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Editorials

Property, Politics, and Public Health

Public health issues run from A to Z. In this issue of the Journal, Z—for zoning, the public regulation of land use—gets special attention. As Maantay has documented, the construction of the Cross Bronx Expressway in the late 1950s and early 1960s effectively cut the South Bronx neighborhood of New York City into 2 sections, with devastating effects.¹ While New York City overall was rezoning from manufacturing zones to residential zones during the period 1961 to 1998, the reverse was true in the South Bronx. The residents of the South Bronx, though opposed to the massive urban renewal projects of the 1970s and 1980s, such as Bathgate Industrial Park, were powerless to stop them.

Today, the South Bronx has the highest asthma hospitalization rate of any health district in New York City, which rivals Chicago for the highest asthma hospitalization rate of any US urban center.² The reasons for the disproportionate burden of asthma in poor urban communities of color are still being worked out. Nonetheless, heavy traffic volumes and the high numbers of diesel-powered vehicles that cut through these neighborhoods on major routes such as the Cross Bronx Expressway are believed to exacerbate existing health conditions, including asthma.³

Land Use, Politics, and Urban Health

The connections between land use, politics, and urban health are not new. In considering the hygiene of communities, Johann Peter Frank (1748–1821), a leading originator of public health administration, insisted that municipal authorities had no more vital task than that of keeping cities and towns clean. For the disposal of garbage

and refuse, he urged the establishment of dumping grounds at a considerable distance from towns. In the classic *Report of the Sanitary Commission of Massachusetts 1850*, which established the context for developing public health infrastructure in the United States, Lemuel Shattuck urged that local boards of health be authorized to make rules and regulations not inconsistent with the constitution and laws of the state “for the location, and for preventing the location, of pigsties, slaughter-houses, chemical works, and any trade or employment, offensive to the inhabitants or dangerous to the public health.”⁴

Zoning remains an important element in any comprehensive strategy to improve the public’s health. The thorny question is how to use zoning effectively for this purpose. Maantay’s answer is direct: “Planners, policymakers, and public health professionals must collaborate on a worldwide basis to address these equity, health, and land use planning problems.”^{5(p1033)}

She is, of course, correct. But it is far easier to call for collaboration than it is to get it. The reason is the same as it has always been—politics. This term is not invoked in a cynical and derogatory sense, although when one looks at the day-to-day workings of the land use decision-making process it is difficult not to be cynical and derogatory. Rather, the term is used in the descriptive sense—there is more than a single set of rationales at work in the land use planning process, and as a result, there is always a great deal of jockeying for power and compromising when it comes to decision making. Add to this the fact that land ownership is one of the strongest and oldest of property rights, and the complex task of directing people in the use of their private property for the public’s good becomes even more convoluted and fraught with clashes.

Zoning and the Public Interest

The German model of combined land use and height zoning was imported to New York City in its 1916 zoning ordinance.⁶ Zoning as an ordinary tool of public planning, however, came of age in the Progressive Era of the early 20th century. At that time, the notion of activist government in the name of the public interest became manifest. Admittedly, “the public interest” is a squishy concept, at best. As is true of virtually all policy advocacy carried out in the name of the people, “the public interest” contains elements of pure self-interest alongside elements of social justice. Indeed, “zoning became primarily a static process of attempting to set and preserve the character of certain neighborhoods, in order to preserve property values in these areas, while imposing only nominal restrictions on those areas holding a promise of speculative profit.”^{7(p60)}

Thus, while the zoning systems of the 1920s were in part designed to keep the poor out of the desirable new suburbs being built along the streetcar tracks and subway lines,⁵ they also addressed the need to isolate environmentally noxious land uses from the habitations of city residents. Infectious diseases, including devastating cholera epidemics, did not confine themselves to the poor. When political and business leaders fail to segregate undesirable exposures so that only the least powerful and poorest sectors of society are burdened, they are forced to invoke a second option and try to protect everyone.

Although zoning came about in part to protect the entire population from dangerous living environments, the dual elements of social justice and self-interest that were evident at zoning’s inception are important in understanding land use decisions today. For instance, when the US Supreme Court held in 1926 that zoning was not a “taking” under the Tenth Amendment of the Constitution, as that term is commonly understood, but rather a legitimate use of the police powers of the state to protect health and safety, it came to this conclusion only in part because such a ruling served the public interest. An important determinant in the Court’s decision was the fact that the justices became convinced that zoning would enhance and not detract from the value of private property.

Local Authority and Private Ambitions

Although it took federal action—namely, a Supreme Court decision—to sanction it, zoning has always been a tool of local politics. When it was believed that environmental toxins could be largely contained in highly noxious

yet specific sites, zoning was considered an adequate if imperfect method of protecting the public’s health. However, events and understanding quickly outstripped this false sense of security. Hazards dumped in one place inevitably spread to other sites via air, water, and transportation systems. Even as toxins traveled more broadly, the land use governance structure became more tightly rooted locally. The clash between local land use decision making and larger regional and even global environmental concerns has now reached crisis proportions. National decisions to restrict funds to improve mass transit are diametrically opposed to international efforts to halt global warming. One would think that under such potentially dire circumstances policy options would be re-fashioned. Instead, self-interest is overriding the public’s interest.

As is true of health care and so much else that is vital to life and community in the world today, the tools of land use control are becoming increasingly privatized. As imperfect as the politics of public land use decision making were in the past, at the very least the process was ostensibly public in operation, with a mission to serve the public interest. Today even that small protection is gone. The local officials charged with protecting the public’s interest and health in land use matters no longer even make a pretense of being proactive public servants. Instead, they wait to react to the plans placed before them by corporate and increasingly global investors.

An egregious case in point recently unfolded in New York City, the site of Maantay’s research. The largest land use and public works planning proposal to be put forward in the decades since Robert Moses passed from the scene was being touted by a small, well-funded real estate and corporate consortium. The ostensible purpose of the plan was to bring the 2012 Summer Olympics to New York City. Every element in the plan was proposed in this context. The fact that many of the supporters of this plan were also landowners in the areas around the city where these large-scale structures would be located was supposedly beside the point.

City officials who should have been making land use policy sat on the sidelines and waited for the plans to be brought before them for approval. At some point they might make some alterations, but no one seriously expected that public concerns would be injected into the process at that late date. As everyone knows—whether a planner or a member of the affected community—the time to have meaningful input into a plan is in the beginning, when the goals and objectives are on the table and the scope of the planning work is being defined. But that is no longer the case. Urban planning has become

even more a pro forma gatekeeping function for private ambitions than it was in the past.

The Politics of Place and Urban Health

So we return to the challenge of how to effectively use zoning as part of a comprehensive strategy to improve the public’s health. If we are to raise a collaborative public voice in land use planning, with all its vital impacts on health, we need to get back to basics in more ways than one.

Urban planning and public health arose simultaneously at the end of the 19th century in response to the enormous increase in urban populations. The defining feature of the overstressed towns in the 19th century was their stench. The foul odors emitted over the West Harlem community when the North River Water Pollution Control Plant began its operation are evidence of how historical concerns are regularly revisited.⁸ Planning and public health professionals must forge new strategic collaborations to address present-day urban ills. The environmental impact statement, the great hope of environmental advocates just 2 decades ago, has fallen on hard times. Today it is just one more piece of red tape that developers have learned how to untangle. It must be restored as a meaningful tool of land use decision making. That can only happen if professionals from both the urban planning and the public health disciplines marshal the scientific evidence to make it stick.

Are the professional practitioners of urban planning and public health still invested in “imposing order on nature for the health, safety, and amenity of the urban masses, for the political benefit of the urban elite”^{9(p300)} Or will planning and public health professionals together be able to revive the social justice elements of zoning, as was attempted in the Progressive Era?

This is more than merely a question of professional input. The voices of the people in communities that bear the direct costs of global environmental degradation must be raised; they must be listened to and used to guide land use planning. In the absence of a groundswell in the name of global environmental sustainability, any scientific evidence gathered by professionals will be of little use.

The challenge to the public health community is to occupy a seat at the table where land use decisions are made. Zoning may then be wielded as a tool to protect the public’s health, rather than as an instrument of unbridled self-interest. □

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