

1961

Land Use Planning - Foreword

C. McKim Norton

Follow this and additional works at: <https://ir.lawnet.fordham.edu/flr>



Part of the [Law Commons](#)

Recommended Citation

C. McKim Norton, *Land Use Planning - Foreword*, 29 Fordham L. Rev. 635 (1961).

Available at: <https://ir.lawnet.fordham.edu/flr/vol29/iss4/1>

This Article is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Fordham Law Review by an authorized editor of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

Land Use Planning - Foreword

Cover Page Footnote

Executive Vice President, Regional Plan Association; Member, National Capital Planning Commission

LAND USE PLANNING

FOREWORD

C. McKIM NORTON*

One of the best things about this issue of the *Fordham Law Review* on planning problems is that it is relatively unplanned. There is something here for the lexicon of planning from antiquarianism to urban renewal plus a refreshing emphasis on substantive text rather than a scholastic kitchen midden of footnote material. Each of the authors has something he wanted to say that seemed to him new and important. There is a minimum of writing for the record, a maximum of writing to impart new ideas and up-to-date information.

Professor Schmandt reviews the police power controls of urban growth and explores the frontiers of zoning and subdivision control regulations across the nation. Running through this article is a note of optimism that zoning for minimum lot size, minimum size of dwellings, exclusive industrial zoning, subdivision regulations which require newcomers to pay for their own service needs, controls of the timing of new development will be adequate to channel the flood of metropolitan expansion into sensible patterns. Are you as sanguine as Professor Schmandt seems to be? Or do the results of explosive growth across easy-to-build-upon flatlands and the after effects of new thruways which open up yesterday's rural countryside depress you?

Professor Howard's appraisal of the federal role in the processes of urbanization turns from Professor Schmandt's review of the legal controls the courts have sanctioned to the increasing activities in city building of the executive arm of the national government. Professor Howard is frankly critical of both the federal role in urban plan making and direct federal building and public housing programs. He is gentler with the Federal Housing Administration's role in urban land use development decisions than many planners who blame the FHA for encouraging urban sprawl. Rightly he insists that local municipal authorities (and he might have added the management of private mortgage lending institutions) have been equally blind to the side-effects of easy money and easy profits sanctified by a federal guarantee. Likewise, federal highway programs have been welcomed by state and local municipal governments. The problems they have created cannot be entirely blamed on the federal government.

These federal programs have, Professor Howard points out, lacked

* Member of the New York Bar; Executive Vice President, Regional Plan Association; Member, National Capital Planning Commission.

balance. By aid to new forms of transportation (automobile, truck and airplane) the federal government has somewhat casually undermined a still essential older form of urban passenger transportation (the railroad). "Federal policy must become more comprehensive, not in the sense of including everything but in the sense of comprehending everything that it does include—and also what its programs omit" is Professor Howard's conclusion. One wishes he had given his suggestion as to how such a comprehensive approach could best be achieved.

Roger Starr, Executive Director of The New York Citizens' Housing and Planning Council, James Felt, former real estate expert, now Chairman of the New York City Planning Commission, Allen Fonoroff, Chief City Planner of the Cleveland City Planning Commission, and Eugene J. Morris, member of the New York bar, in their respective articles illuminate at first hand the legal and administrative processes of modern urban development in large cities.

Commissioner Felt estimates that 12,500 acres (about twenty square miles) of New York City's residential development needs either clearance, rebuilding, renewal or rehabilitation. Mr. Morris' paper reviews the present administrative machinery for such urban renewal. Admitting all its intricacies and frustrations, he points out that "these controls, in many cases, are greater than those expressed in local zoning and building codes or ordinances." Basically, is this not because in urban redevelopment there is a moment of public ownership of the land which gives the opportunity for the direct application of a design plan? This can be more effective than our indirect land development controls which guide first developments on raw land.

In short, there is reason for high hopes that city rebuilding will redress the mistakes and obsolescence inherited from the past. A generation from now, when today's teen-age suburbs are middle-aged and the central cities are the locus of the newest and most thoughtful urban structure, the process of suburban renewal may well be the prime topic of law review issues devoted to planning problems.

Is urban America fated to a continuous course of building its new urban structure in such haste that the need for its rebuilding is a foregone certainty? To some extent this may be inevitable in as dynamic a society as ours. Yet some urban areas in our country appear to have passed the test of time, as the excellent student paper on "aesthetic zoning" makes clear. The conclusion of this paper is sound. The special protection now granted to "historic areas" will someday be given to well-designed or fortuitously attractive areas, whether "historic" or relatively new.