

Freedom Matters

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Dane County, Wisconsin

Preserving Property Rights

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Our republic limits government to securing individual unalienable rights to life, liberty, and property. These rights are eroded by legislatures, and by courts complicit with them. To encourage wise jurists and journalists to help, *Freedom Matters* dedicates itself to the fight to restore that republic.

Repeal of "Smart Growth" (i.e., Repeal of Government Socialist Planning)

by Bob Bowman

In 1999, special interest groups interacted with legislators writing Wisconsin's state budget bill to craft our comprehensive planning statute (s. 66.1001), misnamed by many as "smart growth." A planning grant program called "smart growth" was enacted at the same time, but comprehensive planning grants did not have to include "smart growth" criteria. Still, "smart growth" became the common term for comprehensive planning. That term began as PR (who is for "dumb growth?"), but the abuses of "smart growth" proponents have turned it into a dirty word, just as happened with the term "liberal."

Certainly, there was little that was "smart" in the comprehensive planning law. It is one of Wisconsin's worst written laws. I described it to Governor Tommy Thompson as a "blueprint for socialism," and I later learned that the Governor repeated my words to others. Since that law got a major rewrite by special interest groups in the course of finalizing the 1999 budget bill, not all of the blame for it rests on the Governor.

Nowhere was the socialist bent of Wisconsin's comprehensive planning law more revealed than in its mandate to plan for housing. The local governmental unit was directed to inventory "its housing units." By that, the private homes of Wisconsin's citizens passed into the *government's* inventory. True, formal title deed was not seized, but local government was confirmed in its dispositive power over the residential future of each and every private home. In Portland Oregon, under similar governmental power, people with single family homes have been **required** to replace those homes with apartment buildings, in the name of "smart growth."

Elsewhere, in cities around America, whole areas of private homes have been declared "blighted," then condemned for pennies on the dollar, to be given to private developers or corporations for urban development; i.e., for private profit and increased municipal tax base, paid for on the backs of the home owners. The U. S. Supreme Court is now "deciding" the constitutionality of that practice (the New London Connecticut case). Anyone inclined to bet on the outcome is advised simply to roll the dice. In our nation's highest courts, there is little that is left of the rule of law, and especially of the law embodied in our constitution.

Other "elements" of the nine required by Wisconsin law in a local comprehensive plan are also socialistic. Land use planning is a main case in point, where self-appointed citizens, side-by-side with agents of unelected NGOs (non-governmental organizations) and unelected "experts," get to map out where mining, commercial, industrial, retail, residential and agricultural uses are to go, and where land is to be left unused for its "environmental" or esthetic value. **Note:** this government planning is determining the disposition of private property, not of government property.

Well, to the socialist, there is no private property, not where land is concerned, not even where homes are concerned, and that's the rub. There can be no dispositive planning by government if government doesn't own it. Or, to say it the other way around, if government can plan its use, then government *de facto* owns it.

The worst flaw of the comprehensive planning law is that it leads citizens to think that if they sit on a planning committee, they own the land that other people live on, farm, mine, otherwise use as a source of income, and pay taxes on. There is a statewide requirement that local comprehensive plans must "balance" property rights against community interests and goals, but that goal is being generally ignored in my experience.

In the midst of this socialist feeding frenzy on land, there comes a corrective by the voters in Oregon. They enacted Measure 37, a state law. It requires government either to pay for land on which it confiscates the uses by regulatory fiat or to waive that regulation on that land. Only thus can government truly honor the constitutional civil rights of the people who own the land.

We may need to enact a similar law here in Wisconsin, without putting our citizens through the 30 years of misery endured by landowners in Oregon. Meanwhile, a big step in honoring private property has just been taken by Wisconsin's joint finance committee preparing the 2005 state budget bill. **They have voted to repeal our comprehensive planning law.** They are right to do so, and Governor Doyle ought not veto that repeal.

There is a role for government planning, but that role does not include the confiscation of private land ownership. We need to erase land confiscation from our state and local laws, along with all confiscatory regulations, in order to restore the civil rights of people. Freedom can only be secured on a free market basis.

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