
Regulation and the Urban Marketplace

Stephen Goldsmith

My most important job as mayor of Indianapolis is to ensure the continued economic success of America's twelfth largest city. While many mayors rely on one-time tax breaks and attractive incentive packages to lure business to their cities, these are not my primary tools for ensuring Indianapolis's long-term economic health. My administration intends to serve Indianapolis by restoring regulatory sanity to the municipal marketplace.

Estimates of the costs imposed on the national economy by federal regulation reach \$500 billion a year. In Indianapolis, that means more than \$1 billion a year is sapped from our local economy just to comply with federal regulations. When it comes to mandates from Washington, we in Indianapolis have no choice but to carry the burden.

Federal regulations are but one part of the crushing regulatory onus inflicted on America's cities. After meeting the regulatory demands imposed from afar, we are forced to bear the burden of state-imposed mandates, over which we have limited control at best.

But the most unacceptable portion of the regulatory load is that which we choose to carry. Indianapolis has only recently begun to con-

front the problem presented by 2,800 pages of local regulations.

Upon taking office, I sought to tackle our regulatory problems by first preparing a full inventory of all the areas we regulate. Then we surveyed local businesses to gauge their sense of the regulatory impact on doing business in Indianapolis. The top three responses listed as "Impacts on Profits" were: taxes, environmental regulations, and "all other regulations." Community leaders had often complained about local regulation, but this survey gave us our first hard data about the degree of public discontent with the local regulatory climate.

Governments have a hard time comprehending the reality of these complaints. Governments do not pay taxes, they collect them. While the cost of regulation reduces the size of employers' payrolls, enforcing new regulations expands government's payroll. Because bureaucrats do not pay the costs associated with meeting the mandates of a regulation, they are often the least suited to make decisions balancing regulatory costs and benefits to the local economy.

The Regulatory Study Commission

In order to help remedy this problem, I created the Regulatory Study Commission (RSC) in July 1992. The RSC's fundamental operating princi-

Stephen Goldsmith has been mayor of Indianapolis since 1991.

ple is a regulatory version of the ancient injunction to doctors: first, do no harm. Of all the RSC could achieve, its most important contribution will be hardest to quantify; not what it has positively accomplished, but what it has prevented.

While the RSC's performance has not been flawless, it is being cited nationally as the most comprehensive and successful local regulatory reform effort of any city in the United States. I believe that the success we have had stems from our operating goals and principles:

RSC Goals:

- To lighten the regulatory burdens imposed on the citizens and businesses of Indianapolis.
- To use the local regulatory code as a tool to encourage new business opportunities.
- To eliminate regulatory barriers to the creation of affordable, resident-owned housing.
- To eliminate regulatory impediments to easier citizen access to municipal services.

RSC Principles:

- Regulations should be used as a tool to achieve a policy objective only as a last resort. The use of regulations indicates a failure of all other means to achieve a policy objective.
- The cost of a regulation should be no greater than the benefit it creates for the community.
- Regulations must be simple, fair, and enforceable.
- Regulations must be written to insure the imposition of the minimum possible constraints upon businesses and individuals.
- Regulations must never exceed existing federal or state standards unless there is an overwhelming, compelling, and uniquely local reason for them to do so.

In its two-year existence, the RSC has pinpointed many areas where regulatory policy conflicts with these principles.

Changing the Permit System

There are few areas in which the problems of regulation are more evident than the disincentives in the building and development permitting process. The more permits we require, the more hassles and expenses we load on our builders, which gives them even more incentive to build and grow elsewhere.

A RSC subcommittee charged with re-engineering our development permission process spent the better part of a year designing the Indianapolis Homeowner Freedom Act (IHFA). This initiative, which received a "do-pass" recommendation from the City Council's metropolitan Development Commission on November 22, represents a giant step toward making building and living in Indianapolis more competitive with our lower-taxed and less-regulated neighbors in adjacent counties.

The IHFA will drastically reduce the number of annual transactions our citizens and developers will have to conduct with city bureaucrats, while greatly relieving the city's workload. If adopted as submitted to the Council, IHFA will eliminate an entire category of permits currently required for "low-impact" home repair.

Currently, we require permits for embarrassingly minute tasks. A citizen who wants to do something as routine as replacing a door or installing a bathroom fan must first come down-

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town, find a place to park (a task neither easy nor cheap), make his or her way up to the 21st floor of the City-County Building, only to stand in what can easily be an hour-long line, fill out a series of forms, and submit to an interview by a "permit specialist," at which point the homeowner must pay the city a permitting fee for the privilege of improving his or her property.

This re-categorization of low-impact permitting will eliminate more than 7,200 permits a year and the litany of hassles listed above. But the IHFA goes much further. In addition to eliminating permit requirements for low-impact work, we plan to tie a permit employee to a particular project in much the same fashion that a case worker stays with a family. Once adopted, our plan will redirect the entire focus of our internal operation away from self-perpetuating bureaucracy and towards meeting the needs of our customers.

The IHFA will allow builders and contractors

to obtain a single master building permit for an entire project rather than demanding that each subcontractor be individually permitted, as is presently required. This reform will dramatically reduce the time and resources that our builders and contractors are forced to devote to bureaucratic compliance, thereby increasing the time and resources they can dedicate to the much more important task of building homes.

Another example of over-regulation imposing unnecessarily large costs on private enterprise is the arcane system our city uses to issue encroachment permits—permits needed most commonly for landscaping, awning, or signs. Under our old system, a citizen submitting an application to improve his business or residence had to wait up to eight weeks while the site plan was reviewed by as many as four city agencies.

Denying business opportunities is bad enough, but to do it to the very people who need entrepreneurial opportunity most is downright shameful.

The president of a local bank recently told me about the ordeal he had to undergo in order to obtain permission to put on an awning at his new downtown branch. He spent more than twice as much money on professional help in navigating the permit bureaucracy than he did on the awning itself. Unfortunately, what seemed remarkable to our local bank president is far too routine for many of our citizens and businesspeople.

A Victory For Taxis

The RSC begins with the premise that regulatory restrictions must be justified, not simply assumed. From that starting point, we search for the least burdensome level of regulation that meets our objective. Not surprisingly, we learned upon assuming office that very little of our regulatory code had ever been subject to such a test.

The taxi industry is a good example of an area where regulations had completely displaced the economic principles of demand and competition. The number of licenses was fixed and so

were the fares.

At a series of public meetings designed to develop community consensus on the need for dramatic regulatory reform in ground transportation, nearly everyone who testified confirmed our worst fears. Complaints about service were rampant. Because the local industry was protected from competition, the near universal judgment was that service was poor, expensive, and highly selective. If you happened to live in a neighborhood that the dominant providers did not want to serve, namely, low income and high crime areas, you were out of luck.

Drivers who wanted to go into business for themselves argued that local regulations made it virtually impossible for them to own their own taxis. Denying business opportunities is bad enough, but to do it to the very people who need entrepreneurial opportunity most is downright shameful.

Entry into the Indianapolis taxi market was tightly controlled; the city government had set the ceiling on taxi permits at 392. The taxi market was a de facto monopoly controlled by a single large operator who owned or controlled, either directly or indirectly, nearly two-thirds of the 392 taxis. The RSC determined that local taxi service was so poor in large part because the regulations that governed them were so bad.

Taxis and ground transportation became a major test of our administration's credibility to deliver city-wide regulatory reform that could lead to real enterprise creation. If we were to do anything to reform the local regulatory marketplace, ground transportation was the arena in which we had to deliver.

But after a nearly two-year battle, the City County Council finally voted 21-7 to adopt Proposal 72 into law in May of 1994. On July 1, the artificial cap on the number of taxi licenses was lifted, offering the first significant prospect of new market entrants into the ground transportation industry since shortly after the end of the Second World War. For the first time in just as long, the new law lifted the prohibition against "cruising," or hailing a cab. This anti-competitive provision was cunningly designed to prevent new market entrants from getting into the business by cruising the streets. Since the only practical way to get a cab was to call one, only those cabs with city-approved radio dispatch systems could compete, and since the only

companies that could afford the city-approved dispatch system were the few dominant, well-heeled, and legally protected providers, their position in our market was secure.

The impact of the new Indianapolis ground transportation ordinance, which also abolished the official minimum fare, allowing taxis to charge as little as they like for a ride, even surpassed our own expectations. In the first month, the number of licensed taxi operators rose an amazing 60 percent, from twenty-eight licensed companies to forty-five. In addition, the new competition dropped fares among the new licensees almost 7 percent. But perhaps even more impressive than reduced fares and increased competition is the effect that the new market system has had upon the drivers themselves.

Nearly overnight, the dress code for taxi drivers went from ripped T-shirts to collars and ties. Cabs are noticeably cleaner, cabbies are friendlier and their vehicles are more visible on our streets.

In all, there have been twenty-nine new taxi companies licensed since deregulation, which means that the number has more than doubled since the proposal was adopted. Today there are fifty-nine licensed taxi companies in Indianapolis, and an entirely new industry in jitneys and minivans.

Asbestos: When A City is More Harmful than the Feds

Upon assuming office, I was surprised to learn of the degree to which many local regulations, particularly environmental regulations, actually exceed existing federal and state standards. Operating on what I thought was a safe assumption that the federal government is not known for its regulatory leniency, I instructed the RSC to insure that local regulations must not exceed federal or state standards unless there is an overwhelming and compelling local reason for them to do so.

Indianapolis, like many other cities across the country, has obtained from the Environmental Protection Agency (EPA) the right to enforce local, national, and state clean air laws through an independent Air Pollution Control Board. In 1992, the longstanding members of that board, previously appointed by the mayor and City-County Council, adopted one of the most stringent asbestos abate-

ment regulations in the country. While I would be the last one to argue against the toughest reasonable safeguards to protect citizens against a dangerous substance, I asked the RSC to determine what, if any, unique conditions existed in Indianapolis that justified such regulatory maximalism.

Needless to say, the RSC didn't find much in the way of justification. But what it did find was enough to alarm me and much of the community. Our analysis determined that local adoption of this proposed asbestos regulation could cost Indianapolis residences and businesses anywhere from \$8 to \$20 million a year.

This proposed asbestos regulation would have done much more than cost local industry and citizens millions of dollars. It would have sacrificed jobs by creating yet more economic

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burdens for businesses wishing to locate or expand in Indianapolis. In addition, the proposed asbestos regulation would have adversely affected compliance incentives. If adopted, the additional burdens of the proposed asbestos regulation might well have increased the risk to asbestos workers by raising the already substantial costs of legal operation. By raising the threshold necessary for abatement, these new regulations might have resulted in just the opposite of what the sponsors intended. Some of our health experts feared that a new, underground "rip-and-run" asbestos abatement industry could pop up in Indianapolis that would obey none of the existing laws, let alone the new ones. Under such a scenario, asbestos workers would be subjected to much more danger than are they now.

Fortunately, the RSC's constant scrutiny of new regulations prevented the well-intentioned but misguided Regulation XIII from becoming law.

By first performing an evaluation of the pros and cons of additional asbestos regulation and then making the results known to both the Air Pollution Control Board and the general com-

munity, enough pressure was brought to bear by interested parties to insure effective and independent legislative action to defeat the proposal. The costly measure's rejection by a unanimous vote of a normally pro-Air Board City-County Council was an important legislative victory for the RSC.

Saving our Neighborhoods through Deregulation

Restoring regulatory sanity is a critical component of rescuing our inner city neighborhoods from decay and lack of opportunity. I have charged the RSC with reducing the regulatory impediments to expanded residential and commercial development in our neighborhoods.

In government's misguided efforts we sometimes place much too much emphasis on process and not enough on results. While I am concerned about how many citations we write, how many inspectors we employ and how much

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a departmental budget may rise or fall relative to the previous year, I am even more concerned about how much we achieve relative to a policy goal—i.e., how many abandoned buildings did we convert to habitable use, and how many neighborhoods have safer and healthier environments? These are the types of measurements that matter in the private sector, and in the end, they are the only kind of measurements that should matter to us.

Measuring what we pay housing inspectors from year-to-year tells us nothing about the condition of residential housing. The Health and Hospital Corporation of Marion County, an independent government entity that in many ways overlaps with our own city bureaucracy, employs more than fifty full-time inspectors to enforce a remarkably detailed housing ordinance that regulates everything from how thick countertops must be to how many inches off the

ground one is allowed to store firewood.

This emphasis on process at the expense of outcomes creates results that run counter to the intent of the regulations. After a recent wind storm, for example, one local property owner was threatened with citations and fines for transporting downed limbs from her rental properties to an approved burning facility without a proper permit. As a consequence, this rental property owner will think twice before again attempting to haul debris from her property or similarly trying to provide for the needs of her property and her tenants.

A similar story involved a citizen renovating a recently purchased distressed property. She placed the debris under a tarp on the back porch before transporting it off to the dump. Instead of being praised for improving our local housing stock, or even being left alone to continue a commendable project, she was cited for having debris on her property. She was forced to call a trash hauler, which added unneeded expense and delayed the rehabilitation project by several weeks.

Seeking alternatives to the traditional but ineffective bureaucratic approach, I have asked the RSC to investigate the possibility of relaxing housing and development regulations and creating a "Regulatory Enterprise Zone." Instead of thinking in the traditional manner about a designated geographic section of our city I have asked the RSC staff to think more broadly about how to apply the Regulatory Enterprise Zone concept to demographic and economic thresholds. Instead of defining our concept geographically, why not define it through the very people we are trying to help?

Since our goal is to spur private development, why not ask those doing the developing to identify the specific non-health-and-safety barriers that prevent an idea from becoming a reality? What would happen to development if we allowed people who fall below certain pre-determined thresholds of income, age or regions, to take advantage of our Regulatory Enterprise Zone development incentives?

Such an approach might be more likely to succeed politically because we could identify specific people who stood to gain from the initiative, while minimizing the impact of thrusting the totality of dramatic experimentation, the consequences of which we can not know in advance, upon a single, already distressed neigh-

borhood.

Ideally, the Regulatory Enterprise Zone participants would document their successes and failures to help us amend local development regulations by removing burdensome restrictions that add no health or safety value to our community. We are hoping that the data we collect will enable us to employ performance-based standards. If a builder can document areas where more efficient techniques can achieve comparable outcomes, we will gladly amend our city code to encourage such use. By focusing on the result, we believe we will increase the affordable housing stock available to the people of Indianapolis.

How to Identify Beneficiaries of Regulatory Reform

While the RSC has done wonders for the regulatory climate in Indianapolis by preventing destructive new regulations as well as eliminating existing ones, its efforts have also revealed an important impediment to restoring regulatory sanity to our municipal marketplace. I believe that one of the reasons regulatory reform has been overlooked for so long at the municipal level derives from Tip O'Neill's famous aphorism that all politics is local. If local considerations dictate the conduct of public policy at the state and national level, then those concerns will certainly dominate at the local level.

In battling for regulatory reform, the RSC has run up against the classic problem of concentrated benefits and diffuse costs. Identifying constituencies for regulatory reform is difficult, since the costs of regulation are spread over so many people in so many different walks of life. The individual taxicab passenger or home buyer might not realize the extent to which misguided regulation adds to his expenses. To bureaucrats and rent-seekers, however, the benefits of the status quo are more readily apparent. Any regulatory reform is a direct threat to their established interests; thus, they are willing to fight for the regulatory policies of the past. Once a regulation is promulgated, the onus for any sort of change is placed on the regulated parties and the community. Perversely, instead of local government having to justify why people should continue to be burdened, we expect citizens to justify why they should be free.

The benefits of our more broadly publicized competitiveness agenda have resulted in a clear-

ly definable number of tax dollars saved and an improvement of service that can be felt by all. In addition, those benefits are spread over a fixed class of people who are more conscious of the process and able to determine the benefits to them in concrete terms.

But the more diffuse the benefits, the more difficult it is to mobilize those people and forces that stand to gain the most. Perhaps our single greatest political challenge is to identify those stakeholders who stand to gain from our reforms and help them work to encourage our effort to reduce the impact of local regulations.

In an attempt to build broader support for local regulatory reform, the RSC recently proposed an initiative called Fair Fees for Small Business. This initiative will eliminate licensing requirements for five types of local businesses, saving 426 small businesses more than \$85,000 a year in fees and countless wasted hours of annual reporting. Not only does Fair Fees reduce burdens to businesses, it also helps build political support for deregulation.

While \$85,000 is a statistically insignificant component of a \$471 million annual budget, public reaction has been remarkably positive.

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Needless to say, the 426 businesses who will no longer have to be licensed by the city nor pay fees for the privilege are universally delighted, if not bewildered by the notion of a government shrinking of its own accord. The proposal has been formally endorsed by both of our mass circulation daily newspapers and the highly respected Indianapolis Business Journal.

Conclusion

The problems of big cities in America are well known. But what we do not know is how to isolate and concentrate on what aggravates those problems. Municipalities must become more competitive and restore the principles of the marketplace. It is imperative that we hold the

line on taxes and restore a sensible regulatory environment.

Regulations have smothered the entrepreneurial spirit for so long, that the inefficiencies they create in the marketplace are now a part of doing business. For new entrants to the market, these regulations are at best discouraging. At worst, they are morally reprehensible.

We cannot afford to wait for citizens and businesspeople to mount organized campaigns for regulatory reform. Such uprisings often come too late. By the time regulated parties are fed up enough to mobilize against the regulatory bureaucracy, many of them will have been fed up enough to have left Indianapolis.

This is the cycle that big city mayors must break. I believe that by restoring market principles to our regulatory environment the RSC will do just that.

Selected Readings

Bolick, Clint, *Grassroots Tyranny: The Limits of Federalism* (U.S. Cato Institute, 1993.

Moore, Stephen and Stansel, Dean, "The Myth of America's Underfunded Cities," *Cato Policy Analysis* no. 188, February 2, 1993.

Staley, Sam, "Bigger is Not Better: The Virtues of Decentralized Local Government," *Cato Policy Analysis* no. 166, January 21, 1992.

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