

September 1975

Williams: American Planning Law: Land Use and the Police Power

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Recommended Citation

Ernest R. Bartley, *Williams: American Planning Law: Land Use and the Police Power*, 28 Fla. L. Rev. 306 (1975).

Available at: <https://scholarship.law.ufl.edu/flr/vol28/iss1/21>

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BOOK REVIEW

AMERICA PLANNING LAW: LAND USE AND THE POLICE POWER. By Norman Williams, Jr.¹ Chicago: Callaghan & Company. 1974. Pp. 3,640. Five volumes. \$225.00.

This is a monumental treatise — monumental in physical dimension, monumental in conception, and monumental in its contribution to the planning and land use control field. To the reviewer, of course, this treatise represents a monumental problem: no review can encompass all of the comments that might be made, or even a fraction of those that should be made.

Professor Williams brings to his effort a wealth of background and experience. He is an attorney, professional planner, author of note, and teacher. He has served as a citizen member of planning boards. The richness of this blend of theory and practice is reflected time and again in this, his *magnum opus*.

He has done all the customary tasks expected in a work of this type. He has dutifully worshipped at the feet of the gods of the traditional approach, reading perceptively, analyzing, and organizing over 10,000 reported cases dealing with land use controls (primarily, of course, zoning) in the process. One hesitates to say that he has performed this function "better" than previous writers of treatises on this topic, but he has certainly done it as well as any.

Had Professor Williams stopped at this point, his efforts could be duly noted and his work cited occasionally in briefs and judicial opinions. He could have retired gracefully into the academic mists, to be recognized dimly from time to time as a person who wrote a set of books on something or other. Such obscurity is unlikely either for Professor Williams or for this treatise.

Unlike other major treatise writers in the field, he has deliberately chosen to emphasize the relationship between the law and comprehensive planning activity (as the professional planner understands that term). His theme is the developing relationship between the comprehensive plan and implementation mechanisms requiring the utilization of the police power. The bench, the bar, and professional planners in Florida can read and utilize profitably the extensive materials on this topic, for Florida adopted in 1975 the Local Government Comprehensive Planning Act.² This epochal Act requires that all public and private development and all actions taken to implement an adopted comprehensive plan be in conformity with that plan. The tremors roused by this revolutionary act will be a long time subsiding in Florida.

The ivory tower of objective analysis is not for Professor Williams. One will find in reading almost any portion of the work that his normative assessments of judicial decisions are unusually clear, though sometimes irritating

1. Professor of Urban Planning, Rutgers University; Member, New Jersey Bar.
2. Fla. Laws 1975, ch. 75-257.

to those who may not concur in his views. It is not unlikely that his work will receive criticism on this score, but certainly not from this reviewer.

No other treatise writer has even attempted the sort of analysis that constitutes another special feature of Professor Williams' work — determining what actually happened *after* the decisions in a number of leading cases in the field. Thus, as an example, one will find not only the expected discussion of the United States Supreme Court's opinion in *Village of Euclid v. Ambler Realty Co.*,³ but also a note on the history of the subject property following the decision, together with illustrations. Post-decisional histories in the real-life sense, not limited merely to the use of such decisions as precedent, can have great utility. One regrets that financial limitations prevented Professor Williams from doing more of this type of follow-up analysis, and one trusts that he may have stimulated his successors to attempt more of it.

One of Professor Williams' major interests in the land use control field is reflected in his material on "exclusionary zoning." This reviewer has read a good many articles on the subject and has been personally involved in several pieces of litigation in which the issue has been raised. The 150-page treatment of the topic in Williams' treatise should be regarded as a "must" for anyone working with the topic.

Practicing attorneys will not pay much attention to Williams' discussion of the future. One suspects strongly, however, that Williams was thoroughly enjoying himself when he wrote of the future and how it relates to what has been prologue. His discussion of constraints and opportunities in and for the American land use control system is a thoughtful one. He recognizes and articulates clearly the shortcomings of reliance on law alone to solve the problems inherent in land development. His plea for the involvement of all types of professionals in attempting solutions and his recognition of the futility of instant solutions and gimmicks are well-founded in practical experience.

This major contribution to planning and land use control law has its shortcomings, however. Some of them are clearly recognized and stated by Professor Williams — the underemphasis on environmental law, the lack of attention to *other* types of land use controls, such as minimum housing codes and the like. The author has sometimes permitted himself the luxury of indulging at too great length on particular topics that interest him. It is sometimes difficult to follow an organizational pattern over several pages and, indeed, several chapters.

On balance, however, one can only give Professor Williams a "well-done" on his effort. Here are volumes to which the bar, bench, and professional planner can repair with confidence in times of stress — and trial. Even by today's standards the price of the treatise is considerable. The price is worth it.

ERNEST R. BARTLEY*

3. 272 U.S. 365 (1926).

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