

Northern Illinois University Law Review

Volume 12 | Issue 3

Article 9

7-1-1992

Vol. 12, no. 3, Summer 1992: Table of Contents

Northern Illinois University Law Review

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Recommended Citation

Northern Illinois University Law Review (1992) "Vol. 12, no. 3, Summer 1992: Table of Contents," *Northern Illinois University Law Review*. Vol. 12: Iss. 3, Article 9.

Available at: <https://huskiecommons.lib.niu.edu/niulr/vol12/iss3/9>

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Law Review

Volume 12

Summer 1992

Number 3

Symposium

What's Wrong with Illinois Land Use Law?

- The Commodification of 'Nature's Metropolis': The Historical Context of Illinois' Unique Zoning Standards
Fred P. Bosselman 527

Professor Bosselman takes an historical look at the early development of zoning in Chicago and concludes that the nineteenth century view of land as simply another form of capital that could be rendered standardized and fungible through commodification led to the adoption of the LaSalle factors. The author notes the influence of the human ecology theory of urban growth on the development of the LaSalle Bank standards and calls both for a reexamination of the theoretical foundations for the standards and for recognition that a theory based upon nineteenth century life may not accommodate the ecological realities of modern life.

- Metropolitan Public Housing Desegregation Remedies: Chicago's Privatization Program
Leonard S. Rubinowitz 589

This article examines the opportunities and constraints encountered in attempts to provide housing for low-income Black families through the Gautreaux program. This examination begins with an analysis of the violation and remedy in both the Chicago Housing Authority and Housing and Urban Development cases. Professor Rubinowitz then reports on the implementation of the Gautreaux program over the last fifteen years, discussing the reasons why interest in the program grew and why the supply of housing available to these families did not.

- When First Amendment Principles and Local Zoning Regulations Collide
Steven I. Brody 671

This article examines the conflict between municipal restrictions on adult uses and the fundamental right to freedom of speech. Mr. Brody reviews the Supreme Court tests for resolving the conflict and concludes that most zoning regulations affecting adult uses will be examined under the O'Brien/Heffron tests: (1) the ordinance must provide a sufficient factual basis to support a finding of substantial or important governmental interest; (2) the ordinance's definitions of adult uses and restrictions must be narrowly tailored to affect only those businesses which the ordinance intends to regulate; and (3) the

ordinance must provide reasonable alternative channels of communication for the dissemination of the affected expression protected under the First Amendment. The author offers practical suggestions for avoiding the collision between zoning of adult uses and First Amendment freedoms.

Luncheon Address

Lawrence B. Christmas 709

The speaker reviews the recommendations for correcting Illinois land use policy made by major municipalities in northeastern Illinois. The Northeastern Illinois Planning Commission recruited volunteers to form five task forces for the purpose of developing a new plan. The author notes the areas of the new plan that call for legislative action and questions whether Illinois will move toward planning at the state and regional levels.

An Outsider Looks at Illinois Zoning and Planning

Edward H. Ziegler, Jr. 717

This article is an edited version of Professor Ziegler's presentation which provides an outsider's perspective on the current issues facing Illinois land use law. From this perspective, Professor Ziegler examines the adequacy of Illinois regulatory authority, addresses the role of judicial review in the context of zoning decisions, and analyzes the need for planning. Professor Ziegler concludes that better utilization of regulatory authority and an emphasis on planning would provide a better framework for local communities to have zoning classifications sustained on review.

Illinois Annexation Agreements — Are We Behind the Times?

Barbara Baran 727

Ms. Baran begins her article by discussing the impetus for the Illinois Annexation Agreement Statute. Next, she provides the reader with a thorough analysis of each provision of the statute with particular emphasis on the enforceability of agreements. Ms. Baran notes that uncertainties associated with development make the statute appealing to developers and municipal officials. She believes that the statute provides a sufficient basis for agreements and that it may not be necessary for Illinois to move toward a more specific developer agreement statute. She does, however, promote the position that the statute should be brought up to date and that municipalities should be able to contract with developer over land within the municipality.

An Alternative for Illinois Land Use Legislation

Clyde W. Forrest, AICP 741

This article addresses the need for an interrelated planning component in Illinois land use law. Professor Forrest concludes that the existing legislative model is obsolete and fails to address common problems confronting decision makers. In order to remedy the legislative scheme, Professor Forrest proposes an Integrated Planning Model Act which will facilitate efficiency and consistency in managing land use at every level of government.

Panel Discussion

Richard Babcock, Moderator

Barbara Flynn Currie

Jack M. Siegel

Charles L. Siemon

Clyde W. Forrest

Arthur L. Dunne 755

The final session of the symposium produced lively discussion among panel participants and the audience. The panel members addressed the practical implications of land use law from the view of developers, academicians, judges and legislators.

Comment

Between a Rock and a Hard Place in Illinois: Constitutional Responses to Adverse Waste Facility Siting Decisions

Tara Fetherling..... 777

The author undertakes a critical review of the role of public participation in the Illinois waste facility siting statute, concluding that the statute, as currently written, interpreted and implemented supplies only one demonstrable criterion from which county boards make siting decisions — public opposition. Recognizing that appeals from local siting denials are seldom fruitful for waste management developers, the author explores two constitutional responses to the Illinois siting scheme. First the author provides statutory and regulatory bases for application of preemption doctrine and further demonstrates that a basis for preemption of the Illinois statute may be forthcoming as Congress recognizes waste capacity shortfalls on the national level. Second, the author tracks the recent developments in Takings Clause cases and suggests that the judicial atmosphere may be right for a Fifth Amendment challenge to the siting statute.