

URBAN TRANSPORTATION SYSTEMS: PROBLEMS, POLICIES AND PLANNING

INTRODUCTION

The papers that follow are an effort to initiate a positive approach, within a legal framework, to the growing number of serious problems that have arisen in the field of transportation planning.

Of course, only a fraction of the total transportation problem is here addressed. At that, the highway mode has been emphasized principally, although that is by no means the larger part of the picture. But it is a very large part by any standard, and a growing one. The extensive impact of highway and related construction and operation is by now certainly well documented. The so-called "indirect" or "secondary effects," as we have come to call them, have evidently displayed implications which far surpass the objectives of simple movement. More important, however, is the realization of the many broad, sensitive policy implications that are involved in the making of transportation decisions.

When one speaks of policy in this way, one is immediately impelled to look to the law: public law to be more exact; enabling legislation to be even more explicit. It is here that public policy ultimately becomes imbedded (or is found to be lacking). It is here, in lawyer's talk, that one begins to look for "real teeth."

It was certainly not until very recently that significant growth took place in the transportation planning aspects of the public law section. But there were persistent people—certainly not all of them lawyers—who kept pressing for improvement. More significantly, one cannot help seeing the transportation problem as part of a growing movement to institutionalize urban planning policy within the framework of law in this country.*

*For further discussion of this topic, see: BERNARD, *The Development of a Body of City Planning Law*, 51 A.B.A.J. 632 (1965); and BERNARD, *The Comprehensive Plan Concept As A Basis for Legal Reform*, 44 J. OF URBAN L. 611 (1967).

Invited to participate in this section of the *Annual* devoted to *Law and Transportation Planning Policy* are professional practitioners from the fields of architecture, city planning and economics, as well as law—and not insignificantly they include individuals who themselves represent more than one of these fields. In their work they are drawn from the federal Department of Transportation; the architectural firm of Skidmore, Owings and Merrill, one of the principals involved in the “design concept team” approach in Baltimore; a state government agency responsible for relocation studies; the federal Department of Interior in its concern with conservation; and from the Executive Director’s office of one of the larger Regional Planning Agencies. Their experience thus cuts across the board. The general question posed to the participants, related to the improvement of laws dealing with transportation planning requirements from their particular field of interest. The responses received follow. It is especially gratifying that persons so busy with the responsibilities of their work contributed the time and effort to this publication.

Somewhat disappointing to the editor, however, was the absence of submissions on the subjects of aesthetic planning, and the so-called “adversary process” in planning: citizen participation and “advocacy planning.” We did canvas hard for contributions on these two important (and often controversial) subjects. We can now only hope that subsequent endeavors of this kind will offer the forum for their discussion and consideration within the special context of law reform. For certainly, if anything truly effective is to happen in this regard, it must find its expression in well-structured legal concepts and a meaningful and workable administrative framework.

The assistance and encouragement of Professor Daniel R. Mandelker of the Law faculty of Washington University, in the production of this section of the *Annual*, is gratefully acknowledged.

MICHAEL M. BERNARD**
Cambridge, Massachusetts

**A.B., University of Chicago; LL.B., Northwestern University School of Law; M.C.P., Harvard University; Admitted to the Bar, Illinois and New York; Member, American Bar Association; Full Member, American Institute of Planners; Visiting Professor of Urban and Regional Planning (Planning Law), University of Iowa; Member of the Executive Faculty, Boston Architectural Center.