



<b>Title</b>	<b>'As Planning is Everything, it is Good for Something!' A Coasian Economic Taxonomy of Modes of Planning</b>
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# **“As planning is everything, it is good for something!” A Coasian economic taxonomy of modes of planning<sup>1</sup>**

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## **Abstract**

Against two extreme forms of thinking, which have influenced planning theory, this paper argues, in the context of a looming amount of literature generated in a movement for private planning, that the distinction between private planning and public planning is a valid one, but one in need of tweaking. However, the plan-market dichotomy (i.e., the assumption that state and private planning is mutually exclusive), is fallacious. Informed by the neo-institutional economic assumption of rational decisions and the stance of contractual solutions, it rides on the surge in private planning by proposing a taxonomy of planning that combines two modes of planning with two types of planning agent and discusses their possible interrelationships using some neo-institutional economic reasoning informed by the ideas of Coase. Some pedagogical and theoretical implications are also discussed.

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<sup>1</sup> This paper was developed on the basis of a presentation (**Lai 2013**) to the Symposium: Institutions of Land Rights and Sustainable Asian Urbanization, held at the Global Asia Institute, National University of Singapore, on 19 November 2013.

## Introduction

Houston has never adopted a zoning ordinance, but *it does have sub-division controls and a building code*. The subdivision regulations contain controls over land development generally common elsewhere in the country. These controls were first adopted in 1940 and it is estimated by the *City Planning Director*, Roscoe H. Jones, that three-quarters of the built-up areas were subject to them. The city has a building code typical of those in the Southwest (**Siegan 1970: pp.71-72, Italics author's**).

The most famous libertarian<sup>2</sup> case for private planning is the supposedly non-zoning regime of Houston popularized by Professor **Bernard Siegan**. The title of his famous paper, "Non Zoning in Houston," was magic because everyone seemed to think that it was a hard case against any trace of government planning and nobody detected from the essential details quoted above to realize that Houston is a *bona fide* planned city. In addition to its restrictive covenants, Houston had a host of subdivision and building codes imposed by the state, which **Siegan** correctly described as "zoning-like requirements" (p.76) and, behold, a City Planning Director who headed a City Planning Commission, which "requires substantial dedication of land by sub-dividers for rights of way for major thoroughfares" and a traffic department to regulate traffic, ingresses, and egresses (**Siegan 1970: p.99**)! The situation was summarised this way: "use and development are controlled a relatively limited number of land-use ordinances" (**Siegan 1997:p. 198**). In other words, it is not free from "planning by edict" (**Lai 1994, 1996a, 1997a; Webster and Lai 2003**).

Siegan's work was personally read and corrected by Professor Ronald Coase as his standard practice of being the then-Editor of the *Journal of Law and Economics* at a time when his University of Chicago colleague, **George Stigler**, later also a Nobel laureate, formulated the invariant and optimality versions of the Coase Theorem, which are known, respectively, as the First Coase Theorem and Second Coase Theorem. Based on a story in **Coase's (1960)** paper, these and other sister theorems recognised by economists form the theoretical ground for this paper.

### **Coase Theorems as planning theorems**

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<sup>2</sup> The term, "libertarian," here is generally taken to refer to anyone ranging from anarcho-capitalist to minarchist who does not favour state planning as a matter of principle.

Economists and planners may not be aware of the fact that the factual background behind and substance of the Coase Theorems are *bona fide* land use planning matter. The story in the 1960 work of **Coase** is a land use conflict one between two adjoining plots of land. In line with the Pigovian interventionist thinking, zoning was mentioned as a possible option, a limiting case in Coasian understanding, for overcoming the spillover effects of the use of one plot on that of the other, although the trading of rights between the two landowners in the absence of court adjudication or state planner's professional determination was advanced as a solution. This Coasian solution is invariant to the initial assignment of rights, whether by law or custom, according to the First Coase Theorem, and is always Paretian efficient, according to the Second. However, both theorems specify that this efficient contractarian solution is possible only IF property rights (in the sense of land boundary delineations) are clearly specified and IF no other transaction cost exists. While an interventionist can rely on the "corollary" of these theorems to justify the Pigovian solution as applicable to the real world of positive transaction costs, the theorems open a new window to classifying planning as a conscious rational-teleological act of man (**Moroni 2010; Alexander et al. 2012**), which can be contractual (based on mutual consent) and obligatory. This form of differentiation is significant in light of the tremendous efforts by scholars such as **Foldvary (2009, 2011)** to draw a distinction between private and public planning, which is not necessarily the same as planning by the state vs. planning by a non-state (private in this sense) party. As will be elaborated on in this paper and formalised into a matrix, both planning by contract and planning by edict (**Lai 1994, 1996a, 1997a, Webster and Lai 2003**) can be *mutually inclusive* and practised by the state or a private (non-state) party.

In this context, for Siegan's Houston example to exploit the First and Second Coase Theorems could have been presented as a classic case of planning by contract among individual land owners within a framework of planning by edict imposed by the state. This was but one of many examples used, rightly or wrongly, in the literature to uphold the dichotomy between planning and the market. It has died hard, although it has been reinterpreted by scholars such as **Alexander (2001a, 2008)** and **Staley Claeys (2005)**.<sup>3</sup> The former is seen as a product of rational design representing public interest,

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<sup>3</sup> Probably due to Hellenistic thinking that sees contradictions in ideas, matter, and the soul and body, dichotomies are plentiful in scholarly endeavours. A dichotomy is not dualistic, though in the literature on socialist economies, the term, "plan-market dichotomy," is sometimes used to describe a mixture of the market in the consumption sector and planning in the investment sector. To neo-institutional economists, this is absurd. **Tomlinson's (1987)** review of Hare's book, *Planning the British Economy*, used

whereas the latter is seen as an outcome of the impersonal forces of supply and demand based on private interest. **Table 1** summarises and compares the key features of the plan and market operations.

**Table 1: The plan-market comparison**

	<b>Plan</b>	<b>Market</b>
<b>Mode of rationality</b>	<i>Hierarchical</i> rational decision-making by government planners to impose constraints on the market, and to enable new possibilities. <b>(Coase 1937, Webster and Lai 2003)</b>	<i>Contractual</i> rational decision-making by individuals subject to legal constraints and competition, i.e. demand and supply.
<b>Decision makers</b>	State officials	Private individuals
<b>Interest</b>	Public interest	Private interest
<b>Mechanism</b>	Use of discretion and professional judgement	Utility or profit maximization

For a long time, town planning, understood as a state activity that regulated the land market, was associated with planning theorists and practitioners with legislative control of “changes in use” and land development by the private sector. Such control was typically exerted by the imposition of a system of town plans produced under state planning legislations, each covering a large number of individually-owned properties and produced under a planning act or ordinance that unilaterally modified existing private property rights over land. While such a modification can enlarge the original bundle of rights, in practice, it invariably attenuated, compromised, or extinguished existing private property rights (**Lai 1994, 1996a, 1997a**). The worst case was one in which

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the term in a dualistic sense. He asserted that the alignment of the political left in democratic countries with planning was due more to its hostility to the market than to a general preference for planning. He doubted that central economic planning was really that bad by referencing the survival value of the USSR’s central economic planning model. That model collapsed within four years of his publication. **Hefetz and Warner (2007)** sought to go beyond it in outsourcing, but ended up telling the story of a reversal of policy from market (outsourcing) to firm coordination.

public power was used to confiscate private property for non-public use and/or was not backed by just, if any, compensation (**Lai 2002**). This legislative or statutory interference in the rights of property owners and the degree of freedom of developers, known as “planning by edict,” as mentioned above, regulated the private planning of individuals and was often justified on the basis of the public interest concerning the environment, if not also on the grounds of social equity. The social concern with equity was sometimes driven by contempt for the concept of private property. Its proponents could hardly accept the natural law concept of property as an institution for the common good. In this setting, the traditional plan-market distinction died hard and did a great disservice to planning as a professional endeavour based on the acts of man.

During the Cold War, this dichotomy was seen at the level of international politics as a competition between central economic planning by socialist regimes led by the Soviet Union and the market economy (or “capitalism”) of Western democracies with the United States of America as its custodian. The former stood for oppression and the latter for individual freedom and liberty.<sup>4</sup> The demise of the former and the financial problems of Western governments during the 1980s marked the decline of faith in planning for urban growth in Western planning schools. This corresponded to the sociological reality due to “population control,” which has to do with what planners now describe as “shrinking cities” (**Pallagst 2010**). In the midst of the crisis when planning had to be content with “problem-solving orientation and its pragmatism” in what is known as “urban management,” planning students of the time might have found **Isserman’s (1985)** “dare to plan” exhortation in *Town Planning Review* to be visionary rather than something in the “foreseeable future”. **Cole (2001)** dared not invoke comprehensive or master planning, although he was inspired by **Isserman (1985)**. As the late Professor, **Gordon Cherry (1996: p.218)**, concluded: “The comprehensive *dirigisme* that planning aspired to, and which town planning echoed in its wake, could not be sustained. This by itself did not invalidate the practice of town planning but it severely weakened its intellectual credentials and reduced its operational activities.” Today, libertarian economics wield a heavy influence on planning theories and practice. Voices on the potency of the market in handling urban problems are loud and clear.

Lacking intellectual support and theoretical tools or vocabulary to engage in scholarly debate, government planners and their supporters cynically dismiss academic free market theories as lobbyists’ propaganda that anything private goes.<sup>5</sup> They have regained much ground lost some 30 years ago during an active phase of deregulation

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<sup>4</sup> See, for instance, the comment in **Havel (2014: p.623)**.

<sup>5</sup> See the debate between **Lai (1996b, 1997b)** and **Ng (1996)**.

and privatization by pointing out the threats of the market to sustainable development, though few have clearly explained what this concept means in concrete or abstract terms. Hardly effectively opposed in theory, free market thinkers run the risk of enjoying themselves in monologues against planning policies to the extent that they can lose sight of government planning policies that are pro-market and private planning that is objectionable.

Before we develop a taxonomy of planning that clarifies our thoughts, we need to explain two intellectual approaches that challenge government planning as rational actions by the state to shape future environment, land use, transport or built form of a place and is a government plan that controls land uses and built forms in a town as references for our elaboration. **Alexander (2008)** sought to explain the futility of this dichotomy by arguing that “‘planning’ and ‘markets’ are not analytically or empirically distinguishable,” which is actually taken to mean “separable”. The taxonomy presented here would illustrate the ways in which this is the case.

### **Two forms of objection to state planning**

There is certainly a continuum of criticisms of state planning: at one end, which are those convivial in disposition that seek better ways to reform government planning, and some that seek to purge state involvement in planning at the other end. Of these, some are far more ideological, theory-laden, and uncompromising, while others are more poetic and pragmatic. In terms of ideology, some support planning, as in the case of the Pigovians; others are theoretically neutral, but allow market solutions, as in the case of the Coasians (**Coase 1960; Dahlman 1979**). Still others are pro-market, as in the case of Austrian economists like **Hayek (1944)**. For this paper, two iconic ways to rebuke state planning *as a matter of principle* are invoked.

The first is a fundamentalist state failure challenge: planning, as a rational action by the state, can never succeed given the state’s inherent limitations. This view is sometimes associated with that of **Aaron Wildavsky (1973)**, whose polemic and nihilist writing style neutralized his impact (**Alexander 1981**), but was definitely better argued by the followers of the Austrian School of Economics led by **Friedrich Hayek (1941, 1960)** and analytically treated by students of neo-institutional economics (**Lai 1999, 2007**) attributed to **Ronald Coase (1959, 1960, 1974)**.

Wildavsky's paper, as an icon of the nihilist challenge to state failure, could stand in sharp contrast to the convivial critiques<sup>6</sup> on planning by **Sir Peter Hall (1980)**, **Jane Jacobs (1968)**, **James Scott (1988)**, and **Sam Bass Warner (1968)**, all of whom are so influential that their views must be taken seriously with great respect.

"If planning is everything, maybe it's nothing," claimed **Wildavsky (1973)**. **Meyer (2011)** interpreted the gist of **Wildavsky's** paper as advancing the view that "when a concept becomes everything to everybody, solving all, then the concept becomes meaningless" (p.5). Forbear for the moment the illogicality of equating existence with non-existence this claim entails. What **Wildavsky** tried to say was that because all rational actions are planned, therefore one cannot find any instance of non-planning in conscious human actions. However, although he eclectically used some biblical terms, **Wildavsky** did not attempt to employ philosophy or the theology of planning, but wanted to point out that state planning did not always work and, in fact, usually went wrong. He did not explain how and why state planning came into existence in the first place and if it could be reformed or replaced by private planning.

Wildavsky's nihilism, as a disguised form of gnoseology, influenced a branch of planning theory influenced by concepts in the sociology of knowledge and, more recently, analytical philosophy (**Lord 2013**), which this paper, limited to its Coasian

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<sup>6</sup> The author is grateful to a referee for this comment. **Hall** always writes with great humor and reservation rather than with the sarcastic rhetoric of Wildavsky. In one of his recent works (**2014: p.61**) for RTPI London, he stated that, "We need not less planning but more positive planning by well-equipped multi-skilled teams, making masterplans which are then implemented by private developers or cooperatives." This was the case with **Lai (1998, 2005, 2010, 2014)**, who advocated land leases as state plans on sale (master plans!). Back in 1999, Hall wrote that from 1975 to 1987, "Conventional planning, the use of plans and regulations to guide the use of land, seemed more and more discredited" (**Hall 1999: p.344**). Then, he did not distinguish plans that were entered into contractually in Hong Kong, which he identified as a 'city of enterprise' from the plans produced and imposed by edict. **Jacob (1968: p.1)** did not reject any planning by the state, but simply did the job of "setting forth new principles" (i.e., her own sets of planning maxims), which are PRODUCTS OF REASON. Interestingly, though **Scott's (1998)** book has the short title of why plans failed, he actually concluded that they, "when allied with state power, would enable much of the reality they depicted to be remade" (p.3), which is an excellent antidote against Wildavsky! Note that the short title of Scott's book was carefully worded, "how certain schemes," which was modest and correct for not condemning all schemes as bankrupt. **Bass Warner (1968)**, on page 3 of his famous work, showed a layout of Downtown Philadelphia, which can only be explained by referencing state plans.



empirical stance, did not examine.<sup>7</sup> This stance is exactly that of **G.E. Moore's** "here is one hand".

While Wildavsky did not systematically explain why the state failed in planning, he agreed that it suffered from knowledge constraints (**Wildavsky 1973: p.131**). Before that, the Hayekians had argued on the basis of *information discovery* and the Coasians on the basis of *transaction cost* constraints that the state was severely handicapped in trying to achieve its aims to intervene in the land market.

As correctly pointed by **James Meadowcroft**, **Wildavsky's** analysis is "not without confusion and inconsistency" (**1997: p.437**). One source of confusion is that he made no distinction between "what is good for planning" and "what is planning good for" by assuming that planning can only be of one kind (i.e., one that he recognised). Therefore, it was not surprising that he adopted a highly restrictive definition of planning that *bundled* his views on *rationality* in planning, which is a standard economic tenet, with "a series of related actions over time designed to achieve them". This was followed in the same vein by management expert **Mintzberg**, who saw planning as "formalised procedures and articulate results" (**Mintzberg 1981: pp.321-322**) and was rightly capitalized in **Alexander's** paper published in the same year, which pointed out that Wildavsky discussed "long range economic national planning" during the mature phase of the Cold War.

In fact, that bundling together of rational decisions with means to achieve goals was unnecessary for most types of land use planning in a market economy, as normally it is the development market that implements the state plan – taking it as both as an "institutional constraint" and a means to assign and reassign property rights (**Webster and Lai 2003**) and, as explained below, the implementation of which can be accomplished by contract without the state "doing it herself" because the state can grant franchise licences for private firms to implement her planned programmes. Examples of "doing it herself" include a private business firm or a centrally planned economy during the Cold War, as both are "firms" (**Coase 1937, Hayek 1944, Webster and Lai 2003**) that make and implement decisions in a "hierarchical" manner. The definition of planning adopted here focuses on the town plan and leaves open the modes of execution, which are contingent on the "economic system" in question. It would satisfy **Tomlinson's (1987)** "minimal view of planning" as one in which "the state deliberately alter[s] by some means or another the composition of output to something other than it would be in the absence of intervention" (p.63).

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<sup>7</sup> For a good example, see **Inch (2012)**, who referred to the significant concept of spatial planning as "an empty signifier" of **Gunder and Hillier (2009)**.

**Alexander** opined that **Wildavsky** committed the three logical fallacies of “composition,” “evaluation,” and “voluntarism”. This was the first significant philosophical inquiry into **Wildavsky’s (1973)** treatise. The first fallacy **Alexander** found in **Wildavsky’s** work was for concentrating on “long range economic national economic planning” (**Alexander’s 1981: p.132**). The second fallacy was that **Wildavsky** did not explain how the world would look “without the types of planning” in question (**Alexander’s 1981: p.133**). The third fallacy was that **Wildavsky’s** understanding of planning as “the attempt to control [the] consequences of our actions” cannot square with planning as “continual, universal and involuntary,” as motivated by impulses (**Alexander 1981: p.134**). **Alexander** discounted the value of “rational control” of the future and advanced **Henry Hightower’s** view that “planning as a process of...human thought” was based on “aforethought” (**Alexander 1981: p.135**) as a better characterization of planning, as that would shift the focus away from the tricky question of “how to make decisions more ‘rational’,” but also “how to improve the quality of an action” (**Alexander 1981: p.136**). This view is exactly the famous dictum of Eisenhower’s “plans are nothing, planning is everything” (**Ika and Saint-Macary 2012: p.423**). On the other hand, **Meadowcroft** found that **Wildavsky** indeed sought to shift the focus of discussion to the planning “process,” which is not any specific national planning process, but one of “conventional governmental planning” (**Meadowcroft 1997: 433**). Planning by businesses and individuals was not the focus of **Wildavsky**.

To engage **Wildavsky** on his terms, which articulate well with Coasian economic inquiry, we accept that *rational control* of future land use and the built form to be the basis of the “genus” of planning, with genus being a formal logical attribute of an act of man, is one that is voluntary (**Lai forthcoming**). This approach is the most unsophisticated view of “development control,” as the expression literally suggests.

The second challenge displayed a philosophical hostility towards and rejection of rational decisions or designs in favour of evolutionary and spontaneous acts of man as the driving force of social progress. The concept of “self-planning” or “self-organisation” (see, for instance, **Portugali (1999)** and **Neuwirth (2005)**) is in this vein. Though not part of “mainstream” planning, it is growing in influence via various forms of “spontaneous planning” (**Lai and Lorne 2014**) that leave no room for effectual, not to mention dominant, rational design, *which is part and parcel of planning by contract, which, in turn, is predicated on a solid choice-theoretic base*.

While both challenges shared a common ground, namely the viability and creativity of the free market in handling many problems better than state planning, this

form assumed that the market can be completely autonomous and, therefore, can be described as a challenge of “market anarchism” or, more precisely, anarcho-capitalism.

The following discussion will show that the libertarian stance, which regards state planning as inherently oppressive and private planning as always consensual, of theorizing planning is problematic not only because private planning can be as, if not more, oppressive than state planning, but also because state planning underlies even the most dramatic forms of private planning and, in fact, can be combined harmoniously and successfully with private planning. In short, private and state planning are not mutually exclusive.

### **Objectionable private planning: planning by might and mutual neglect**

Anarcho-capitalists, who are extreme market anarchists,<sup>8</sup> have three real life examples of bad private planning to address. All violate any principle of subsidiarity (**Rivolin 2005; Brunetta and Moroni 2012**) and point to the need for the state as a state, which is a matter of political economy which even **Nozick (1974)** accepted (**Lai 2002**).

First, any market that does not work on the basis of consent can be highly oppressive. The end user of property — the homebuyer or business operator — is indeed a recipient of public and/or private planning without having participated in prior planning decisions. While there is a growing body of literature on the governance of gated communities and other forms of private planning, there is little work on mismanagement,<sup>9</sup> which is worth investigating. How can one deal with oppressive *post-contractual* private planning by a financially powerful developer who has, in effect, become a private government that administers a property development after it is occupied by multiple owners? This type of private government, not uncommon in gated communities, is usually in the form of a condominium or strata development. If the state can be blunt and less than wise in planning, so can a private firm. A private government can be no better or even worse than the state in planning. (**Lai forthcoming**)

In Colonial Hong Kong, a private corporation, Wong Wai Chuk Tong, became the land government of an island called Cheung Chau. It did not perform the role of a good

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<sup>8</sup> As market anarchism, as a form of libertarianism, evolves, a refined distinction between anarcho-capitalists and “minarchists” has emerged. Minarchists like **Nozick (1974)** accept the state, even if only in minimal form, as a night-watchman. Anarcho-capitalists like **Friedman (1971)** and **Rothbard (1973)** do not.

<sup>9</sup> A good reference to the American experience can be found in **Stansky (1988)**.

landlord, but simply collected regular charges from proprietors and developers. In Hong Kong, a developer who sells units in a building is under a Deed of Mutual Covenant and will be its first property manager. Abuses by this manager can lead to a legal provision for the unit owners to get rid of it and replace it with a corporation (“Incorporated owner” or “IO”) they can form by a majority vote. The dilemma remains that the owners may jump out of the frying pan of a dictatorial management company, usually owned by a big developer group, and into the fire of another company, the “IO” that has been hijacked by low time cost, but incompetent and factious, incorporated managers they elect.

Second, how can one deal with scenarios of “might makes right” depicted by **Charles Tilly (1997)** and **John Umbeck (1981)**, as is the case when the power of the state as a protector of all in a given territory is completely absent or ineffectual? Gangs actually impose *de facto* zoning for the purposes of “taxation” (extortion) and exchange and production (operation of illegal businesses). Unless they, which, in economic terms, are a kind of private “firm,” are treated as “states,” their planning is definitely private.

Anarcho-capitalists may reply that the above problems should be the business of a private court and police rather than any state planning machinery. However, in the final analysis, the state needs to be in place to operate a state court and police to deal with anything the private courts and marshals fail to handle. In any event, anarcho-capitalists need to face the problem in which private individuals in a development without any form of government, public or private, neglect the collective environment while they enjoy their own private domains. One possible reply is that if they allow their collective environment to deteriorate, it would simply mean that, subjectively speaking, the problem is not for them to worry about and any third party who is hurt, but is unwilling or unable to pay for improvements, is not really injured. Here, the interest of the third party, or public interest, would be the decisive value at stake in the debate over state planning. Nothing in the planning literature openly embraces this form of Social Darwinism, which is certainly not a universal value.

### **Essential state planning cannot be eradicated**

It is impossible to get rid of the state as “a planner”. The major common problem confronting advocates of private planning is that it is impossible for them to provide any real life example of private planning in the absence of state planning of some form. They can hardly “control” the state in the sense that their examples of successful private

planning did not have to go through a state *regulatory process* or take place without a *land use-transport structure* shaped and protected by the state.

Recall the case of Houston. **Siegan's** 1970 work on this city traced the origins of land use control back to 1940, but it did not go far enough. By 1940, a city planning department had been established and subdivision codes imposed in Houston.

Siegan did not describe how individual land parcels in Houston started, which was no historical triviality. Were they granted individually at no cost by the state or the federal government? Or were they subdivided from one private parent lot obtained in a way that is subject to the former question? In any case, even discounting all subdivisions and building codes, Houston was planned/zoned with public roads, so here, the presence of the visible hand of the state in planning cannot be dismissed.

It may well be the case that much of the debate over what Houston represents seems to hinge on the basic Anglo-American confusion over what planning means. Houston has ALWAYS been planned, unless planning is not considered planning. It was *only "un-zoned"* in the sense that there was no planning produced under a municipal zoning law, as evidence adduced from Siegan's paper on Houston at the beginning of this paper showed. This work has, unfortunately, been misread by those who thought that Houston was unplanned. Planning historians should note that **Siegan's** work did not refer to the first legal case study on private planning through restrictive covenants by **Beuscher (1958)**, who used the term "private zoning" to describe land use control in Milwaukee, which, in essence, resembled the Houston model. Probably, had **Beuscher** not used the word "zoning" in the title of his work, Milwaukee would have become equally if not more famous than Houston.

There are surely other good and valid reasons for state planning to benefit or empower, by default or otherwise, *bona fide* private planning, including setting examples for (often superior) market imitations and improvements (**Lai 2004**). The emphasis here is not so much the credibility of successful instances of state planning, but those elements of indispensable government planning that subsist in any classic case of "private planning," "private zoning," or "spontaneous planning" identified by the terms of contra-state planning theorists.

### **Errors of the dichotomy**

One problem with this dichotomy, even ignoring its historical and political origins in the competition between central planning based on authoritarianism and a market economy under democracy from 1917 to 1991, is a matter of logical tidiness. First, everyone, whether an individual, a household, or a firm, plans. Therefore, some find it

better to replace this dichotomy with the contradiction between the “public planning” of the state and the “private planning” of the market, as **Thomas Sowell (1996)** made clear. **Wildavsky (1973)** also recognised the distinction between private and public planning while claiming that the latter was prone to failure.

Sowell’s formulation is, nevertheless, far from satisfactory as soon as one realizes that private planning by a non-governmental body can be as imposing, discriminatory, and oppressive as public planning. This is so notwithstanding a more sophisticated representation of the superiority of the private sector compared to the bureaucracy on knowledge discovery and innovation. A classic example of oppressive private planning is private zoning in an Umbeck scenario of “might makes right” (**Umbeck 1981**), which is well-known to law enforcers.

On the other hand, what **Wildavsky** or **Sowell** seemed to ignore was that public planning can be highly successful as a matter of public consent and dollar vote. These allow it to employ market creativity without infringing on the public interest. Such planning surely cannot be unilaterally imposed by edict, but is open to market forces. Any government plan produced in this manner is an offer rather than an order and is a vehicle for attaining a synthesis of public and private interest by mutual agreement. This may sound too good to be true, but it has come true in many places around the world like Singapore, Hong Kong, and China (**Lai 1995**).

### **A taxonomy of planning**

The reality is that planning can be done as a matter of edict or as a matter of contract. It can be performed by the state or the market. Therefore, the heart of the matter discussed above can be summarised in the form of a 2 X 2 matrix (**Table 2**) with planning bodies (i.e., the state and private parties) as separate planning agents in one dimension and consensual and non-consensual planning as distinct modes of planning in another. The matrix is meant to describe, rather than to evaluate,<sup>10</sup> four distinct, though related, modes of planning. Being a social construct in its own right, the matrix shows the contents defined by attributes that are recognised or at least recognizable in common law terms, which are in line with endeavours in the field economic analysis of law.

As a useful analytical aid, the matrix reveals four scenarios: A, B, C, and D. A third dimension, categorization, can be added, depending on whether the planning criteria will be based on purely static market efficiency or dynamic efficiency, the latter of which is more commonly known as sustainable development. Dynamic efficiency can

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<sup>10</sup> For a useful reference, see **Alexander and Faludi (1989)**.

be operationally defined as the conversion of negative into positive externalities to achieve “win-win solutions” via Schumpeterian innovations (Lai and Lorne 2006; Lai and Lorne 2014). However, to show contrast only with the old paradigm, this paper will not further elaborate on the third dimension of categorization. As one can see from Table 2, like private planning, planning by contract initiated by the state, which is in agreement with the communicative turn for planning stressing social justice by Forester, Friedmann, Healey, and Innes (Lai 2010), opens vast opportunities to areas where the Coase Theorem can apply (Lai and Hung 2008). Suffice it to say that the distinction in this matrix between “planning by contract” and “planning by edict,” which are alternative modes of planning available to and used by the state and any non-governmental party, is more accurate than the plan-market dichotomy of old.

**Table 2: Two dimensions of planning**

Planning body	Actual mode of planning	
	Planning by edict: non-consensual (obligatory)	Planning by contract: consensual (contractual)
The state/ government	Planning by edict via legislation  A	Planning by contract under the leasehold land system based on the sale of leasehold interests (e.g. Hong Kong; China’s land use rights reforms)  B
Private firms/individuals	“Might makes right” (e.g. triad zoning)  Strategic planning within a business firm that adopts a top-down decision making process  A property management company that has been authorized the right to edict.  C	“Private planning” (e.g. via restrictive covenants, as in the case of Houston; company law, as in the case of Shek O Development Company); “Spontaneous planning”  Strategic planning in bottom-up decision making companies.  Property management companies that run democratically in the sense that benefit the owners of a condo as a whole increases.  D

### ***Cells of the matrix***

Those misguided by the dichotomy assume that the only form of planning is A, while libertarians assume that D is the only form of “private planning”. **Hayek (1941, 1960)** and **Wildavsky (1973)**, like **Tomlinson (1987)**, were victims of this dichotomy. Both sides ignore the existence of B, which is practiced in China, but actually began in Colonial Hong Kong. Early on, **Lai** distinguished between planning *by edict* and that *by contract* by identifying these examples in a series of works (**1995, 1996a, 1997a, 1998, 2010**). However, he only applied the distinction to A and B and has not dealt with C or D in relation to A and B.

In terms of logic, planning, as defined above in line with Wildavsky’s view that it involves an element of being able to control the future, can be exhaustively described by five ‘predicables’. They are ‘genus’, ‘species’, ‘specific differences’, ‘properties’, and ‘accidents’. The ‘genus’ of planning is that it is a conscious device to control land uses and built forms. It has two ‘species’, one by edict and the other by contract or voluntary consent. (**Lai forthcoming**) This is the subject of our discussion. The ‘specific differences’ between these two species of planning is the absence or presence of mutual consent between the state and the land user. The ‘property’ of both species of planning are an ability to control land use and the built form of delineated urban and non-urban areas. Matters such as minimum lot size, location of ingress/egress, setbacks, scale, geographical coverage, and presentational methods of prescribing and implementing controls are ‘accidents’. In other words, there are two alternative ‘species’ of town plan.

Few outside the field of neo-institutional economics realize that C can exist. It subsists in the form of “might makes right” and is usually practiced by private parties that wield near or total monopolistic information and financial power and underground societies.

Planning by contract in B involves both state planning and market planning not as a dualistic form of “mixed economy” (or “market socialism”) or an *artificial partnership*, but as something united organically by contract.

One viable and successful form of planning by contract is the public sale of a state-produced land use and development plan in the form of leasehold interests to developers. The lease consists of both positive and restrictive covenants that represent the public interest and the market casts a dollar vote on this plan to give the state and other economic players vital information, collected and disseminated through an open and reliable two-way public information system of land data (**Lai et al. 2014**), on the



market's reaction to a particular plan with terms adjustable at the margins for a given locality. This planning option embodies active state planning; unfettered operation of the common law, including freedom and privity of contract and the property law; and is Pareto-efficient, as the terms of the lease can be fine-tuned according to the terms of years, development intensity, and degrees of freedom in land use, etc. The question of equity (i.e., affordability) can be handled by social redistribution using revenue obtained by selling leasehold interests. Objections to this system on the grounds that there is no "public participation" are hardly valid, as the land auction eliminates any chance of corruption and favoritism that is very typical of A in non-price allocation regimes.

### ***Relationship of cells***

It is easier to identify the types of planning and depict them according to a scheme of classification, but it is something else to interpret the possible relationship between the types. Some basic neo-institutional economic theory should offer some generalisations.

The four types of planning can co-exist, though, of course, the extent of each in the real world depends on the nature of the political economy of planning. Although distinct, these four types of planning are not autonomous: A cannot work if it is so restrictive that no private development can take place, according to D, which is not completely autonomous and presupposes some form of A or B as a "framework" or "foundation," if not a regulatory screen in the public interest.

The example of planning by might in Type C is certainly a residual form in any well-governed civil society. This proposition is consistent with the state as a monopoly of protection because even a monopoly does not serve all consumers. However, if it expands at the expense of any other form, civil society would collapse. Therefore, we may safely preclude it from further discussion.

Interventionists would intellectually favour A, would not trust C, or believe that B can work. Vested interests would use their arguments to promote A institutionally at the expense of D and even B, although the latter allows the state to play an active forward planning role. However, for the time being, C is gaining a larger audience because real world examples of "private planning" go back to **Siegan's** "non-zoning" work of 1974 – though without appreciating the ways state planning has provided active assistance or at least served as a "framework" or "foundation" for the "invisible hand".

Ideally, types A, B, C, and D have their proper and complementary roles to play in an economy, depending on the transaction cost advantage of the state vis-à-vis the market as an agent of decision-making and implementation. Each type is a kind of "institutional arrangement".

The first Coase Theorem holds that some delimitation of rights is essential for market transactions. Whereas the state defines property rights by way of planning, whether in terms of A or B, a market can emerge. This is surely more pronounced for regimes formerly under central economic planning. In terms of the second and third Coase Theorems (i.e., the invariance and optimality theorem), assuming that transaction costs are zero and property rights are clearly defined, the resource implications of each cell are identical and equally efficient. In fact, in that ideal world of zero transaction costs, there is no need to plan or innovate. Indeed, not even property rights are necessary. In the real world, however, as transaction costs are not zero, there can be huge efficiency variations under different institutional arrangements. The selection of the wrong cell may lead to a great loss of static efficiency and damage to innovation.

From a transaction cost perspective, a contractual arrangement is generally more efficient than one imposed by the state, as no element of compulsion or bureaucratic costs is involved. However, some basic state planning in A, according to the “Fourth Coase Theorem” (**Lai and Lorne, 2013**), can help expand planning in other cells, notably B and D. Planning by restrictive covenants in Houston, as reported by Siegan, is a case in point. Private planning there, C, took place within a framework of road network and building codes imposed by the state, A.

### **Discussion and conclusion**

The struggle between pro-planning and pro-market theorists, both victims of the false plan-market dichotomy, has produced a list of propositions, which state that:

- (1) the Plan should, can, and even will predictably replace the Market;
- (2) the Plan is the remedy of the Market, which is inherently defective;
- (3) the Plan tends to fail to remedy market failures, if any, though this depends on transaction costs;
- (4) the Plan always disrupts the market and fails to deliver its promises;
- (5) the Market works best as a matter of private property under the rule of law in the absence of government planning regulation; and
- (6) the Market can plan on its own in the absence of any government planning involvement.

Proposition (1) is a Marxist-socialist, central economic planning doctrine. Few dare openly publicize this and only one country in the world practically adheres to it. Proposition (2) is a Pigovian interventionist stance. Proposition (3) is a neutral Coasian view, which is best expounded by **Dahlman (1979)**. Propositions (4) and (5) summarise the libertarian, Hayekian (**Hayek 1944**), and anti-planning views and father (6) in the form of a looming private or spontaneous planning movement.

The interventionist can only see the problems of planning in the market (i.e., market failure), while libertarians refuse to accept that the state has a necessary role to play in the economy. Coasians keep a theoretically neutral stance, but have little faith in state intervention. The plan-market dichotomy, as summarised in **Table 1**, is a false one because planning is done also by the market and the state can play a role in the market as a party to planning and development contracts. Planning and the market are not mutually exclusive, but inclusive. The market is not always as efficient as libertarians believe and planning can be contractual. The matrix presented in **Table 2** should provide a platform for discussion on planning granted that everyone, good or bad, plans, as a matter of transaction costs or whatnot. As planning is necessary in all civil societies, then it must be *good for something* as a starting point. How good it is depends on the social objects (say, efficiency or environmental concerns) and how the planning system itself is “planned” (i.e., designed). Some non-imposing innovations in planning, like “performance planning” and “indicative planning,” are useful, as they help constellate information in the sense of **Schuster (2005)** and do not appear to fall into any of the four cells in **Table 2**. Upon a closer look, they are a mild form of planning by edict and certainly are not non-contractual. While they also have great potential for rent-seeking and dissipation due to the presence of bureaucratic discretion, they are certainly more friendly to private planning.

In the old plan-market debate, “master planning” or “comprehensive planning” by the state is seen solely a way to “control the future” by subduing the market. It was ideologically assailed by pro-market critics as unrealistic, even though they were ample examples of successful government-led planning that were subsequently mimicked and improved by large developers in the private sector. Constrained by budget cuts, planning schools gradually lost teachers with practical experience to teach layout planning, so courses on “physical planning” and “urban design” which focus on blue prints or layouts with specific spatial coordinates, have disappeared from many planning programmes. No planning books or journal articles from the late 1970s advocated or even discussed comprehensive plans or physical planning. From 1960 to 1990, only one single (non-planning) English article was found in Google Scholar dealing with the Hippodamian grid (**Grammenos et al. 2008**), which was the iron grid adopted to plan New York, Philadelphia, West Kowloon, etc. At the same time, massive master and comprehensive planning for private development is being executed in rapidly growing and developing nations like China. Such development is planned by contract within a basic state land use-transport planning framework. Those who are involved in drafting these plans, by and large, have little to gain learning about master planning in planning schools outside China. The old dichotomy has a lot to do with this mismatch between teaching and practice. Surely, planning always has a social, economic, or even political

dimension. However, without a blue print or layout or what is called a “red line map” (He 2000) in China, no meaningful articulation is possible.

The author hopes that this article will kindle an interest in physical planning based on its *primeval* foundation (land/property boundary delineation), which is often the same as road alignment (i.e., zoning in its generic sense) as an important dimension of development. While not a case for physical determination, such planning is theoretically significant, as the state is inevitably involved, as the history of the opening up of the West in the United States (Allen 1991) revealed.

Without an understanding of where and why ONLY the state can truly do for town and country planning, theoretical attempts to remove it from the planning scene would ruin the basic fabric that is essential for enabling the maximum freedom and creativity of the individual in land use in everyone’s interest. It can also distort the correct understanding of the individual as a choice-making being, which is distinct from purely instinct-driven beings like ants or bees. The beehive, though of perfect architecture that has changed little throughout time, is unplanned and spontaneous in that sense. Such spontaneity is not the result of choice, which is what planning is truly about. While a person does not need to impose a law or make an agreement with oneself to carry out one’s personal plans, planning involving more than one conscious person needs to be on the basis of orders and/or agreements, which sound planning theory cannot ignore.

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