

Freedom Matters

A News & Opinion Paper

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.

Will State Planning Statutes and Town-County Due Process Prevail?

by Bob Bowman

The score is that six years ago our former state government brought forth in Wisconsin a new law allowing comprehensive planning, conceived in the belief that the courts would support it in the way that the legislature wrote it, and that local governments would honor it and its call for governmental cooperation.

Now, in Dane County, we are engaged in a war, namely, a law suit, testing whether that law, or any law so conceived, can long endure the legislative proclivities of the courts, or the secessionist tendencies of county governments to throw off the jurisdiction of state government and create their own jurisdiction in its place.

The statutes are clear. They allow a county to create a county zoning agency in one of four ways, which **sole agency** is authorized to prepare zoning ordinances and development plans, the latter as comprehensive plans. Statutes allow other procedures in **addition**, provided they **do not conflict** with those prescribed. These are all direct, explicit **prescriptions** in the statutes.

Organizationally, the statutes also allow the county the home rule power to organize itself as it chooses, as long as it does not violate direct **prescriptions** in the statutes. The problem in Dane County is that the left side of the county board, in a pique, has adopted a mere resolution, Res. 70, claiming a different interpretation of the above statutes, and exercising a bad-faith overturning of due process, ordinance and contractual promises.

The following press release, from the chair of the county comprehensive plan grant steering committee, speaks to the county's Res. 70 action as destructive.

Press Release
For immediate release (September 9, 2005)
Contact Vern Wendt, Chair, Steering Committee
Telephone: 608-767-3455

Today, I and two county board colleagues have been forced by county politics to file a law suit to compel the county executive and board to follow the law in the conduct of county comprehensive planning.

Following the law is critical, for the stakes are enormous for our citizens, in terms of their economy, jobs, freedoms and property values totaling a billion dollars or more, as the County Comprehensive Plan will affect where you work and live, and how you travel about the county.

The Wisconsin statutes require that the Zoning Agency 'direct the preparation of the county development plan,' (also known as the comprehensive plan, or the smart growth plan). Progressive Dane supervisors, primarily from downtown Madison, were dissatisfied with their lack of control of zoning in Dane County. They manipulated the process by removing planning duties assigned to the Zoning Agency and placing them into a newly created committee under their control. These folks are playing hardball politics with the future of Dane County and they hold little regard for the law. This is rewriting the rules without statutory authority. Our only recourse is to go to court.

These manipulations by Progressive Dane, with the consent of the County Executive, have cost the county time and taxpayer money. The County now needs an extension because of the tactics used to undermine the process. And worse, the hundreds of hours of staff time, elected officials, and the public may have to be shelved and the process begun again, all at taxpayer expense.

The lawsuit calls for restoring the original Comprehensive Planning Steering Committee. The original committee was getting the job done with the full support of the participants. It is not too late to save the work that has been done. That is why we are filing this lawsuit now.

We want to see Comprehensive planning proceed in an orderly manner. This can only be done by removing this rogue committee and correcting the statutorily defined duties of the Dane County Zoning Agency. The only recourse we have is to go to court.

The results of the Comprehensive Planning Survey, showed that the top three most important issues the public wants to see addressed by the county are 1) water quality, 2) economic development, and 3) roads. Once the statutorily defined Comprehensive Steering Committee is restored, that is what we will work on.

To sum up for *Freedom Matters*, unless the parties in this law suit settle, it will be up to the courts to decide if counties, which are the state's own local agents, can void statewide directives for how to organize land use control, or if statewide organizational prescriptions will prevail.

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