from the editor's notebook

Along with most politicians and many civic groups, the prestigious and conservative American Institute of Architects has recently published a "position paper" in favor of "radical" land use reform.

The AIA's proposal is for a "land bank" of over a million center-city acres, to be paid for by a $5 million federal government grant. The federal government is also to supply social services to "neighborhood growth units" of 500 to 3,000 housing units erected on land that reverts to city, state, and federal governments by tax lien or mortgage default. The AIA supports tax reforms, an end to restrictive zoning and building codes, and government subsidies to low and medium income families.

The essence of the AIA's land bank proposal is the principle that land should be considered a public rather than a private commodity. Accordingly, banked land would be removed from the speculative open market—the government would lease such land for rent instead of taxing it.

A Christian Science Monitor editorial (January 5) heralds this policy statement as a "sign of deeper changes in American institutions." Opposition to the statement from within the AIA is dismissed as the kind of opposition any new idea receives. "The point is that a totally new metropolitan format is being shaped for the urban American of tomorrow."

The Monitor itself seemed to have missed the point. In the first place, one might ask: In what way is increased federal responsibility for and control of the community "totally new"? Secondly, how does the suggestion that the federal government purchase the land demonstrate the principle that land is a public rather than a private commodity?

Furthermore there is a danger inherent in the proposal that would make the municipality one renter among many. If it were to operate on the principle that land is a public commodity, it would have to charge not only the going market rate for sites it rented but the present tax on the site as well. The tendency might be, however, for the local government to charge only the market rent. This would hardly be in conformity with the principle stated.

Now neighborhoods springing up from abandoned and underutilized urban land would indeed be a wondrous sight, but not on these terms.

Some time ago in Maryland, state legislators devised a low farmland tax, apparently in an attempt to preserve open space and the economic viability of the small farmer. But the law also read that farmland zoned for non-farm development may be assessed at the low farmland rate. Naturally, speculators and developers flocked through this loophole: a recent Washington Post editorial reports that ½ of the total area of Montgomery County and 1/3 of Prince George County are now assessed at the low farmland rate. An extreme example is a 194-acre tract near Bethesda valued at some $13 million—but assessed at less than $40,000.

Now Maryland Governor Marvin Mandel wants to silence the counties' cries of revenue distress by removing the low assessment on rezoned farmland. His bill, now before the Maryland General Assembly, would apply a higher rate to farmland rezoned for industrial, commercial, and multi-family housing uses. Not affected by the bill is farmland rezoned for single family housing, although future rezones would lose the special assessment status.

The Washington Post applauds the governor's bill and hopes aloud that the General Assembly will recognize that the counties should not suffer because of "a loophole that undermines the original purposes of the farmland rate."

Such a comment seems political naivete: at least the governor's loophole benefitting single family housing (in which, we speculate, most voters live in Maryland) is openly declared at the onset.

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The United States is a land of opportunity. Even in 1972 the enterprising citizen can acquire land, free, from the government. All he has to do is stake out a boundary on any of the 750 million federal acres still unclaimed, do a little assessment work on the "valuable minerals" supposedly located there, and be prepared to prove prior claim. For full title, the citizen must prove that valuable minerals are indeed under the land and pay $2.50 an acre to obtain a "patent." But once the patent is issued, no mining need be done—the land belongs to the claimant.

These are the conditions of a 1872 mining law as reported in the Wall Street Journal. The Journal tells the story of one Merle Zweifel, who in the past few years has claimed millions of acres in Western states and even underwater. Zweifel International Prospectors may never mine any of the land—some may be irrigated and ranched, and some may be sold to other corporations and governments for their projects, such as a proposed Central Arizona Canal Project.

At the moment several extractive resources industries are being requested to halt operations which endanger Mr. Zweifel's "locatable minerals." Overlapping claims are just part of the problem: state laws and claim filing procedures are each different, and in at least one instance, inefficient. When the state of Nevada raised the claim filing fee from $1 a claim to $1 an acre, Mr. Zweifel promptly inundated the claims office with thousands of claims, just under the deadline for the new law. Nevada charged Mr. Zweifel with filing false claims, declaring that he had not actually marked the boundaries. Mr. Zweifel rejoined that to do so would have been injurious to Nevada ecology.

In all the suits and counter-suits, allegations and accusations, one fact is clear: the 100-year old mining law is one more example of the American public's indifference to speculative exploitation of land—in this case, the public's own land.

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The Wall Street Journal regularly prints a front-page column titled "Tax Report," in which some strange and wonderful items of information are to be found. A recent Tax Court decision, for example, overruled the IRS in favor of investors who claimed geothermal steam drilling costs as a tax shelter under the depletable resources rubric. Geothermal steam is the stuff that accompanies geysers in some western states, and because the supply of geothermal steam (unlike other kinds of steam) is not inexhaustible, the Court ruled it should be taxed like gas and oil.

In another case the Tax Court upheld a land speculation company in its contention that by simply buying land and later selling it at a profit—without development—it should be taxed under capital gains rules. The IRS wanted to tax the company at a higher rate under income rules on the basis that the "normal" business of the company is buying and selling land.

As April 15th approaches, remember that the IRS has a sharp eye for what's fair.