

LAW AND CONTEMPORARY PROBLEMS

VOLUME 20

SUMMER, 1955

NUMBER 3

FOREWORD

This symposium attempts to explore certain aspects of urban development and planning, particularly in connection with housing. No one would deny that our cities—especially the larger ones—are confronted today with problems, both old and new, which imperatively demand study and attention. Actually, in almost every state, there now exists in some form basic enabling legislation for the establishment of a planning board or commission on a community or even wider basis. Unfortunately, the exact scope of the powers, responsibilities, and purposes of these planning units is usually uncertain and confused. Some devote their energies to long range planning on a broad scale. Others formulate blueprints complete in every detail, apparently taking over the various functions of zoning, of laying out streets, parks, and public utilities, and of all other civic activities involved in housing and industrial development. To add to the confusion, in some regions these plans have far-reaching legal effects, binding both other public officials and also private land-owners and developers, while elsewhere their recommendations have no legal status and are merely advisory. Some planning boards seem preoccupied with planning for, rather than with, the community, and apparently desire to impose one ultimate perfect plan in perpetuity on the city, while other planners conceive their function to be that of presenting to the community for its selection various alternative plans, all of which are subject to modification as future needs may dictate. It would seem that before we can hope to plan adequately for the future development of our cities, we must first determine what is the proper function and scope of these official city planners and in particular what legal and practical effects, if any, their plans shall have.

The enforcement of various urban controls on housing, industry, and civic services is all too often most unsatisfactory. In many areas, it is notorious that flagrant violations of building codes, zoning restrictions, minimum housing standards, and other city ordinances regulating the use and development of real property are widespread. The sanction of the criminal law here is usually ineffective; prison sentences obviously will rarely be imposed, and fines are frequently so trivial as to be ineffective. Moreover, over-worked public officials often lack the funds, personnel, and zeal to undertake a really effective enforcement campaign against such violators and

to maintain the constant, vigilant policing necessary. Private individuals may find their attempts to obtain enforcement costly, time-consuming, and sometimes frustrated by ancient legal rules. Obviously, what is needed here is some method of making law observance by the property owner so overwhelmingly necessary for his own personal advantage that, voluntarily or involuntarily, he will comply for his own self-interest. A possible solution along these lines may be to make such violations a defect in title, impairing marketability, barring new insurance and mortgages on the property, and having injurious consequences for existing insurance and mortgages. Unfortunately, apart from the legal problems which may be involved in such a solution, there is the critical practical difficulty that such a proposal necessitates what is almost always lacking today, namely, a simple, adequate method for the ascertainment of such violations and the disclosure by public records of them in title searching.

Another recent development in urban planning is the idea of the conservation of neighborhoods in our cities. We are now fairly familiar with the development of large scale planned communities built on vacant land and also with the eradication of slums and blighted areas in our cities, to be replaced by new and modern buildings. However, we have only begun to realize the possibilities and problems of a different approach, namely, the conservation of existing built-up, non-slum areas in our cities, which are still far too useful and valuable for complete destruction or eradication but yet which are so obsolete and deteriorated as to be plainly on the downgrade. If some method can be found to stop or slow down this deterioration, to conserve the existing and admitted values of the neighborhood from further decay—perhaps even to improve them—we may have the satisfaction of knowing that we have prevented the future advent in our cities of many slums.

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