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COMMENTARY

The Detroit Bankruptcy: Two Years Later

July 18, 2015 was the second anniversary of the City of Detroit's filing for bankruptcy. This action was taken by the City's Emergency Manager Kevyn Orr, with the support of Michigan's Governor Rick Snyder. But, with the exception of Detroit's corporate leadership, it was fiercely resisted by virtually all other interested parties, including political leaders, public employees, holders of the City's debt obligations as well as virtually all commentators in the media. Two years later, it is clear that the steps taken during the bankruptcy proceeding have provided a promising new beginning for this once-great City and its people.

This bankruptcy culminated a long course of dramatic urban decline. In the 1950s, Detroit was the fifth-largest city in the United States, with a population of 1.85 million. It was America's busiest port and the center of its most important manufacturing industry. By 2000, however, Detroit's population had been cut almost in half to 945,000. The de-industrialization of the Midwest, driven by a struggling automotive industry, had pushed Detroit into a spiral of decline, made worse by its often dysfunctional political leadership.

By the early years of the 21st century, Detroit's condition had become critical. The City was chronically short of cash, its tax base had eroded, crime remained at high levels, fundamental public services were failing, and infrastructure was crumbling from want of maintenance. From 2000 to 2010, Detroit's reduced population fell an additional 25 percent, from 945,000 to 711,000. With its tax base departing and unemployment reaching record levels, tax receipts plummeted.

Total City revenue declined by approximately 20 percent between 2008 and 2013. Raising taxes was not an option; the City was already levying property taxes at or near all the statutory ceilings imposed by Michigan law and had among the highest personal income tax rates of any city in Michigan. Nearly one-third of property owners stopped paying their taxes on real estate, which had collapsed in value. And the City continued to lose those taxpayers who could afford to leave.

Between 2008 and 2012, Detroit's spending exceeded its revenues by an average of $100 million annually. By the time of the bankruptcy, the City's deficit skyrocketed to $700 million. Legacy costs—such as the City's commitments to provide health care benefits to retirees and its obligation to fund its pension obligations and to service its bond debt—absorbed 55 percent of Detroit's annual general fund budget in FY2014 and were projected to balloon to 70 percent by FY2020. The continued deterioration of increasingly underfunded city services and infrastructure appeared unavoidable.

In the fall of 2012, the Governor impaneled a financial review team to evaluate the City's financial situation. In February 2013, after several dire interim reports, the review team reported that Detroit was in imminent danger of financial collapse, recommended that the Governor declare a "financial emergency," and advised him to appoint an emergency manager for the City. On March 14, 2013, the Governor appointed Kevyn Orr as the City's Emergency Manager.

The reaction to Mr. Orr's appointment was oftentimes mean-spirited and personal. Some local and national civil rights and political leaders—in addition to the predictable pundits and talking heads—attacked his appointment as a racially inspired effort to disenfranchise Detroit's voters and elected officials. A characteristic trope was to liken Mr. Orr to a plantation "overseer" with Governor Snyder as the "master." The threats and invective targeted at Mr. Orr personally required the State of Michigan to assign Mr. Orr two security details, one to publicly escort him around the City and a second plainclothes detail, unknown even to Mr. Orr himself, to follow as a backup.

On the day of his appointment, Mr. Orr called his task the "Olympics of Restructuring." This understated the challenge. Mr. Orr's job was to restore financial health to a hopelessly bankrupted city in the face of strident opposition from an array of politically powerful creditors, including public employee unions, retiree representatives, and large institutional owners of the City's debt instruments. Precedent for challenging the well-protected interests of such employees, retirees, and debt holders was limited. Throughout the litigation, Mr. Orr and his team of legal advisers, financial experts, and restructuring consultants were routinely outnumbered in court and opposed by sophisticated adversaries.

On top of this overwhelming legal challenge, Mr. Orr was required to oversee the operations of the City in his role as Emergency Manager. Remarkably, Mr. Orr was able to put in place several important operational reforms that quickly improved basic services for the City's residents. By privatizing trash collection, Mr. Orr greatly improved the reliability of this fundamental service. Over the objection of creditors, Mr. Orr found ways to provide funds to Detroit's unfunded Public Lighting Authority, which led to the installation of 30,000 new streetlights by the end of 2014. Through a combination of public and private funding, Mr. Orr was able to reopen 160 city-owned parks that had been closed for want of maintenance.

Perhaps most important, Mr. Orr was able to take steps that dramatically improved the performance of Detroit's emergency services, particularly its police force. Police response times for high-priority calls improved from almost one hour to 16 minutes, homicide closures improved from 11 percent to over 65 percent, while reported burglaries and thefts declined 20 percent from 2013 to 2014.

The bankruptcy proceedings prosecuted by Mr. Orr have provided the City with the means to build on these and other operational reforms initiated during his tenure. Proceedings that could have taken years were, remarkably, resolved in 16 months, largely because of a dedicated and hardworking bankruptcy judge and the creative use of mediations, in which a number of district court judges in the Eastern District of Michigan sat as mediators. Through the litigation and more than 150 mediations, Detroit's $18 billion debt burden was reduced by approximately $7 billion, restoring the City to financial solvency.

In remarks delivered from the bench at the conclusion of the bankruptcy proceedings on November 7, 2014, Judge Rhodes recognized Mr. Orr's singular contribution to the city:

> Here I want to single out Kevyn Orr for special recognition and appreciation. His task was perhaps the most challenging of all of us. Yet he met that challenge with skill, determination and commitment, and at great personal sacrifice. I hope that someday soon, this City will recognize the singular contribution that he made to its fresh start and give him the credit that he truly deserves.

At a time of widespread pessimism about the state of civic affairs in the United States, the example of Detroit is a reminder that committed, competent individuals can make an enormous difference, even in circumstances that are hostile and seemingly hopeless. Detroit's bankruptcy is simply one step in its long-term revitalization, but without the successful readjustment of the City's debts, reorganization of its operations, restructuring of its many financial obligations, preservation of its cultural assets, and the patience and cooperation of its elected leaders and citizenry, Detroit's future would have been bleak. Sadly, because Mr. Orr's work as Emergency Manager turned out to be such a success, it now receives little attention from the news media, which can no longer find fault with his remarkable achievement.

An edited version of this Commentary*, titled "2 years after filing, bankruptcy put Detroit on track," was published in the* Detroit Free Press.

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