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THE TEXT OF A MODEL ZONING ORDINANCE, WITH COMMENTARY. By Fred H. Bair, Jr. and Ernest R. Bartley. Gainesville, Fla.: Public Administration Clearing Service, University of Florida, 1958. Pp 84.

In this handy booklet the authors have supplied a need not only of public officials concerned with zoning, but of practicing attorneys as well. The law of zoning seems destined to grow and expand with urban problems hence better understanding of zoning purposes and methods is essential. There are dangers in ignoring or glossing over legal problems arising out of governmental land use controls; for example, courts in a number of jurisdictions have held that marketability of title is impaired by a zoning violation. For those who want to catch up with zoning or those already immersed in it, this work will prove helpful.

Mr. Bair, Executive Secretary of the Florida Planning and Zoning Association, and Dr. Bartley, Professor of Political Science at the University of Florida and author of other works on Florida zoning, have drawn on many ordinances, much case law, and their experience to explain what the text of a zoning ordinance should do and how it should do it. Distinguishing the zoning text from the schedule of district regulations and the zoning map, the authors have concentrated on those provisions dealing with problems of administration, interpretation, definition, appeals, and similar matters of importance in the zoning process. They utilize Chapter 176 of the Florida Statutes as their guide, noting that the enabling act merely provides a framework upon which local governing bodies may build, and that much needs to be stated in the ordinance before a town or city has a workable set of zoning restrictions.

For example, they suggest differentiating between four types of "non-conforming uses," thus illuminating one of the darkest corners of zoning. Attention is called to the possibilities of eliminating neighborhood eyesores by amortizing non-conforming uses over reasonable periods of time. As experience has shown that such uses tend to expand and prosper rather than disappear, only amortization seems able to accomplish the purpose of eliminating clashing, inconsistent land uses. Accordingly, this area of zoning is fast becoming extremely important.

A significant point, often overlooked by attorneys and zoning officials alike, is emphasized in the comments on those provisions allowing "any person aggrieved" to appeal a decision of the administrative official to the board of adjustment, then to bring certiorari from the board's decision to the circuit court. In view of the recent decision in *Hennessy v. City of Ft. Lauderdale*, [Fla. App., 101 So.2d 176 (1958)], regarding the exhaustion of administrative remedies in zoning cases, this point should be given close attention. Not only is the person who has been denied a building permit entitled to appeal; a neighbor objecting to the illegal issuance of a permit may also, as well as one who calls upon the official to abate a zoning violation but is met with his refusal to enforce the ordinance.

The statutory provision on public notice of board of adjustment hearings is not as broad as that of the suggested ordinance provision; however, the suggested provision as to notice of proposed *amendments* to the ordinance follows the statute. Again, the statute provides only a framework, and due process objections have been raised successfully where the only notice of proposed relaxation of zoning restrictions given to interested third parties has been bare legal publication in a newspaper. Cardozo once said "Disclosure is the antidote to partiality and favor." The authors wisely suggest that where zoning restrictions are proposed to be relaxed, notice should be posted on the property itself; they also should have advised that regular mail notices should be sent to all owners of property or substantial interests therein within 500 feet of the property affected.

One other omission by the authors results from a fault in the statute itself, which provides that in the event of a protest by the owners of twenty percent or more of land proposed to be rezoned, or those within 500 feet of the rear or opposite the street frontage thereof, then the amendment must receive a favorable vote of three-fourths of the legislative body to be effective. This is a safeguard provided for interested third parties against ill-conceived amendments harmful to their interests in maintaining the stability of neighborhoods. But what about the owners of property *alongside* the land proposed to be rezoned? They are the ones most likely to be adversely affected, and should receive consideration and protection in the ordinance despite the failure of the statute to provide it.

Certain detailed conditions are proposed to be attached to the powers of the board of adjustment to grant special exceptions and variances, such conditions having been elaborated in case law more fully than set forth in zoning statutes. The board of adjustment is the agency responsible for the greatest abuse of law in local government today, hence the propriety of restraint by standards specified in the ordinance itself. While having such standards or conditions in the ordinance will not end the abuse, they will be of assistance to lower courts and lawyers wrestling with problems of illegal action by administrative boards.

Finally, diagrams of various lot shapes and sizes are included along with suggested definitions, considerably simplifying the problem of interpretation of provisions for front, side, and rear yards. These pose knotty problems in any zoning scheme where lots affected are likely to be of an odd design.

For the attorney, the booklet could have been improved by inclusion of case citations; however, these are readily available in other works. Persons concerned with zoning would do well to have this publication available.

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