

## UNDERSTANDING URBAN PROBLEMS: THE CASE STUDY APPROACH

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This volume and the next volume include three case studies on urban problems and their legal solutions. These studies continue a tradition established when the *Journal* was founded as the *Urban Law Annual*.

The importance of case studies to an understanding of urban law cannot be underestimated, even though the number of useful case studies is all too limited as legal scholars continue to concentrate on case and statutory analysis. The absence of case studies is especially unfortunate in view of changes now occurring that are reshaping our cities. Although these changes are complex, one of the more important trends is the increasing and often bitter competition for urban space. Partly because of the energy crisis, but also because of changing tastes in living style and declining investment in suburban infrastructure, our older cities are more attractive as places in which to live and work. The cycle of urban decline and decay has halted and has been reversed in some cities, although not yet on a grand scale. A variety of interest groups compete for advantage in this changing urban scene. This competition has transformed the use of urban space with consequences for the legal doctrines governing urban land use that are not yet entirely clear.

The three case studies in this and the following volume all consider the urban space competition problem. A case study in this volume by two New York City planners examines the well-known conversion of industrial space to residential use that has transformed living ar-

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rangements there and in other cities.<sup>1</sup> These authors consider whether these conversions are, on the whole, a beneficial change in land use and discuss the zoning and other municipal regulations that govern the conversion process.

Volume 28, which follows, will contain a case study by lawyer and planner Peter Marcuse on the effect of the displacement and gentrification process on city structure in New York City.<sup>2</sup> Gentrification is an urban phenomenon that has been well-studied, but Professor Marcuse reaches some surprising conclusions on the effect of gentrification on displacement problems in New York City. He suggests a number of legal programs that can structure the urban changes made by gentrification and prevent the hardship imposed on those that are displaced by the gentrification process.

Volume 28 also contains a case study, again by a lawyer and planner, Dennis Keating, on the commercial rent control program in Berkeley, California.<sup>3</sup> Berkeley is an older, racially-integrated city in the San Francisco Bay area and is the site of a major University of California campus. Berkeley has experimented with a variety of legal controls to protect its residents from the potentially negative effects of urban displacement arising from the competition for urban space. The commercial rent control ordinance was adopted to protect small businessmen from displacement because of the competition for business space brought about by pressures for development in the Berkeley area.

Earlier case studies in the *Urban Law Annual* also considered the urban space competition problem. A case study I co-authored in the initial 1968 volume<sup>4</sup> examined the subsequent history of slum property owners whose holdings were acquired and demolished in an

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1. Hornick & O'Keefe, *Reusing Industrial Loft Buildings for Housing: Experiences of New York City in Revitalization and Misuse*, 27 WASH. U.J. URB. & CONTEMP. L. 157 (1984).

2. Marcuse, *Gentrification, Abandonment, and Displacement: Connections, Causes, and Policy Responses in New York City*, 28 WASH. U.J. URB. & CONTEMP. L. — (1985).

3. Keating, *The Elmwood Experiment: The Use of Commercial Rent Stabilization to Preserve a Diverse Shopping District*, 28 WASH. U.J. URB. & CONTEMP. L. — (1985).

4. Mandelker & Heeter, *Investment Activities of Relocated Tenement Landlords—A Pilot Study*, 1 URBAN L. ANN. 33 (1968). See also Nourse & Phares, *The Impact of FHA Insurance Practices on Urban Housing Markets in Transition—The St. Louis Case*, 9 URBAN L. ANN. 111 (1975).

early St. Louis slum clearance project. This study, still the only one of its kind, found that owners who had large holdings of slum property used the compensation they received from slum clearance to expand their ownership of slum property in the city. Owners who held few slum properties tended to leave the slum property market after their properties in the slum clearance area were acquired. This market behavior of slum property owners, if typical, has important implications for community development policy.

The 1970 volume of the *Urban Law Annual* contained a now-classic case study by law professor Dan Tarlock on the implementation of a comprehensive plan in Lexington, Kentucky through a series of regional shopping center zonings.<sup>5</sup> Professor Tarlock found that the shopping center location policies of the comprehensive plan disintegrated in the zoning process. His study of comprehensive plan implementation made him dubious about the effectiveness of the planning process in controlling land use and development. The debate on the effectiveness of the comprehensive plan continues.<sup>6</sup>

Case studies have the advantage of illuminating the problems created by legal rules and institutions as they are implemented and applied in real life situations. Case studies have the disadvantage in that they are episodic and limited to the study area which they describe. A case study approach still has much to teach us. The case studies in this and the next volume of the *Journal* should add to our knowledge of contemporary change in urban areas and the rule of the law in coping with it.

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5. Tarlock, *Not in Accordance With a Comprehensive Plan: A Case Study of Regional Shopping Center Location Conflicts in Lexington, Kentucky*, 3 URBAN L. ANN. 133 (1970).

6. For the pros and cons of this debate, see J. DiMENTO, *THE CONSISTENCY DOCTRINE AND THE LIMITS OF PLANNING* 48-51 (1980) (author favors mandatory planning and consistency of zoning with the comprehensive plan).



## **ARTICLES**

