THE BROOKINGS INSTITUTION
BROOKINGS CAFETERIA PODCAST

UNPACKING OPPORTUNITY ZONES TAX HAVENS

Washington, D.C.
Friday, October 8, 2021

PARTICIPANTS:

FRED DEWS
Multimedia Project Manager
The Brookings Institution

DAVID WESSEL
Director, Hutchins Center on Fiscal and Monetary Policy
Senior Fellow, Economic Studies
The Brookings Institution

JIM TANKERSLEY
White House Correspondent
The New York Times

* * * * *

DEWS: Welcome to the Brookings Cafeteria, the podcast about ideas and the experts who have them. I'm Fred Dews.

David Wessel, a frequent contributor to this podcast, is author of the new book "Only the Rich Can Play: How Washington Works in the New Gilded Age," published by Public Affairs, which tells the story of how a Silicon Valley entrepreneur developed an idea intended to help poor people that will save rich people money on their taxes. Wessel, a senior fellow and director of the Hutchins Center on Fiscal and Monetary Policy at Brookings, relates in his book how the tax break, passed into law in the Tax Cuts and Jobs Act of 2017, led to the creation of over eight thousand tax havens across the U.S. called Opportunity Zones.

In this episode of the Brookings Cafeteria, I'm presenting part of a recent Brookings live event during which Wessel and other experts discussed the book and the Opportunity Zone experience on the ground. Here, Wessel is interviewed by New York Times White House correspondent Jim Tankersley about "Only the Rich Can Play."

Later in the live event, Wessel interviewed Martin Muoto of SoLa Impact, which is raising Opportunity Zone money for affordable housing in South Los Angeles. Following that, The Wall Street Journal's Richard Rubin moderated a discussion among Opportunity Zone advocates and skeptics, focused on reforms that might make the program more effective. You can listen and watch the entire event on our website, brookings.edu/events, or also subscribe to our Brookings events podcast channel.

You can follow the Brookings Podcast Network on twitter @policypodcasts to get information about and links to all our shows including Dollar and Sense: The Brookings Trade Podcast, The Current, and our events podcast.

And now, here's David Wessel in conversation with New York Times White House correspondent Jim Tankersley about Wessel's new book, "Only the Rich Can Play." Again, you can listen to the entire event on our website, brooking.edu/events or subscribe to our Brookings events podcast.

WESSEL: I'm David Wessel, director of the Hutchins Center on Fiscal and Monetary Policy here at the Brookings Institution, where we are here today to talk about Opportunity Zones, a provision of the 2017 tax bill that led to the creation of 8,764 census tracts across the country that are designated as tax havens. Opportunity Zones offer a capital gains tax break to induce people with money to put that money in capital-starved, left behind neighborhoods. It's the subject of my new book, "Only the Rich Can Play."

Now, this is a story about how Washington works in this new Gilded Age, how a billionaire—Sean Parker, one of the founders of Facebook—had an idea, a hack, as he calls it, funded a startup think tank, and actually got a provision into law with a big assist from Tim Scott. And with no hearings and very little serious scrutiny of the details.

This is a story about a tax break conceived as a way to help poor folks that was designed and implemented, in my view, in a way that made it easy for legions of accountants, tax lawyers, financial advisors, and money managers to exploit, to cut taxes for their wealthy clients without having to show or even assert that these investments actually lift up the communities in which they are located.

But this is also a story about a tax break that *can* be and, as we'll hear shortly, *is* used to tackle the distress in America left behind communities, but a story about what happens when there's such antipathy to government oversight and no requirement that a provision like this be used for its stated purpose, that you get condos, office towers, self storage facilities, luxury housing, and census tracts that qualify only because the census counts college kids as poor since they don't have any income.

And to be clear, frankly, this is just a good story. I mean, how lucky can a reporter get? It's a story about a tax provision, but we've got Sean Parker and his sidekick Michael Polansky, who's dating Lady Gaga. We have Tim Scott confronting Donald Trump on Charlottesville. We have Nevada politicians lobbying U.S. Treasury secretary to bend the rules. We have an NFL player turned motivational speaker hired by the Trump White House to proselytize for Opportunity Zones. We have intrigue at the state capitol in Annapolis. We have a Ritz Carlton going up with Opportunity Zone money in Portland, Oregon. Anthony Scaramucci makes an appearance. And there's even an Andy Warhol painting, but you'll have to read the book to find out what that's all about.

So, I'm very grateful today to have invited Jim Tankersley to interview me for about 20 minutes on the book. Jim is a very prolific White House correspondent for the New York Times, focusing on economic policy, and he's written about Opportunity Zones from the very start. He's the author of a book called "The Riches of This Land: The untold true story of America's middle class," which, among other things, demonstrates that Jim has saved the notes from every interview he's ever done in 20 years of reporting. So, Jim, welcome to the Hutchins Center virtual stage.

TANKERSLEY: David, thanks so much for having me. I'm so delighted to be here and interviewing you and thanks to Brookings for putting those on. I think it's going to be a great discussion, and it's a topic that I have been fascinated with from the start, but I want to take sort of a writer's privilege and ask you some writer questions at the beginning. Because this book comes together and comes from, I think, a very interesting place. Tell me how you got into

Opportunity Zones and decided to start telling the story of them, sort of in real time as they unfolded?

WESSEL: That's a great question, Jim. So, I first had heard about Opportunity Zones from one of my colleagues at Brookings, Adam Looney, who was frothing at the mouth about how outrageous they were, and Adam has a habit of doing that about many tax provisions. So, I listened and nodded. And then he mentioned Sean Parker was involved and suddenly I saw there was a story here, or there might be.

So, the first thing I did was go to Las Vegas to an Opportunity Zone Expo. I hadn't decided to do the book, but I decided that if I did the book and I hadn't gone to an Opportunity Zone Expo at the Mandalay Bay and Resort in Las Vegas, I would always regret it. And it was there that I realized how fascinating a story it was. It was like attending a modern-day gold rush, there were so many people there so hungry for details about Opportunity Zones. This is May 2019. So many colorful characters, all of whom just were just dying to tell their story as I took notes in my notebook.

And so that's how I got going, I have to admit that part of my plan was to use this as an opportunity to travel around the country. I got interrupted in that by COVID, which is a shame. But I still think I met a lot of interesting people, people who work in the field of community development, people who are in the real estate business who just love to talk, and so that's how we did it.

TANKERSLEY: And and tell me, sort of what did you go in thinking was the story of how the zones were working and sort of what sort of impact they might have and and and how did that change as your reporting evolved?

WESSEL: So, although I think the proponents of Opportunity Zones probably doubt this, I really was kind of agnostic. I was— I knew a little bit about place-based tax policies which of course go back to Margaret Thatcher and enterprise zones. And I had a great conversation with one of my colleagues at Brookings, Stuart Butler, who was previously at the Heritage Foundation and had been very involved in bringing the concept from the UK to the U.S.

I had some skepticism as anybody would about a tax break that is so obviously designed to appeal to investors. I'd say I soured on it a little as I went along, only because I saw how easy it was for people to take advantage of the tax break without having to demonstrate that they were helping the people in the community.

Then of course I met some people who were kind of disappointed. And then I met some people like Martin Muoto who I'll talk to shortly, who showed how it could be used, there's just no requirement to do it the way it was sold.

TANKERSLEY: So, I think, you know it's fascinating, I got into Opportunity Zone coverage because I have for a long time been writing about sort of these areas of the country that have been left behind by the the changes in the economy. And, you know, on on a, sort of here's the problem to solve level, it's really hard to argue with, right? This is an attempt to drive private capital in to solve, you know, a problem of underinvestment. Tell me in your sort of reporting where you think the trouble with the solution started. Was it in the design of the program in the law? Was it in the implementation? Both? How does it …

WESSEL: Yeah, all of the above. Look, this is a story about how Washington really works. And so while I'm, I think we should all welcome public-spirited billionaires like Sean Parker, I don't think we should let them draft tax bills. And in a sense, that's what happened here. I think you, as you point out, the idea is incredibly appealing, and I think that's one reason why they got so much bipartisan support. Who could be against getting rich people to put their money into poor neighborhoods? And if it takes a little text incentive to do that, so much the better.

But I think that the problem here was the proponents were so certain that previous attempts at this had failed because there was too much red tape and too much government regulation, that they went too far in the other direction. And that what we've seen is that with so many Opportunities of Zones across the country, some of them chosen rather foolishly by governors in those states, the money naturally flowed to the places that were least likely to need it, and that's that's what concerns me.

I don't think that the Trump Treasury did a particularly good job of implementing the law in writing the regulations. There's a lot of— In any tax provision there's lots of opportunities for the reg writers to to to do things. I don't think they took very many opportunities, although I don't think the law gave them as much authority as some people at the Treasury would have liked.

So, I would say: A, it was flawed in design; B, because it got kind of slipped into the Tax Cuts and Jobs Act, it didn't get the scrutiny that you get at hearings or the couple of vetting by experts who may not be sympathetic but can sometimes make a bill, a proposal better; was not well implemented; and then I think the proponents just didn't appreciate how good the tax avoidance community is at finding ways to exploit the weaknesses in the law and the regulations.

TANKERSLEY: Yeah, you lay this out obviously in the book, but a part of what you're documenting here is the process by which a very complicated tax bill came into being almost overnight and with so many different moving parts that many of them didn't get scrutiny. And Opportunity Zones, which had started as a bipartisan idea—people who we don't associate with sort of billionaire capital like Jared Bernstein, being you know, the Biden administration CEA member, being you know, an early proponent and architect of this—and then it becomes a thing that Senator Scott sells President Trump on and stays in the bill and makes it all the way through.

And when it first passed, I think there was a lot of surprise and like you say from Vegas just interest. I remember the several conferences I went to early on, just a lot of people really wanting to know well what what is this and what's happening? And I would say in the beginning there there was sort of this potential for two and there was this hope that it would it would be this great mover of money, but there I think there are sort of two possibilities for how it could go wrong. One would be sort of what you're I think saying in the book here, which is the money money is flowing, but to the wrong places and it's just making a lot of rich people richer. And the other is, not much money would flow at all, the possibility that like this just wasn't a very powerful incentive.

So, long wind up, but I think my question is, what do you think the evidence is that this is more more the former than the latter, that there's been a lot of money flowing, but it's it's not going to the right places as opposed to it just hasn't done very much yet?

WESSEL: Well, I think you're right that there's a question of how much money is flowing to these things. Mike Novogradac who will be on later has some of the best available data, but unfortunately because of the process known as reconciliation in the Senate with which we are now all increasingly familiar, a provision in the bill that would have required more reporting was stripped out. So, we don't have very good data. There were some economists affiliated with the Joint Tax Committee in Congress who got access to most, though not all, of the 2019 Opportunity Zone Fund returns. And they found that 84 percent of the zones got no money at all, and half the money went to presumably the best off __ percent of zones.

But for now, unfortunately a lot of the reporting is the kind of stuff that you and I and Rich do, which is going around and talking to people. So, it's my anecdotal observation that while there are lots of projects that may have been accelerated by Opportunity Zones. There are many more that were in the works or might would have been done anyways, for which the Opportunity Zone program makes the project more attractive financially but doesn't really do anything for the community.

In one example of a loophole, there's a building going up in downtown Portland occupied by the local natural gas utility that was financed and built and leased to this utility with regular investment money. But because it didn't have a certificate of occupancy, yet they were able to sell it and a bunch of people from a, uh, run an Opportunity Zone fund in Chicago were able to get a tax break for their clients for a building that really Opportunity Zone money had nothing to do with creating.

So, I just, I think there's just too much anecdotal evidence of that to make me comfortable.

TANKERSLEY: Well, I, I so, I think to push you a little bit on that, like how big, how big of an actual hit to taxpayers do you think is in the ballpark here? I mean there certainly, with any any government program, people tolerate varying levels of what we might think of as as misdirected money if the outcomes are worth it. How … What do the data suggest to you? [inaudible].

WESSEL: Well, of course the amount of money that the Treasury loses, or foregone revenue, depends on how many people take advantage of it, of course. And one of the difficulties is that the way the bill was structured, cleverly, there's a little bit of revenue in 2026, and that makes the 10-year cost estimate look very small. So, we really don't know how much money the

Treasury will lose beyond the 10-year window when Opportunity Zone investors who have to hold their property for 10 years cash out. It's in the billions of dollars, I think.

But look, I think the question is, if I believe that 90 percent of the money went to projects that really helped communities and 10 percent or even 15 or 20 percent went to projects that would have been done anyways in gentrifying neighborhoods, I I would say it's a success. If it's the other way, that only 15 percent of the money goes to projects that are really what was intended and the rest goes to projects that would have been done anyways, or projects in gentrifying neighborhood, then it's a failure, and I don't think we really know yet how that is.

One thing that is concerning to me though, is when we propose programs that are aimed at poor people, there seems to be a great deal of focus in Congress in limiting abuse. We have to make sure that nobody gets the child tax credit or the earned income tax credit or food stamps who doesn't deserve it. We we spend a lot of time on regulations and guardrails there. And then on a tax provision like this, it's just the opposite. That by design, there's just not very much oversight, not very many guardrails. And, and I think that's an imbalance that doesn't make any sense to me. If you're going to do something like this you need to make sure, the government needs to make sure that it's being used more for the intended purpose and less just to cut taxes for people who happen to have capital gains that they can sink into an Opportunity Zone fund.

TANKERSLEY: Now, to be fair to the Trump Treasury Department, there are guardrails. They they they do have you know there there are lots of things that when you talk to people who invest in Opportunity Zones they have complained and many times about various iterations of the regulations that made it difficult to invest in, for example, operating businesses. So, but you think there's there should be a lot more and that and that that would not chill investment to [inaudible] and make it useless?

WESSEL: Well, you're right that there are a lot of regulations. I don't mean to suggest that there's not a lot of red tape here. But you can invest in almost any kind of property or asset in an Opportunity Zone. There's some provisions to make sure that you're not land banking and stuff like that. And everybody who deals with the IRS always thinks that there's too much red tape. I do think that there's a risk that if you make these programs too onerous, nobody participates. That's absolutely correct.

On the other hand, previous place-based policies like the New Markets Tax Credit, which the proponents of Opportunity Zones are less critical of than others, they have a set cap on how much money could go and that forces a kind of rationing that only the best projects or more likely the best projects are to be [inaudible].

So, I would be willing, if you pressed me to say, I'd be willing to have fewer people putting money into these things if I thought the rules and oversight would direct more of the money for the desired purpose.

TANKERSLEY: But the idea behind the program was sort of the opposite, right? Like let's just have an unlimited avalanche of capital and if it spills into some places that maybe don't need it, that's okay because there's going to be so much of it that it's going to go into the places that do.

WESSEL: No, I don't think there was that much money and I think it was too easy for the money to go to places that don't need it. I mean, one way the law worked was, as you know, Jim, 56 percent of the census tracts in America were eligible—the Treasury published that list. Then governors could choose up to 25 percent of those. Some governors chose pretty poorly. Some governors probably chose corruptly. Austin asked for four opportunity zones. The state, for some reason, gave them 21, and Austin is not a place that needs a lot of tax incentives to get investment. Twenty-five percent of the Opportunity Zones in New York State are in Baltimore. The Governor of California originally designated the Stanford campus as an Opportunity Zone, but because they published their list, there was an uproar including from the Economic Innovation Group, the proponents of Opportunity Zones, and they undid that.

So, I think there are things that could have been done to direct the money in the right direction without hurting the things. I may have misspoken, I meant to say that 25 percent of New York State Opportunity Zones are in Brooklyn, which is a pretty hot place to invest.

TANKERSLEY: Yeah, I was worried I had missed an important geographical switch and …

WESSEL: Sorry.

TANKERSLEY: ... no. But but the places that are getting the JCT economists' analysis you're talking about does show that the places that are getting the money are still— It's not like these are going, the money has mostly gone to incredibly rich areas, they're still poor areas, they're just not as poor as the poorest areas in the zones, right? Those are the ones that are just not getting capital.

WESSEL: Well, on average, Opportunity Zones are poorer than those than other census tracts, that's true. But some of the data, I think, is misleading because the neighborhoods have improved quite a bit since the data that was used to designate the Opportunity Zones.

But you're right. Although there are some places that when you go to them you say, is this really what we had in mind? I mean, I gave you as an example downtown Portland. The state of Oregon made a conscious decision that if they designated only the worst neighborhoods in Oregon, they wouldn't get any money, and if they designated places that qualified because there are not very many people who live there, but those people are poor because they have preserved some low-income housing that that would be, that might get them bad headlines, but they might get some money. So they kind of did it 50/50. They said half the Zones, let's put it in places that like downtown Portland that are already attractive, and maybe we can supercharge the investment, and let's put half the Zones in remote places in Oregon that are desperate for money.

And from what I can tell in Oregon, almost all the money went to the former. And I visited an immigrant community outside of Portland called Rockwood, which organized to get some Opportunity Zones and got very little. I went to Bend, Oregon, which is, you know, a resort town that's just booming, in part because people have left downtown to go live there during the COVID thing, and it seems strange that they may qualify legally, but it didn't seem like a very poor place.

But you're right, the most, the richest neighborhoods in America—Beverly Hills, or Northwest D.C. did not get Opportunity Zones. But I'm saying that the places that got the money were not the most needy in most cases.

TANKERSLEY: So, the Obama administration is looking, I'm sorry the Biden administration is looking at how to do, you know, regulations moving forward that might try to improve the performance of the program. One of the questions is should there be, you know, a change in this criteria for what qualifies. Do you think that would help solve the problem? What would be ... What would be effective interventions from the administration at this point?

WESSEL: So, you're right that the Biden administration, President Biden during his campaign promised to reform Opportunity Zones. But as far as I can tell, they haven't made any significant proposals either in all the legislation they've sent to the Hill or in regulations. And so some of this may require action by Congress. Last time I checked, although people like Rich would know better, there's nothing in the reconciliation bill that would address any of the issues.

We have a panel later of people who know a lot more about this. But at the very least there are some Zones that should be de-designated. Maybe you have to grandfather them. And so more attention to what was chosen. I think we need better reporting. I think we need to rule out some things or that should be added to the list of businesses in which you can invest. And I think we need to find a way to have some kind of oversight certification process even if that is going to constrain the amount of money going in, because the natural tendency of people in the markets, people have money, is to look for the highest return, lowest risk investments and that may not be directing them to the places where Opportunity Zone monies are supposed to go.

TANKERSLEY: And there's also this sort of the question of how do you get a critical mass of investment? It's one thing for someone to come in and like rehab a building in a in a very difficult you know, rural left behind part of Eastern Oregon. It's another thing for 15 people to come in and rehabilitate an entire, you know, section of a downtown and just trying to really throw some momentum behind it. And I know there are some cities that have tried that sort of like bunching approach like Erie, Pennsylvania. So, do you think there's any sort of lessons from the the few places that out there, I mean, maybe not even few, the places out there that really seem to be trying to have a concerted strategy on this?

WESSEL: I think that there was an effort to get a lot of communities to write prospectuses to market themselves better. And I think that in cases in many cases that may not have produced much Opportunity Zone money, but it did help organize the community to do better at economic development. I think there are places—Erie, Pennsylvania is one, I mentioned you mentioned, Alabama has done some interesting things—so I think there are places that have taken advantage of it. And that was part of the design of the program, I agree, was to put the onus on local communities to market themselves. I just think that making a shiny prospectus saying come invest in my city hasn't worked terribly well.

I spent a lot of time in Baltimore, for instance, where they have a foundation funded, an Opportunity Zone coordinator, a guy named Ben Siegel, who seems to me to be doing a terrific job at trying to market it. And for the most part the neighborhoods in Baltimore that most need money don't seem to me have gotten very much despite all his efforts. And Baltimore is the kind of place that Opportunity Zones were designed to help.

TANKERSLEY: I want to zoom out for my last couple questions here and sort of talk about the broad themes of the book and sort of the influence of the powerful in Washington, which obviously I think everyone who's tuned into this is interested in. It's ... with the tax bill it's interesting, you're focusing on a provision that truly was sort of brainchild did by a by a think tank set up by a very rich person. But the biggest benefits of the tax bill went to big corporations that very openly lobbied for, you know, a corporate rate increase that has enriched shareholders around the country. It's less sexy, but it's a lot more money and I'm curious sort of what that tells us about, you know, how Washington works and what gets covered.

WESSEL: Well, you're right. I mean, when you'd have a huge tax bill like the Tax Cuts and Jobs Bill, there are going to be things that are so small that they get ignored. I mean, I think you were the first reporter to write about the fact that Opportunity Zones were in the tax bill and that was a full month after it passed.

I think, yeah, obviously big corporations lobby successfully, there's no doubt about that. But I think this is an instance of a sort of a rifle shot where one determined billionaire, who I should mention tells me he hasn't invested any of his own money to take advantage of the tax break—I do think he really thought he was doing a good thing—managed to get something in the bill that wouldn't be there otherwise. And Tim Scott, as you know, is key to this. Tim Scott, the Republican senator from South Carolina, one of four senators who was helping to write the tax bill, that he made this his priority. And there's a great scene in the book about how after President Trump made those unfortunate remarks about people on both sides being good people in Charlottesville, Senator Scott goes to the White House at the president's invitation, expecting to have a confrontation, because Senator Scott has been so strong in his language in public about condemning the president's remarks. The president listens, does not antagonize him, and finally says, What can I do to make it up for the people I've harmed? And Tim Scott says, Well, you come back my Opportunity Zone Bill. And the next day President Trump on Air Force One tells reporters, Whatever that thing is that Tim Scott is doing I'm in favor of it. And it was only then that the Trump White House got behind it.

So, Sean Parker couldn't have done this alone. It took a guy like Tim Scott to make it law. But I think that because of the way it was done, because Sean Parker and his think tank had the ability to hire some really smart technicians to figure out just how to structure this so it doesn't appear to lose much money in the first ten years, they managed to get a bill through Congress that it would have been hard for me or you or even some think tank to succeed at getting through. And I think that is a story about how money and power can buy you influence.

TANKERSLEY: It's great. One more quick question and then I'll let let you move on to your own interviewing. But, back to the writerly questions. You've written a, you know, your past books, monetary policy, you you have sort of dove very much into sort of the way the macro economy works. Was this fun for you? Was this a change?

WESSEL: Well, this was a blast. My only regret as I said earlier is I couldn't travel. Talking to people who actually build things, businesses and buildings and finance them, and people who spend their lives trying to improve the lives of people who live in left behind communities, I mean that, it got me out of the quiet halls of the Brookings Institution to talk to people who are really on the ground doing stuff. So, that was fun.

You know one thing that's awkward is that I talked to a lot of people who I think are disappointed with the point of view I took in the book and may feel a little bit like I misled them. I don't think I did. I think like any reporter I listened, and I didn't talk a lot about my views. But a book has a point of view and I expressed it when I wrote it. So, I've had some nasty conversations with some people and that's painful, but it comes comes with the job.

TANKERSLEY: David, thanks so much.

WESSEL: Good, thank you Jim. Thanks for doing this I really appreciate it.

DEWS: You can buy "Only the Rich Can Play," by David Wessel and published by Public Affairs, wherever you like to buy books, and may I recommend your local bookseller.

A team of amazing colleagues makes the Brookings Cafeteria possible. My thanks go out to audio engineer Gaston Reboredo; our audio intern this semester, Nicolette Kelly; Bill Finan, director of the Brookings Institution Press, who does the book interviews; my communications colleagues Marie Wilkin, Adrianna Pita, and Chris McKenna for their collaboration. And finally, to Ian McAllister, Soren Messner-Zidell and Andrea Risotto for their guidance and support.

The Brookings Cafeteria is brought to you by the Brookings Podcast Network, which also produces Dollar & Sense, The Current, and our events podcasts. Follow us on Twitter 16 @policypodcasts. You can listen to the Brookings Cafeteria in all the usual places and visit us online at Brookings.edu.

Until next time, I'm Fred Dews