

Freedom Matters

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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.

Repeal Mandatory Comprehensive Planning So It Is Voluntary Instead

by Bob Bowman, Bill Hitzemann & Vern Wendt

Current statutes require any unit of government in Wisconsin that wants to control land use after Jan. 1, 2010, to have comprehensive planning in place. Hence, comprehensive planning is mandatory.

Comprehensive planning is defined, and the nine elements required to be included in a comprehensive plan are stipulated, in s. 66.1001, Wis. Stats. The 14 goals of comprehensive planning are laid out in s. 1.13(2), Wis. Stats. Smart growth and a state grant program for funding smart growth planning is defined and stipulated in s. 16.965, Wis. Stats.

Zoning was invented in Germany, and later introduced into the U.S.A. It is essentially a process of nationalizing the ownership of private property for land and buildings. Wisconsin's comprehensive planning law, once it is in place, will nearly complete that nationalization of private property. Little vestige of private ownership of realty will remain, except the right to pay property taxes.

Thus, comprehensive planning is controversial, to say the least. There are town boards which have embraced it, and others which regard it as anathema. There is strong historical evidence to indicate that if it is used throughout a modern state, it results in the eventual bankruptcy of the state. If so, it creates a worse problem than any it can possibly solve.

Thus, it is a potentially dangerous law for the body politic, especially by being mandatory.

Forcing all local governments to control land use solely via comprehensive planning violates the Towns Association policy of local control, whereby each town is free to find its own destiny. Comprehensive planning is a drastic change. It forces the land use plan to be adopted as an ordinance; i.e., as law. That sets every nuance of a land use plan in stone, and the

governing body can be sued for any deviation from it. Town boards which have enjoyed great discretionary latitude under prior law will suddenly find themselves with very little latitude left. Rezoning will become as regimented as is now true of plat approval.

Realtors and builders on the one hand, and environmentalists on the other, will sue towns, counties and other municipalities for violating land use plans, and will win in court. That's why the realtors, builders and environmental organizations supported comprehensive planning. They wanted to decrease the power of local elected governments.

Associations of cities, villages and towns also supported enactment of comprehensive planning, as if blind to the straitjacket it puts on local government. The straitjacket is made worse by there being no way out of it, except to forego control of land use.

Towns know the mischief of a law that provides no way out if one adopts it. See County zoning.

It is a grave error of governance for the state to enact a new and controversial system from which local government has no escape. The comprehensive planning law constitutes such an error.

It is a simple error to correct. The state merely has to amend the statutes so that a local government can opt to continue to control land use via plans adopted as resolutions rather than ordinances, and without all the elements of a comprehensive plan.

Making the system voluntary is the democratic way. It is also the safer way. Let only those who want to try it experiment with it. Then, if it does not work, it can be fixed before it drags down the entire state.

We hope Town Boards vote for the Towns Association to try to get comprehensive planning made voluntary as a way to control land use. The statutory right to opt out of unfunded mandates is not enough. The state DOA can still overrule any request to opt out.

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

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