

Preface

The vigorous pace of development in the law of land use regulation has continued unabated since the publication of the First Edition of this work in 1998. The United States Supreme Court has occupied much of the headlines, continuing to make constitutional law with respect to the perhaps intractable problem of regulatory takings and the proper balance between land use regulation and property rights. We have noted an even greater level of activity, however, in other areas of land use law, notably at the state level. State legislatures, in virtually all parts of the country, also continue to make new land use legal policy.

The activity has been greatest in the areas of regulatory takings, adult uses, nonconforming uses, telecommunications tower siting, vested rights, urban sprawl and growth management, environmental regulation, agricultural uses, intergovernmental conflicts, religious uses, and federal land use law and civil rights remedies. New contentious uses include medical and recreational marijuana, paycheck establishments, and environmentally impactful uses.

New urbanism is here to stay and may be associated with reverse urban sprawl and greater concern with energy conservation.

We have not attempted to analyze the legal and societal underpinnings of the continued volume and pace of new cases and statutes, but we attempt, occasionally, to acknowledge certain obvious phenomena, such as the decline of eminent domain for economic growth, a growing disposition of municipalities to act as private business organizations, with economic interests, in the areas of redevelopment and intergovernmental conflicts, the continued growth and sophistication of non-profit and lay groups with respect to land use and environmental issues, urban sprawl, and the problems of the central cities and mature suburbs in reclaiming blighted properties and encouraging economic activity.

The Third Edition, like the first two, strives to provide a general outline for the practicing attorney and municipal official, albeit of a complex and dynamic area of the law, but with all deference to our counterparts in the legal profession who have continued to provide more comprehensive and esoteric treatises on the subject. We set out again to inform the text with academic and practical experience, in roughly equal parts, which we hope will be of some benefit to both practicing attorneys, as a resource, and non-lawyer municipal officials and students, as a handbook of sorts.

If we have been able to educate the bar and the public in some small way to further inform the vital debate about land use, we are gratified. As always, the opinions and statements provided in this work are our own and we accept sole responsibility for the content, but invite any comment or insight the reader may have.

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