

A SUGGESTED MUNICIPAL LAND POLICY

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At the outset let me make general acknowledgment to the Urban Land Policy committee of the American City Planning Institute, the subcommittee on Urban Land Policies of the Research Study on Urbanism conducted by the National Resources Committee, to Harold S. Battenheim, chairman of both study committees, to L. D. Segoe, Director of the Urbanism Study and to Philip H. Cornick, consultant to the Division of State Planning, from all of whom I have drawn liberally, sometimes without specific quotation marks. In this paper an attempt has been made to gather together in composite form some of the suggestions that have been considered by these competent authorities and study committees on these complex questions of land policies. If the statement of those suggested policies appears at times too dogmatic or positive, it is because of the necessity for great condensation in this text. The suggestions are all offered for further discussion as tentative remedies or policies on which the State Planning Council has not as yet taken any stand, and upon which the author, on further study, may wish to suggest modifications.

In the short space of a century America has changed from a primitive frontier society to an industrialized urban concentration. Since 1790 our cities have increased in population 300-fold, while rural population has increased but 15-fold.

Population growth is slowing down. Present indications are that metropolitan areas will continue to draw population from rural areas and small urban cities, although central cities may decline in population.

L. D. Segoe, Director of the Urbanism Study, in a paper before the National Planning Conference in Detroit last month described them thus:

"Concentration and congestion of every sort—population, buildings and traffic—and inadequate public facilities in the center; haphazard dispersion, unnecessary or premature subdivisions and superfluous public facilities in the outskirts. Over-intensive land uses in small central areas; under-use and deterioration in large sections. Indiscriminate intermingling of incompatible uses everywhere, save the more recently built up areas. Lack of public spaces for recreation and other socially desirable purposes, and an excess of unproductive privately owned land. Lag in needed public improvements. Despoiled water fronts, unattractive general appearance, obsolescence, inconveniences, inefficiencies, and waste of material resources and human effort, public and private. Such is a more or less representative partial list of the most prevalent evidences of our failures in city building."

We have submarginal cities and villages just as we have submarginal rural areas. Both are sick. Left alone, they will either grow sicker and be abandoned by their remaining occupants or they will ask to be treated to get back their health. Fortunately there are 144 definitely planned new communities in this country which, largely as a result of such planning, were found by the Urbanism Study to be comparatively free from the physical defects and deficiencies common to unplanned communities.



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Except for these encouraging examples of what can be done let us admit that we have made rather a bad job in the building of our cities and try to find out why it happened thus.

The first cause is the amazingly rapid rate of growth that has characterized our urban development in the last century and a quarter.

During this period of boisterous adolescence our nation as a whole came to worship bigness rather than quality. Cities vied with each other for rank in the census volumes. They annexed outlying territory, they built competing railroads, they hopefully financed ill-assorted industries, they gauged everything by size and are now learning that debtridden public treasuries, heavy tax burdens and low standards of urban living are the fruits of our past folly in this respect.

Coincident with these excesses there occurred an orgy of land speculation never before equalled in the history of the world. The State of New York sold off its vast land holdings. Cities that were fortunate enough to own much of their land originally, sold their holdings in haste at ridiculously low prices often to finance public improvements and services to keep pace with rising demands. The fever of land speculation was rampant everywhere. Land prices rose by leaps and bounds. Land that was sold by our cities for trifling sums has been bought back at staggering figures because it was later needed for public purposes.

Curiously enough there also arose the fiction that in this great country good land was scarce. A hundred years ago throughout this State, in New York City, in Auburn, and in Buffalo, according to historic records, we passed through just the same kind of feverish cycle of artificial scarcity, land boom, crash, depression and tax delinquency as we have had within recent memory.

If a city is circular in shape with a radius of one mile from the center to rim at all points, an extension of only four-tenths of a mile of radius will double the city's area. If subdividers in their enthusiasm push out the boundaries as much as one mile in all directions the area of the city will have been multiplied by four. And that means corresponding outlays for pavements, sewers, sidewalks, water mains, etc. Meanwhile unless population growth has been phenomenal the supply of vacant lots will have exceeded many times the demand for building sites, or even the speculative demand predicated on resale at a profit.

The areas in which these premature subdivisions occur most frequently are in the outskirts of the larger cities and in the suburban towns immediately adjacent. High governmental cost payments per capita and high debts per capita appear to be definitely related to these epidemics of land subdivision.

There never was, there is not now and there is not likely to be any real scarcity of urban land in this great country of ours. All the area of all the municipalities of the country scarcely exceeds one per cent of the total area. And of the area within the average municipality approximately forty per cent lies vacant. The sixty per cent that is used includes all the area devoted to streets, parks and other public uses as well as the area occupied by privately owned structures. There is no need to crowd. There is no lack of room for growth. There is already available in our cities far more land than is likely to be used for decades to come.

Laws that have tried to prevent sales by metes and bounds have proven ineffective. The most promising method of subdivision control appears to be the legislation presented by Mr. McCrosky's Committee this morning, requiring the developer at his own expense to install or give bond to install necessary public improvements such as sewers, water mains, streets and sidewalks as a condition precedent to the approval of his plat.

Because of present limitations and the failure of outlying suburban and rural towns to take forward steps under existing law, many municipalities seek extra-territorial power to control subdivisions in neighboring towns. This power while used in other states and under special act by Syracuse in general appears to lack effectiveness. It is therefore suggested that there be given to county and regional planning boards, as has been done in part or implied in the new Buckley and Desmond optional county government acts, clearly defined power to control subdivisions in unincorporated territory or at least in towns which have not used their own powers.

Thousands upon thousands of parcels of land, subdivided and sold in expectation of the onward rush of population, are today tax delinquent. Their number and extent in several sample metropolitan areas will be shown in a report shortly to be issued by the Division of State Planning.

So long as these tax delinquent lands are counted as part of the tax base, and uncollectable taxes are levied annually thereon, we shall be piling up deficits which will have to be met by those taxpayers who still can pay. Common sense and sound economics suggest that these abandoned parcels should, as speedily as possible, be taken out of the underlying tax base through the process of tax foreclosure until such time as they can again be made productive.

Eric County has taken the lead in remedying this situation. Out of 83,276 vacant lots in arrears, that county had up to December 1, 1936, by tax foreclosure taken title to 11,877 lots grouped in subdivisions. Monroe County has followed suit, and Onondaga either has begun or is about to begin a similar program.

The present process of tax foreclosure is cumbersome, slow and costly. Often the cost is disproportionate to the value of the parcels so salvaged, but their present status as a kind of economic "no man's land" ought to be corrected. Towards this desirable end the Mayors' Conference committee reported their recommendations this morning. By some such means an economic way ought to be found to clear the tax base at least temporarily of these orphaned lots.

In this process the municipalities will acquire thousands of scattered lots and acreage parcels that have a future potential value. Consequently there should be provided, by proper enabling legislation, authority to the municipalities to exchange parcels so as to consolidate sites needed for school buildings, police and fire houses, local parks and playgrounds.

Planning for green belts, outlying wild parks, marginal highways and other large scale public improvements which, because of their nature can be located only in the outlying portions of the metropolitan areas, is made difficult because of the high price of the necessary outlying lands, which prices were generated by the subdivision boom itself. Much of the land necessary for these improvements may now be had for the cost of foreclosure.

The City of Yonkers by tax foreclosure has been notably successful in the past three years in acquiring lands which should provide all such local sites which that city should need for many years to come. Other cities have made equally notable progress.

What has been accomplished through the foresight of the planning boards of these cities can be duplicated in other jurisdictions and thus, out of the distress born of the depression, may come an ultimate saving to the public.

Titles to such lands, once vested in the municipality or county, should not again be alienated until the most careful study has demonstrated that greater public benefit will come from the sale of the fee than from the utilization of the land on a leasehold basis.

This would give time for the planning board in each city and county to discover the most practical use that can be made of such tax foreclosed lands, and to determine how such use would harmonize with the community's master plan.

Since land in our cities is not scarce, but plentiful beyond the probability of utilization, then it must follow that there is no need to pay famine prices for urban land. The value of land is dependent upon the presence and productive power of an intelligent population. The areas actually devoted to industrial production and mercantile business in our cities are relatively small. What the people can afford to pay for home sites is determined by their earning capacity. Only a modest proportion of our population consists of well-to-do citizens. The potential value of our residential land must therefore be looked at from this realistic viewpoint.

What is urgently needed therefore is the reasonable devaluation of urban residential land so that those citizens who desire to build may either lease the building sites they need or purchase them without paying prohibitive speculative prices. Idle lands like idle men are a liability not an asset. Tax foreclosure proceedings should therefore be pushed as rapidly as possible and the land thus acquired either used for necessary public purposes or leased to those who can and will make use of it, on terms that will repay the municipalities for the services they will render to the occupants of such lands.

Back in 1932 the late Robert Whitten, my predecessor as Director of State Planning, then President of the American City Planning Institute, urged American cities to take advantage of the exceptional opportunities then existing to add to their land holdings and to establish reasonable areas of municipal land reserves.

"The wisdom of his sound advice," says the Institute's Committee on Urban Land Policies, "apparently little followed in the interval, has become more and more evident with the passage of the years. With various modifications as to aims and procedure the acquisition of land reserves by governmental units is being increasingly urged."

Many authorities agree with Dr. Whitten upon the desirability of having the public acquire not only by tax foreclosure but also by direct purchase, and eminent domain when necessary, such lands as may be needed for public purposes or to prevent the unwarranted increase of land prices for speculative purposes.

"What is more significant," said Mr. Segoe at Detroit this month, "is that the report of the Urbanism Committee soon to be published agrees with the principle that increased land ownership by our cities would be beneficial," * * * and "accordingly recommends the liberalizing of the fundamental laws of the states in order to permit urban authorities to acquire, hold and dispose of land with greater freedom and to allow a wider interpretation of the term 'public use'."

Cities at present can acquire land for municipal purposes only. This applies to all methods of acquisition. Moreover the eminent domain statutes quite generally prescribe procedure which is highly technical, expensive and dilatory, and the awards are often excessive. Only a few cities are at present equipped with the powers, the personnel and the procedure customarily employed by private real estate organizations.

In a two-volume study of "Slums and Housing," published June, 1936, by the Harvard University Press, Dr. James Ford said:

"Extension of public ownership of land is necessary to avoid recurrence of the evils of exploitation of land against the public interest and to give the government a firm control of the housing situation. Land is a proper field for public ownership. Management of land is chiefly a

legal rather than a business problem. It is a type of business that government could handle efficiently. Accounting is simple. Public interest is paramount. * * *

"Ownership of land by the city or state is advocated here as a means to make slum land available to lease to private capital for the construction and management of approved housing developments under governmental supervision. Without it the process of slum elimination and rebuilding may be seriously delayed."

And in a tentative program for Federal cooperation with local governments and private enterprises in meeting the housing needs of the lower income groups, Mr. Frederic A. Delano, chairman of the Central Housing Committee and vice-chairman of the National Resources Committee, said:

"It would be only reasonable for the Federal Government to assist local governments to purchase land for two purposes: first, to help municipalities provide low-rent housing for families unable to afford shelter of minimum standards; and second, to stabilize the value of low-cost residential neighborhoods whenever protection by zoning regulations is incomplete, thus promoting simultaneously the home-building industry and sound community planning. With these ends in mind, the following policy is suggested:

"The Federal Government might properly offer to pay a certain percentage of the cost of acquisition of land by municipalities, on the condition that the municipality, in using such land, should take suitable precautions to insure the sound development of the neighborhood. The Federal Government should be careful not to subsidize the development of neighborhoods of jerry-built houses nor of surplus residential sections, nor of poorly planned communities. It should offer financial assistance only when municipalities follow a proper and well-considered housing and land-use policy."

In line with Mr. Delano's suggestions the Urbanism Committee, according to Mr. Segoe, says in its forthcoming report:

"The Committee further recommends legislation creating a Federal credit agency authorized to make loans and grants under adequate legislative safeguards to state and local governments for the purposes of public works construction, acquisition or construction of public utilities, land purchases, and similar capital outlays, and for extending credit to these governments in periods of economic stress. At the same time, the Committee believes that direct Federal expenditures in cities should be reduced to a minimum."

Admitting the need for such a new land policy, how much land should a city acquire to make its program effective? In the built-up area the land required for needed public facilities for twenty to twenty-five years in advance should be determined from the master plan.

In the blighted areas and in the outlying areas the acquisition of a relatively limited number of carefully selected properties for current demands and those of the near future would probably prove effective in holding down land prices for both public and private housing developments, without the necessity of accumulating many large holdings.

To preserve the land value increments within the city a ring of municipal land reserves or a green belt might be secured if not too costly. Stockholm owns key

tracts totaling 20,000 acres within nine miles of its center and these are developed by the city as occasion requires. Manchester, England, has developed Wythenshawe, covering 3,500 acres; London has developed Beacontree; Hamburg, Diesseldorf and Ulm in Germany have developed extensive holdings. Therefore in addition to acquiring through tax foreclosure those lots which have been deserted by their owners, the municipalities of this State should seek enabling legislation to simplify public land purchases and should acquire over a period of years for city planning purposes and for the prevention of speculation as much land as may be required to give them effective control of their destinies.

Within the last few years there has grown a general recognition of the principle that areas of common interest bounded by main arteries of traffic but free from the dangers and interruptions of through traffic should be carefully planned. Various measures have been proposed for the development of neighborhood units. Among them is the creation of a special corporation in which each property owner would own stock in proportion to the value of his holdings in the neighborhood.

Organizations of this type give promise and will probably evolve in the near future, but they should function through the established authorities, that is to say, their programs should be submitted to the official planning board of the community and when approved by it, be submitted to the governing body for official adoption just as any change in the official map or in the zoning ordinance.

In any long range view of urban land policies it will be necessary to encourage and guide this neighborhood consciousness so that the cities may profit by this awakening feeling of unity. In particular is this true of "blighted districts" and "slums." In their case only heroic measures will salvage the remaining property values and bring such areas back to economic health.

In all the problems that we have been discussing there is a hidden factor which is the impact of our present general property tax, based on the capitalized value, on both land and improvements. For a generation or more students of taxation have been discussing the probable effect of a shift in our tax base. The experience of Pittsburgh, Pennsylvania, and of the cities of British South Africa seems to indicate that a gradual reduction of the tax rates on buildings, accompanied by a corresponding increase in the tax rate on land value, would tend to reduce speculation in land and make large scale low-rental housing developments more practicable. Pittsburgh under its "graded tax law," so far as city taxes are concerned, has been lessening the burden on improved real estate since 1913. After twenty-four years of experience tax authorities in Pittsburgh believe that about ninety per cent of the home owners have benefited by a reduction in the taxes they would otherwise have been obliged to pay. The Pittsburgh plan was not applied suddenly nor in a way to cause any violent disruption of property values. Instead it was applied gradually. In 1913 the tax rate on buildings was dropped to ninety per cent of that levied upon land; three years later to eighty per cent; and each succeeding three years the rate on buildings was dropped another ten per cent until it was stabilized at fifty per cent of the rate on land. The gradual shifting of city taxes from buildings to the underlying land has had the tendency to reduce land prices. A quiet, steady improvement of property is reported to have taken place. Both land and buildings are assessed as heretofore. According to Mayor McNair in an address given on March 5, 1936, the plan has proved a boon to business men, factory owners and home owners alike.

It would seem that the Conference of Mayors might with profit appoint a committee to investigate the results of this significant experiment in a neighboring state and on the basis of their findings determine whether or not such a shift in

taxation would be beneficial to the cities of this State and if so by what permissive legislation it could be obtained.

After twenty-one years of zoning experience most of the zoning ordinances still permit building bulk developments so greatly in excess of any that are likely ever to occur, and so much more area has been zoned for business than will ever be used for such purposes that in the aggregate they do not control or limit congestion, they encourage more congestion. As a result miles of street frontage zoned for business lie fallow. Business will probably never have need of it. Homes are not likely to be built there while the business zoning stands. Only filling stations, garages and hot dog stands develop in these areas blighted by such improper zoning. If zoning is to develop to its full utility as a tool in the shaping of our cities, legal sanctions must be found for the limitation of areas zoned for business to something reasonably approximate to their probable future development.

The constitution of the State of New York says in Article I, Section 10:

"The people of this state in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the state; * * * ."

In furtherance of that solemn declaration, too often forgotten, it is submitted that a sound urban land policy, conceived in the spirit of conserving those constitutional rights for all the people, while at the same time dealing justly with those to whom under our present laws and practice the management of such lands has been temporarily entrusted, might conceivably include the following:

I. Preparation of Plans

1. In every municipality and county an official planning board competently manned and adequately financed, a master plan, an official map and a zoning ordinance.

2. The development of plans for self-contained neighborhoods, with some appropriate form of legalized neighborhood organization, to work with the local planning board in the development of such neighborhood plans.

3. Master plans for the development of each county as already provided by statute, such master plans in turn to be harmonized with state plans.

4. Local planning laws so amended as to permit local governing bodies to appoint the county planning board as their agent in all local planning matters.

II. Regulation of Private Property

1. The modernization of all zoning maps and ordinances to provide more effective limitations as to permissible bulk of buildings, and to reduce the excessive areas now allocated to business, apartments and other intensive uses.

2. Legal sanctions to permit the zoning of land in open areas for specialized uses not now included within enabling acts, such as agriculture, recreation, foresting watershed purposes, flood control and the like.

3. County zoning ordinances for unincorporated territory.

4. A requirement that before adopting or amending local zoning ordinances the governing body of each municipality should be required to procure thereon an advisory opinion from the county planning board.

III. Subdivision Control

1. Authority to county planning boards to pass upon plats in unincorporated territory.

2. Authority to cities and villages, where they so desire, to designate county planning boards to act for them in passing upon subdivisions.

3. A requirement that other city and village planning boards should procure an advisory report from the county planning board before passing finally upon a plat with perhaps a three-fourths vote of the local planning board required to over-ride an adverse report by the county planning board.

4. Authority to all planning boards to require that as a condition precedent to the final approval of a plat, the developer at his own expense should install or give bond to install the physical street improvements deemed by the planning board to be necessary in the interest of the public health, safety and general welfare as recommended by the Joint Planning Committee.

IV. Improvements in Legal Procedure with Respect to Land

1. Simplification and strengthening present law for registering land titles in the so-called Torrens System as recommended by the Governor.

2. Amendments to the present cumbersome system of foreclosing tax liens as recommended by the Special Committee of the Conference.

3. Immediate repeal of the present provisions in the tax law by which, outside of Westchester County, town supervisors may compel county treasurers to pay over in cash the amount of all uncollectible town taxes in exchange for tax liens, so as to make each unit of government solely responsible for its own errors of judgment in making expenditures for improvements far in advance of need.

V. Rehabilitation Measures

1. Appropriate legal sanctions to permit municipalities to rehabilitate defective subdivisions by adjusting property rights with the owners who still have equities therein, closing streets, replatting where necessary, taking public title where equities have vanished, and generally readjusting the financial structure of such defunct or defective subdivisions.

2. Wider use of the authority given to municipalities for rehabilitation of blighted districts or slums under the Municipal Housing Authorities Act.

3. The wider use of excess condemnation as a supplementary tool for facilitating such rehabilitation.

VI. Land Acquisition and Management for Public Purposes

Acquisition

1. Authority to all counties and municipalities by improvements in tax foreclosure procedure to secure promptly and inexpensively title to all land that has been tax delinquent for more than two years, in order to clear the tax base of these fictitious assets.

2. Appropriate amendments to procedure for acquiring land to enable counties and municipalities to purchase land on a businesslike basis, efficiently, quickly and at fair prices.

3. The acquisition under both these processes by counties and municipalities as rapidly as funds permit of so much of the land as may be necessary to secure reasonable control of the market for vacant land for housing enterprises, industrial sites, sites for slum clearances or the rehabilitation of blighted districts and such other public purposes as may be necessary to the realization of their master plans.

Management

4. Enabling legislation to permit each county and municipality at its option to establish under civil service a real estate bureau to purchase and manage in the public interest all lands however acquired by the county or municipality.

5. Such real estate bureaus upon the recommendation of the official planning board to set aside such lands as may be suitable and necessary for the fulfillment

of the master plan, and pending their ultimate utilization for such purposes to lease such lands at public bidding on a temporary basis subject to appropriate conditions and for uses not incompatible with such master plan and zoning ordinance so that the public may enjoy a revenue therefrom.

Sale or Exchange of Lands

6. Such bureau to have the power to sell or exchange such publicly owned lands whenever in its opinion and that of the official planning board, such sale or transfer will contribute to the realization of the master plan, the former owner of record of any improved parcel to have certain priorities in any such sale or lease.

VII. Federal Assistance for Such a Program

1. Loans or grants by the Federal government subject to appropriate conditions to assist the local governments to purchase land for two purposes.

- a. To provide low rent housing for families unable to afford shelter of minimum standards.
- b. To stabilize the value of residential neighborhoods whenever protection by zoning regulations is incomplete.

VIII. Possible Corollary Changes in Assessment and Taxation of Land

1. A change in current assessment practice to lay greater weight upon true values, i.e., capitalized earning power, actual and potential, and less upon the fiction that a sale price arrived at between a free and willing buyer and a free and willing seller is the determining index of real value.

2. Serious consideration of the oft-repeated proposal to tax the unearned increment in land, i.e., the value attaching to land after a fixed date over and above the improvements made by the owner.

3. Serious consideration of legislation to permit municipalities, at their option, to provide for a partial exemption of buildings as has been done in the second class cities law in Pennsylvania, under which the reputedly successful Pittsburgh Graded Tax Plan has been operating since 1913.

Because of the importance and complexity of all these problems and because of the growing interest both citizen and official in them, I respectfully suggest that the Mayors' Conference appoint a representative committee on urban land policies to study this whole matter, to report recommendations as to broad policy and specific suggestions as to appropriate enabling legislation to carry out the policies such committee finally recommends.