

# THE LONG ROAD TO SELF-DETERMINATION: A CRITIQUE OF MUNICIPAL INCORPORATION THROUGH THE EAST LOS ANGELES CITYHOOD MOVEMENT

---

Sarah Ihn\*  
2010

## ABSTRACT

*East Los Angeles is widely considered as the heart of Southern California's strong and vibrant Mexican American community—yet, it is also an unincorporated area whose only general purpose government is provided by Los Angeles County, the most populous county in the nation. Through the lens of East Los Angeles' quest for cityhood, this paper explores and critiques the limited governance options that exist for low-income unincorporated communities.*

## INTRODUCTION

East Los Angeles (East L.A.) is widely heralded as the social, cultural, and political heart of Southern California's large and vibrant Mexican American community.<sup>1</sup> It is the geographic epicenter of the "Eastside," comprised of East L.A. and its surrounding communities of Boyle Heights, Lincoln Heights, El Sereno, Highland Park, Commerce, and Montebello, which together have the largest concentration of people of Mexican descent outside of Mexico City.<sup>2</sup> Since 1930, the Eastside has been home to the largest Mexican American community in the United States.<sup>3</sup> According to 2006-

---

\* J.D., University of California, Berkeley School of Law, 2010; M.A., Stanford University School of Education, 2004; A.B., Stanford University, 2004. Deepest thanks to Oscar Gonzales and Ana Mascareñas of the East L.A. Residents Association for generously sharing their community's story with me; Professor Michelle Wilde Anderson for both her groundbreaking scholarship that sheds a much needed light on unincorporated areas, and her support of and enthusiasm for this piece; Greg LeSaint of the Harvard Latino Law Review for his edits; Melanie Egusa, Dekera Greene, and Mark Minch for their critical feedback and encouragement; and the Ihn family, for everything.

<sup>1</sup> "East Los Angeles is to Mexican-Americans what Harlem is to African-Americans: ethnic symbol, social center, and cultural capital." Daniel Wood, *East L.A., Latino Heartland, Revives its Dream of Cityhood*, CHRISTIAN SCIENCE MONITOR, Dec. 10, 2008, available at <http://www.csmonitor.com/2008/1210/p01s01-usgn.html>.

<sup>2</sup> DAVID R. DIAZ, *BARRIO URBANISM* 235 (2005).

<sup>3</sup> RICARDO ROMO, *EAST LOS ANGELES: A HISTORY OF A BARRIO* 3 (1983).

2008 U.S. Census statistics, there were over 118,000 residents in East L.A., with over 97% reporting their ethnicity as Hispanic.<sup>4</sup>

Part of East L.A.'s significance lies in the generations of Mexican American political leaders it has nurtured, including the late Edward Roybal, who entered Congress in 1963 as the first Mexican American representative from California since the 1800s<sup>5</sup>; Roybal's daughter and successor, Lucille Roybal-Allard (D-34), the first Latina in Congress<sup>6</sup>; and Antonio Villaraigosa, the mayor of Los Angeles. Currently, East L.A. is represented on the county and state level by some of California's most powerful political leaders—including Los Angeles County Supervisor Gloria Molina, former Assembly Speaker Fabian Núñez (D-46), and former State Senate Majority Leader Gloria Romero (D-24).

Despite its symbolic and substantive importance within the greater Mexican American community, East L.A. is an unincorporated community without a city council or mayor, and its only general purpose government is Los Angeles County, the most populous county in the nation.<sup>7</sup> Previous attempts to incorporate East L.A. have failed, pitting residents and community-based organizations against well-funded business and property interests. These interests have opposed incorporation because it carries the possibility of higher taxation rates. After more than thirty years, community residents are in the process of another effort to be considered by the Los Angeles County Local Agency Formation Committee for incorporation in 2011.<sup>8</sup>

The process of incorporation in California—particularly its costs and significant dependence on a community's revenue-generating capabilities—makes it difficult for low-income communities with low property values and limited revenue sources to successfully incorporate. Through the lens of East L.A. and its ongoing quest for cityhood, this paper explores local governance options and current incorporation processes in California, and their effect on low-income communities through the following parts:

- Part I provides a historical account of the cityhood movement in East L.A., discussing the circumstances that have led to the present-day campaign for cityhood.
- Part II addresses the local governance and political representation options for East L.A. and other low-income unincorporated communities in California.

---

<sup>4</sup> U.S. Census Bureau, 2006-2008 American Community Survey, East Los Angeles CDP, California, <http://factfinder.census.gov/> (Search "Get a Fact Sheet for your Community" for "East Lost Angeles") (last visited Jan. 25, 2010).

<sup>5</sup> University of Southern California Edward R. Roybal Institute for Applied Gerontology, *About Congressman Edward R. Roybal*, <http://roybal.usc.edu/congressman> (last visited Oct. 25, 2009).

<sup>6</sup> JOHN R. CHÁVEZ, *EASTSIDE LANDMARK: A HISTORY OF THE EAST LOS ANGELES COMMUNITY UNION, 1968-1993* 247 (1998).

<sup>7</sup> LACounty.gov, *About LA County*, <http://portal.lacounty.gov/wps/portal/lac/home> (follow "Government" hyperlink; then follow "About LA County" hyperlink) (last visited Oct. 25, 2009).

<sup>8</sup> Email correspondence with Ana Mascareñas, Director, East L.A. Residents Association (Jan. 31, 2010).

- Part III provides the statutory framework for municipal incorporation within California.
- Part IV discusses the normative and pragmatic factors behind whether East L.A. can and should become a city, using the current cityhood campaign as a point of reference.
- This paper concludes with thoughts on the limitations of municipal incorporation law in California.

#### I. THE HISTORY OF THE CITYHOOD MOVEMENT IN EAST L.A.

As Los Angeles's population grew rapidly from 100,000 to 1,000,000 residents from 1910 to 1930, the Mexican population of the region experienced a corresponding growth—from 5,000 to 90,000.<sup>9</sup> The Mexican community made the Eastside home through both necessity and choice: racist sentiments and segregation prevented Mexican immigrants from moving into the more affluent north and west sides of Los Angeles, while access to affordable housing and proximity to jobs and transportation made the Eastside a convenient location.<sup>10</sup>

Since the emergence of East L.A. as a cultural hub in the 1930s, community members have staged five unsuccessful attempts to incorporate as a city—in 1931, 1933, 1961, 1965, and 1974. While several of East L.A.'s surrounding communities managed to incorporate by 1920 (such as Monterey Park and Montebello), the Los Angeles County Board of Supervisors denied the 1931 incorporation efforts on the basis of higher taxes.<sup>11</sup> In 1933, industrial firms that preferred the lower tax rates of an unincorporated area succeeded in defeating a proposal taken to the voters, with the proposal failing by an overwhelming margin of 8,439 to 462.<sup>12</sup>

The incorporation of the City of Commerce in 1960 spurred East L.A.'s next attempt for incorporation. The previously unincorporated area, located to the south of East L.A., was heavily industrial with very few residents.<sup>13</sup> Business interests spearheaded the incorporation of the City of Commerce to prevent neighboring cities from annexing the area.<sup>14</sup> By incorporating an industrial area with few residents, the City of Commerce had a significant tax base from the industrial firms with few residents to support, leading to lower assessments for those firms than if they were part of a more residential city.

The incorporation of the City of Commerce, which contained sections of the industrial part of East L.A., eliminated a significant potential tax base

---

<sup>9</sup> ROMO, *supra* note 3, at 61.

<sup>10</sup> *Id.* at 78.

<sup>11</sup> CHÁVEZ, *supra* note 6, at 93.

<sup>12</sup> RODOLFO ACUÑA, A COMMUNITY UNDER SIEGE: A CHRONICLE OF CHICANOS EAST OF THE LOS ANGELES RIVER, 1945-1975 11 (1984).

<sup>13</sup> CHÁVEZ, *supra* note 6, at 93.

<sup>14</sup> *Id.*

for an incorporated East L.A. As a response, a largely Mexican American group of residents formed the Citizens' Committee to Incorporate East L.A. to prevent further annexations and to secure better services for East L.A. residents.<sup>15</sup> Supporters included the local fire department as well as its county supervisor, Ernest Debs.<sup>16</sup> However, local business and property owners, including a significant number of white non-residents, successfully fought the effort, relying again on the argument against higher taxes associated with incorporation.<sup>17</sup> The Committee attempted another incorporation effort in 1965, but lacked the morale and internal organization to collect the necessary number of signatures to place the measure on the ballot.<sup>18</sup>

At the same time as these back-to-back campaigns, East L.A.'s role in the Mexican American community was evolving. While East L.A. had the largest Mexican American population in the United States since the 1930s, its socio-political role and significance in the Mexican American community did not fully develop until the antiwar, Chicano,<sup>19</sup> and civil rights movements of the 1960s. Beginning with union leader César Chávez and his work with the United Farm Workers in the mid-1960s, Mexican Americans began to identify more strongly with their ethnic background, using it as a source of unity and empowerment.<sup>20</sup> Additionally, politically radical Mexican Americans began to identify with the growing Black Power movement and its vision of self-determination, as well as the movement's stance in opposition to the dominant white culture.<sup>21</sup>

Two symbolic events cemented East L.A.'s place in Chicano history. In 1968, East L.A. high school students organized massive walkouts involving up to ten thousand students to protest school conditions and the lack of a culturally relevant curriculum.<sup>22</sup> These walkouts symbolized the development of political and social consciousness within the community.<sup>23</sup> Additionally, as in many low-income, urban minority communities throughout the United States, a sense of frustration, disillusionment, and anger at social inequities resulted in a series of riots during 1970. These riots were particularly aimed against the police, who had a history of brutality toward East L.A. youth.<sup>24</sup> The most serious riot occurred during a planned peaceful community protest against police brutality in August 1970, resulting in three ci-

---

<sup>15</sup> *Id.* at 94.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> See generally IAN HANEY LÓPEZ, *RACISM ON TRIAL: THE CHICANO FIGHT FOR JUSTICE* (2003).

<sup>20</sup> CHÁVEZ, *supra* note 6, at 46.

<sup>21</sup> See generally HANEY LÓPEZ, *supra* note 19.

<sup>22</sup> *Id.* at 20.

<sup>23</sup> The walkouts also spurred a series of criminal indictments against the "East L.A. Thirteen," young political leaders involved with the walkouts, accused of several misdemeanors and with felony conspiracy charges. The charges were eventually dropped. *Id.* at 26 - 27; CHÁVEZ, *supra* note 6, at 67.

<sup>24</sup> CHÁVEZ, *supra* note 6, at 71-72.

vilian deaths.<sup>25</sup> Community residents blamed aggressive police tactics during the protest for the social unrest, while police blamed delinquent youth behavior.<sup>26</sup>

Although the civil unrest that took place in East L.A. was part of a broader social movement, the community members' lack of direct control over the health, safety, and welfare of their own neighborhood was likely a contributing source. Since the 1930s, Mexican Americans had comprised a majority of the area's population, but in the 1960s, mostly non-Mexican American outsiders controlled East L.A.'s government, business, education, and religious institutions.<sup>27</sup> This continuing discrepancy in power added to the growing desire for self-determination.

East L.A.'s lack of political representation negatively affected the community's physical composition as well. The federal and state expansion of transportation routes from the 1940s to 1970s divided East L.A. with five highways—the most of any single community in Los Angeles County.<sup>28</sup> To construct the highways, the government used its power of eminent domain, dismantling long-standing homes and businesses, resulting in a breakdown of the community's sense of social connection and unity.<sup>29</sup> While the highways serve an important public purpose, the presence of five major transportation routes within a community of approximately eight square miles is excessive by any measure, considering the significant social, economic, and health costs that highways incur. In particular, proximity to highways has been linked to many harmful health effects because of particulate matter and air pollution.<sup>30</sup> Undoubtedly, East L.A.'s lack of financial and political clout in this era, along with the racially-biased policymaking of the times, left the community with little means for mitigation or recourse, particularly at a time before environmental regulations were in full effect.<sup>31</sup> While strong community opposition to the highways existed, it was countered by stronger and more powerful interests in support of the highways, particularly from government agencies with the economic interests of “downtown” in mind.<sup>32</sup>

In 1972, residents of the more affluent, northeastern part of East L.A. petitioned to join the neighboring middle-class city of Monterey Park.<sup>33</sup> Los-

---

<sup>25</sup> Including the death of Rubén Salazar, a prominent Mexican American journalist for the *Los Angeles Times*. HANEY LÓPEZ, *supra* note 19, at 195.

<sup>26</sup> CHÁVEZ, *supra* note 6, at 73.

<sup>27</sup> *Id.* at 53.

<sup>28</sup> *Id.* at 53, 217.

<sup>29</sup> *See id.* at 216 – 218.

<sup>30</sup> *Id.* at 218.

<sup>31</sup> The California Environmental Quality Act, one of the strongest state environmental laws in the nation, was passed in 1970. Prior to CEQA, the environmental impact of a project was not required for public review. Under CEQA, projects must complete environmental impact reports detailing long-term environmental consequences, and local governments are given powers to enforce environmental procedures. *See id.* at 219.

<sup>32</sup> *See* ERIC AVILA, *POPULAR CULTURE IN THE AGE OF WHITE FLIGHT: FEAR AND FANTASY IN SUBURBAN LOS ANGELES* 216 (2004).

<sup>33</sup> CHÁVEZ, *supra* note 6, at 94.

ing this part of East L.A. to Monterey Park would not only further cut into potential revenue sources for an incorporated East L.A., but would also result in the symbolic loss of East Los Angeles College, a community college that served an important educational need for East L.A. residents.<sup>34</sup> As a response to this urgent issue as well as the continuing desire for home rule, the East Los Angeles Community Union (TELACU), a progressive non-profit community development corporation founded in 1968, spearheaded the Ad Hoc Committee to Incorporate East Los Angeles (ACTIELA) to push for city incorporation once again.<sup>35</sup>

Unlike previous incorporation attempts that involved minor levels of governmental oversight and coordination, the 1974 effort was governed by guidelines set by the Los Angeles County Local Agency Formation Commission (LAFCO), which was formed in 1963 by legislative mandate. LAFCO required a number of preliminary steps before an incorporation proposal could be considered by community vote, including the submission of an economic feasibility study, a petition of at least twenty-five percent of the community's registered voters, and public hearings weighing the arguments for and against incorporation.<sup>36</sup> After passing through these preliminary stages, the incorporation vote was held on November 5, 1974.<sup>37</sup> There was a significant turnout of sixty-six percent of the registered voters in the area.<sup>38</sup> In the end, however, twenty-nine percent of votes were against incorporation, twenty-one percent in support of incorporation.<sup>39</sup> Based on precinct analyses, the mostly Mexican American residential core of East L.A. was largely in support of the measure, while the more affluent, non-Mexican American parts of the community were against it.<sup>40</sup>

While the opposition and their arguments essentially remained the same as in previous incorporation efforts—based primarily on the potential for higher taxes—this time, competing visions and political ambitions within ACTIELA also contributed to the defeat. Radical factions rooted in the ideals of ethnic nationalism clashed with more mainstream factions that saw incorporation as a means toward community development.<sup>41</sup> Additionally, soon before the vote, ACTIELA's primary leader left the group to pursue other opportunities.<sup>42</sup> Thus, ACTIELA was unable to forcefully counter its

---

<sup>34</sup> *Id.* at 95. Currently, East Los Angeles College ranks second in the nation in terms of Latino student transfers to four-year institutions and is the top California degree and certificate producer for Latino students. East Los Angeles College Foundation, About East Los Angeles College, <http://www.elacfoundation.org/elacfoundation/aboutus/eastLosAngelesCollege.asp> (last visited Oct. 31, 2009).

<sup>35</sup> CHÁVEZ, *supra* note 6, at 94.

<sup>36</sup> *Id.* at 98.

<sup>37</sup> *Id.* at 104.

<sup>38</sup> *Id.*

<sup>39</sup> 16 percent of voters did not vote for either. *Id.*

<sup>40</sup> *Id.* at 105.

<sup>41</sup> *Id.* at 102-105.

<sup>42</sup> *Id.* at 104.

opposition with the benefits of incorporation, losing out to economic interests once again.

## II. LOCAL GOVERNANCE IN EAST L.A. AND BEYOND

After five failed attempts at cityhood, East L.A. remains under county rule. Three basic governance options exist for unincorporated communities in California such as East L.A.: (1) governance by the county; (2) annexation by a neighboring city; or (3) municipal incorporation.

Like other California cities and unincorporated communities, East L.A. is directly represented at the federal level by congressional representatives, and at the state level by state senate and assembly members. However, local governance, where decision-making on most day-to-day issues occurs, happens at the county level. Thus, unlike cities, decisions about matters such as local taxes, zoning, and services are made—or not—by county supervisors, not city officials.

However, is county representation adequate to meet local needs? Drawing upon fair housing law, voting rights law, and political and institutional economic theory, Michelle Anderson defines three features that assess the adequacy of local government: (1) housing market choice and mobility, including exit, entry, and meaningful options to stay; (2) neighborhood habitability, including service and utility provision, and environmental quality; and (3) political voice, including the power to protest and effective channels for advocacy.<sup>43</sup>

Based on median income, median home prices, and known environmental concerns, East L.A. residents likely enjoy comparable levels of housing market mobility and neighborhood habitability as a number of incorporated cities in Los Angeles County, such as Huntington Park.<sup>44</sup> However, the relative comparability between these two communities does not necessarily establish that the county's governance of East L.A. is adequate. Both communities are connected by their poverty, and becoming a city does not fundamentally change this characteristic.

External factors that affect a community, such as the past and present impact of racial and class discrimination, may be managed internally

---

<sup>43</sup> Michelle Wilde Anderson, *Cities Inside Out: Race, Poverty, and Exclusion at the Urban Fringe*, 55 UCLA L. Rev. 1095, at 1135.

<sup>44</sup> In 2007, ELA's median household income was \$35,373, and the median home value was \$386,800. U.S. Census Bureau, American Community Survey, East Los Angeles CDP, California. In 2007, Huntington Park's median household income was \$33,800, and the median home value was \$422,100. U.S. Census Bureau, American Community Survey, Huntington Park, California. A 2008 study by the South Coast Air Quality Management District found that Huntington Park had one of the highest levels of cancer risk due to toxic air substances attributable to refineries, factories, and mobile sources in the Los Angeles region. Janet Wilson, *Cancer Risk From Toxic Air drops by 17% in Southland*, LOS ANGELES TIMES, January 5, 2008, available at [http://www.latimes.com/news/science/environment/la-me-aqmd5jan05\\_0,2766656.story](http://www.latimes.com/news/science/environment/la-me-aqmd5jan05_0,2766656.story).

through the third factor—a meaningful political voice for community residents. The broader responsibilities of county governments—namely, as administrators of federal and state programs, and as service providers for an entire region—create a governance structure where the role of citizens is more difficult to place than in cities. The size and scope of Los Angeles County makes this particularly challenging. It is the nation’s most populous county with over ten million residents, including one million residents in approximately 140 unincorporated areas.<sup>45</sup> East L.A. itself is within a supervisorial district of over two million residents, with approximately 500,000 residents in twenty-two unincorporated areas, across approximately 230 square miles.<sup>46</sup> Of course, population and geographic area in and of themselves do not lead to the diminishment of political voice; the city of Los Angeles itself is the very definition of dense and sprawling, yet it is broken up into smaller city council districts representing localized interests. Thus, although county governance does not establish per se inadequacy of political voice, there are clear limitations to it that are absent from city governance.

The adequacy of political voice is also somewhat based on subjective and relative factors. Compared to unincorporated areas in other counties, or even in other supervisorial districts within Los Angeles County, East L.A. may be considered politically well-represented.<sup>47</sup> In the case of East L.A., the search for a political voice can cut in two major ways: a distinctly local political voice, and a distinctly Latino political voice. Though the former has not been attained, the latter has been successful.

After the failure of the 1974 incorporation effort, East L.A. community activists focused their political energies for self-determination on broader efforts to raise Mexican American political leaders representing the Eastside on the county, state, and national levels.<sup>48</sup> Judging from the significant increase in the number of Latino politicians with roots in the Eastside since the 1970s, these efforts have been largely successful. Before the 1970s, Edward Roybal stood alone as the only Latino politician representing the Eastside, even though there had been a Latino majority since the 1930s.<sup>49</sup> Changes in federal policies through the work of Congressman Roybal—particularly Roybal’s successful efforts to extend the Voting Rights Act of 1965 to include Spanish-speaking communities, and his 1975 amendments to the Voting Rights Act to block the dilution of minority districts through

---

<sup>45</sup> LAcounty.gov, UNINCORPORATED AREAS, <http://portal.lacounty.gov/> (follow “Residents” hyperlink; then follow “Unincorporated Areas” hyperlink) (last visited Oct. 31, 2009).

<sup>46</sup> LAcounty.gov, FIRST SUPERVISORIAL DISTRICT MAP (2009), <http://ceo.lacounty.gov/forms/1st%20Map.pdf>; LAcounty.gov, ESTIMATED POPULATION - UNINCORPORATED AREAS (2008), <http://ceo.lacounty.gov/forms/Estimate%20Unincorp.pdf>.

<sup>47</sup> Interestingly, Los Angeles County has a historic reputation for being fairly responsive, as a way of protecting its own interests and purposes for existence. See GARY MILLER, CITIES BY CONTRACT: THE POLITICS OF MUNICIPAL INCORPORATION 14–17 (1981).

<sup>48</sup> See CHÁVEZ, *supra* note 6, at 168–193.

<sup>49</sup> CHÁVEZ, *supra* note 6, at 169.



gerrymandering and other practices<sup>50</sup>—also contributed significantly to the rise in Mexican American political representation

But one of the most significant political victories in Latino political history in Los Angeles was the election of Gloria Molina to the Los Angeles County Board of Supervisors in 1991. Molina was not only the first Mexican American county supervisor since the 1800s, but the first woman to hold the post as well.<sup>51</sup> Previous to her election, Molina also served as the first Mexican American woman in the California State Assembly and the Los Angeles City Council.<sup>52</sup> Importantly, Molina had East L.A. connections from working for various community organizations earlier in her professional career.<sup>53</sup>

However, Molina is up for re-election in 2010 and will be termed out of the Board of Supervisors in 2014. Whether her successor will be as attuned to the needs of East L.A. is unknown. Additionally, neither the election of Molina, nor her successor, is determined by East L.A. alone. In Los Angeles County's First Supervisorial District, the votes of East L.A. residents, and those of residents of other unincorporated areas who are voting for local representation, are counted similarly to those of city residents, who are already represented at the local level by city officials.<sup>54</sup> Although problematic, this type of vote dilution is considered constitutional.<sup>55</sup>

Publicly, cityhood supporters praise Molina and her representation of East L.A., but acknowledge that her service is still within the confines of her role as a county supervisor.<sup>56</sup> It is not a stretch to imagine that a locally elected city official in a community of 125,000 would provide more proactive, locally-responsive and relevant advocacy than a county supervisor serving two million people.

How then do unincorporated areas gain more control of over local concerns? Short of annexation or incorporation, there are alternate methods to strengthen local political involvement within county oversight.<sup>57</sup> A helpful model is the City of Los Angeles Department of Neighborhood Empowerment, which oversees eighty-nine neighborhood councils throughout Los Angeles with a mission “to promote public participation in government and make government more responsive to local needs by creating, nurturing, and supporting a citywide system of grass-roots, independent, and participatory

---

<sup>50</sup> *Id.* at 168.

<sup>51</sup> *Id.* at 245.

<sup>52</sup> LACounty.gov, BIOGRAPHY OF GLORIA MOLINA, at 3 <http://molina.lacounty.gov/PDFs/About%20GM-BIO.pdf>.

<sup>53</sup> CHÁVEZ, *supra* note 6, at 191.

<sup>54</sup> *See* ANDERSON, *supra* note 43, at 1157.

<sup>55</sup> *Id.*

<sup>56</sup> Interview with Oscar Gonzales, Past President, East L.A. Residents Association, in East L.A., California (Mar. 26, 2009).

<sup>57</sup> *See generally* Local Agency Formation Commission for Los Angeles County, HACIENDA HEIGHTS INCORPORATION PROPOSAL, ALTERNATIVES TO INCORPORATION (Dec. 11, 2002), at 4, <http://www.lalafco.org/Hacienda%20Heights/Hacienda%20Heights%20EO%20Report%2012-17.pdf>.

neighborhood councils.”<sup>58</sup> Local planning commissions and advisory boards are other means of providing residents with meaningful decision-making opportunities.

To move away from county governance, unincorporated areas in California may also be annexed by a neighboring city.<sup>59</sup> In the case of East L.A., neither has much incentive to be annexed or to annex. Typically, smaller communities are annexed by a larger community composed of a different population and large municipal tax rates.<sup>60</sup> With over 118,000 residents, East L.A. would be the tenth-largest city in Los Angeles County if incorporated. In order to be “manageably” annexed, the community would likely have to be carved into smaller subparts and annexed piecemeal by neighboring cities. Notwithstanding the harmful impact of this type of division of a long-standing community, annexation by a neighboring city such as Monterey Park, with its own unique identity,<sup>61</sup> would further detract from the distinct cultural elements that define East L.A. Significantly larger municipal tax rates of the annexing city may also be considerably detrimental to low-income residents. Additionally, it is in the larger community’s interest to annex only profitable areas.<sup>62</sup> Major portions of East L.A. have already been annexed with this rationale in mind, making it unlikely that further annexation initiated by neighboring cities will occur.

As previous and present-day incorporation efforts show, a significant number of East L.A. residents have been interested enough in municipal incorporation to organize five efforts, primarily centered on the idea of local decision-making control. However, modern-day incorporation efforts elsewhere in Los Angeles County have strongly centered on the protection of both corporate and individual financial interests—interestingly, the very factors that managed to defeat East L.A. cityhood in the past. These financial interests provide a tangible economic incentive to substantially engage in the process of incorporation, which can be “time-consuming, prone to failure, and expensive.”<sup>63</sup> Nancy Burns theorizes that businesses are at the core of most successful incorporation efforts, leading to the institutionalization of values of exclusion, low taxes, and limited service provision and availability in newly incorporated cities.<sup>64</sup> Thus, the underlying goals of incorporation supporters largely shape how the incorporated city ultimately functions, including what values it upholds through legislation and policy.

---

<sup>58</sup> City of Los Angeles Department of Neighborhood Empowerment, *Mission Statement*, [http://www.lacityneighborhoods.com/about\\_us.htm](http://www.lacityneighborhoods.com/about_us.htm).

<sup>59</sup> CAL GOV'T CODE §56741 (2009).

<sup>60</sup> MILLER, *supra* note 47, at 21.

<sup>61</sup> Monterey Park is the first city on the U.S. mainland with an Asian majority. *See generally* LELAND T. SAITO, *RACE AND POLITICS: ASIAN AMERICANS, LATINOS, AND WHITES IN A LOS ANGELES SUBURB* (1998).

<sup>62</sup> MILLER, *supra* note 47, at 22.

<sup>63</sup> NANCY BURNS, *THE FORMATION OF AMERICAN LOCAL GOVERNMENTS: PRIVATE VALUES IN PUBLIC INSTITUTIONS* 5 (1994).

<sup>64</sup> *Id.* at 18.

Local governments control many institutions that directly impact local financial interests: zoning, service and utility provision—including law enforcement, sewage systems, trash collection, traffic control, and animal control—economic development, and, most significant to many, local taxation.<sup>65</sup> Gary Miller's research on modern-day municipal incorporation in Los Angeles County posits that the fear among citizens and businesses of annexation and its consequent higher taxes drives incorporation.<sup>66</sup> Thus, incorporation occurs as a preemptive measure to institutionalize low taxes, low levels of bureaucratic activity, and low levels of government spending on welfare and other social services.<sup>67</sup> It can also be viewed as a showing of popular support for hands-off, low-cost governance.

Of course, not all incorporations stem from economically-driven motivations, though these are the most systemic reasons.<sup>68</sup> The other category of successful incorporations is composed of unincorporated areas seeking to protect the character of their communities. These are almost entirely wealthy communities that use zoning as a method of controlled exclusion and inclusion.<sup>69</sup> This narrow category of incorporations illustrates how class-based (and often race-based) exclusion is achieved through legal mechanisms.

Incorporation also raises a classic collective action and resource problem in that it usually requires the work of unpaid actors to organize and manage the process.<sup>70</sup> Incorporation is a highly time-consuming and expensive process, which is why businesses with the necessary financial resources are able to ensure that their interests are protected in the process. This sets up an interesting dynamic: state law defines the process of incorporation—including its administrative costs and various procedural requirements—which acts as a gatekeeper in that only those with the means to meet these statutory requirements can succeed. Is incorporation controlled by how it is statutorily defined as much as it is by the motivating forces behind an incorporation effort? If so, how can the incorporation process include additional equitable factors that take into account significant non-financial motivations?

### III. INCORPORATION IN CALIFORNIA

The structure of modern incorporation in California began with the passage of the Knox-Nisbet Act of 1963 by the state legislature, which established Local Agency Formation Commissions (LAFCOs) with regulatory authority over the incorporation of municipalities and local agency boundary changes in each California county.<sup>71</sup>

---

<sup>65</sup> See ANDERSON, *supra* note 43, at 1106, 1009, and 1134; BURNS, *supra* note 63, at 20.

<sup>66</sup> BURNS, *supra* note 63, at 37.

<sup>67</sup> MILLER, *supra* note 47, at 8.

<sup>68</sup> BURNS, *supra* note 63, at 41.

<sup>69</sup> See MILLER, *supra* note 47, at 131 – 145.

<sup>70</sup> BURNS, *supra* note 63, at 17.

<sup>71</sup> Dolores Tremewan Martin and Richard E. Wagner, *The Institutional Framework for*

Before the passage of the Knox-Nisbet Act, incorporation was marked by “relatively free entry”—a group of citizens interested in incorporation submitted a petition to their Local Boundary Commission, which verified whether the submitted petitions met statutory requirements before approving the next step of collecting sufficient signatures of support for the issue to be considered by vote.<sup>72</sup> However, because this system incentivized a first-come, first-serve mentality as well as strategic considerations to exclude land with low revenue-producing potential, this system of “free formation” resulted in “awkward islands of unincorporated territory, inefficiently and inadequately served by county agencies.”<sup>73</sup> The purpose of the Knox-Nisbet Act was to counteract this patchwork system and “put urban growth in a more comprehensive, less competitive governmental framework, and to attack the problem of disparities of tax levels and of urban services between municipalities that resulted from different success in the competition for resources.”<sup>74</sup>

Under Knox-Nisbet, communities interested in incorporation were required to first gain consent from their county LAFCO, which has the discretion to approve or disapprove proposals based on regional concerns to promote “orderly development [while] discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services.”<sup>75</sup>

Incorporation in California is currently governed by the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, which was last updated in 2009.<sup>76</sup> Under Cortese-Knox-Hertzberg, the incorporation process is complex, long, and costly. The timeline for the current cityhood effort in East L.A. alone spans three years, from the release of the initial fiscal analysis in October 2007, to the goal of an election by June 2010.<sup>77</sup> The initial fiscal analysis (IFA) alone costs \$25,000<sup>78</sup>, and the comprehensive fiscal analysis costs approximately \$134,000.<sup>79</sup> While not required by law, the Governor’s Office of Planning and Research recommends proponents to complete an IFA, which analyzes the feasibility of incorporation. Then, organizers must

---

*Municipal Incorporation: An Economic Analysis of Local Agency Formation Commissions in California*, 21 J.L. & ECON. 409, 412 (1978).

<sup>72</sup> Similar to current standards, the signature threshold consisted of either 25% of registered voters living in the area proposed for incorporation, or 25% of landowners in the area. *Id.* at 412.

<sup>73</sup> MILLER, *supra* note 47, at 101.

<sup>74</sup> *Id.*

<sup>75</sup> CAL. GOV’T CODE § 56001 (2009).

<sup>76</sup> CAL. GOV’T CODE §§56000 to §57500 (2009).

<sup>77</sup> Cityhood for East L.A., *Reports & Resources*, [http://www.cityhoodforeastla.org/reports\\_resources](http://www.cityhoodforeastla.org/reports_resources) (last visited January 27, 2010); Cityhood for East L.A., *Timeline*, [http://www.cityhoodforeastla.org/2008-06-20\\_timeline\\_towards\\_cityhood](http://www.cityhoodforeastla.org/2008-06-20_timeline_towards_cityhood) (last visited January 27, 2010).

<sup>78</sup> Susannah Rosenblatt, *East L.A. Ready, Financially, for Independence*, L.A. TIMES, October 17, 2007, available at <http://articles.latimes.com/2007/oct/17/local/me-eastla17>

<sup>79</sup> *Community Dinner Press Release*, [http://www.cityhoodforeastla.org/files/PDFs/Press\\_Release\\_Nov\\_5\\_Community\\_Dinner.pdf](http://www.cityhoodforeastla.org/files/PDFs/Press_Release_Nov_5_Community_Dinner.pdf).

file an intent to circulate an incorporation petition with the county LAFCO.<sup>80</sup> As part of the petition, the organizers must collect signatures from no less than 25 percent of either the community's registered voters or no less than 25 percent of the landowners within the territory proposed to be incorporated who also own not less than 25% of the assessed value of land within the territory proposed to be incorporated, within a specified timeframe.<sup>81</sup> Within thirty days of receiving the signatures, LAFCO performs a verification check.<sup>82</sup> If LAFCO determines that there are enough valid signatures, it issues a certificate of sufficiency.<sup>83</sup>

Next, the organizers submit a petition, which includes a statement of the nature of the proposal, a boundary map, legal description, and the names of up to three petitioners to the county LAFCO.<sup>84</sup> Then, a Comprehensive Fiscal Analysis (CFA) must be prepared. The CFA assesses the proposed city's financial viability. It includes projections of the costs of providing public services and facilities, and the proposed revenues of the city.<sup>85</sup> To prepare the CFA, LAFCO issues a request for proposals from consultants after the proponents pay fees and a certificate of filing is completed.<sup>86</sup> Upon the completion of the CFA, the organizers or LAFCO may request the State Controller to review the CFA. The requesting party must pay the Controller's costs of review.<sup>87</sup>

After reviewing the petition and CFA, the LAFCO executive officer prepares a report with recommendations on the petition.<sup>88</sup> The report must be available at least five days in advance of the LAFCO public hearing, where the LAFCO decides whether or not to approve the incorporation and allows both proponents and opponents to publicly present their arguments for and against incorporation.<sup>89</sup> If approved, the LAFCO issues a resolution calling for an election,<sup>90</sup> which is held on the next regular election date occurring at least eighty-eight days after the election resolution.<sup>91</sup> The election should also allow community residents to run for city council of the incorporated city.<sup>92</sup> If the vote passes, there is usually a two-to-three-month period in which the elected city council hires an interim city manager and attorney.<sup>93</sup>

---

<sup>80</sup> CAL. GOV'T CODE §56700 (2009).

<sup>81</sup> CAL. GOV'T CODE §56764 (2009).

<sup>82</sup> CAL. GOV'T CODE §56706 (2009).

<sup>83</sup> *Id.*

<sup>84</sup> CAL. GOV'T CODE §56652 (2009).

<sup>85</sup> CAL. GOV'T CODE §56800 (2009).

<sup>86</sup> BURR CONSULTING, REPORT TO THE EAST LOS ANGELES RESIDENTS ASSOCIATION, PUBLIC REVIEW DRAFT: INITIAL FISCAL ANALYSIS OF PROPOSED INCORPORATION 4, (2007), *available at* <http://www.scribd.com/East-Los-Angeles-Initial-Fiscal-Analysis-IFA-Burr-Consulting/d/2160907> ).

<sup>87</sup> CAL. GOV'T CODE §56801 (2009).

<sup>88</sup> CAL. GOV'T CODE §56665 (2009).

<sup>89</sup> CAL. GOV'T CODE §56822 (2009).

<sup>90</sup> CAL. GOV'T CODE §57716 (2009).

<sup>91</sup> CAL. GOV'T CODE §57132 (2009).

<sup>92</sup> CAL. GOV'T CODE §57116 (2009).

<sup>93</sup> BURR CONSULTING, *supra* note 85, at 4.

To ensure a smooth transition, the county is required to provide services during the first partial fiscal year after incorporation, and the new city reimburses the net expense over a five-year period.<sup>94</sup>

#### IV. CURRENT INCORPORATION EFFORTS IN EAST L.A.

After a dormancy of over thirty years, East L.A. community residents have once again organized an effort to incorporate. Covering approximately eight square miles, the City of East L.A. would be home to over 118,000 residents, making it the tenth-largest city in Los Angeles County.<sup>95</sup> ninety-seven percent of East L.A. residents identify as Latino.<sup>96</sup> The effort is spearheaded by the East L.A. Residents Association (ELARA), whose mission is

to develop the East Los Angeles community's social, educational, economic and structural resources through advocacy and civic engagement. [The organization's] current objective is to incorporate [the East Los Angeles] community through the East Los Angeles Cityhood Campaign, and become the City of East Los Angeles.<sup>97</sup>

Three distinct factors separate the current cityhood effort from previous ones. First, ELARA has the support of many in the political establishment with few detractors. State and federal officials representing East L.A., including former State Senate Majority Leader Gloria Romero (D-24), State Senator Ron Calderon (D-30), State Assemblyman Chuck Calderon (D-58), and Representatives Judy Chu (D-32), Grace Napolitano (D-38) and Lucille Roybal-Allard (D-34), are visible public supporters of the effort. Romero, who has represented portions of East L.A. since 1998 as an Assembly Member and State Senator, is an especially vocal supporter.<sup>98</sup> Despite her personal and professional connections to East L.A., County Supervisor Gloria Molina has remained relatively neutral on the issue but has expressed concern about the ability of the city to raise enough tax revenue to support itself, considering that it is largely residential.<sup>99</sup> As a county supervisor, Molina is

---

<sup>94</sup> CAL. GOV'T CODE §57384 (2009).

<sup>95</sup> Rosenblatt, *supra* note 78; US Census Bureau, East Los Angeles CDP, California: ACS Demographic and Housing Estimates: 2005-2007, [http://fastfacts.census.gov/servlet/ADPTable?-geo\\_id=16000US0620802&-qr\\_name=ACS\\_2007\\_3YR\\_G00\\_DP3YR5&-ds\\_name=ACS\\_2007\\_3YR\\_G00\\_](http://fastfacts.census.gov/servlet/ADPTable?-geo_id=16000US0620802&-qr_name=ACS_2007_3YR_G00_DP3YR5&-ds_name=ACS_2007_3YR_G00_) (last visited November 22, 2009).

<sup>96</sup> US Census Bureau, East Los Angeles CDP, California: ACS Demographic and Housing Estimates: 2005-2007 [http://fastfacts.census.gov/servlet/ADPTable?-geo\\_id=16000US0620802&-qr\\_name=ACS\\_2007\\_3YR\\_G00\\_DP3YR5&-ds\\_name=ACS\\_2007\\_3YR\\_G00\\_](http://fastfacts.census.gov/servlet/ADPTable?-geo_id=16000US0620802&-qr_name=ACS_2007_3YR_G00_DP3YR5&-ds_name=ACS_2007_3YR_G00_) (last visited November 22, 2009).

<sup>97</sup> Cityhood for East L.A., About the East LA Residents Association, [http://www.cityhoodforeastla.org/about\\_elara](http://www.cityhoodforeastla.org/about_elara) (last visited Oct. 31, 2009).

<sup>98</sup> Gloria Angelina Castillo, *East L.A. Cityhood Study Gets Underway*, EGP NEWS, January 8, 2009, available at <http://egpnews.com/?p=5511>.

<sup>99</sup> Jim Newton, *A City Grows in East L.A.*, L.A. TIMES, February 4, 2007, available at <http://articles.latimes.com/2007/feb/04/local/me-eastla4>

also a member of the county LAFCO, the ultimate decision-making authority on the incorporation.

Second, strong, organized opposition—the downfall of past efforts—is virtually nonexistent. Proponents state that this is symbolic of East L.A.’s overall sense of readiness for incorporation.<sup>100</sup> Statutory limitations on raising local taxes that have been enacted since the last incorporation effort in 1974 may also play a significant role. Namely, the passages of Proposition 13 in 1978 and Proposition 218 in 1996 sharply curbed the ability of local governments to raise local taxes and other revenues without voter approval.<sup>101</sup> For local businesses, the bureaucratic hurdles attached to county administration, along with the potential for the more focused economic development opportunities offered by a city, may make businesses supportive, or at least neutral, on incorporation.<sup>102</sup>

Finally, an understated but important factor is attributable to a new generation of leadership. While the politicization of the 1960s and 1970s created a sense of community pride and empowerment, it also resulted in intense political divisions within the community regarding radical versus mainstream approaches, as well as the creation of different political camps supporting different leaders. The 1974 incorporation effort was particularly affected by competing political visions within the organizing group, resulting in a divided effort that could not defeat its opponents. Conversely, ELARA can be described as a “post-radical” civic organization—infused with the spirit of community pride and empowerment, but largely devoid of the divisive ideological battles that crippled previous efforts. The group is fueled by the energy and enthusiasm of a generation of young people raised in East L.A. who left for college but have returned armed with critical knowledge regarding political representation and justice.<sup>103</sup> The organization’s leadership includes highly educated and well-connected Latino professionals active in labor and politics.<sup>104</sup>

ELARA’s political organizing has already produced benefits for unincorporated areas statewide. When ELARA began organizing its cityhood effort in 2007, state law potentially excluded cities incorporated after June 2009 from accessing a share of vehicle license fees and gasoline tax revenues for service costs.<sup>105</sup> ELARA’s initial goal was to incorporate East L.A. before this deadline affected the new city’s revenue stream. Instead, ELARA

---

<sup>100</sup> Interview with Oscar Gonzales, *supra* note 56.

<sup>101</sup> See CAL. CONST. art. XIII A, CAL. CONST. art. XIII C, and CAL. CONST. art. XIII D.

<sup>102</sup> Interview with Oscar Gonzales, *supra* note 56.

<sup>103</sup> Interview with Oscar Gonzales, *supra* note 56; Rebecca Kimitich, *East L.A. Moves Toward Cityhood*, SAN GABRIEL VALLEY TRIBUNE, Jan. 11, 2009.

<sup>104</sup> Officers include Benjamin Cardenas, Deputy District Director for Congresswoman Grace Napolitano, and attorney Yobany Chacon. Cityhood for East L.A., About the East Los Angeles Residents Association, [http://www.cityhoodforeastla.org/about\\_east\\_los\\_angeles\\_residents\\_association](http://www.cityhoodforeastla.org/about_east_los_angeles_residents_association) (last visited April 7, 2010).

<sup>105</sup> *Romero’s Bill Would Rework VLF Allocations*, EGP NEWS, Aug. 14, 2008, available at [http://www.cityhoodforeastla.org/news/2008-08-14\\_egp\\_news\\_romero’s\\_bill\\_would\\_rework\\_vlf\\_allocations](http://www.cityhoodforeastla.org/news/2008-08-14_egp_news_romero’s_bill_would_rework_vlf_allocations)

worked with State Senator Gloria Romero to sponsor Senate Bill 301, which was signed into law by Governor Arnold Schwarzenegger in August 2008. Under Senate Bill 301, cities incorporated after July 2009 “will continue to receive the same share of Vehicle License Fees in [their] early years that recently incorporated cities have received.”<sup>106</sup> Interestingly, Carmel Valley and Alamo—two wealthy enclaves with ongoing incorporation efforts—looked to ELARA’s leadership on this effort.<sup>107</sup> ELARA is also actively involved with advocating for Senate Bill 194—sponsored by State Senator Dean Florez—regarding community development in disadvantaged unincorporated areas, particularly in the *colonias* of the San Joaquin Valley.<sup>108</sup>

After months of organizing community meetings to gauge interest and support, an IFA was completed for ELARA by an independent consultant in October 2007. The IFA is a precursor to the more thorough reporting and analysis provided by the CFA.<sup>109</sup> After the IFA found that East L.A. was viable as an independent city, ELARA began a signature campaign in June 2008 for its incorporation petition.<sup>110</sup> ELARA submitted the petition to its LAFCO in December 2008.<sup>111</sup> After the LAFCO verified that ELARA had collected 11,340 valid signatures, representing thirty-three percent of registered voters in East L.A., it issued a certificate of sufficiency in January 2009.<sup>112</sup> ELARA began a fundraising campaign in April 2009 to raise the \$134,000 needed to pay for the CFA.<sup>113</sup> A CFA fundraising extension was granted until April 29, 2010, and a 2011 incorporation election is anticipated.<sup>114</sup>

Though the IFA is just an initial assessment on financial viability, it concluded that East L.A. could be financially feasible as a city *without* raising new taxes or assessments. The analysis found that in its first year of incorporation, East L.A. would generate \$43 million in general fund revenues and \$8 million in road fund revenues, as well as produce a positive fiscal effect of approximately \$7 million for Los Angeles County.<sup>115</sup> Much of the study’s analysis compares the feasibility of an incorporated East L.A. with cities of comparable demographics, such as Baldwin Park, El Monte, Huntington Park, Lynwood, and South Gate. By basing projected municipal

---

<sup>106</sup> *Id.*

<sup>107</sup> Interview with Oscar Gonzales, *supra* note 56.

<sup>108</sup> S.B. 194, 2009-2010 Leg. (Cal. 2009), available at [http://info.sen.ca.gov/pub/09-10/bill/sen/sb\\_0151-0200/sb\\_194\\_bill\\_20090223\\_introduced.html](http://info.sen.ca.gov/pub/09-10/bill/sen/sb_0151-0200/sb_194_bill_20090223_introduced.html).

<sup>109</sup> BURR CONSULTING *supra* note 85, at 1.

<sup>110</sup> Cityhood for East L.A., *Timeline*, [http://www.cityhoodforeastla.org/2008-06-20-timeline\\_towards\\_cityhood](http://www.cityhoodforeastla.org/2008-06-20-timeline_towards_cityhood) (last visited January 27, 2010).

<sup>111</sup> *Id.*

<sup>112</sup> Notice of Sufficiency from Local Agency Formation Comm. for the County of Los Angeles (LAFCO) to Benjamin Cardenas et al., E. Los Angeles Residents Ass’n (Jan. 7, 2009), available at [http://www.cityhoodforeastla.org/files/PDFs/LAFCO\\_Notice\\_of\\_Sufficiency.pdf](http://www.cityhoodforeastla.org/files/PDFs/LAFCO_Notice_of_Sufficiency.pdf).

<sup>113</sup> [http://www.cityhoodforeastla.org/files/PDFs/April\\_11\\_Menuedo\\_Breakfast\\_Fundraiser.pdf](http://www.cityhoodforeastla.org/files/PDFs/April_11_Menuedo_Breakfast_Fundraiser.pdf); [http://www.cityhoodforeastla.org/files/PDFs/Press\\_Release\\_Nov\\_5\\_Community\\_Dinner.pdf](http://www.cityhoodforeastla.org/files/PDFs/Press_Release_Nov_5_Community_Dinner.pdf)

<sup>114</sup> Email correspondence with Ana Mascareñas, Director, East L.A. Residents Association (Jan. 31, 2010).

<sup>115</sup> BURR CONSULTING, *supra* note 85, at 1.



service costs of East L.A. on the municipal service costs of these comparable cities, the IFA estimated that the new city would spend \$44 million on municipal services, including law enforcement, fire, and street services.<sup>116</sup> The study also found that law enforcement costs could be cut to \$13 million per year, compared to the county's current costs of \$24 million, and street services to \$7 million per year, down from the current cost of \$9 million.<sup>117</sup> The IFA also noted East L.A.'s compact geography and limited ability to accommodate large-scale economic development projects, but highlighted the community's proximity to highways, underutilized commercial space, and the expansion of the Metro Gold Line railway as strengths in drawing economic development projects that could raise city revenues.<sup>118</sup>

However, some key parties are criticizing the IFA's conclusions. Supervisor Molina is concerned with long-term viability, and a representative from the Los Angeles County Sheriff's Department questions whether the \$11 million differential between the current costs of law enforcement and the proposed costs for the city are accurate.<sup>119</sup>

Historically, incorporation was unpopular with the county because it transferred power and resources from the county to the new city, elements that bolstered the county's relevance and stature. While much of this shifted with the county contract system, a significant transfer of power still occurs.<sup>120</sup> Since East L.A. has a large population, L.A. County would lose a significant source of revenue if East L.A. incorporates. L.A. County would lose \$11 million differential for law enforcement services alone. Other cities would lose revenue as well; the IFA found 300 East L.A.-based businesses paying taxes to bordering cities due to administrative oversight.<sup>121</sup> Even if the new city continues to use county services, it could make critical and independent judgments in service contracts and budgeting over which it previously had no control. Thus, there are financial incentives for the county to resist incorporation.

The East L.A. Chamber of Commerce has a more pointed critique, stating that a \$44 million city budget would be insufficient to cover the range of services that East L.A. may need.<sup>122</sup> This raises the complexity of adequate financial viability in a low-income community.

While ELARA's IFA positively forecasts East L.A.'s financial viability as a city, the demographics of East L.A. are notably different from the most recently incorporated cities within Los Angeles County. East L.A. is a predominately low-income neighborhood. Annual median household income is \$36,376 and 22.8% of families live below the federal poverty line.<sup>123</sup> In com-

---

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *See id.* at 9 – 15.

<sup>119</sup> Rosenblatt, *supra* note 78, at B2.

<sup>120</sup> *See generally* MILLER, *supra* note 47.

<sup>121</sup> Interview with Oscar Gonzales, *supra* note 56.

<sup>122</sup> Kimitch, *supra* note 102.

<sup>123</sup> U.S. Census Bureau, American Community Survey, East Los Angeles CDP, California. In 2009, the federal poverty line was \$22,050 for a family of four. U.S. Department of

parison, the Los Angeles County median household income is \$55,192, with 12.2% of families living below the federal poverty line.<sup>124</sup>

But income level is not entirely indicative of the success of an incorporation effort. For instance, two of the most recent incorporation efforts in California occurred in Castro Valley in Alameda County and Hacienda Heights in Los Angeles County, though neither passed voter approval. Castro Valley's median household income is \$76,197, and Hacienda Heights's median household income is \$70,063, with low family poverty rates in both communities.<sup>125</sup> However, the five most recently incorporated cities in Los Angeles County are Calabasas (incorporated in 1991), Malibu (1991), Diamond Bar (1989), Santa Clarita (1987), and West Hollywood (1984).<sup>126</sup> With the exception of West Hollywood, whose median household income is below the county average, these are largely affluent communities whose median household incomes range from \$84,442 in Santa Clarita to over \$100,000 in Malibu.<sup>127</sup> Additionally, the high property values in these communities make them less dependent on revenue-generating businesses for sustainability.

Unlike the most recently incorporated cities in Los Angeles County and other cities within the county with low sales tax per capita, East L.A. has considerable financial barriers to overcome as a low-income community with median home values below the county average. As noted in the IFA, the feasibility of an incorporated East L.A. cannot depend too heavily on potential economic growth due to the area's size and high population density, the large amount of tax-exempt land such as county facilities and cemeteries, and a relatively small sales tax base. East L.A. is a largely residential community with a high population density of 16,697 residents per square mile, compared to the City of Los Angeles, whose population density is approximately 7,876 residents per square mile.<sup>128</sup> The compactness of the commu-

---

Health & Human Services, *The 2009 HHS Poverty Guidelines*. (2009), <http://aspe.hhs.gov/poverty/09poverty.shtml>.

<sup>124</sup> U.S. Census Bureau, 2006-2008 American Community Survey, Los Angeles County, California, [http://factfinder.census.gov/servlet/ACSSAFFacts?\\_event=search&geo\\_id=&\\_geoContext=&\\_street=&\\_county=los+angeles+county&\\_cityTown=los+angeles+county&\\_state=04000US06&\\_zip=&\\_lang=en&\\_sse=on&pctxt=fph&pgsl=010](http://factfinder.census.gov/servlet/ACSSAFFacts?_event=search&geo_id=&_geoContext=&_street=&_county=los+angeles+county&_cityTown=los+angeles+county&_state=04000US06&_zip=&_lang=en&_sse=on&pctxt=fph&pgsl=010) (last visited January 26, 2010).

<sup>125</sup> U.S. Census Bureau, 2006-2008 American Community Survey, Castro Valley, California, <http://factfinder.census.gov/> (Search "Get a Fact Sheet for your Community" for "Castro Valley, California") (last visited January 26, 2010); U.S. Census Bureau, 2006-2008 American Community Survey, Hacienda Heights, California, <http://factfinder.census.gov/> (Search "Get a Fact Sheet for your Community" for "Hacienda Heights, California") (last visited January 26, 2010).

<sup>126</sup> Burr Consulting, *supra note 85*, at 6.

<sup>127</sup> U.S. Census Bureau, 2006-2008 American Community Survey, Santa Clarita, California, <http://factfinder.census.gov/> (Search "Get a Fact Sheet for your Community" for "Santa Clarita, California") (last visited January 26, 2010); U.S. Census Bureau, 2006-2008 American Community Survey, Malibu, California, <http://factfinder.census.gov/> (Search "Get a Fact Sheet for your Community" for "Malibu, California") (last visited January 26, 2010).

<sup>128</sup> U.S. Census Bureau, *California – Population, Housing Units, Area Density: 2000*, [http://factfinder.census.gov/servlet/GCTTable?\\_bm=y&-context=gct&-ds\\_name=DEC\\_2000\\_SF1\\_U&-mt\\_name=DEC\\_2000\\_SF1\\_U\\_GCTPH1\\_ST7&-CONTEXT=gct&-tree\\_id=4001&-geo\\_id=04000US06&-format=ST-7—ST-7S&-\\_lang=en](http://factfinder.census.gov/servlet/GCTTable?_bm=y&-context=gct&-ds_name=DEC_2000_SF1_U&-mt_name=DEC_2000_SF1_U_GCTPH1_ST7&-CONTEXT=gct&-tree_id=4001&-geo_id=04000US06&-format=ST-7—ST-7S&-_lang=en) (last visited January 26, 2010).

nity restrains the development of large economic projects that can increase a community's revenue stream. East L.A.'s retail sector represents a mere 5% of the community's current economic base, and fast-food restaurants represent 6%. Sales tax is \$13,000 per resident countywide, but only \$2,774 in East L.A.<sup>129</sup> Only seven cities in Los Angeles County have lower sales tax per capita than East L.A.: Bradbury, Hidden Hills, La Habra Heights, Palos Verdes Estates, Rancho Palos Verdes, Rolling Hills, and Sierra Madre. But those cities are all affluent communities with relatively high property values and tax bases.<sup>130</sup> The median home value in East L.A. was \$155,800 in 2000, compared with \$209,300 countywide.<sup>131</sup> By 2007, the median home value in East L.A. was \$386,800, still lower than the countywide average of \$550,000.<sup>132</sup>

As discussed, significant parts of East L.A.'s revenue-generating industrial sites were annexed to the adjacent City of Commerce in 1960, while other parts of the community were annexed to Monterey Park in 1975. Additionally, the federal and state highway expansions of the 1940s to 1970s resulted in considerable community displacement, environmental hazards, and loss of local commercial corridors and taxable land. Arguably, a continual lack of local power is manifested through the ability of outside interests from the past to shape East L.A. in the present.

Baldwin Park, El Monte, and La Puente, cities with comparable characteristics to those of East L.A., have similar tales of historic exclusion leading to present-day limitations.<sup>133</sup> The City of Industry, an oddly-shaped jurisdiction comprised of industrial land and very few residents, was preemptively incorporated to prevent annexation or inclusion into Baldwin Park and La Puente in 1957.<sup>134</sup> While La Puente's median per capita assessment in 1961 was \$849, the City of Industry's per capita assessment was over \$41,000, and would have provided La Puente with the highest tax base in the county.<sup>135</sup> Instead, La Puente's tax base has remained among the lowest in

---

<sup>129</sup> Burr Consulting, *supra* note 85, at 22.

<sup>130</sup> *Id.* at 23.

<sup>131</sup> U.S. Census Bureau, American Community Survey, Los Angeles County, California; U.S. Census Bureau, American Community Survey, East Los Angeles, California, [http://factfinder.census.gov/servlet/ACSSAFFacts?\\_event=search&geo\\_id=&\\_geoContext=&\\_street=&\\_county=east+los+angeles&\\_cityTown=east+los+angeles&\\_state=04000US06&\\_zip=&\\_lang=en&\\_sse=on&pctxt=fph&pgsl=010](http://factfinder.census.gov/servlet/ACSSAFFacts?_event=search&geo_id=&_geoContext=&_street=&_county=east+los+angeles&_cityTown=east+los+angeles&_state=04000US06&_zip=&_lang=en&_sse=on&pctxt=fph&pgsl=010) (last visited Jan. 25, 2010).

<sup>132</sup> Burr Consulting, *supra* note 85, at 15.

<sup>133</sup> Baldwin Park, El Monte, and La Puente are also majority Latino, low-income communities. U.S. Census Bureau, 2006-2008 American Community Survey, Baldwin Park, California, <http://factfinder.census.gov/> (search "Get a Fact Sheet for your Community" for "Baldwin Park City, California") (last viewed January 26, 2010); U.S. Census Bureau, 2006-2008 American Community Survey, El Monte, California, <http://factfinder.census.gov/> (Search "Get a Fact Sheet for your Community" for "El Monte, California") (last viewed January 26, 2010); U.S. Census Bureau, 2000 American Community Survey, La Puente, California, <http://factfinder.census.gov/> (Search "Get a Fact Sheet for your Community" for "La Puente City, California") (last viewed January 26, 2010).

<sup>134</sup> MILLER, *supra* note 47, at 50.

<sup>135</sup> MILLER, *supra* note 47, at 50.

the county, while the City of Industry's has dramatically increased.<sup>136</sup> To prevent annexation by El Monte, business interests incorporated South El Monte in 1958, locking in vastly different sales tax and property assessment resources for El Monte.<sup>137</sup>

Baldwin Park, El Monte, and La Puente are independent cities with local control, but their limited economic resources make it difficult for them to offer more than basic services to city residents. While some cities incorporated with this "minimal city" structure in mind,<sup>138</sup> the social and economic needs of low-income communities arguably make additional service provision even more necessary in terms of the adequacy of local governance. Without significant streams of income, these cities are pushed towards seeking large-scale economic development. The struggles and achievements of these cities can serve as helpful models for East L.A., demonstrating the control and independence possible with the financial limitations East L.A. faces.

Although East L.A. is unique in its population size, political history, and pool of leadership, its incorporation effort highlights two important and intertwined factors that should be considered during the incorporation of low-income communities: (1) the importance of effective community organizing, and (2) the necessity of equitable considerations within the incorporation process.

Within the current statutory framework, the experience of East L.A. highlights the difficulties for low-income communities on both sides of the process. Not only do current incorporation standards favor high revenue communities, but the incorporation process itself is highly resource-intensive in time and money—two particularly scarce commodities in low-income communities. The incorporation process has costs that can be prohibitive to low-income communities. Organizers of the current East L.A. effort paid \$25,000 for a fiscal analysis by an independent consultant, which is just the first step of compiling the IFA.<sup>139</sup> The comprehensive fiscal analysis is projected to cost an additional \$100,000.<sup>140</sup> This does not include the in-kind time provided by volunteers. Coordinating the entire multi-step process is a time-intensive endeavor for private citizens with day jobs, and particularly difficult for working-class communities where residents may lack childcare and work multiple jobs to support themselves and their families.

Burns posits that this collective action issue is usually resolved in one of two ways. One way is when a "very interested entrepreneur provides the start-up resources for organization," which includes resources, interest in

---

<sup>136</sup> In the early 1980s, the City of Industry had one-tenth of L.A. County's industrial land, and one ten-thousandth of its population. *Id.* at 50.

<sup>137</sup> *Id.* at 59.

<sup>138</sup> *See id.* at 85 – 99.

<sup>139</sup> Rosenblatt, *supra* note 78.

<sup>140</sup> Letter from D. Tarango et al., Chief Petitioners, to Cityhood Supporters (Mar. 1, 2009), available at [http://www.cityhoodforeastla.org/files/PDFs/ELARA\\_CFA\\_Fundraising\\_Letter\\_03-01-2009.pdf](http://www.cityhoodforeastla.org/files/PDFs/ELARA_CFA_Fundraising_Letter_03-01-2009.pdf).

access to the powers of the new government, and an ability to persuade enough citizens to support the petition.<sup>141</sup> Another method is to use an organized group to create a new government whereby “the organizational problem has already been solved, and the indigenous organization can be retooled as the organizational base for the new collective action.”<sup>142</sup> In the latter, the desires and agenda of the organizers of incorporation efforts usually become deeply embedded in the structure and policies of the newly incorporated city. While the first model tends to be used by those protecting economic interests, the second model is accessible to low-income communities through the use of community organizing and community-based organizations to represent residents’ interests in a strategic and focused manner. As a community-based organization led by longtime residents, this is essentially the model that ELARA uses. ELARA provides a rich organizational model for communities without ready access to financial resources to emulate. Additionally, working through a civic organization can also result in the ability to raise funds through private and public grants supporting civic engagement and community empowerment work.

As noted, the fiscal standing of a proposed municipality is of considerable weight in the incorporation process. Among other provisions, California Government Code §56720 requires that the proposed city’s revenues be sufficient to provide services, facilities, and a reasonable reserve during the three fiscal years following incorporation; California Government Code §56800 requires the submission of a comprehensive fiscal analysis, which informs LAFCO of the financial viability of a proposed city; and California Government Code §56815 requires the incorporation to create revenue neutrality by guaranteeing a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies. While the Knox-Nisbet Act of 1963 established LAFCO as a mechanism to check piecemeal incorporation—like that of corporate-backed cities such as the City of Commerce and the City of Industry—there is no recourse for cities and communities that have been locked out of significant streams of income as a result. Additionally, notably absent in incorporation statutes are considerations of a community’s history and longevity, cultural significance, and sense of social cohesion—the non-economic elements that have inspired the multiple cityhood campaigns for East L.A.

How can these equitable considerations be balanced against the fiscal and regional planning necessities governing incorporation? The inclusion of equitable considerations in the incorporation process can take a number of approaches. First, there is the question of whether the current state process governing incorporation can include more discretionary considerations. With the limited use of race and ethnicity in public policy considerations, policies concerning the historic preservation of ethnic communities can serve as models of creative policy-making.

---

<sup>141</sup> BURNS, *supra* note 63, at 18.

<sup>142</sup> *Id.*

The passage of the California Japantown Preservation Pilot Project by the California State Legislature in 2001 provides some helpful comparisons. The Project provided a state grant of \$750,000 to community organizations working in the three remaining Japantowns in the United States, which are all within California (in Los Angeles, San Francisco, and San Jose). The purpose of the grant was for community groups to develop strategies to preserve the cultural character of the communities and to promote responsible development in the Japantowns, in recognition of the historical, cultural, and social significance of these ethnic communities and the value of their continued existence.<sup>143</sup> The situation of the Japantowns differs from that of East L.A. in that the Japantowns face disappearance because of urban decay, damage, and gentrification. Most notably, the lack of recent Japanese immigrants has relegated the significance of these communities to their historic roles. In comparison, East L.A. continues to be a vibrant ethnic enclave, approaching its centennial mark as the nation's largest Mexican American community. As the Latino community in both the state and the nation continues to grow, the significance of cityhood in this place of historic and present-day importance arguably serves a compelling public purpose.

A cursory look at incorporation in New Mexico and Texas also gives a helpful comparative perspective on the interaction of incorporation statutes and low-income communities. Along with California, these states contain communities of *colonias*, low-income unincorporated areas of largely minority residents with a lack of basic public services, many of which have also been shut out from the services of neighboring cities.<sup>144</sup>

New Mexico empowers traditional historic communities, which are long-established unincorporated areas with a distinctive character or traditional quality, to protect themselves from annexation by neighboring cities by requiring a petition signed by a majority of registered voters in the community for approval before any annexation takes place.<sup>145</sup> Though similar protections do not extend to traditional historic communities seeking to incorporate, this categorical distinction serves as a helpful model of how California and other states can distinguish a small but important category of unincorporated areas bolstered and encumbered by historic considerations. Similar to California, incorporation in Texas also requires a signature petition, but the threshold requirement tops off at 10% of the area's registered voters, instead of the 25% requirement in California.<sup>146</sup>

---

<sup>143</sup> S. 307, 2001 Leg., (Ca. 2001), available at [http://info.sen.ca.gov/pub/01-02/bill/sen/sb\\_0301-0350/sb\\_307\\_bill\\_20010912\\_enrolled.html](http://info.sen.ca.gov/pub/01-02/bill/sen/sb_0301-0350/sb_307_bill_20010912_enrolled.html).

<sup>144</sup> See Anderson, *supra* note 43, at 1115.

<sup>145</sup> N.M. STAT. ANN. § 3-7-1.1 (1978).

<sup>146</sup> TEX. LOC. GOV'T CODE ANN. §6.001 (2008).

## V. CONCLUSION

Within a system of strained public resources, it is difficult for equitable considerations alone to determine a community's right to incorporate. The post-Knox-Nisbet process clearly has its benefits, particularly in coordinating regional growth, managing the provision of government services, and protecting open spaces. It is a system based on fiscal sustainability and responsibility, two very important public policy concerns. But the current process favors affluent communities and incentivizes large-scale commercial development, while failing to take into any consideration the dignitary values that are so closely intertwined with local governance, control, and self-determination.

The East L.A. cityhood movement highlights the gaps in California municipal incorporation law. Current law creates a process that is prohibitive to the most powerless communities across the state, and largely overlooks normative values and concerns worth recognition. East L.A.'s story also shows how the missteps and allowances of the past continue to impact the present. Along with the complex overlays of *de jure* and *de facto* class and racial segregation, tax revolts, and white flight, incorporation has historically been used for the divisive purposes of exclusion and financial protection. However, the East L.A. cityhood movement is a story to the contrary: it is a story of an ethnic community's long-standing desire for self-determination and the power to shape and control its own destiny.

