

Freedom Matters

A Weekly Newsletter

Dane County, Wisconsin

Vol. 3, No. 29

Friday, July 25, 2003

We are a free people in a republic, under a constitution which limits the powers of government to those necessary to secure the unalienable rights of each person to their life, liberty and property. Yet, when a legislature is in session, no one's life, liberty or property is safe. It's the curse of a democracy. That's why we have a republic instead. *Freedom Matters* dedicates itself to the fight to restore our republic. Most of the press and courts fail to do so. They've forgotten that freedom matters.

What Fate for a Town That Rejects Its County's Comprehensive Plan?

by Bob Bowman

As reviewed last issue, a county's comprehensive plan, being a zoning ordinance and a subdivision plan, is only in effect in a town whose town board formally approves the plan. That's if the courts do not tamper with the law (and don't bet they won't).

Of course, if the county comprehensive plan is not in effect in a given town, then neither is the county zoning ordinance. Such a town would be out of county zoning. The people would control their own lives. What a great idea. You see, that's how it should be.

That's how it will be, if no changes are made in the law as it now exists, regarding comprehensive planning. By blocking it, towns can block county zoning. Such towns would then have two choices regarding land use: no zoning, or the town's "own" zoning.

Thus, such a town could choose to have no zoning, and many towns so choose. But oh! says the critic. That town thus says that a landowner is free to do anything they want on their land. How terrible.

No, that town says no such thing. Freedom does not extend to doing harm. All of us are legally liable if we do material harm to our neighbors. And who assures that we do no harm? Government does. That's why we consent to government, to protect us from man-made material harm. Direct, material harm. Not esthetics. Not inconvenience. Palpable harm.

We consent to government to be protected, not to be ruled. That is the meaning of freedom. True enough, protection from man-made harm requires that a government establish *some* rules. However, freedom does not authorize government to impose rules that go beyond such protection. The fact that our government has imposed excessive rules, rules that go beyond merely protecting us from man-made material harm, is the source of a lot of our problems. But that is not the topic for this essay.

Won't terrible things happen, without zoning? No. Towns, counties, cities, can do without zoning. Houston, Texas, does. It has, by referendum of its citizens, repeatedly rejected zoning. *Thus, we do not need zoning.* Zoning is a tool used by some to seize control of the property of others without buying it. That's why it's popular. It's that pure and simple.

Still, there are towns that choose zoning, because a majority demands it, and state law permits it. So, what about towns that do not want county zoning, but do want their own zoning? If the county has no zoning ordinance, it's easy; the town can have a zoning ordinance without county involvement.

But, given a county zoning ordinance, then by law a town can have its own zoning ordinance only **if four conditions are met:** (1) the town has not approved the county zoning ordinance; (2) the town electors must authorize village powers for their board, and (3) must authorize the board to adopt a zoning ordinance; and (4) the county must approve that town's zoning ordinance and any amendments to it.

So, the county still has a voice, a limited one. In this case, the town makes the conditional use and variance decisions, not the county. Only in rezoning of land does the county voice, a veto, come into play.

Town zoning of land use is better public policy than county zoning, given current law. County zoning violates one person-one vote. Urban dwellers elect county board supervisors who vote on county zoning decisions, yet urban areas are not governed by the county zoning ordinance. It's like letting Iowa vote on Wisconsin's state laws. It violates democracy.

Next issue considers the town zoning model.

Two property rights web sites:

<http://www.fairnessinlaw.org/>
<http://www.takebackwisconsin.com/>

Help *Freedom Matters*: send cash, ideas, or articles you would like to see published. Any donations by check make payable to: Freedom Matters, Inc.

Readers' Bulletin Board. e-mail us your comments. Include your name, for publication by *Freedom Matters*

*** Published by Freedom Matters, Inc., Cross Plains, WI. 53528, Michael Byrne, Editor ***
To subscribe or unsubscribe, e-mail to rebshar@chorus.net, or call Bob at (608) 831-6653.
Our e-mail subscriber list is confidential. We will not sell it or reveal it.

Back Issues of Freedom Matters are available, as e-mail.