The City as Litigator: History, Opportunities, Limits, and Implications

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The City as Litigant: Historical Roots
The City as Litigator: Modern Trends

- Mortgage Redlining
- Firearms Litigation
- Climate Change
- Reverse Redlining
A significant reduction in property values directly injures a municipality by diminishing its tax base, thus threatening its ability to bear the costs of local government and to provide services. Other harms flowing from the realities of a racially segregated community are not unlikely. As we have said before, “[t]here can be no question about the importance” to a community of “promoting stable, racially integrated housing.” [citing Linmark Associates, 431 U.S. 85 (1977)]. If, as alleged, petitioners' sales practices actually have begun to rob Bellwood of its racial balance and stability, the village has standing to challenge the legality of that conduct.

Id. at 110-111.
Contemporary Role of City as Institutional Player

- Tight Budgets
- State Resistance
- National Gridlock and Opposition
Significant Barrier: Standing Doctrine

"STANDING"

YOU KEEP USING THAT WORD. I DO NOT THINK IT MEANS WHAT YOU THINK IT MEANS.
Most Essential Components

- Injury in Fact
- Caused By/Traceable to the Defendant
- Subject to Redress by Court Intervention
Standing: Modern Trends I

- Restrictive: Private Harms in Very Public Litigation
Standing: Modern Trends II

- Loosening the Grip: Massachusetts v. EPA
Massachusetts’s Stake in the Case

Private Harms in a Public Context

“Because the Commonwealth ‘owns a substantial portion of the state’s coastal property,’...it has alleged a particularized injury in its capacity as a landowner.”

As a result, it has met “the most demanding standards of the adversarial process.”
Massachusetts and Its Implications

- “Private Harms” in Public Places
States Are Getting the Message

- Climate Change
- Affordable Care Act
- Immigration
Where Cities Can Go

- Mortgage Redlining?
- Climate Change?
- Anti-Abandonment?
Standing of Municipalities: Blight as a Case Study

- Injury in Fact
- Causation
- Redressability
City as Litigator: Implications and Opportunities