

# Land Use Planning and Cooperation under Michigan's Conditional Land Transfer Act (Public Act 425, 1984): Findings from a Survey of Local Officials

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## **ABSTRACT**

Michigan's Public Act 425 allows local governments to enter into negotiated agreements that transfer land between units for a specified time period if the transfer is "for the purposes of an economic development project." Conceived of as an alternative to annexation that would promote interjurisdictional cooperation for economic development, the act has been widely used.

Using results from a statewide survey (refer to Appendix A) of local government officials, this paper reports that 425 agreements are positively viewed as an alternative to annexation. While 425 agreements reportedly facilitate better intergovernmental relations, few formal institutions are formed to implement the agreements. Land use planning plays a small role in determining whether to enter into agreements; private land owners and developers are the main initiators.

## **EXECUTIVE SUMMARY**

Michigan's P.A. 425, the Conditional Land Transfer Act (P.A. 1984, No. 425, MCLA 124.21 et. seq), allows land to be transferred between local government units for a set period of time if the transfer is "for the purposes of economic development." Conceived of as an alternative to annexation that would undercut the conflicts that often accompany boundary changes, this law has been widely used. While there has been some analysis of the use of 425s (i.e., Taylor and Harvey 2004), there has been limited investigation into the processes used for arriving at these agreements and how the negotiated expansion of boundaries interacts with typical land use planning processes. This paper addresses this gap. Specifically, the research reported here sought to understand the processes around 425 agreements, including how agreements are negotiated between local government units, how they interface with local land use planning processes, and how much interjurisdictional cooperation 425 agreements have spawned.

This paper has three sections. The first section places the legislation into the context of annexation and interjurisdictional cooperation as it is embodied in the urban planning and public management literature. The second section discusses the provisions of the legislation, its rationale, and usage by local government units. The final section presents the results of a statewide mail survey of local government officials.

## **Key Survey Findings**

- *Respondents:* A total of 187 surveys were returned; of these, 41.7% represent cities, 38.5% represent townships; the remainder was comprised of villages (8.0%) and charter townships (11.8%). Responses represent 147 different local government units.

- *Economic Development:* Most localities are pragmatic in their definition of economic development: it equals property tax base expansion (55.6%).
- *Who Negotiates:* City managers and township supervisors are the chief negotiators.
- *Who Initiates:* Survey respondents reported that 425 agreements are initiated to meet a need for services. Of the possible categories of initiators, responses indicated that developers seeking public services (31.0%), followed by landowners (23.5%) seeking the same, are the most frequent initiators of 425 agreements.
- *Role of Planning:* Land use planners, local planning commissions, and community master plans play little role in the 425 process.
- *Cooperation:* Few formal institutions for cooperation (like shared ordinances) are created.
- *Preference: 425 or Annexation?* 55% of all respondents indicated they would choose a 425 agreement over annexation if given the opportunity, 24% indicated that a preference could not be stated as the decision is context-specific.
- *Overall opinion:* There is a fairly positive perspective on PA 425: 24.6% of all respondents indicated that the law was “very positive – a useful law for our local government unit”; 38.5% indicated a “somewhat positive” opinion, 24% described their opinion as neutral; only 12.9% indicated an opinion that was negative or very negative. Charter townships hold the most negative view of the law.
- *Reforms:* There is strong support for requiring contiguity in 425 agreements: 68.7% of all respondents indicated requiring contiguity as an important or very important reform. Townships are the strongest supporter of contiguity with 80.4% of township respondents indicating that contiguity is important or very important; 58.1% of city respondents also identified this as an important or very important reform.

## INTRODUCTION

In March of this year the latest owner of a golf-course residential development in Ingham County defaulted on a \$20.4 million loan (Schlissberg and Schulz, 2005). The project, known for most of its life as the Governor's Club, has been controversial from the beginning – sparking court battles, setting local government units at odds with each other, and stirring up impassioned opposition from residents.<sup>1</sup> Although it appears a classic acrimonious NIMBY (Not in my backyard), the development of the Governor's Club was not supposed to turn out this way. The development, after all, is governed by a contractual land-sharing agreement negotiated between local government units, known as 425 agreements. Crafting such contracts is supposed to result in a win-win situation: conflict-free alteration of municipal boundaries, equanimity between local government units, equitable sharing of the fiscal benefits of development, and enhanced economic development for the region. The negative experience with this 425 agreement leads one to ask: is this an anomaly or is this case representative of problems with Public Act 425 as written?

This paper presents and examines Michigan's Conditional Land Transfer Act, commonly known as PA 425. The research reported here, which is part of a larger research project looking at PA 425 and its relationship to land use change and urban sprawl, seeks to understand how 425 agreements are negotiated between local government units and how these agreements to expand boundaries and share revenues interface with local land use planning processes. In light of the Ingham County case and other reports of conflict generated by 425 agreements, this research also seeks to understand how much cooperation 425 agreements have spawned between local government units when dealing with land use change and urban expansion.

This paper is split into three sections. First, the Michigan legislation is briefly placed into the context of annexation and interjurisdictional cooperation as it is embodied in the urban planning and public management literature. As is well known to most local government officials, annexation actions are usually unpopular and often controversial. They are widely perceived as resulting in clear “winners” and “losers.” PA 425 represents an attempt to formulate an alternative to annexation that would spawn greater consensus over and fairness in regional growth. Second, the paper discusses in more detail the provisions of the legislation, its rationale, and usage by local government units. While there has been some investigation into the use of 425s, most notably by Taylor and Harvey (2004), there has been little investigation into the processes used for arriving at these agreements and how the negotiated expansion of boundaries interacts with typical land use planning processes. The final section presents the results of a statewide mail survey of local government officials on their experience in

negotiating 425 agreements with their neighbors, their opinion of the legislation as written, and how these agreements interface with land use planning.

### **ANNEXATION AND INTERJURISDICTIONAL COOPERATION: AN OVERVIEW**

Few local government actions are more controversial than annexation, which can be defined as “adding territory and population from an incorporated local unit to an area incorporated as a municipal government” (Carr and Feiock 2001: 460). Conventional wisdom depicts annexation as a “zero sum game” in which the land-gaining municipality gets all the benefits of the land transfer while all the costs are borne by the unincorporated land-losing unit. According to this view, municipalities gain land, greater political clout from the added population, and increased tax-base. Those living in the newly annexed area also win as they gain improved services. Those remaining in the unincorporated area, however, lose not only land and revenues, but can see their local character diminished by advancing urban growth (Edwards 1999).

While annexation is the most widely used tool for city expansion, the ability of cities to expand through annexation varies greatly across the nation (Galloway and Landis 1986; Palmer and Lindsey 2001). State governments structure rules for annexation. In the most permissive states, municipalities can unilaterally authorize annexation actions. Under more restrictive rules, the landowners living in the area to be annexed have the right to decide whether the annexation can proceed. Some states require a third party, such as the court system, county government, or a boundary commission, to scrutinize and authorize annexations (Carr and Feiock 2001).

If the conventional wisdom sees annexation as a “winner take all” process, the public management literature has a more nuanced view. As Edwards shows (1999), studies of the fiscal impacts of annexation vary in their conclusions over who gains and who loses. Much of the variance in findings depends on the context in which annexation takes place (e.g., whether states have formulas to offset changes in tax base), as well as the methodology used in the particular study. In Edward’s own study of ten annexations that took place in Wisconsin in 1990, she tested three different methodologies and determined that annexation was not necessarily a “winner take all” process. In fact, annexation could be “fiscally undesirable for both communities or fiscally desirable for both communities” (Edwards 1999: 229).

Increasingly public policy experts, particularly those concerned with urban sprawl, land use and the fiscal impacts of growth, are calling for enhanced cooperation between local government units in planning for and sharing the proceeds of growth. Many arguments are made to promote cooperation. These include the recognition that municipal boundaries are essentially arbitrary lines that do not



coincide with economic, social or even ecological boundaries (Bassett and Taylor 2004). Because communities are increasingly interdependent, a regional approach can ensure that this interdependency is recognized and the benefits and costs of new development are equally shared. Likewise, advocates of greater regionalism stress that cooperation can help cash-strapped local governments realize cost savings through greater efficiency and efficacy in their provision of municipal services. Many urban planners believe greater regionalism will lead to better land management and the containment of urban sprawl (Mitchell-Weaver, Miller et al. 2000; Brenner 2002; McCarthy 2003). Finally, some advocates of regionalism support this approach due to its redistributive promise. Specific programs, such as tax base and revenue sharing, have been shown to bring about greater equity between central cities and suburbs (Orfield 1998; Weivel, Persky et al. 2002).

In practice, cooperation is effected in many different ways. Individuals writing about the “New Regionalism,” make a distinction between cooperation based on governance and that based on government (Savitch and Vogel, 2000, Norris, 2001 and Vogel and Nezelkewicz, 2002). Governance-based cooperation:

conveys the notion that existing institutions can be harnessed in new ways, that cooperation can be carried out on a fluid and voluntary basis among localities, and that people can regulate themselves through horizontally linked organization (Savitch and Vogel, 2000: 161)

In contrast, cooperation based on government requires the reworking of formal hierarchical institutional structures, administrative machinery, and decision-making processes. Cooperation effected through government, such as the formation of the metropolitan structures in Portland and Minneapolis-St. Paul, is much more difficult politically and as a result, is the rarest form of cooperation.

The 425 agreements formulated under Michigan’s P.A. 425, notably, represent cooperation as governance. They require no formal institutions (although the formulation of new institutions is not precluded), entail limited sacrifice of local power, and are affected through contracts. Their proliferation as a leading form of interjurisdictional cooperation may be due to the fact that P.A. 425 represents a politically viable, governance approach.

#### **ANNEXATION AND INTERJURISDICTIONAL COOPERATION IN MICHIGAN**

The Michigan experience with annexation reflects many of the themes of the literature reviewed above. Annexation is popularly seen as a “winner take all” process and annexation actions generally

spawn considerable controversy. Rural townships and their leaders are the most strident opponents of annexation and their lobbying arm, the Michigan Townships Association (MTA), has repeatedly called for changes in the state rules for annexation (e.g., MTA 2005a). In comparison with other states, however, rules for annexation in the State of Michigan already fall on the restrictive side of the spectrum. Annexation requests can come from four sources: a resolution of a city council, a petition from 75 % of the *property* owners in the area proposed for annexation; a request from 20 % of *voters* living in the area proposed for annexation, or a petition from 1 % of the property owners in the affected township and city (Towne 2003). Since 1968, the state has had a Boundary Commission whose job it is to scrutinize annexation actions.<sup>2</sup> Under its enabling legislation, the commission receives petitions for annexation and examines the proposed boundary changes weighing criteria such as the need for services in the area to be incorporated, the tax burden created for these new residents, and the impacts of the action on local master and regional plans.<sup>3</sup> The commission is not the final arbiter, however. The director of the state's Department of Labor and Economic Growth makes the final decision. Decisions on annexation can be challenged through referenda if the territory to be annexed contains a population over 100 persons.<sup>4</sup> To get a referendum on annexation on the ballot, a citizen petition with the requisite number of voters' signatures must be filed. The proposed annexation will succeed if it is approved by the majority of voters in the territory to be annexed, as well as by the balance of the voters in the township and the city (Towne 2003).

Annexation is also difficult due to local government structure. There are four general purpose local government units in Michigan: counties, townships, cities and villages (CRC 1999). Municipal corporations, cities and villages, have all the normal powers and service obligations of such entities. Townships encompass the unincorporated areas of the state and come in two forms: General law townships and charter townships. General law townships have limited powers and provide few services. charter townships operate under a separate state law (Charter Township Law 1947) and have more powers and provide more services than general law townships. As noted by the MTA (2005b: 1), a "primary motivation for townships to adopt the charter form is to provide greater protection against annexation by a city." There are now 127 charter townships in the state.

While the total number of general purpose local units has not changed substantially since the 1900s, the distribution of power has changed greatly with powers once exclusively belonging to cities being extended to townships. In addition to establishing charter townships, the state has enabled townships to incorporate as cities (CRC 1999). Evolution in local government structure has been accompanied by legislative activity aimed at fostering cooperation among local government units. At

least forty-one different statutes and three constitutional provisions allow for cooperation between local government units (Taylor 2001).

## **MICHIGAN’S PUBLIC ACT 425**

Out of this wide array of legislation aimed at fostering cooperation, one act has been widely used in the state: Public Act 425. Passed in late 1984, the act’s official title is the Conditional Land Transfer Act (P.A. 1984, No. 425, MCLA 124.21 et. seq). Few people, however, refer to this official title — the agreements reached are commonly referred to as “425 agreements.” Conceived of as an alternative to annexation, this legislation grants local government units the power to enter into written agreements that “conditionally” transfer jurisdiction over land from one local unit to another. It was hoped that by allowing local government units to negotiate with each other over the terms of the transfer the conflicts that often accompany annexation would be avoided. Townships and cities or townships and villages would draft terms for land transfer that would benefit both parties and result in two “winners” instead of the perceived annexation outcome of creating a “winner” and a “loser.”

### **PA 425: LEGAL DIMENSIONS**

The legislation lays out the basic parameters under which transfers of jurisdiction over land are expected to take place. Specifically, transfers can take place if they are “for the purpose of an economic development project.” Although a reading of the legislative history indicates that the original impetus was a project for large-scale industrial expansion, the legislation is quite permissive in what it includes in the definition of an economic development project. Specifically, the act defines a project as “land and existing or planned improvements suitable for use by an industrial or commercial enterprise, or housing development or the protection of the environment” (PA 425, 1985, 124.21§1(a)). Originally housing development was intended to be secondary development done in support of commercial and industrial development. However, in 1990 the legislation was amended and the development of housing was deemed economic development in and of itself. A 1991 ruling by the Attorney General included the development of manufactured housing as an economic development project, because it is a for-profit enterprise (Taylor and Harvey 2004).

The rationale for entering into 425 agreements is to ensure the provision of key services necessary to realizing the economic development project. Michigan townships provide limited services to their residents; they do not generally provide water and sewer. Charter townships often provide municipal services, particularly those in the more urbanized sections of the state. Cities and villages, in contrast, are able to offer water and sewer services, but they often lack the land to accommodate economic development projects. PA 425 offers a way for this mismatch of assets and/or capacities to be

overcome. Under the legislation, local government units are empowered to negotiate conditions beneficial to both parties. Generally, local government units negotiate some element of revenue sharing; most commonly townships obtain a percentage of the total tax revenues, often this reflects their prevailing tax rate. The revenue-sharing arrangements last for the duration of the agreement. The maximum period these agreements can run is 50 years.

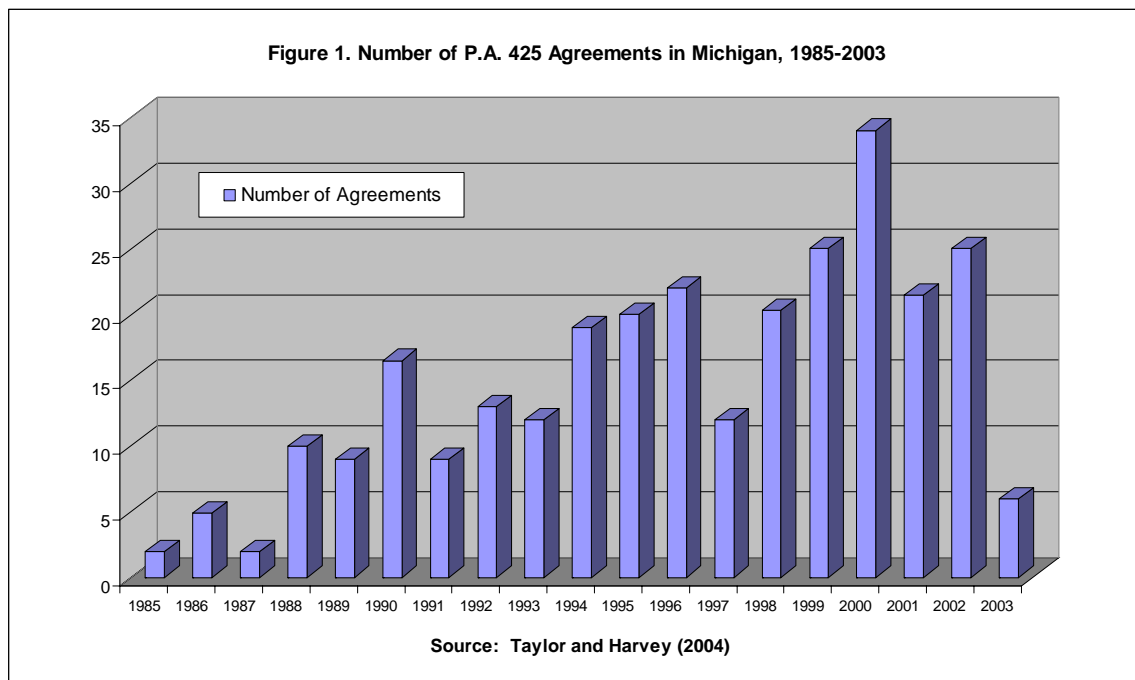
PA 425 also lays out a framework for jurisdiction over land. When property is transferred, jurisdiction over the land moves to the land-gaining unit. Thus, the land and its residents are subject to taxation, zoning, and other controls over land asserted by the new unit. This transfer of jurisdiction, however, can be time limited. Land can revert back to the unit of origin at the end of the agreement. Agreements can be renewed, but the renewal cannot exceed 50 years in duration. Contracts must specify which local government has jurisdiction over the land at the end of the agreement, although Taylor and Harvey (2004: 5) note that “several existing agreements are, in fact, silent on this point.”

Another element of PA 425 of critical importance to land use planning is its impact upon annexation. Under PA 425, during the period that an agreement is in effect, no annexation action or other form of transfer can take place for the land transferred under the contract. Moreover, land adjacent to the 425 but not contiguous to city boundaries is also protected – cities cannot annex through 425 agreements.<sup>5</sup> Annexation under Michigan law must be contiguous, but the new boundaries created by 425 agreements are not considered to be the city’s true boundaries, even if the agreement specifies that the land remain with the land-gaining unit at termination. This protection against annexation was seen as an additional incentive for townships to enter into 425 agreements.

Finally, PA 425 is significant for what it does not require in agreements. First, there is no requirement for contiguity of the land covered by the 425 agreement and the boundaries of the land-gaining unit. Non-adjacent local government units can negotiate contracts for services to be provided to land far from the service-providing jurisdiction, even if this entails running infrastructure such as water and sewer across other units. Second, there is no provision for state oversight of these agreements. The only requirement under the statute is that copies of the agreements must be filed with the Secretary of State’s Office of the Great Seal and with the office of the local county clerk. The state is not required to review the documents. The only agency involved in vetting the agreements is the Michigan Department of Transportation in order to ensure that boundary descriptions are accurate. Both of these practices are in sharp contrast with the state’s provisions for annexation. Under annexation law, land must be contiguous with existing boundaries. As noted previously, the state’s Boundary Commission scrutinizes annexation actions.

## USAGE OF PA 425

Since the legislation was passed in 1984, the use of 425 agreements by local government units has steadily increased. According to the inventory and analysis of 425 agreements conducted by Taylor and Harvey (2004), a total of 285 agreements were reached and filed in the state's Office of the Great Seal between 1985 and 2003. Of these agreements, fifteen had been rescinded and another seven were awaiting final approvals by both parties. A total of 263 agreements thus are currently in force. As can be seen in Figure 1 below, the use of agreements has accelerated in recent years. (Data for the year 2003 are partial.)



According to Gary Taylor, who has analyzed the agreements and their legal provisions, there appear to be three main reasons for the acceleration of agreements in recent years (Taylor 2004, personal correspondence). First, the legality of the instrument has been proven in the courts and local government units are now comfortable with entering into them.<sup>6</sup> Second, local government leaders and executives have heard numerous success stories relating to 425 agreements through personal contacts and at professional gatherings, particularly MTA and Michigan Municipal League (MML) conferences. Finally, a basic template for these agreements has emerged and is being used by many local government units.

While there are 263 agreements in total, only 261 units of local government are party to these agreements.<sup>7</sup> Some units have only 1 agreement in force; the maximum number of agreements for one local government unit is 19. In this case, the agreements are between one city and two townships. Most commonly agreements are between land losing townships and land gaining cities. There are exceptions

including township-to-township agreements whereby a township with public infrastructure capacity extends services to a nearby area.

Agreements are distributed geographically across the state with the greatest concentration in the southern half of the Lower Peninsula. Respective to population concentrations, there are few 425 agreements in the metropolitan Detroit area. The key reason for this is incorporation: most units in that part of the state are incorporated either as cities, villages, or charter townships. Boundaries are set; annexation and 425 agreements are both inapplicable.

### **IMPLICATIONS FOR 425 AGREEMENTS: RESEARCH FINDINGS**

Although the number of agreements has accelerated in recent years, outside of the work of Harvey and Taylor (2004), little research has taken place on the implications of 425 agreements for land use and planning processes. To get a better picture of 425 agreements and their relationship to urban growth and planning, this research project was started in the summer of 2003. It is focused on two subjects: the impacts of these agreements on land use, particularly whether the ability to negotiate boundary extensions is exacerbating urban sprawl and on the processes used to arrive at 425 agreements, including whether 425 agreements are serving to enhance cooperation between local government units and what role land use planning plays in the process. The former research focus is not reported in this paper; the latter is.

### **Methodology**

Three methods were used to gather data for this part of the research project: archival research, informant interviews and a mail survey. The mail survey is the primary data reported in this paper; it was informed by preliminary research using the first two methods. Before creating and administering the survey, we searched newspaper archives for accounts of 425 agreements across the state for all years available since the passage of the Act. Three indices, Infotrac Custom Newspapers, Factiva, and Lexis Nexus Academic were used to find articles on the agreements. Additionally, the United States Newspaper List portal ([www.usnpl.com](http://www.usnpl.com)) yielded access to smaller circulation newspapers within the state not covered by these indices. Newspaper accounts were used to understand the use of agreements in different localities and to identify themes associated with the agreements. Following archival work, interviews were conducted with local officials in the greater Lansing area regarding agreements taking place between the cities of Lansing, East Lansing, Mason and nearby townships. A total of six of these interviews were conducted.

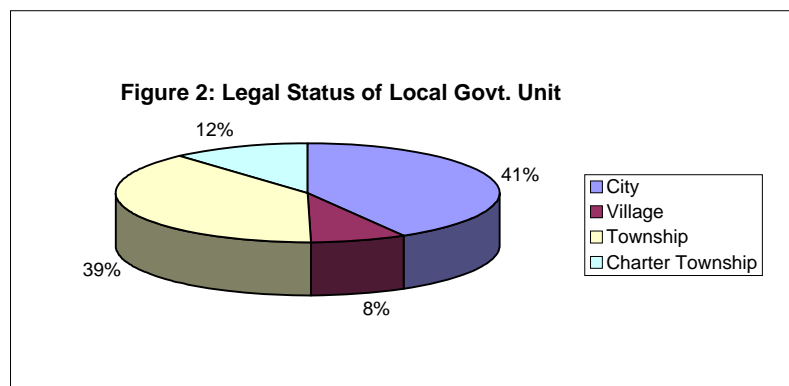
Four themes arose from archival research and informant interviews:

1. Continued conflict over boundary expansion. Both the archival work and interviews indicated that 425 agreements spawned controversy similar to that caused by annexation. In particular, conflict between the City of East Lansing and Meridian Charter Township over a 425 agreement was a constant feature in local newspaper coverage for nearly four years (1998-2002). Likewise, dissatisfaction over a non-contiguous 425 between the City of Lansing and Alaiedon Township negotiated in the late 1990s resulted in sustained public outcry and a lawsuit alleging violation of the state's Open Meeting Act.<sup>8</sup>
2. The interplay between 425 agreements and annexation: Another theme was that 425 agreements often unfolded against the backdrop of a real or perceived annexation threat. In the interviews informants from township governments indicated that they felt that townships often had no choice but to agree to a 425 agreement because if they resisted the city could just utilize its annexation powers. One township official described the revenue sharing provision of 425 agreements as a "scrap" thrown to the townships to placate them for losing their land.
3. Lack of land use planning in 425 agreements: Another theme arising in the newspaper accounts and interviews is the minimal role played by planning in the 425 process. Dissatisfied residents and leaders note that 425 agreements appear to be initiated by private developers or landowners who were finding it difficult to develop their land under existing master plans and/or local regulatory regimes. In such cases, a developer may approach a nearby, potentially more pro-development, locality to receive planning approvals and services. This is particularly easy to do because 425 agreements can be non-contiguous. In the words of one township official, 425 agreements allow developers to "shop for zoning" and circumvent the planning goals and growth controls of the community in which the land is located.
4. Municipal competition, not cooperation: Another aspect of the law is that 425 agreements while ostensibly between two parties can actually represent a competitive interplay between several local government units: the unit encompassing the land base and units with the ability to provide services. Units with the land base may or may not want the closest unit to provide services; understandably they wish to work with a unit that gives them the best deal fiscally. In the aforementioned instance in the Lansing MSA, historical animosity between contiguous units precipitated negotiation with a non-contiguous unit. According to one informant, this occurred so that the land losing unit could deny the adjacent unit, which is cast as an aggressive land grabber, the land and the revenues associated with it.

## Survey Findings

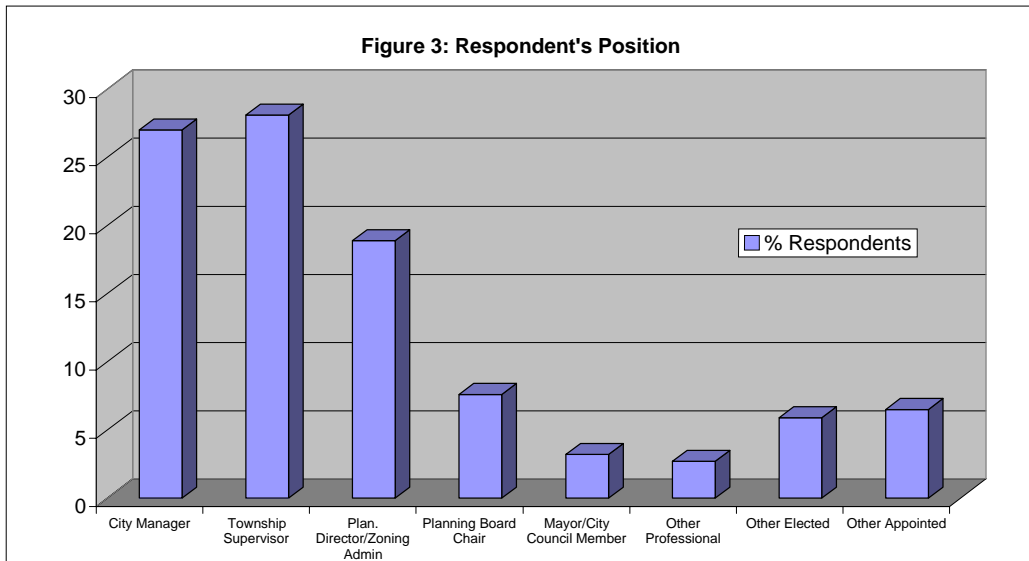
The final method to gather greater information on the processes used for negotiating 425 agreements and their interface with land use planning was a survey of public officials associated with local governments that are party to one or more 425 agreements. Specifically, four categories of respondents were identified: city managers, township supervisors, planning directors/zoning administrators, and the chairs of local planning commissions.

These groups were identified as potentially knowing the most about the processes surrounding 425 agreements, as well as being able to comment on the role planning played in their particular agreements. As most townships do not have professional planning staff, two surveys were sent to each township, one addressed to the township supervisor and the other to the planning commission chair. Three surveys were sent to each city, village or charter township; these were targeted at the executive officer, professional planner, and planning commission chair.<sup>9</sup> In the end, a total of 187 valid surveys were analyzed for this paper. This represents a return rate of 33.7% of individuals.<sup>10</sup>

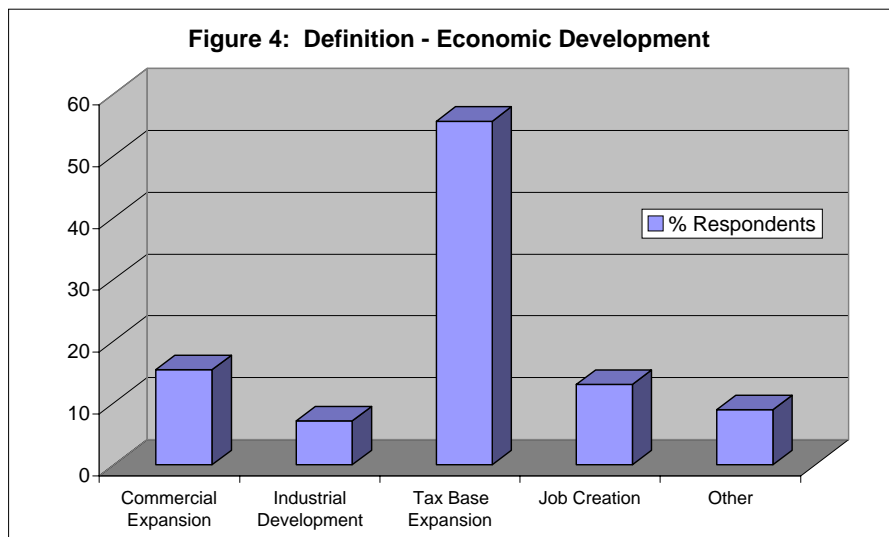


*Who Responded:* Of the 187 surveys received, 41.7% represent cities, 38.5% represent townships; the remainder was comprised of villages (8.0%) and charter townships (11.8%). These responses represent 147 different local government units (56% of all units party to a 425 agreement), with 35 local government units returning more than one survey. Unfortunately, while the response rate is acceptable for a mail survey, responses by local government type are too small to provide significant Chi Square values. Thus information provided in the next sections of the paper should be interpreted as indicative but not statistically significant.

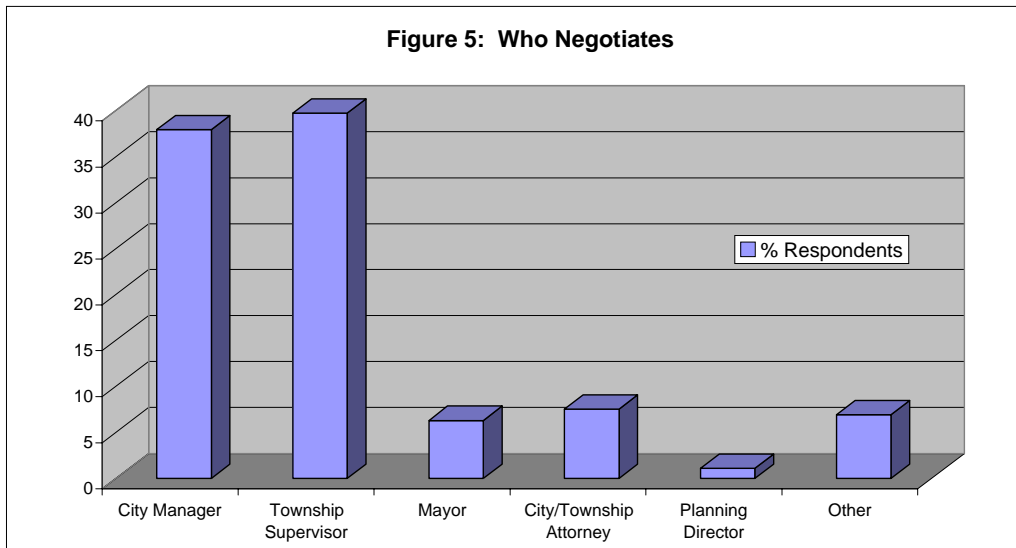




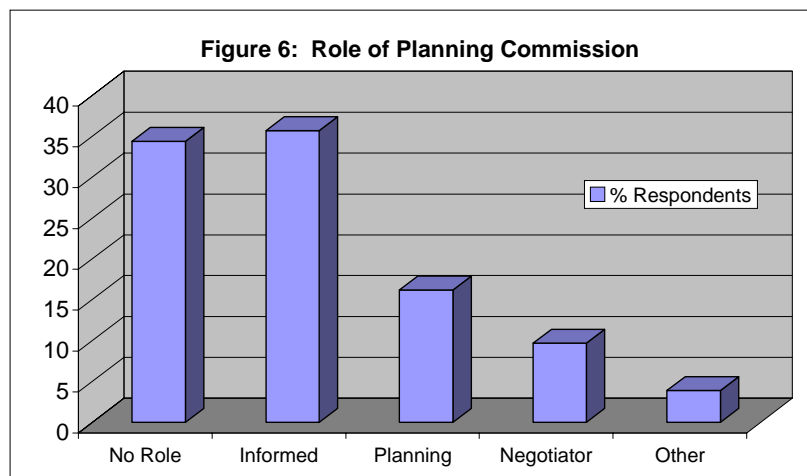
Respondents held a variety of positions within their local government unit: 27% of respondents were city managers, 28% township supervisors, 18.9% were planning directors or zoning administrators; only 7.6% of the respondents were planning board chairpersons or members. This lower level of response by planning board members was anticipated by the researcher as preliminary research indicated only a minor role for planning commissions in the 425 process. The educational level of the respondents was high: 28.8% had some college or university training; another 28.8% were university graduates and 34.2% held graduate degrees.



In terms of 425 agreements and the legal requirement that they be for the purposes of an economic development project, most localities are pragmatic in their definition of economic development: it equals property tax base expansion (55.6%). The second most frequently indicated definition was projects that resulted in the expansion of commercial development (15.4%) followed by projects that expand or create jobs (13.0%) and projects that expand industrial development (15.4%).

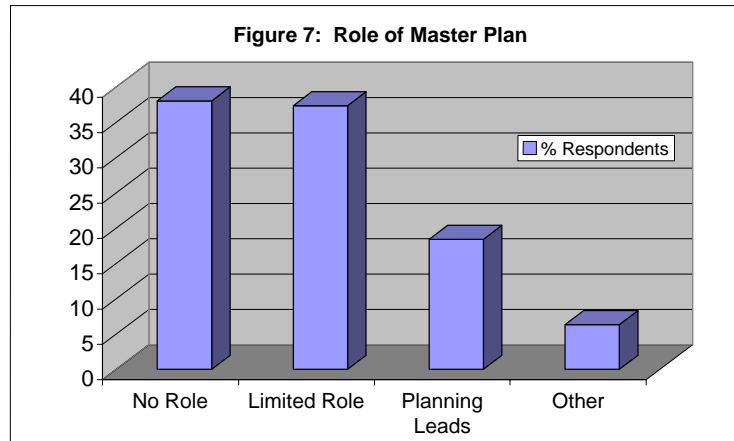


*Role of Planners and Planning in the 425 Process:* Executive officers, namely township supervisors and city administrators, play the lead role in representing their units' interests in 425 negotiations, followed by city or township attorneys and mayors. In the survey, 39.7% of respondents indicated that their city administrator or manager was the lead negotiator, 37.9% gave the same role to their township supervisor, followed distantly by city or township attorneys (7.5%) and mayors (6.3%). Planners appear to be significantly less involved in 425 processes. Only 33.1% of respondents indicated that their local government unit had full-time professional planning staff. For that sub-group of respondents, the involvement of planners ranged from being very involved (23.5%) to somewhat involved (41.2%) to not at all involved (35.3%). Of the possible roles that could be played by professional planning staff, the most commonly indicated activity was identifying future land needs, followed by facilitating public meetings and representing the local government unit in negotiations.

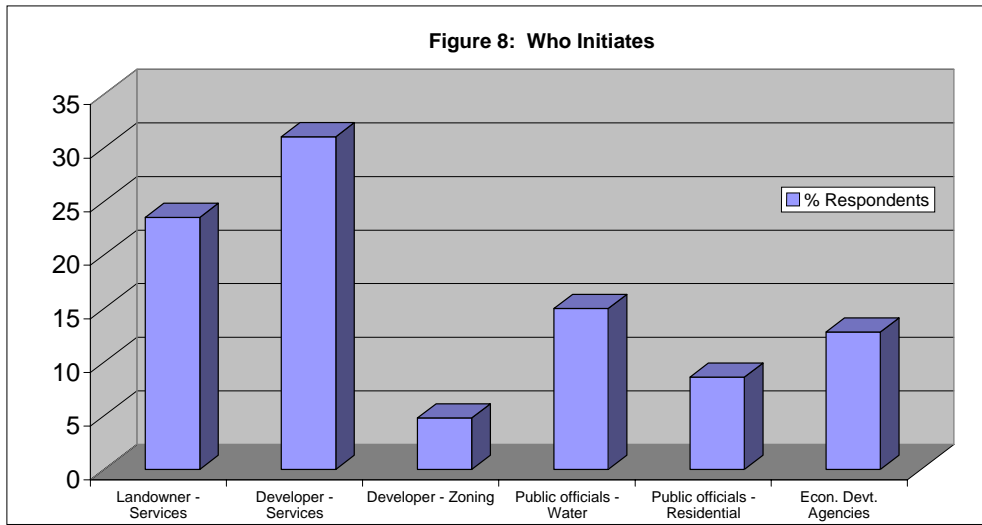


While planning commissions are ubiquitous (95.1% of respondents indicated that they had a planning commission comprised of appointed local citizens), they play less of a role in the 425 process

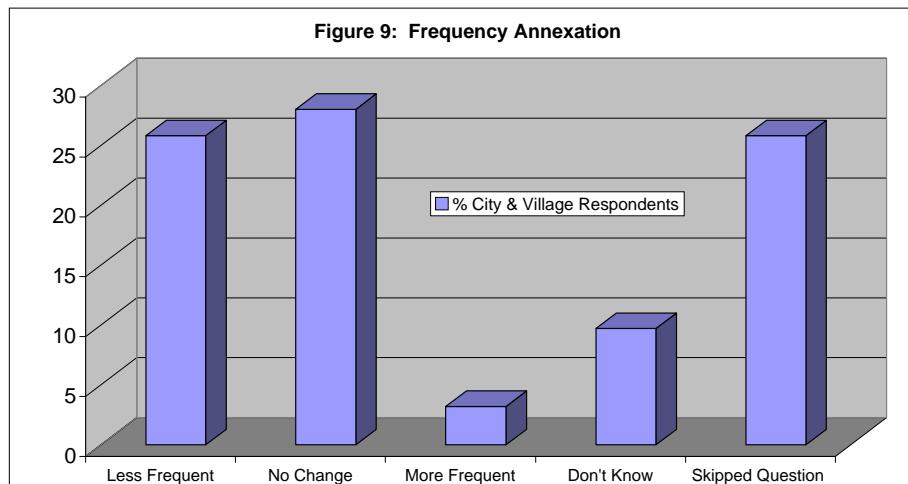
than professional planners. According to the survey results, the local planning commission either has no role (34.4% of responses) or is more passively involved by being informed of 425 negotiation processes (35.7%). Only 15 respondents to the question (9.7%) indicated that a commission member played a major role in the unfolding process. However, once the agreements are completed, planning commissioners are more active with 16.2% of respondents indicating that commissions plan for the land once it is officially under the receiving unit's jurisdiction.



The survey also asked respondents to indicate to what extent their community's master plan and its land use objectives determined whether or not they would enter into a 425 agreement. Thirty-eight percent of respondents indicated that the statement "master plans play no role: 425 agreements are developed outside the normal land use planning process" most accurately reflected their process. Another 37.3%, however, agreed with the statement that master plans play a "limited role: 425 agreements are only pursued if they harmonize with existing land use plans." A smaller group of respondents (18.4%) indicated that planning led their 425 process with the agreements being negotiated to further these planning objectives. Disaggregating responses to this question by local government type is instructive: 55% of those that indicated that planning led 425 agreement decisions represented cities, that is, the land receiving units. However, out of all the cities responding to the question, only 22% said that planning led, the majority (71%) of city respondents indicated planning had no role or the more limited role. Similarly, 79% of townships indicated that their plans played no or only a limited role; only 13.5% of respondents representing townships indicated that planning led 425 processes.

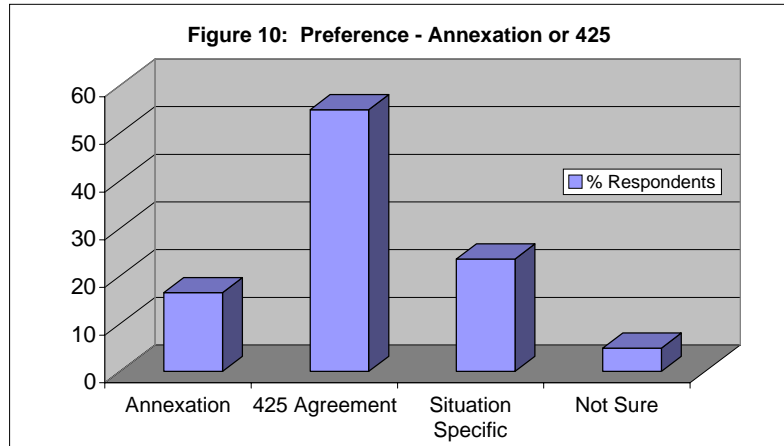


*Initiation of Agreements:* The survey asked respondents to indicate how agreements were initiated in their locality. Survey respondents reported that the initiation of 425 agreements is primarily driven by the need for services. Of the possible categories of initiators, responses indicated that developers seeking public services (31.0%), followed by landowners (23.5%) seeking the same, were the most frequent initiators of 425 agreements. Only a minority of responses (4.8%) characterized 425 agreements as being initiated by developers seeking more favorable zoning. The public sector is playing a role as an initiator of 425 agreements. Fifteen percent of respondents indicated that a 425 agreement occurred due to proactive planning for the expansion of public services like water, 8.6% indicated public officials entered into 425s in order to plan for residential growth, and 12.8% indicated the law was being used by economic development agencies in order to attract new businesses.

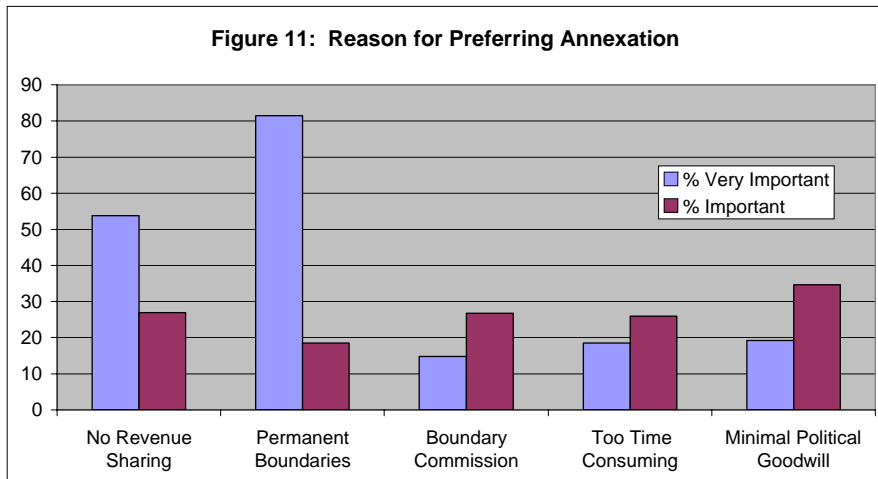


*Relationship with Annexation:* Survey respondents were asked to reflect on whether the option of negotiating a 425 agreement was having an impact upon the frequency of annexation. To reflect on this, just the ninety-three responses representing home rule cities and villages were analyzed; these responses were selected for analysis, as these local government units are the most common annexing

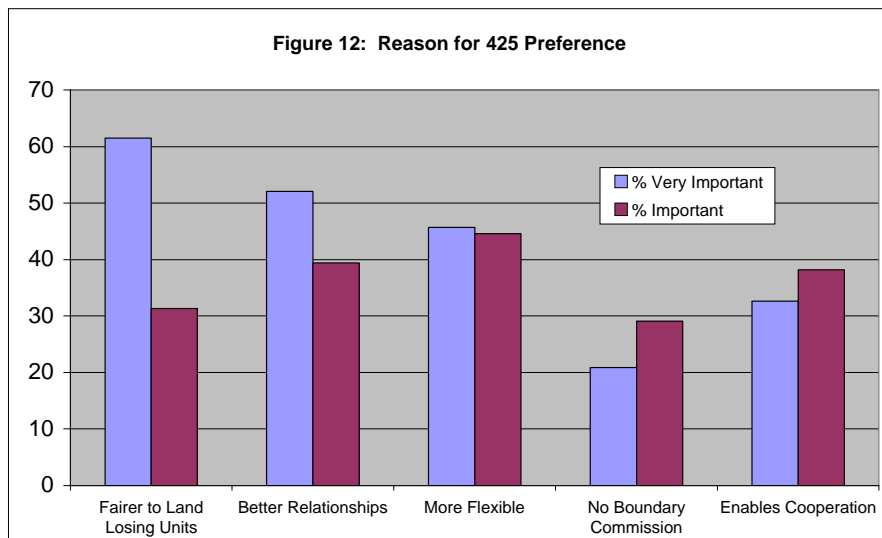
entities. (These 93 responses represent 46% of the entire sample.) Of these, 25.8% indicated that annexation was less frequent since the passage of PA 425; another 28.0% of respondents indicated that there was no change in their rate of annexation; only 3.2% indicated that annexation was more frequent. Notably, a large portion of respondents skipped the question (25.8%) or indicated that they did not know whether annexation rates had changed (9.7%).



Respondents were also asked to indicate their preferred method for boundary changes: a 425 agreement or an annexation action. (For this question, answers from all respondents were analyzed.) A slight majority of respondents reported that their local government unit prefers 425 agreements to annexation actions. Specifically, 55% of all respondents indicated they would choose a 425 agreement over annexation if given the opportunity, while another 24% indicated that a preference could not be stated as the decision is context-specific. An additional 4.9% indicated they were unsure of their local government’s preference. Only 16.5% indicated that their unit would prefer to annex. Respondents representing cities were the most nuanced in their answers: 38% indicated a preference for 425 agreements, 30% indicated a preference for annexation and another 27% indicated that the selection would be dependent upon the specific project or situation. In contrast, townships and charter townships were overwhelmingly in favor of 425 agreements (76%). An additional 19% indicated that the selection was situation dependent; 1 lone township respondent (1%) indicated a preference for annexation.



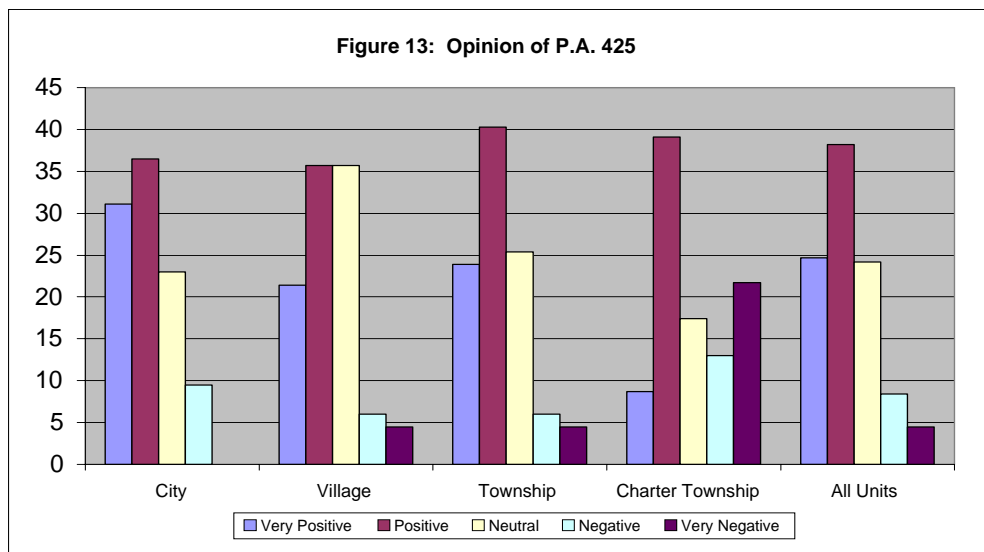
Fiscal and boundary issues were the most frequently cited reasons for preferring annexation to 425 agreements. Eighty-one percent of respondents expressing a preference for annexation indicated that annexation was deemed more attractive because it did not necessitate revenue sharing. The permanence of annexation was overwhelmingly attractive with 81.5% indicating this as a very important reason to annex and the remaining 18.5% indicating it as important. Approximately half of respondents (53.8%) indicated that the effort needed to negotiate a 425 agreement outweighed the political goodwill gained. Of lesser importance were reasons such as scrutiny by the State Boundary Commission (only 44.4% of respondents indicating as important or very important) or the time required to negotiate 425 agreements (also 44.4%).



Contrasting reasons were given for opting for 425 agreements. Most strongly the respondents favoring 425 agreements indicated that agreements were fairer than annexation for the land losing entity (92.8% rated this as an important or very important reason for preferring 425 agreements); 91.5% also indicated that the agreements facilitated better working relationships with neighboring

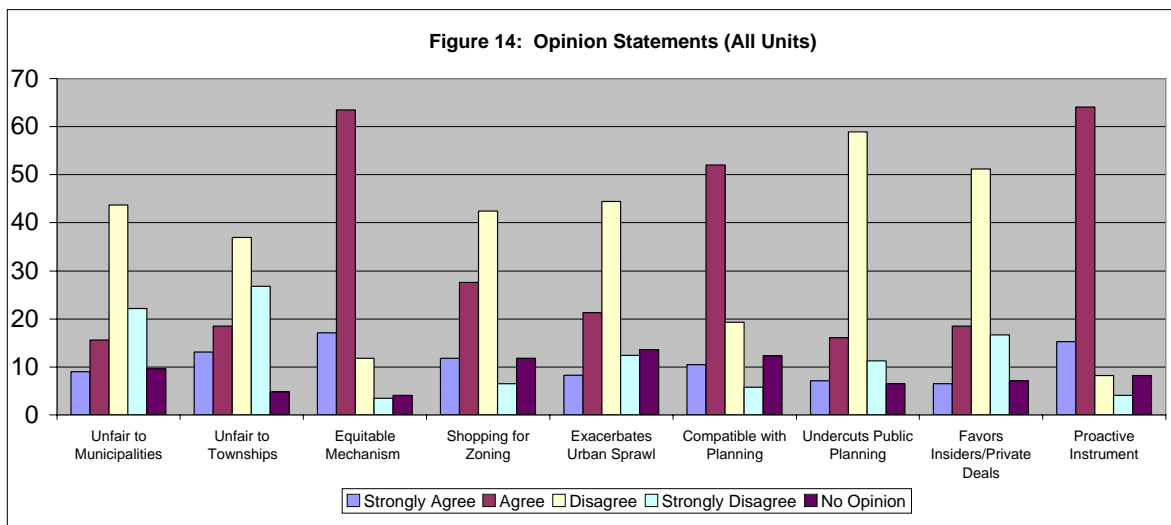
communities and thus were an important or very important reason for preferring the contractual approach. Seventy one percent saw enhanced cooperation with many local government units, including non-adjacent units, as an important or very important reason for their preference. The ability to customize 425 agreements to specific circumstances was also seen as an important or very important reason for preferring 425 agreements (90.2% of respondents who indicated a preference for 425 agreements.) Finally, one negative reason was also indicated, namely avoiding the scrutiny of the state Boundary Commission, which was deemed important or very important by 50% of this respondent pool.

*Cooperation:* Respondents were also asked whether as part of a 425 agreement they had formulated any new cooperative or interjurisdictional institutions to implement the agreement. As noted above, while P.A. 425 can be considered a governance approach, nothing in the law precludes the formation of formal structures integral to a government approach to cooperation. Out of all respondents, 18% indicated that they had formulated cooperative institutions. These respondents represented 26 distinct local government units. The most common form of cooperative institution was a joint planning committee for the property or project (9 units), followed by a joint committee to determine boundaries and potential future 425 agreements. In only a few cases (3 responses) did a local government unit indicate that shared ordinances had been adopted as part of a 425 agreement.



*Opinion on P.A. 425:* To determine opinions on P.A. 425 two approaches were used in the survey. Respondents were asked to answer a question regarding their “overall opinion” on the act as currently written; they were also asked to indicate their level of agreement or disagreement with a number of statements regarding the act. Data from the overall summary question yield a fairly positive perspective on PA 425: 24.6% of all respondents indicated that the law was “very positive – a useful

law for our local government unit;” 38.5% indicated a “somewhat positive” opinion, 24% described their opinion as neutral; only 12.9% indicated an opinion that was negative or very negative. Judging from this overall question, the difference between the units that lose land and those that gain land appears not to be that great. Slightly less than sixty-eight percent (67.6%) of respondents representing cities indicated that the law was positive or very positive; 64.2% percent of respondents from townships had the same opinion. A good proportion of respondents were neutral in their perspective with 23% of city respondents, 35.7% of village respondents, 25.4% of township respondents and 17.4% of charter township respondents indicating this opinion. The most negative opinions of PA 425 emanate from charter townships (34.7% of this respondent pool indicating negative or very negative).



To verify this overall opinion, respondents were asked to respond to a set of positive and negative assertions about the Act, indicating their level of agreement or disagreement with the statement. Data were coded so that sentiment in favor of 425 agreements was given a high score and negative opinions were given low score. Most respondents disagreed with the sentiment that P.A. 425 is unfair to municipalities because it forces revenue sharing (66.7% of cities; 72.1% of townships indicating disagreement or strong disagreement). Townships did tend to agree that the threat of annexation forced them to accept 425 agreements (54.1% either agreeing or strongly agreeing); only 5.5% of cities, in contrast, agreed with this opinion. Townships and cities both view P.A. 425 as an equitable mechanism for sharing the benefits of growth (84.9% of cities and 82.5% of townships agreeing or strongly agreeing with the statement).

The opinion that P.A. 425 benefits developers and allows them to “shop for zoning and services” resonated most strongly with charter township respondents with 68% indicating strong or very strong agreement. Cities disagreed or strongly disagreed with this perspective (62.5%), while townships were more split, 42% agreeing/strongly agreeing and 45.1% disagreeing/strongly disagreeing. Perspectives



on the statement that “agreements are initiated through private networks and conversations in order to benefit individuals” only resonated positively with charter townships (61.9% agreeing or strongly agreeing); both city respondents and township respondents disagreed with this perspective (83.6% for cities; 65.6% for townships disagreeing or strongly disagreeing). Finally, respondents from cities and townships also tended to agree that P.A. 425 is compatible with the present systems of planning and zoning (65.3% and 69.4% respectively agreeing or strongly agreeing).<sup>11</sup>

*Legislative Reform:* Finally, we asked respondents to indicate their opinion regarding a range of potential reforms for P.A. 425. Among the potential legal changes examined were three identified in informant interviews and by Taylor and Harvey (2004). These were: eliminating the possibility that land could revert to the original units, establishing a role for the Boundary Commission, and requiring that land transferred in a 425 agreement be contiguous to the receiving unit’s boundaries. Fifty percent of respondents considered eliminating reversion as important or very important. Receiving units were more likely to support the elimination of reversion (71.8% saying very important or important) than townships (28.6%). Overall, there was little support for involvement by the state’s Boundary Commission. Only 23.9% of all respondents indicated this as very important or important; most respondents (47.1%) indicated this was not an important reform. There is strong support for contiguity: 68.7% of all respondents indicated requiring contiguity as an important or very important action to prevent leapfrog development. By legal status, townships were stronger supporters of contiguity with 80.4% of township respondents indicating that contiguity was important or very important. Support for contiguity, however, is still evident in cities with 58.1% indicating this as an important or very important reform.

## **DISCUSSION**

Based on this analysis, a few observations can be offered — with caveats. The first caveat is that self-selection may have occurred with the respondents, so that the picture which has emerged in this analysis is potentially not representative. A second consideration is that a mail survey may not be the optimal way of capturing opinion and experience with a law as flexible and varied in its applications as P.A. 425. As one respondent noted:

We have found that the specifics surrounding each 425 agreement are so varied that a general survey like this one does not necessarily capture the value or underlying understandings of each one. A general assessment may not capture its value as a tool for generating cooperation between local governments (S-A213).

With those caveats in mind, PA 425 as written appears to be a law that most local governments can live with. Notably, both cities and townships share a somewhat positive orientation toward the law. The strongest negative reaction to the agreements emanate out of charter townships. That these entities would be the least satisfied with 425 agreements is not surprising. General law townships can become charter townships after meeting certain thresholds for population density and equalized value; they must be able to provide key services. One of main advantages of charter township status is protection from most annexation actions, but these units can still lose land through 425 agreements, an occurrence that galls them particularly if they have sufficient service capacity and planning in place for the land.

The fairly positive perspective on P.A. 425 was underlined by written comments provided by respondents. A theme from these comments was that while negotiations can go awry and cause hard feelings, P.A. 425 provides local governments with a valued, flexible tool for adjusting boundaries and pursuing economic development. The agreements were depicted as offering an opportunity to enhance relationships between local governments, share in growth and achieve regional goals. A typical observation was:

The simple fact is that townships have the land base and the cities/villages have the services. When utilized properly, a 425 can provide an equitable arrangement to allow land near the urban area to develop at a rational density and reduce the pressure on farmland further out. (S-455)

Notably, in relation to cooperation across local government units, the survey found only a few instances in which formal structures for land management were created in the 425 process. Most of these instances were joint committees; only three instances occurred in which a legal structure, a joint ordinance, was adopted. The lack of formality did not seem to undercut the perspective of local government respondents that 425 agreements were serving to facilitate better relationships and enhanced cooperation across units. These findings underline the perspective of the New Regionalist literature that governance approaches to cooperation are the easiest to achieve and arguably the most likely way regionalism will proceed in our local government landscape.

A final finding is the limited role played by land use planning and planners in the 425 process. Planning is not widely used to identify which land might be acquired through a 425 agreement; it does not appear to play a determining role in what the future land use is. This finding is not unexpected since in standard development processes in most localities land use change is initiated by the private sector and the public sector reacts. As indicated by the survey, the main initiators of 425 agreements are

landowners and developers with projects for unserviced land. By this measure, 425 agreements differ little from annexation, which is often initiated through a petition of a landowner or residents wanting greater services. In annexation cases, however, the rationality of and need for the change in boundary is scrutinized and denied if unwarranted or in conflict with local development plans. Such oversight is completely lacking in 425 agreements.

The ability to negotiate the orderly transfer of jurisdiction over land and expansion of boundaries provided by P.A. 425 presents a unique opportunity for Michigan local governments. Rather than simply reacting to development or developers as is currently the case, local government units can assess their land base, service capabilities, and determine optimal growth patterns in a proactive manner. Public planning processes are key here: a collaborative planning process involving affected communities could enhance understanding of and lessen opposition to boundary extensions. Properly done, such planning could result in the creation of more desirable and widely acceptable projects and assist all communities within a region to attain both their economic development and land use goals.

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## ENDNOTES

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<sup>1</sup>The initial name of the residential development was “The Governor’s Collection.” It is now marketed as College Fields.

<sup>2</sup>The Boundary Commission does not review all annexation actions; actions such as detachment of land from a city and annexation of land from township to a village are exempt from the Commission’s jurisdiction.

<sup>3</sup>Because of its Boundary Commission, Michigan can be categorized as a “quasi-legislative state,” as done by Palmer and Lindsay (2001). But as the state allows for referenda, state administrative review and court proceedings, Michigan’s multipart procedures underline their finding that typologies have inherent limitations for explaining the complexity of annexation law.

<sup>4</sup>According to a regression analysis run by Carr and Feiock (2001), this practice of having “Dual” City and Area Referenda was the one provision that reduced the frequency of annexation in the states they studied.

<sup>5</sup>Township governments have seen the potential of 425 agreements for blocking any further annexation action by nearby cities. In one such case, which ultimately made it to the Michigan Court of Appeals, four Michigan townships entered into identical, reciprocal agreements in which one township purportedly agreed to provide services to the other three townships. This action took place after a nearby city filed an annexation petition on one of the townships. The court determined that these actions were taken in order to block any further expansion by the city and not as part of an economic development project as is required under law. In this case, the court gave the Boundary Commission the right to review agreements in order to determine the intentions of the parties and ensure they adhere to the rationale of supporting an economic development project. See *Casco v. State Boundary Commission*, 343 Mich. App. 392, 622 N.W. 2d 332 (2000).

<sup>6</sup>Although they like to stress their home rule powers (and the state constitution has a home rule clause), Michigan local government units are reluctant to undertake any action that has not be clearly enabled by the State Legislature. Likewise they are conservative in their adoption of actions enabled under new legislation until it has been tested in the courts. From some of their earliest decisions, Michigan courts have tended to view local government powers under a “Dillon’s Rule” perspective (Richardson, J. J., M. Z. Gough, et al. (2003).

<sup>7</sup>Each agreement has two parties. 261 units represent 14% of the total general purpose units in the state.

<sup>8</sup>Patrick, Musser and Stenberg v. Alaiedon Township, 2000. Unpublished opinion, No. 218506, Ingham County Court.

<sup>9</sup>This resulted in a possible population of 634 individuals, excluding the seven local government units with rescinded agreements. The survey sample drawn was smaller than this population as addresses for some of these could not be found. Surveys were sent to a sample of 555 individuals in two separate mailings in August-October 2004. Six surveys were returned due to invalid addresses; three were returned unfilled with a note that the office did not exist or that no one currently employed by the local government unit had participated in the 425 process; one was returned but proved unusable.

<sup>10</sup>The survey instrument had five parts and a total of 31 questions.

<sup>11</sup>We statistically examined the relationship between the two opinion questions. To assess the internal consistency/reliability of the statement questions across groups we first tested using the coefficient alpha. With all cases included the statistic was .814 indicating strong internal consistency in answers. That is, if the respondent likes P.A. 425 that preference was reflected in all answers regardless of positive or negative wording; likewise, by local government type they either liked it (most strongly, cities) or they disliked it (charter townships). To determine whether one charter township with three respondents with strongly negative opinions represented in the sample was skewing the result, those three records were removed and the statistic recalculated. In this case the coefficient alpha was still a strong .837. Additionally, two means were calculated to identify an “average opinion.” For the opinion statements, the mean emerged as 3.49, basically weak support for 425 agreements. By local government legal status a range of means emerged: cities were positive toward 425 agreements (mean 3.73), as were townships (mean 3.44). The local government type least satisfied with 425 agreements was again the charter township (mean 2.71). Analysis of variance indicated that this was significant with an F statistic of 11.98. A mean was then calculated for the overarching evaluation question. In this case, the mean was 3.7, again indicating weakly positive average opinion of P.A. 425.

**APPENDIX A: SURVEY INSTRUMENT**

The Land Use and Planning Impacts of Michigan’s Public Act 425 Local Government Survey

**Michigan State University, Summer 2004**

**Name of Local Government Unit:** \_\_\_\_\_

**Legal Status:**

- City
- Village
- Township
- Charter Township

**Status of Planning and Zoning:**

Please indicate whether your local government unit has adopted any of the following plans or ordinances. (Check all that apply)

- Official Master Plan
- Downtown Development Plan
- Zoning Ordinance
- Subdivision Control Ordinance
- Area Recreation Plan

**425 Agreements: Information on Current Agreements**

**1. How many of your 425 agreements are developed as:**

- Industrial uses (e.g., 2/5) \_\_\_\_\_
- Commercial uses \_\_\_\_\_
- Residential uses (including manufactured housing) \_\_\_\_\_
- Mixed uses (please describe) \_\_\_\_\_
- Other (please describe): \_\_\_\_\_

**Total number of agreements =** \_\_\_\_\_

**2. Do all your 425 agreements contain provisions for sharing revenues (i.e., property taxes) from the affected properties?**

- Yes, all agreements contain revenue sharing provisions
- No
  - If no, how many exclude revenue sharing provisions? \_\_\_\_\_
- Don't know

**3. What is the duration of your average 425 agreement?**

- Less than 10 years
- 11 to 15 years
- 16 to 20 years
- 21 to 30 years
- 31 to 40 years
- 40 to 49 years
- Maximum allowable: 50 years
- Don't know

**4. If the duration is less than maximum of 50 years, why do your agreements have that average duration?**

- Land gaining unit refused to extend revenue sharing for full 50 years
- Duration of revenue sharing deemed sufficient and fair for both parties
- Other, please explain: \_\_\_\_\_
- Don't know

**5. Legally, 425 agreements are “for the purpose of an economic development project.” Practically, how does your local government unit define economic development? (Choose one, most fitting description.)**

- Expansion of commercial development
- Expansion of industrial development
- Any project or development that expands tax base
- Projects that expand or create jobs
- Other, please describe: \_\_\_\_\_

**425 Agreements and Land Use Planning Processes**

<p><b>6. Who takes the lead role representing your local government's interests when negotiating 425 agreements?</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Mayor</li> <li><input type="checkbox"/> Township supervisor</li> <li><input type="checkbox"/> City or township attorney</li> <li><input type="checkbox"/> City administrator / manager</li> <li><input type="checkbox"/> Planning director</li> <li><input type="checkbox"/> Planning commission chair</li> <li><input type="checkbox"/> Other: _____</li> </ul>	<p><b>7. Out of the total number of agreements listed in question 1 above, indicate how many 425 agreements have been initiated by:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Landowners seeking public services (e.g. 3/5) _____</li> <li><input type="checkbox"/> Developers seeking public services _____</li> <li><input type="checkbox"/> Developers seeking more favorable zoning/planning _____</li> <li><input type="checkbox"/> Public officials planning for expansion of public services like water _____</li> <li><input type="checkbox"/> Public officials planning for residential growth _____</li> <li><input type="checkbox"/> Public officials reacting to poorly controlled/planned growth in adjacent unit _____</li> <li><input type="checkbox"/> Economic development agencies attracting new businesses _____</li> <li><input type="checkbox"/> Other, please explain: _____</li> </ul>
<p><b>8. Are any of these 425 agreements for parcels of land NOT contiguous with your official boundaries?</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Yes</li> <li><input type="checkbox"/> No (please skip to question 10)</li> </ul>	<p><b>9. How did your local government unit become a party to a non-contiguous 425 agreement?</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Adjacent LG unit was unable to provide services to the land</li> <li><input type="checkbox"/> Adjacent LG unit was unwilling to provide services to the land</li> <li><input type="checkbox"/> Special, atypical project for major economic development project</li> <li><input type="checkbox"/> Other, please explain: _____</li> <li><input type="checkbox"/> Don't know</li> </ul>
<p><b>10. Does your local government unit employ full-time professional planning staff? (Do not count consultants on retainer)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Yes</li> <li><input type="checkbox"/> No (please skip to question 13)</li> </ul>	<p><b>11. How involved is your professional planning staff in 425 negotiations that extend city boundaries?</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Very</li> <li><input type="checkbox"/> Somewhat</li> <li><input type="checkbox"/> Not at all (please skip to question 13)</li> </ul>
<p><b>12. If you indicated that a planner is very or somewhat involved in 425 agreement negotiations, which of the following tasks are done by professional planners? (Check all that apply.)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Representing local government in negotiations</li> <li><input type="checkbox"/> Determining future land use needs and identifying land to be acquired through 425 agreements</li> <li><input type="checkbox"/> Facilitating public meetings associated with 425 agreements and approvals</li> <li><input type="checkbox"/> Other, please describe: _____</li> </ul>	<p><b>13. Does your local government unit have a Planning Commission comprised of appointed local citizens?</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Yes</li> <li><input type="checkbox"/> No</li> </ul>



**425 Agreements and Land Use Planning Processes**

**14. What role does your local Planning Commission play in 425 agreement processes?**

- No role: the Commission is apprised of the agreement upon completion
- Limited role: informed of negotiations and pending agreements
- Limited role: plan for land once 425 agreements are completed
- Major role: one or more members of the Commission is involved in process
- Other, please explain: \_\_\_\_\_  
\_\_\_\_\_

**15. Which of the following statements most accurately reflects the role that your Master Plan and its land use objectives play in determining whether to enter into 425 agreements:**

- No role: 425 agreements are developed outside the normal land use planning process
- Limited role: 425 agreements are only pursued only if they harmonize with existing land use plans
- Planning leads 425 process: land use plan identifies land needed for growth; 425 agreements are negotiated to further planning objectives
- Other, please explain: \_\_\_\_\_  
\_\_\_\_\_

**16. As part of any 425 agreement has your local government unit formulated new cooperative or multi-jurisdictional institutions (e.g., committees or ordinances) to implement the agreement?**

- Yes
- No (please skip to question 18)

**17. Please indicate the type of multi-jurisdictional or cooperative institution formulated for a 425 agreement. (Choose all that apply)**

- Joint site planning committee for 425 property/project
- Joint committee to determine boundaries and potential future 425 agreements
- Shared / identical ordinances for land slated for 425 agreement boundary expansion
- Other, please detail: \_\_\_\_\_  
\_\_\_\_\_

**18. Has your local government unit ever attempted to craft a 425 agreement only to have it fail?**

- Yes
- No (please skip to question 20)

**19. What was the reason for the failure of the 425 negotiation process?**

- Lack of agreement between local government units over fiscal issues/revenue sharing
- Services sought ultimately provided by another (3<sup>rd</sup>) neighboring local government unit
- Initiator of agreement (e.g., landowner, developer) changed mind or withdrew development proposal
- Annexation action pre-empted or interfered with 425
- Other: \_\_\_\_\_  
\_\_\_\_\_

**20. Does your local government unit possess the power to annex?**

- Yes
- No (please skip to question 22)

**21. Has the frequency with which your local government unit uses its power to annex changed since the passage of Public Act 425?**

- Yes, annexations are *less* frequent
- Yes, annexations are *more* frequent
- No change: annex at roughly the same rate
- Don't know
- Other, please explain: \_\_\_\_\_  
\_\_\_\_\_

## 425 Agreements and Land Use Planning Processes

**22. If given the choice between an annexation action or the development of a 425 agreement, which course of action is most preferred by your local government unit? (*This question is for all units, including those without the power to annex.*)**

- Annexation (please go to question 23)
- 425 agreement (please go to question 24)
- Unable to say as selection is dependent upon specific project or situation
- Not sure

**23. Why would your local government unit prefer the annexation of land over negotiating a 425 agreement? (Please rate following reasons according to importance.)**

- Annexation does not necessitate revenue sharing with land losing unit  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- Annexation is a permanent alteration of boundaries  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- Annexation processes benefit from scrutiny by state Boundary Commission  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- Annexation allows for immediate control over land, in terms of planning and zoning  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- Negotiating 425 agreements is too time consuming  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- Negotiating 425 agreements yields minimal political goodwill compared to the effort  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- Other, please explain: \_\_\_\_\_

**24. Why would your local government unit prefer a 425 agreement over the annexation of land? (Please rate following reasons according to importance.)**

- 425 agreements are fairer for land losing units such as townships  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- 425 agreements facilitate better working relationships with neighboring communities  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- 425 agreements are a more flexible approach than annexation (e.g., can meet various landowners' needs)  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- 425 agreements do not necessitate scrutiny by the state Boundary Commission  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- 425 agreements allow local government units to cooperate with many other local government units, including non-adjacent units  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- Other, please explain: \_\_\_\_\_

## Evaluation of Public Act 425

### 25. Please indicate your level of agreement or disagreement with the following assertions:

- Public Act 425 unfairly forces municipal councils to share revenues and land with neighboring townships  
\_\_\_Strongly agree    \_\_\_Agree    \_\_\_Disagree    \_\_\_Strongly Disagree    \_\_\_No Opinion
- Public Act 425 is essentially unfair to townships; because municipalities can threaten to annex, townships are forced to accept 425s  
\_\_\_Strongly agree    \_\_\_Agree    \_\_\_Disagree    \_\_\_Strongly Disagree    \_\_\_No Opinion
- Public Act 425 provides an equitable mechanism for municipalities and townships to share the benefits of growth  
\_\_\_Strongly agree    \_\_\_Agree    \_\_\_Disagree    \_\_\_Strongly Disagree    \_\_\_No Opinion
- Public Act 425 benefits developers excessively as it enables them to “shop for zoning and services” by playing local government units off one and another  
\_\_\_Strongly agree    \_\_\_Agree    \_\_\_Disagree    \_\_\_Strongly Disagree    \_\_\_No Opinion
- Public Act 425 exacerbates urban sprawl (i.e., low density, land consumptive development) because it is in every local government’s fiscal interest to grow  
\_\_\_Strongly agree    \_\_\_Agree    \_\_\_Disagree    \_\_\_Strongly Disagree    \_\_\_No Opinion
- Public Act 425 is compatible with our present system of planning and zoning  
\_\_\_Strongly agree    \_\_\_Agree    \_\_\_Disagree    \_\_\_Strongly Disagree    \_\_\_No Opinion
- Public Act 425 undercuts public planning and decision-making.  
\_\_\_Strongly agree    \_\_\_Agree    \_\_\_Disagree    \_\_\_Strongly Disagree    \_\_\_No Opinion
- Public Act 425 agreements are initiated through private networks and conversations in order to benefit individuals; they are generally not concerned with the public interest.  
\_\_\_Strongly agree    \_\_\_Agree    \_\_\_Disagree    \_\_\_Strongly Disagree    \_\_\_No Opinion
- Public Act 425 can be used as a proactive instrument for defining boundaries and clarifying land use relationships with neighboring localities  
\_\_\_Strongly agree    \_\_\_Agree    \_\_\_Disagree    \_\_\_Strongly Disagree    \_\_\_No Opinion

### 26. What is your overall opinion of Public Act 425 as currently written?

- Very positive: a useful law for our local government unit
- Somewhat positive
- Neutral
- Somewhat negative
- Very negative: a disadvantageous law for our local government unit

**Evaluation of Public Act 425**

**27. How important are the following reforms for improving Public Act 425? (Please rate on scale of importance.)**

- Eliminate the provision for possible reversion of land to unit of origin at end of 425 agreements  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- Require scrutiny of boundary effects of 425 agreements by State Boundary Commission  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- Require contiguity with current boundaries for all 425 agreements to prevent “leap frog” development patterns  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- Increase required number of public meeting and opportunities for input/participation by concerned citizens  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- Harmonize Public Act 425 law with statutes detailing powers and processes of annexation  
\_\_\_ *Very important*    \_\_\_ *Important*    \_\_\_ *Slightly Important*    \_\_\_ *Not important*
- No reforms are needed
- Other, please explain: \_\_\_\_\_

**RESPONDENT INFORMATION**

**28. What is your position in local government unit?**

- City / Municipal Manager
- Township Supervisor
- Planning Director
- Zoning Administrator
- Planning Board Chair or Member
- Mayor or City Council Member
- Other Professional (e.g., city engineer)
- Other elected official, please describe:  
\_\_\_\_\_
- Other appointed official, please describe:  
\_\_\_\_\_

**29. How many years of public service do you have with your *current* local government unit?**

- Under 3 years
- 4-6 years
- 7-10 years
- 11-15 years
- 16-20 years
- Over 20 years

**30. What is your educational background or training? (Please mark highest level of achievement)**

- Less than high school degree
- High school graduate
- Some college / university training
- University graduate (major: \_\_\_\_\_)
- Graduate degree
  - J.D.
  - Civil Engineering
  - Master of Public Administration
  - Master of Urban/Regional Planning
  - Other: \_\_\_\_\_

**31. Which of the following best characterizes your involvement in 425 agreements in your locality?**

- Led negotiations for my local government unit
- Party to negotiations representing my local government unit
- Was asked to comment on 425 agreements
- No role in negotiations (e.g., pre-dated employment in local government unit; not asked to participate)
- No role in negotiations; voted to approve agreements (e.g., as local government council member)
- Other (please describe):  
\_\_\_\_\_

**Comments: Additional Information**

Surveys like this one cannot gather case-specific detail useful for evaluating the performance of Public Act 425 as an instrument for inter-jurisdictional cooperation and better land use planning. If you have additional information, opinions or insights regarding P.A. 425 that you feel would advance the objectives of the research, please use this space (or an attached sheet) to provide the information.

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**Respondent Contact Information:**

- I am willing to speak with MSU researchers to provide more information PA 425 agreements and planning in my community.
- I am not interested in being contacted again for this research.

If yes, please provide contact information below.

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email address: \_\_\_\_\_  
Work phone: \_\_\_\_\_

**Thank you very much for completing the survey!**

**Please use the addressed and stamped envelope to return it to us!**



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