Urban Planning: Theoretical and Comparative Aspects

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Mo & Th 2:05-3:20, FH 210

Spring 2006, Tentative Syllabus and Early Reading Assignment

* For the first class (on January 9\textsuperscript{th}), please read the items in section A.1 below. A coursepack containing the course’s reading materials can be bought at the NYU Professional Bookstore.

A. The necessity of governmental intervention

1. The justifications for urban planning; comparative planning regimes

Readings:
* Arthur O’Sullivan, Urban Economics pp. 30-35 (5\textsuperscript{th} ed., 2003);
* William A. Fischel, The Economics of Zoning Laws 252-259 (1985);
* Donald G. Hagman & Julian C. Juergensmeyer, Urban Planning and Land Development Control Law sections 2.7-2.11, pp. 20-30 (2\textsuperscript{nd} ed., 1986).

2. The deregulation of land-use debate

Readings:
* Richard A. Posner, Economic Analysis of Law 62-63 (5\textsuperscript{th} ed., 1998);
3. The prevention of unnecessary expropriations and the right of former landowners to reclaim expropriated land

Readings:
* Thomas W. Merrill, “The Economics of Public Use”, 72 Cornell Law Review 61, 61-64, 74-89, 109-116 (1986);
* Daphna Lewinsohn-Zamir, “Constitutional Protection of Property Rights and Expropriation Law”, in Developments in European, Italian and Israeli Law 101-106 (Alfredo M. Rabello & Andrea Zanotti eds., 2001);
* Kelo v. City of New London, Connecticut, 2005 U.S. Lexis 5011 (excerpts);
* County of Wayne v. Hathcock, 684 N.W.2d 765 (2004);
* Danielle Marx, 'Takings and the Requirement of 'Ongoing Public Purpose': The Effect of the Constitutionalization of the Right to Property on the Law of Takings (Karsik v. The State of Israel, 55 P.D. 625), 36 Israel Law Review 149 (2002);
* Sections 3, 8 & 10 of the Israeli Basic Law: Human Dignity and Freedom, 1992;
* Sections 2-3, 20-22 of the Israeli Lands (Acquisition for Public Purposes) Ordinance, 1943;
* Sections 188-196 of the Israeli Planning and Building Law, 1965.

4. Game theory analysis of the possibility of voluntary cooperation between landowners

Readings:

B. Compensation for Planning Injuries: Utilitarianism and Economic Efficiency

Readings:
C. Compensation for Planning Injuries: The Personhood theory
Readings:

D. Compensation for Planning Injuries: Libertarianism
Reading:

E. Indirect Planning Injuries and Intentional Planning Injuries
Readings:
* Daphna Lewinsohn-Zamir, “Compensation for Injuries to Land Caused by Planning Authorities: Towards a Comprehensive Theory”, 46 University of Toronto Law Journal 47, 98-100, 111 (1996);
* Abraham Bell & Gideon Parchomovsky, “Takings Reassessed”, 87 Virginia Law Review 277, 278-283, 301-307 (2001);
* Section 197 of the Israeli Planning and Building Law, 1965.
F. Planning injuries and Distributive Justice
1. The compensation issue and distributive justice
Readings:
* Hanoch Dagan, “Takings and Distributive Justice”, 85 *Virginia Law Review* 741, 767-790 (1999);

2. The regressivity of cultural buildings’ conservation
Readings:
* Abraham H. Maslow, *Motivation and Personality* 35-58, 97-100 (2nd ed., 1970);
* Nathaniel Lichfield, *Economics in Urban Conservation* 201-215 (1988);
* David B. Fein, “Historic Districts: Preserving City Neighborhoods for the Privileged”, 60 *New York University Law Review* 64, 64-65, 74-77, 80-87 (1985);

3. Locally Undesirable Land Uses
Reading:

G. Physical expropriation without compensation, exactions and planning agreements
Readings:
* Daphna Lewinsohn-Zamir, “Constitutional Protection of Property Rights and Expropriation Law”, in *Developments in European, Italian and Israeli Law* 106-112 (Alfredo M. Rabello & Andrea Zanotti eds., 2001);
* *Loretto v. Teleprompter Manhattan CATV Crop.*, 458 US 419 (1982) (excerpts);
* Section 190 of the Israeli Planning and Building Law, 1965;
* Section 20 of the Israeli Lands (Acquisition for Public Purposes) Ordinance, 1943.

H. Purchase notices, blight notices, and partial expropriations

Readings:
* Telling and Duxbury’s Planning Law and Procedure 291-305 (11th ed., 1999);
* Section 190(a)(1) of the Israeli Planning and Building Law, 1965.

I. Prior and Subsequent Non-conforming Uses; Variances

Readings:
* Donald G. Hagman & Julian C. Juergensmeyer, Urban Planning and Land Development Control Law sections 4.27-4.36, pp. 114-129 (2nd ed., 1986);
* Sections 145-152, 178-187 of the Israeli Planning and Building Law, 1965;
* Spur Industries v. Webb Development Co., 494 P2d 700 (1972);

J. Taxation of Betterments

Readings:
* Section 196A & Appendix 3 of the Israeli Planning and Building Law, 1965;
K. State ownership of land as land-use controls

Readings:
* The Basic Law: Israel Lands, 1960;
* Joshua Weisman, “Long-Term Leases as an Alternative to Ownership”, in Property Problems: From Genes to Pension Funds 105 (J. W. Harris ed., 1997);