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The Zoning Dilemma by Daniel R. Mandelker

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Kentucky Court of Appeals

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It must be recognized that planning the future development of cities, implemented by particular zoning ordinances, has not been successful in achieving harmonious and orderly development. The first half of this book discusses the reasons for this failure. The latter half examines the operation of the planning and zoning process in Seattle, Washington and demonstrates in practical form the application of the theories and policies discussed in the first part of the book.

The model for today’s zoning process evolved from the law of nuisance. The law of nuisance does not, however, provide an adequate basis whereby the zoning process can meet the demands placed upon it. For example, a city may desire to have harmonious land development; that is, to develop the available land so that the various uses of land permitted one owner will not constitute a nuisance to the owner of adjacent land. To achieve this order and harmony, a plan must be made in which certain areas of the city are allotted to specific uses. If the demand for apartments, as an example, exceeds the amount of land made available for apartments, owners of land in these areas may not immediately develop their land into apartments because the excessive demand will perhaps enable them to sell the land in the future at a profit greater than if they had immediately developed the land into apartment housing. Thus, speculation may keep this land from being developed in the orderly fashion envisioned by the plan. On the other hand, where the supply of land available exceeds the demand for apartments, there is little incentive for the land owner to develop his land. Therefore, unless the plan allocates very closely the amount of land needed for particular uses, the desired goal of promoting a particular use in a particular area may be thwarted. The above illustrates but one of the dilemmas created for city planners by the present planning and zoning process.

The Zoning Dilemma gives the reader a valuable insight into a complicated process which affects us all. Nevertheless, this reviewer cannot recommend this work to the law student or to the practicing attorney because the author continuously employs very complicated, jargon-laden sentences. The use of such sentences simply cannot be justified. One can only hope that there has been a special space reserved in the hereafter for authors who require their readers to wade through these incomprehensible sentences.

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