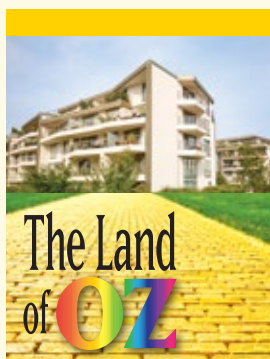


# “Show Me the Community Benefit!”

By John W. Gahan III



In April, fueled by the realization that “the regulations have taken a little longer than anticipated” to be issued, aides to Senators Tim Scott and Cory Booker, the architects of the Opportunity Zone (OZone) legislation, hinted at a bipartisan legislative effort to extend some aspects of the program. Previously reluctant inves-

tors and sponsors cheered at the prospect of additional time to realize capital gain, invest it in a Qualified Opportunity Fund (QOF) and still receive the 15 percent basis bump. The overly optimistic even dreamed of a program extension beyond the current 2026 sunset, coupled with a round of new designations of different OZones.

To date, no such extension bill has been filed, let alone enacted. More alarmingly, Senator Scott announced in June his willingness to “kill” the program if “the communities it’s meant for” are not being benefitted. One might logically ask what has happened to turn hope into dismay?

Answered simply, investors and Treasury have focused almost exclusively on the mechanics of getting investment dollars into a QOF and from there into qualified OZone businesses and properties. Dozens of tax and legal advisors, as well as business groups, weighed in with Treasury, seeking guidance and offering specific language intended to make it easier for investors to (finally) open their wallets. Scant attention has been paid to the paramount goal of providing community benefits. Even the subject of how to determine outcomes has been largely ignored.

Last October, I wrote about the importance of measuring results in these pages, a clarion call for those involved in OZones to agree upon metrics, which could be examined in a “before and after” context. I urged action, concluding that attention spans for public issues are regrettably short and those who sit in judgment will not wait ten years to announce success or failure. Senator Scott’s recent remarks validated this observation.

There is currently pending proposed legislation, which would mandate certain reporting involving OZone investments. The proposed legislation, authored by Senators Scott, Booker, Young and Hassan, if enacted as proposed,

would compile meaningful data on the “impacts and outcomes of OZones, including job creation, poverty reduction, new business starts and any other metrics the Secretary (of Treasury) may require.” But, the proposal isn’t law yet; and may never be enacted; and, even if enacted, may not require the reporting of the core data essential to evaluating community benefit.

Positioning for congressional action to extend the OZone initiative will require strategy, with Senator Scott’s support as a critical component of that effort. The driver of that strategy cannot be the investment returns of QOF investors. However, documented evidence of positive, measurable impacts within the OZones may motivate Senator Scott (in concert with others) to act on an extension. Providing and proving community benefit, which is visible, dramatic and not nuanced is the key; a strategy, which combines measurement of outcomes with community involvement is most likely to be heard by those legislators most invested in the success of OZones.

Studies have shown that the majority of OZones share low levels of household income, fewer residents who have graduated from high school, and fewer members of the workforce age group gainfully employed. Improvement in these statistical benchmarks is the path to extending the OZone legislation. Increased household income, in combination with job and wage growth, and increased spending by the community itself on infrastructure improvements and education, would demonstrate tangible community benefits.

With investors more focused on profits and dwindling tax liabilities, and both branches of Congress hopelessly and continuously deadlocked, who is left to convince Senator Scott? The answer is the communities themselves!

Community outreach fashioned on showing “here’s what OZone investments have done for my community” is the music Senator Scott is waiting to dance to. While it seems likely that, in 2019 at least, most of the bandwidth devoted to OZone investments will still center on structuring issues, amassing capital and deployment strategies, for those seeking a longer lifespan of the program, it isn’t too soon to focus attention on documenting the community benefits their QOF investments have delivered. **TCA**