Chapter 4: Government Controls and Real Estate Markets

Features of Real Estate that Cause Market Distortions

- “Spillover” effects from nearby land uses
- Uniqueness of location (absolute monopoly)
- Unknown quality or condition of existing structures
- Instability of land uses around residential neighborhoods

Is Comprehensive Planning The Answer? What is Required?

- Project future population growth
- Determine requirements for water and waste disposal
- Project needs for public services (utilities, streets, schools, parks and recreation, safety)
- Projected demand for various land uses (public, residential, nonresidential)
- Design compatible arrangement of needed land uses (land use map)

Limitations on Ownership

- Complete Removal
- Restrictions On Use
- Division of Use or Possession
- Share in Value

- Eminent Domain
- Police Regulatory Power
- Taxation

- Liens
- Deed Restrictions
- Easements
- Leases

Resulting Market Failures in Real Estate

- Monopoly
- Externalities
- Incomplete information
- Uncertainty of residential values

Urban Planning is Needed for Storm Water Management
Urban Planning is Needed for Traffic Management

Changing notion of “best practice”

Limited actual experience to rely on

Inability to foresee the future well

Challenges to Comprehensive Planning

Urban Planning is Needed for Schools and other Services

Traditional Planning vs. New Urban Planning

Traditional
- Separated uses
- Automobile oriented
- Priority placed on easy ingress and egress
- Uniform density
- Cul-de-sac hierarchy in neighborhoods

New Urban
- Mixed use
- Public transportation
- Pedestrian oriented
- Sidewalks
- Houses close to street
- Rear alleys
- Grid streets with restricted traffic flows

Traditional vs. New Urban

Traditional

New Urban

Denver Style – Away from New Urban
New Urban

Older than zoning (circa 1900)

Issues of safety

Continue to evolve

Building Codes Establish Minimum Requirements

Carl Siebert, South Florida Sun Sentinel

Traditional Land Use Controls: Building Codes

- Older than zoning (circa 1900)
- Issues of safety

- Continue to evolve

Traditional Land Use Controls: Zoning

- Features of traditional zoning
- Features of subdivision regulations
- Planning and Zoning Commission created in the zoning ordinance
  - Board of Adjustments

Traditional Land Use Controls: Site Plan Review

- May be before the planning and zoning commission or a specialized commission
- Review subdivisions and most other building site plans
  - Public review (neighbors and others)
  - Public offices (public safety - fire, police, emergency vehicles; utility officials; school officials)
- Entitlements

“Downzoning in San Antonio

- Walmart on Blanco

- Pecan Valley Golf Course
Zoning Issues and Concepts

- Legality of zoning established by USSC: Village of Euclid vs. Ambler Realty - 1926
- Nonconforming use: Use conflicting with zoning map, but in place prior to its enactment
- Variance: Exception to requirements granted due to hardship
  - Common example: waiver of setback requirement
- Exclusionary zoning

Do Land Use Controls Solve the Problem of Market Failure?

- Does zoning raise costs?
- Does it make services remote (no mixed use)?
- Does it contribute to urban sprawl?
- Houston: effective land uses without zoning?

Newer Approaches to Land Use Control: Planned Unit Development

- Detailed development plan negotiated with authorities
- Mixed use
- Mixed density
- No standard setback requirements
- Open community spaces
- Community recreation and other facilities

Newer Approaches to Land Use Controls: Performance Standards

- Storm runoff limits
- Noise and emission limits
- Traffic impact limits
- Tree removal restrictions

More New Land Use Controls

- Impact fees
- Growth restrictions

Environmental Concerns: Modern Legislation

- Clean Air Act, 1970
- Clean Water Act, 1972-1977
- Safe Drinking Water Act, 1974
- Resource Conservation and Recovery Act, 1976
- Toxic Substances Control Act, 1976
- Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 1980
### Some Hazardous Materials

- Asbestos and fiberglass
- PCBs
- Leaking underground storage tanks (LUSTS)
- Radon
- Mold
- Environmental Studies a part of due diligence

### Power of Eminent Domain

- Eminent domain:
- Condemnation:
- Inverse condemnation

### Eminent Domain Controversy - I

- Concept of “public use” expanded to “public purpose”
  - US Supreme Court in 1954 allowed condemnation of “blighted areas” for private redevelopment
  - Michigan Supreme Court in 1981 allowed condemnation to enable GM manufacturing facilities

### Eminent Domain Controversy - II

- **Kelo v. New London Ct., 2005**
  - U.S. Supreme Court allowed use of eminent domain to obtain non-blighted property for private redevelopment
  - Left it to states to decide whether to intervene
  - Current Situation?

Greatest significance of the USSC “Kelo” decision? - Shift of authority back to the states.

### Kelo – Current Status (from Wikipedia)

- The well-laid plans of redevelopers, however, did not pan out. The land where Susette Kelo’s little pink house once stood remains undeveloped. The proposed hotel-retail-condo “urban village” has not been built. And earlier this month, Pfizer Inc. announced that it is closing the $350 million research center in New London that was the anchor for the New London redevelopment plan, and will be relocating some 1,500 jobs.[18]
- “They stole our home for economic development,” ousted homeowner Michael Cristofaro told the New York Times. “It was all for Pfizer, and now they get up and walk away.”[18]
- The final cost to the city and state for the purchase and bulldozing of the formerly privately held property was $78 million.[19] The promised 3,169 new jobs and $1.2 million a year in tax revenues had not materialized. As of 2014 the area remains an empty lot.[20]

### Property Taxes

- A primary source of local government revenue
- Reliable and countercyclical
- Many taxing authorities
- From BCAD we see . . .
- Some properties are exempt from property taxes, such as UTSA
- Effect?
- Setting the property tax rate
### Computing Tax Liability

<table>
<thead>
<tr>
<th>Property Tax Calculation</th>
<th>Millage Rate</th>
<th>Taxes Levied</th>
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</thead>
<tbody>
<tr>
<td>County</td>
<td>8.58</td>
<td>$943.80</td>
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<tr>
<td>City</td>
<td>3.20</td>
<td>3.52.00</td>
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<tr>
<td>School district</td>
<td>9.86</td>
<td>1,084.60</td>
</tr>
<tr>
<td>Water mgt. district</td>
<td>0.05</td>
<td>5.50</td>
</tr>
<tr>
<td>Total</td>
<td>21.69</td>
<td>2,385.90</td>
</tr>
</tbody>
</table>

- Market value: $150,000
- Assessed value: 135,000 = (0.90 x MV)
- Less: exemptions: 25,000
- Taxable value: $110,000

### Special Assessments

- Special assessments: Taxes for specific public improvements affecting a property
  - Street, sewer, etc.
  - Usually charged on a per front foot basis
  - Example: Street improvements of $500 per running foot of street
  - For lot with 100 feet of frontage:
    \[ 100 \times 0.5 \times 500 = 25,000 \]

### Criticism of Property Tax

- Regressive
- Uneven across geographic areas
- Poorly administered

- Why might a high property tax good?
  - Texas has high property taxes (and Texas is good)

### End of Chapter 4