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Report of the Forty-fifth American Assembly

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LAND USE IN AMERICA

The American Assembly
Columbia University

PREFACE

On April 18, 1974, 77 Americans met at Arden House in Harriman, New York, for the Forty-fifth American Assembly. As principals in their respective spheres including education, business, communications, government, bench and bar, they came from 22 states and the District of Columbia to consider "Land Use in America." For three days in small groups they discussed past and present land-use practices and programs, both private and public, and on the fourth day in plenary session they adopted the report which appears in these pages.

During the course of the Assembly formal addresses were given by Judge Rae Else-Mitchell of the Supreme Court of Australia, and State Senator Sandra D. O'Connor of Arizona, and Congressman Thomas S. Foley of Washington.

Background for the discussions consisted of papers prepared under the editorial supervision of Professor C. Lowell Harriss, professor of economics, Columbia University, as follows:

Carl H. Madden	<i>Land as a National Resource</i>
A. M. Woodruff	<i>Recycling Urban Land</i>
Richard E. Slitor	<i>Taxation and Land Use</i>
William B. Shore	<i>What Do the People Want?</i>
Donald G. Hagman	<i>Windfalls for Wipeouts</i>
Lyle C. Fitch and Ruth P. Mack	<i>Land Banking</i>
Brian J. L. Berry	<i>The Question of Policy Alternatives</i>

The American Assembly, a national, nonpartisan educational institution, takes no stand on the subjects it presents for public discussion. The findings in the report are those of the participants in their private capacities, and the opinions in the background volume belong to the authors themselves. Nor is the Lincoln Foundation, which generously supported this American Assembly program, to be associated with the views in the book or the report.

CLIFFORD C. NELSON
President
The American Assembly

The volume *The Good Earth of America: Planning Our Land Use* (ed. Harriss), containing the chapters described on the next page, will appear in public print in summer 1974, and may be ordered from the publisher, Prentice-Hall, Inc., Englewood Cliffs, N. J. 07632.

FINAL REPORT

of the

FORTY-FIFTH AMERICAN ASSEMBLY

At the close of their discussion the participants in the Forty-fifth American Assembly, on *Land Use in America*, at Arden House, Harriman, New York, April 18-21, 1974, reviewed as a group the following statement. The statement represents general agreement; however, no one was asked to sign it. Furthermore, it should not be assumed that every participant subscribes to every recommendation.

I.

The decision-making process in American land use that has served the past will not serve the present and future. As we face new problems, we must think and act anew. We must acknowledge past errors and base future action more on the experimentally proved than on the theoretically proposed.

The price and market system of land-use allocation has many things right about it. We must find better ways to measure social and environmental costs and benefits and to take them into account as both private and public decisions are made. We urge changes, even fundamental changes, because the past has left the people with too few alternatives, the cities with features that repel rather than attract, and natural areas and resources with serious threat of destruction.

Too often people have not had the information or the opportunity to participate effectively in planning decisions and later action. The information has not been available, and where available, not collected, coordinated, or stored in retrievable form by government or the private sector. While much more planning goes on than is recognized, clarity is lost in the babble of governmental voices. Local planning is too often lacking or merely defensive, designed to preserve some perceived local advantage. City and county plans are ignored, regional plans are weak-kneed. State governments are slow to plan comprehensively for land use, and the federal government has failed to provide a broad national framework for land-use decision-making. Too often the first consideration has not been the people.

Plans have been undercut by conflicting zoning and building regulation, taxation, and subsidies contrived to meet emerging exigencies. We can never foresee the future with sufficient clarity to head off the need to respond to the unexpected. But we no longer find it tolerable that national policies are largely unrelated to state, regional, and local plans, or to one another.

A massive weakness is that decision-makers in the market place and

in city hall have not been required to deal with long-term consequences or economic, social, and environmental impacts. Great gaps have appeared between what was perceived as a plan and its realization. All too often government intervention, too hastily and unthoughtfully undertaken, has produced inequities of social and economic windfalls and wipeouts and of harm to the land.

Use and ownership of private and governmental land carries duties and responsibilities as well as rights. We are learning the need to treat all land with more respect. Greater demands are now made on it by a growing and rapidly urbanizing population. And now we know that some of the most ecologically vulnerable and some of the most valuable, renewable resource lands have not been adequately protected.

Therefore, we make the following recommendations.

II.

Market Recommendations

1. The private market can be an efficient instrument for making land-use decisions; and, where desirable, it should be relied upon. However, private market decisions on land use should be exercised with a sense of social responsibility and with a respect for natural systems.
2. Where market decisions produce consequences contrary to public interest, carefully designed interventions should provide needed incentives for desired land use.
3. Specifically, private developers should be encouraged to invest in the acquisition, development, and maintenance of housing for persons of all incomes, especially low and moderate income groups and the elderly.

The Governmental Framework

The policy and institutional framework for effective land-use planning and decision-making must be strengthened at all levels of government: federal, state, regional, and local. States must assume a major leadership role. Specifically, we recommend:

1. All states should establish a policy, and administrative and regulatory framework that will insure a responsible state role in land-use planning and implementation. There have been notable efforts in many states to protect particular kinds of land: wetlands, coastal lands, and mountain lands. The more general efforts of states such as Florida and Hawaii are instructive examples for all states. The Model Land Development Code draft of The American Law Institute is an example of an approach which provides for local impact decisions to be made locally. Decisions of greater than local impact must be made within a county, regional, and state framework, with local participation.

2. States should establish intrastate and interstate regional mechanisms that will allow land-use planning at the sub-state or interstate level. Such an approach would not "take over" land-use planning now done at the county and municipal level, but would provide the framework and review mechanisms to protect the public interest in land use and to override local land-use control practices, the primary purposes of which are exclusionary for minority groups and persons of low and moderate income.

3. States should move to improve the capability of general purpose local governments so that these governments can become real partners with higher governmental levels in land-use planning and implementation. In particular, local general purpose governments must develop procedures to control the activities of special purpose entities. In order to improve the quality of decisions about land use and the public trust in government, state and local laws should prohibit conflicts of interest on the part of officials charged with responsibility for land-use and urban growth policies, plans, and regulations.

4. Congress should produce legislation that at the earliest possible time stimulates states to play their responsible role in land-use planning. Such legislation should require that federal programs which impact land use be better coordinated with comprehensive state, regional, and local land-use efforts. Existing federal environmental programs, such as the National Environmental Policy Act, should be supported.

A central aim of the above proposals is to provide a clear and consistent development framework for the private sector, so that this nation can balance the protection of land as a natural resource with the development of our lands needed to sustain a healthy economy and to provide for the housing needs of our expanding population.

5. The private sector and government at all levels should be encouraged to preserve pertinent land-use data in retrievable form accessible to all with the end of having a Federal Land-Use Information Center. The federal government can assist by working with all groups in establishing common nomenclature and a common indexing system.

We make explicit the implications of the above proposals. They will and should reduce the excessive geographic and functional labyrinth of governance that now so paralyzes equitable and efficient decision-making at local and regional levels. To the extent these governments are excessively small, or special or do not conform to areas of socio-economic environmental significance, their continuation is to be discouraged. Citizen participation, our next point, is facilitated by these reforms.

Citizen Participation

In this extension of government responsibility in the land-use area, it is more than ever necessary to assure meaningful citizen participation in decision-making. Specific techniques should include:

1. Encouraging improved programs in the public schools, such as study units in government and land use.
2. The use of properly financed citizen advisory groups in the decision-making process.
3. Such techniques as used by the Regional Plan Association of New York CHOICES FOR '76 television town-meeting project.

Citizen consultation should avoid asking citizens either to assent without argument to a single proposal or to come up with their own plans. People should be informed of a number of realistic alternatives for choice.

Land-Use Policy Techniques

1. Tax — federal

The federal tax system, which already affects real estate investment decisions in a variety of random ways, is a largely unreliable vehicle for land-use policy-making. It should be subordinated in favor of other more direct land-use policy tools. Where existing federal tax preferences have adverse land-use effects, they should be reviewed and revised.

2. Tax — state and local

The state and local property tax structure has a substantial direct effect on land use. Better assessment practices are needed more promptly to reflect changes in market value. We recommend controlled experiments with the following:

- a. In urban areas, shifting the base of the property tax from both land and buildings to heavier taxation of land as against buildings, or to land only, as an incentive for better land use.
- b. Decreased reliance on local property taxes to support local government and schools, with greater reliance on metropolitan or state-wide taxes, to alleviate the adverse impact of local tax inequalities on land use.

3. Urban Revitalization

Disillusion with solutions of the 1950s and 1960s should not divert the American people from a fundamental task: it is to revitalize the nation's inner cities. Such revitalization requires that it be a priority, coupled with substantial financial assistance for the following:

- a. Redevelopment and improved use of blighted central city and inner suburban land and buildings.
- b. Further imaginative experimentation with rehabilitation of existing structures — including experimentation with "urban homesteading."
- c. The infusion of more services in central cities to attack social and economic problems, with special emphasis on minority groups and other socio-economically disadvantaged individuals.

- d. Fiscal strengthening of the central cities through metropolitan area or state revenue sharing and direct aid from the federal government.
- e. Public policies to encourage private market pressure to revitalize central cities, including their socio-economic mix.
- f. Good land-use planning to include the retention and encouragement of minority and small businesses.

4. *Rural Revitalization*

Attention should be given to investment, tax, and regulatory measures affecting the conservation and development of the resources of rural areas used for the benefit of both rural and urban people. This development will include, for example, better housing and community facilities; expanded production of food and fiber; conservation and improvement of forests, watersheds, and recreation areas; and reclamation of strip-mine areas.

5. *Transportation*

Too often have the planning and placement of transportation facilities contributed to urban sprawl and the decay of critical cities. Therefore, all transportation planning and implementation should be integrated with plans for land use. In particular, subsidies for public transportation and pedestrian movement should be increased and subsidies for the private automobile reduced.

6. *Housing*

All metropolitan area land-use plans must include sites for adequate stocks of housing for all income groups located in relation to job opportunities, environmental concerns, transportation, and other public and private facilities.

7. *Land Banking*

"Land banking" — the stockpiling, by governmental or quasi-governmental units, of land purchased at reasonable prices from private owners — should be utilized to assemble park, school, and other sites for public use. Land banking experiments are needed in governmental ownership of land for the purpose of strengthening the capacity to do effective comprehensive land-use planning and otherwise promoting good land-use practices. Such experiments should comprehend government acquisition of land which in the main would be sold or leased to private interests to farm or to develop in accordance with the public interest. They should be undertaken to determine the feasibility of land banking to hold down excessive inflation of land prices, to derive community-wide benefits from land price inflation, and in general to promote good land-use practices.

Donations of private land for public open space should be encouraged.

Some extension of eminent domain to allow a private developer to deal with the hold-outs under careful restriction is desirable.

8. *Windfalls — Wipeouts*

The actions of government can lead to windfall profits for some property owners and wipeout losses to others. If present theoretical studies of windfall recapture and wipeout avoidance techniques are favorable, leading techniques should be subject to actual experiments. These experiments might well include "transferable development rights." Under that concept the severely restricted land owner can be permitted to transfer rights to develop to other less restricted land or to sell such rights to others for use on such land. Basic to this concept is the recognition of a separation of present use rights of land and the rights to its future development.

9. *Environmental Protection*

States must adopt methods for assessing the economic, social, and environmental impacts of substantial public and private land-use decisions, such that both costs and benefits can be determined in a timely and equitable manner. In this connection, states should consider the adoption of environmental impact study requirements for land development similar to those contained in the National Environmental Policy Act. Appropriate regulatory action at all levels of government is essential to prevent further environmental damage and abate existing problems expeditiously.

Special steps should be taken immediately to protect areas of critical environmental importance from damage by ill-advised development.

Management of federal lands should be improved through comprehensive planning. They should be protected from environmental damage that might result from such lease activities as over-grazing, over-logging, and ill-advised surface mining. Stringent standards of reclamation for severe disturbance from surface mining and other development on all lands should be required by law. Further, policies to improve the management practices for federal lands must assure coordination of federal with state, regional, and local land-use policies and plans.

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ABOUT THE AMERICAN ASSEMBLY

The American Assembly was established by Dwight D. Eisenhower at Columbia University in 1950. It holds nonpartisan meetings and publishes authoritative books to illuminate issues of United States policy.

An affiliate of Columbia, with offices in the Graduate School of Business, the Assembly is a national, educational institution incorporated in the State of New York.

The Assembly seeks to provide information, stimulate discussion, and evoke independent conclusions in matters of vital public interest.

AMERICAN ASSEMBLY SESSIONS

At least two national programs are initiated each year. Authorities are retained to write background papers presenting essential data and defining the main issues in each subject.

A group of men and women representing a broad range of experience, competence, and American leadership meet for several days to discuss the Assembly topic and consider alternatives for national policy.

All Assemblies follow the same procedure. The background papers are sent to participants in advance of the Assembly. The Assembly meets in small groups for four or five lengthy periods. All groups use the same agenda. At the close of these informal sessions participants adopt in plenary session a final report of findings and recommendations.

Regional, state, and local Assemblies are held following the national session at Arden House. Assemblies have also been held in England, Switzerland, Malaysia, Canada, the Caribbean, South America, Central America, the Philippines, and Japan. Over one hundred institutions have cosponsored one or more Assemblies.

ARDEN HOUSE

Home of The American Assembly and scene of the national sessions is Arden House, which was given to Columbia University in 1950 by W. Averell Harriman. E. Roland Harriman joined his brother in contributing toward adaptation of the property for conference purposes. The buildings and surrounding land, known as the Harriman Campus of Columbia University, are 50 miles north of New York City.

Arden House is a distinguished conference center. It is self-supporting and operates throughout the year for use by organizations with educational objectives. The American Assembly is a tenant of this Columbia University facility only during Assembly sessions.

AMERICAN ASSEMBLY BOOKS

The background papers for each Assembly program are published in cloth and paperback editions for use by individuals, libraries, businesses, public agencies, nongovernmental organizations, educational institutions, discussion and service groups. In this way the deliberations of Assembly sessions are continued and extended. Subjects to date are:

- 1951 — United States-Western Europe Relationships
- 1952 — Inflation
- 1953 — Economic Security for Americans
- 1954 — The United States' Stake in the United Nations
- The Federal Government Service
- 1955 — United States Agriculture
- The Forty-eight States
- 1956 — The Representation of the United States Abroad
- The United States and the Far East
- 1957 — International Stability and Progress
- Atoms for Power
- 1958 — The United States and Africa
- United States Monetary Policy
- 1959 — Wages, Prices, Profits, and Productivity
- The United States and Latin America
- 1960 — The Federal Government and Higher Education
- The Secretary of State
- Goals for Americans
- 1961 — Arms Control: Issues for the Public
- Outer Space: Prospects for Man and Society
- 1962 — Automation and Technological Change
- Cultural Affairs and Foreign Relations
- 1963 — The Population Dilemma
- The United States and the Middle East
- 1964 — The United States and Canada
- The Congress and America's Future
- 1965 — The Courts, the Public, and the Law Explosion
- The United States and Japan
- 1966 — State Legislatures in American Politics
- A World of Nuclear Powers?
- The United States and the Philippines
- Challenges to Collective Bargaining
- 1967 — The United States and Eastern Europe
- Ombudsmen for American Government?
- 1968 — Uses of the Seas
- Law in a Changing America
- Overcoming World Hunger
- 1969 — Black Economic Development
- The States and the Urban Crisis
- 1970 — The Health of Americans
- The United States and the Caribbean
- 1971 — The Future of American Transportation
- Public Workers and Public Unions
- 1972 — The Future of Foundations
- Prisoners in America
- 1973 — The Worker and the Job
- Choosing the President
- 1974 — The Good Earth of America
- The Future of Museums
- The Transnational Corporation

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