't clear on is how much we need to do legislatively versus how much the IRS can do right now, if we give them direction.

Ms. Lucas-Judy. So right now the IRS focuses primarily on compliance. That is really their role in this: enforcement and compliance, and administration. In terms of evaluation, that tends to be more something that Treasury would do, such as in the case of the new markets tax credit or some others, so that probably would require direction from Congress.

Mr. Kind. Okay. Great. And we may follow up with you with a little more specificity in that area.

Ms. Lucas-Judy. Sure, I would be happy to.

Mr. Kind. You know, when I did speak to Mr. Wessel, you know, when he was getting ready to draft the report, I did complain a little bit about how the tracts were designated in Wisconsin. My district, large, rural, relatively poor area of the State, qualified for 40 percent of the track for OZs; yet, Government Walker, at the time, only designated 15 percent of the OZs in Wisconsin in my district.

So I think we need to take a look at how that was originally designated, more importantly what we can do to change some of the designations where it may not make sense, or it is not attracting the type of capital that we need.

But even in my district, there are some success stories not unlike Erie, Pennsylvania. I have got a downtown and small, rural community, Prairie du Chien, Wisconsin, that is OZ designated and they are using that for economic redevelopment project for their downtown area.

I have one of the largest cities in my district, Eau Claire, that it has an OZ designation, and they are moving forward now on affordable housing project based on the OZ legislation.

And in the northern part of my district, in the city of Chippewa Falls, there was a major business expansion. The owners said that they would not have done that outside of the OZ incentives that were in place creating a lot more jobs in a relatively rural, less-income part of the State.

So there are examples of how it is working and working very well, but it is certainly not uniform. I think there is certainly room for improvement, Mr. Chairman. I look forward to working with you and others on the committee and our Senate counterparts, too, of what additional reporting, transparency requirements that are necessary so we can get a real, true, accurate picture of what is working, what isn't, and then the ability to make some adjustments and changes along the way.

So thank you, all, for your testimony today, and thank you, Mr. Chairman. I yield back.

Mr. Pascrell. Thank you to the gentleman from Wisconsin. And no one has testified, and no one spoke on this side of the table that we want to get rid of this program one way or the other. That is not in anybody's craw right now. So I said to you, Thank you for your questions and your comments.

Now we are going to listen to Mr. Davis, the gentleman from Illinois, for 5 minutes for his questions. Mr. Davis.

Mr. Davis. Thank you, Mr. Chairman. And I also want to thank all of the witnesses. I have enjoyed the stimulating discussion.

First, I represent a district that has great need of everything, except more crime, except more disadvantagement, and except more disappointment. When I first heard of the zones, I felt super excited, because I felt and thought that this is going to be an excellent way to help redevelop some affordable housing for all the areas, the area that I represent.

During the 1960s and early 1970s, disinvestment was rampant, and, so, there are hundreds and perhaps even thousands of vacant lots spread throughout my district. And affordable housing, because we lost Illinois, lost a congressional district this round, many of the areas lost population, and they did so because of a lack of affordable housing and a lack of any redevelopment of affordable housing.

And I guess there are -- two groups in my community announced the other day that they were going to build 1,000 new homes in the North Lawndale community, and 1,000 new homes on the south side of the city of Chicago.

And, Mr. Wessel and Mr. Theodos, I guess I would want to ask, how can the zone program and activities that we are talking about assist in a real way of developing affordable housing in some of these communities?

Mr. Theodos. Thank you for the question, sir. The challenges opportunity zones are incredibly broad with respect to where you can use them, incredibly broad with respect to what you can use them for, and incredibly broad with respect to who can use them. So limiting on any of those dimensions could focus it more on community benefit, but it is broad across all three.

Affordable housing is a particular challenge because we don't want affordable housing to appreciate. In 10 years, we don't want to go back and pay two times or three times or eight times the price of affordable housing that we are having today. That is to say, we don't want to create a capital gain with affordable housing. We want it to stay affordable.

And, so, the fundamental nature of the incentive, which is based on you get your return when we exclude the capital gains, doesn't work very well in settings where we actually don't want capital gains. And, so, we would need a real reform, a real change for the incentive to work well for affordable housing.

Mr. Davis. So are there any other -- for example, you know, we talk about economic opportunities and the development of industrial sites and manufacturing and, of course, business sites, but if there are no people around these sites then how do these sites maintain and sustain themselves?

And so it would just appear that housing redevelopment has to get a real shot in the arm if these distressed communities are going to come back. Otherwise, we are just kind of whistlin' dixie and re-talking and re-talking. Like I know sites that have been just totally down for 50 years ever since the riots occurred and the neighborhoods were pretty much abandoned. Are there ways to bring them back?

Mr. Theodos. There are, and opportunity zones can be part of the solution. They have been combined with low-income housing tax credits. They work better for more market rate housing than they do for affordable housing.

But fundamentally, we are going to need much bigger than one OZ project or one new markets project, or one of any of these kind of projects. We are going to need, based on my research, potentially $1 billion of investment in each distressed census tract to our neighborhood disbursed over the course of roughly two decades. And so any single program, any single effort, any single project is not going to be sufficient to revive a local economy. It is going to take a successive string of very major investments to achieve that.

Mr. Davis. Thank you very much. I really appreciate your forthrightness in terms of what it will really take and how much effort and investment we are willing to have to try and put together.

I thank you, Mr. Chairman, for the opportunity to log in and weigh in on this conversation even though I am not a member of this committee, and I yield back.

RPTR WARREN

EDTR ROSEN

[4:15 p.m.]

Chairman Pascrell. Thank you for your excellent points, Mr. Davis.

And without objection, two articles will be included in the record; first, an article from The New York Times, and the second, a letter sent to the former Secretary by myself on October 29, 2019, which deals with a specific property which I said never got -- I never got an answer from.

[The information follows:]

******** COMMITTEE INSERT ********

Chairman Pascrell. I would like to thank our witnesses. You are excellent, all of you. So from Erie to New York, it doesn't matter. You got a good handle on this. Your suggestions and recommendations are all excellent. I would like to thank our witnesses.

Please be advised that members have 2 weeks to submit written questions. We had a nice turnout today, even though we had votes. Those questions and your answers will be made part of the formal hearing record.

With that, the subcommittee stands adjourned.

Thank you.

[Whereupon, at 4:16 p.m., the subcommittee was adjourned.]

Submissions for the Record:

Chairman Pascrell: *Symbol of '80s Greed Stands to Profit From Trump Tax Break for Poor Areas,* The New York Times

Chairman Pascrell: Letter

Representative Walorski: *Investment in Portland's Ritz Carlton tower falls short in opportunity zone offerings*, Portland Business Journal

Smart Growth America Written Submission

Questions for the Record and Answer

Representative Plaskett