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HAWAII ARCHITECT

August, 1979

Volume 8, Number 8

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A Goals Crisis Ahead for HS/AIA?

by JAMES N. REINHARDT, AIA President, Hawaii Society/AIA



Reinhardt

A series of seemingly unrelated events may well have set the stage for a major crisis for HS/AIA.

A series of ads appears in Honolulu newspapers arguing, in the most emotionally loaded terms, for increasing apartment densities in Honolulu. The ads, which are vigorously opposed by nearly all of the citizen and environmental groups, bears among others, the name of the HS/AIA.

Patricia Harvis, secretary of housing and urban development, in her address to the Harvard graduating class, criticizes our countries' intellectuals for not finding the challenges and the sense of purpose to excite and lead the U.S. in a productive and creative period. Our thinkers have dropped the ball and with no few frontiers to challenge, our society has been drifting aimlessly.

Cal Hamilton, director of planning for the City of Los Angeles, visits Honolulu as a speaker at a conference on planning issues sponsored by the City Council. He describes a 15-year-long planning process which has taken Los Angeles of 1965—a city he describes as planned by the developers and real estate interests through a step by step planning process to 1979 where a community produced General Plan, with population goals, is being implemented by a comprehensive series of neighborhood plans with zoning legislation and capital improvement programs closely keyed to the target populations, with transportation plans, service plans and even an environmental impact report network.

While L.A. as you see it today does not embody all of this planning thought, they know what kind of city they want, have set up a series of procedures to lead them in that direction, and they know where and what type development will occur next.

The ASLA, with its approximately 30 members sponsors a series of eight lectures about planning issues in the Honolulu community, receiving justifiably wide and enthusiastic community support.

The Development Plans are going to the Neighborhood Boards and the community discussions are about to begin.

What these occurrences jointly signal for the HS/AIA is the opportunity to examine our role and goals in the community planning discussion. Are we currently putting forth our best, most visionary ideas for Honolulu's future? Have we set ourselves to thinking—digging deep and hard—about what the current trends will bring if continued for 5, 10 and 25 years? Is that what we want? Is that what we think is the best we could have? What might we have if we really tried? How could we get from here to there?

What do we do if our best ideas are not in agreemen with those of our clients? Can we be brave and visionary, and still stay in business? Can HS/AIA sur vive a serious disagreement between one group com mitted to visionary solutions and another committed to representing client interests and protecting jobs? Is such a split likely? Necessary? Inevitable?

In the Bill 48/84 struggle, we have been criticizing the lack of an overall goal and of a step by step means for implementing that goal. With the beginning of the Development Plan Process, that step by step process is beginning. The members of the several Honolulu communities will provide their concerns. We architects are uniquely capable of turning ideas about the future into visable and understandable form. Utilizing our capabilities of both illustration and logic/analysis, we have a substantial, even vital role to play—if we choose to do so.

HS/AIA will be examining that choice in the coming months.



Planning and Minority

by DAVID L. CALLIES, LL.D. Professor, School of Law University of Hawaii

The place of planning in the regulation and control of land use continues to be a difficult and troublesome issue not only for landowners and government at all levels, but for the courts. As briefly discussed in an earlier article (the Penn Central case, Hawaii Architect, October 1978), the presence of a good plan will often lead a court to uphold and use controls which, on their face, may seem only marginally reasonable. In some instances, it may even lead courts to uphold and use controls which have the effect of excluding economic and racial minorities.

Briefly defined, exclusionary and use controls are those regulations upon the private use of land which make it difficult if not

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impossible for persons of moderate or poor means to find affordable housing in a given community. That such persons are often members of a particular ethnic group or groups make the practice particularly pernicious. In the past, such techniques have included:

1-Large lot zoning, thereby requiring a substantial investment in land prior to the construction of residential structures.

2-Coupled with number 1 above, low density restrictions, making it difficult to divide the high cost of land among an increased number of potential residential purchasers by building multifamily dwellings upon such expensive land.

3-Growth caps, which arbitrarily set a population level in a given

(in and

community, thereby excluding all but the moderately wealthy from gaining entry, as opposed to the growth which might be expected from an influx of those of moderate or poor means.

In January 1977, the Supreme Court of the United States virtually gave its blessing to a land use control policy carried out through zoning which was discriminatory in effect primarily on the grounds that this effect was produced by faithful adherence to a comprehensive plan which had other valid governmental objectives, and from which there was absent proof of a racially discriminatory intent or purpose (Village of Arlington Heights vs. Metropolitan Housing Develop-Continued on Page 6

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Planning and Minority

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ment Corporation).

THE FACTS

In 1971, the Metropolitan Housing Development Corporation (MHDC) sought from the corporate authorities of the Village of Arlington Heights, Illinois, the reclassification of a largely vacant 15-acre parcel of land from a zoning district permitting only single-family residences to a multiple-family zoning classification. With funds provided under Section 236 of the National Housing Act, MHDC planned to construct 190 townhouse units in two-story townhouse buildings, for senior citizens and families with low to moderate incomes.

Arlington Heights is located approximately 26 miles northwest of the city of Chicago. It is primarily a so-called bedroom suburb, as most of its residents are employed either in the city of Chicago or other more commercially developed areas nearby. Zoned largely for single-family detached houses, Arlington Heights has a population



of 64,000 in 1970, of which only 27 were non-Caucasian.

The 15-acre site as well as all the surrounding area was and is zoned in the R-3 single-family detached district. Single-family homes abut the property on two sides and vacant property owned by the Clerics of St. Viator abut the other two sides. The proposed development would maintain much of the existing open space, and would screen (with shrubs and trees) the development from homes directly abutting the property.

During early 1971, the Plan Commission of Arlington Heights considered the proposal at a series of hearings, at which the MHDC submitted studies demonstrating the need for housing of the type proposed. Much of the testimony at these meetings and hearings came from opponents focusing on the zoning aspects of the petition, stressing the single-family character of the neighborhood, the reliance by neighboring citizens upon that character, and Arlington Heights' policy concerning multiple-family zoning.

Adopted by the village board in 1962, and amended in 1970, the policy was that multiple-family zoning should constitute a buffer between single-family development on the one hand, and commercial, industrial, or other high intensity nonresidential uses on the other. The project would not meet this requirement, since the property was and is completely surrounded by single-family zoned property.

Following the recommendation of the Arlington Heights plan commission the village board of trustees denied the zoning request.

THE COURT DECISIONS

The federal trial court held that Arlington Heights was motivated by neither racial discrimination nor an attempt to discriminate against low-income groups, but rather by a desire to protect property values and the integrity of the village's plan. The Court of Appeals, however, reversed.

While agreeing that Arlington Heights was indeed concerned with the integrity of its plan, the court noted that whether refusal to rezone was discriminatory in effect was a more complex question. The court noted in particular the disparate impact on racial minorities that the refusal to reclassify the 15 acres would have in light of the historic context and ultimate effect of the decision. It noted that the general area of suburban Chicago in which Arlington Heights is located was experiencing rapid growth ir employment opportunities and population generally while continuing to exhibit a high degree of residential segregation.

While noting that no direct action attributable to Arlington Heights created the segregated housing pattern, Arlington Heights had done nothing to affirmatively dea with it. Observing that the village had never participated in or sponsored any low-income housing development (and had no current plans for building any) the court held:

[B]ecause the Village has totally ignored its responsibilities in the past we are faced with evaluating the effects of governmental action that has rejected the only present hope of Arlington Heights making even a small contribution toward eliminating the pervasive problem of segregated housing. We therefore hold that under the facts of this case Arlington Heights' rejection of the Lincoln Green proposal has racially discriminatory effects. It could be upheld only if it were shown that a compelling public interest necessitated the decision.

The court then decided that neither the buffer policy nor the desire to protect property values met the "compelling public interest" test and that therefore the equal protection clause of the Fourteenth Amendment was violated.

Unfortunately, the Supreme Court of the United States disagreed, holding that a land use policy carried out through zoning may be discriminatory in effect and yet be immune from constitutional challenge in the federal courts under the equal protection clause of the Fourteenth Amendment unless there is ample proof of a racially discriminatory intent or purpose.

Relying primarily on its decision a few months earlier in a case involving alleged discrimination in police hiring, the court reiterated that official action would not be held unconstitutional *solely* because it resulted in a racially disproportionate impact: "Proof of racially discriminatory intent or purpose is required to show a violation of the equal protection clause."

The court then set out four tests for discovering such intent, now required in order for it to find a violation of the constitution: 1—A clear pattern, unexplainble on grounds other than race, merging from the effect of the tate action even though the govrning legislation appears mutual n its face.

2—A historical background hich reveals a series of official ctions taken for invidious puroses.

3—A departure from normal rocedures or substitute standards the sequence of events leading the challenged decision.

4—Contemporaneous statenents decision-makers revealing acial motive.

The court sent the case back to ne Court of Appeals for the limited urpose of determining whether he evidence was sufficient to show violation of the Federal Housing oct of 1968.

In reconsidering the case, the ppeals court was stuck with its arlier determination that Arlington leights had not intended to disriminate. How then could it be ound to violate the Fair Housing ct, especially given the Supreme ourt's attitude about the imporance of intent to establish a constiutional claim? The Court of Apeals held that under some circumtances conduct that produces an nintentional discriminatory impact vould violate the Fair Housing Act -and therefore be illegal, regardess of the constitutional standards et out by the Supreme Court:

1—Evidence of discriminatory ntent.

2—Defendant's interest or moive taking the action complained f.

3—The strength of plaintiff's howing a discriminatory effect.

4—Whether the plaintiff seeks to compel the village to affirmatively provide housing or merely restrain he village from interfering with heir attempt to provide such iousing.

The Seventh Circuit Court of Appeals then sent the case back to the District Court to see whether there vas additional land in the village ivailable and rezoned for such iousing (which would go to point number 3 above), and if there were to such land available, the village efusal to rezone would constitute a violation of the Federal Housing Act.

And there the case sits. It is nteresting to note that the Village

Continued on Page 10



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PROFILE

Lawton & Umemura, Architects, AIA, Inc.



From left: Roy Yamamoto, Charles Salki, Herbert Lawton, Bob Umemura, Thomas DeCosta, Mildred Takahata, firm accoun tant Marvin Yoshita, and Robert Nitta.

Lawton & Umemura, Architects, AIA, Inc., was incorporated as a professional corporation in February 1977. The corporation was formed for the general practice of architecture and planning. The two principals are Herbert T. Lawton and Robert K. Umemura. Other members of the firm include Bob Nitta, Roy Yamamoto, Mildred Takahata, Thomas De Costa, and Charles Saiki. Of the seven members of the firm, four are registered licensed architects.

Lawton & Umemura is currently involved in a wide variety of projects. Current projects on the boards include luxury residences, condominium buildings, a school, a regional shopping center, an office building, hotels, commercial spaces, and a shopping/office complex.

Two major projects under construction are the Hyatt Regency Maui Hotel and the Kona Inn Shopping Village. Lawton & Umemura is the design architect for the Hyatt Regency Maui. Herb Lawton is the principal in charge. Lawton was also the project architect for the Hyatt Regency Waikiki at Hemmeter Center.

The Kona Inn Shopping Village is the conversion of the 50-year-old Kona Inn Hotel to a shopping/office mall complex. The shopping village includes approximately 70,000 square feet of shops, restaurants, and office space. Phase I—the conversion of the hotel—was



Hyatt Regency-Walkiki



Kona Inn Shopping Village





Hyatt Regency-Maui

completed early this year. Phase II s scheduled for completion in November 1979.

Design Philosophy

The design philosophy of Lawton & Umemura places as its primary objective an esthetically pleasing solution to its clients' needs and problems. Firm members, thereore, view themselves primarily as problem solvers. The design/ problem solving process involves ntensive "over the board" sessions with clients, consultants, staff, and principal. This approach s maintained throughout the project but is especially significant durng the programmatic and conceptual stages. Client input and awareness is constantly sought and maintained.

An integral part of the firm's ohilosophy is its absolute commitment, once a project is accepted, to meet all scheduled deadlines, time commitment, and budget requirements imposed on the project.

Drganizational Philosophy

A visiting client once commented upon entering the firm's office hat "the firm's philosophy was apbarent in the planning of its office." Except for a reception area and a conference room the office is bascally one large space. The princibals' desks—that also serve as desks for meetings—are drawing ables located at one end of the space. Members of the firm are constantly aware of what is hapbening in the office. An "open ofice" is maintained both in its physcal and philosophical approaches.

es. In the expansion from an office of two principals to its present seven-member firm, it was important to the principals that each new member be able to fulfill the role of 'architect" and all it entails from conceptual design to construction supervision. The design of the whole is not viewed as being separate from design of the parts.

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Planning and Minority

Continued from Page 7

of Arlington Heights did indeed find another tract of land, located close to its borders than the initial cen trally located tract-and it is nov surrounding property owners and other villages who have intervened in the case to complain about the results of such increased density and traffic problems not provided for or addressed by the village's comprehensive plan, which makes the new site (apparently agreed to by both the Village of Arlingtor Heights and the Metropolitar Housing Development Corporation) once again unsuitable as contrary to a comprehensive plan.

> CONCLUSIONS IN A HAWAIIAN CONTEST

Where then, does this leave comprehensive planning and discrimination in housing? First of all the Supreme Court is not interested in having the lower federa courts use the general language or the Fourteenth Amendment of the federal constitution as a tool of "opening up" racially segregated communities, regardless of the receptivity of the state courts to similar claims with respect to exclusionary zoning. One may conclude that the federal judicial system is not going to open up its doors to problems of local land use and zoning based upon vague allegations of economic or racial discrimination. This may have interesting implications for any Hawaiian statutes or ordinances which may have the effect of raising costs of housing in certain areas without visibly and demonstrably intending to do so.

Second, as the U.S. Supreme Court retreats from the area of discrimination in housing (Arlington Heights is only the last in a series of such cases), many state courts continue to charge ahead with vigor into the exclusionary zoning controversy. Most state constitutions have due process and equal protection provisions similar to those found in the U.S. Constitution and

state supreme courts show an increasing willingness to ignore federal court interpretations of similar provisions in federal constitution, and to use state constitutional provisions to strike down local zoning ordinances which are discriminatory in effect, regardless of motivation (Pennsylvania, New York, and New Jersey are prime examples: Township of Williston v. Chesterdale (Pa. 1975); Derenson v. Town of New Castle (New York 1975); and South Burlington County NAACP v. Township of Mount Laurel (New Jersey 1975).

It is therefore clear that the limited foreclosures of federal remedies brought by Arlington Heights will not end the inquiry into whether communities can so control their use of land as to exclude all development within price ranges of persons with low and moderate income. The forum will simply change from federal to state. So it may in Hawaii also. As the framing of land use issues here are, for reasons of history and geography, unique, that is a salutory development.

Finally, it is clear from this and both the Penn Central case and another recent decision involving referendum and zoning (City of Eastlake v. Forest City Enterprises), that the federal courts are increasngly willing to give substantial effect to seemingly unbiased land use decisions of local governments, if they appear "reasonable."

Increasingly the place to which both federal and state courts are ooking for that standard of reasonableness is the comprehensive plan. To the extent that one beleves in rationality in the process of making land use decisions at the governmental level and comprehensive plans and planning as the embodiment of that rationality, there is some hope that the court will veer away from its previous disregard of planning processes, in this the U.S. Supreme Court's most recent foray into the field of land use controls. As Hawaii embarks on a new round of plans and laws to implement these plans at both the state and local level, this new emphasis may form a positive backdrop for the enforcement of such plans in the courts of this state. A



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AIA Awards Retrospect

This issue concludes our HS/AIA Awards Retrospect with the years 1966, 1967 and 1969 There were no awards given in 1968. Next month we will begin a series presenting some o the award-winning buildings for 1979. As memories dim, it will be just as interesting and en-lightening to look back on the past decade of design as it was to review the decade of 1958 to 1969.

1966





Charles Rolles Residence Thomas O. Wells



Great Things Store Thomas O. Wells



SALBOSA

City Bank of Honolulu Takashi Anbe & Associates/ Walter K. Tagawa



Mr. & Mrs. John Bolman Residence Charles J.W. Chamberland



First Hawaiian Bank Pearl City Branch Haydn H. Phillips

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Marc Seastrom for Carol & Mary Vladimir Ossipoff & Associates



Marc Seastrom for Carol & Mary Vladimir Ossipoff & Associates



Hotel Pago Pago Intercontinental Wimberly, Whisenand, Allison & Tong



Kurt Johnson Residence George T. Johnson



Edward M. Brownlee Residence Wimberly, Whisenand, Allison & Tong



House for Hirata Builders Charles J.W. Chamberland



Royal Kaanapali Golf Course Clubhouse Wimberly, Whisenand, Allison & Tong

AIA Awards Retrospect

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First Hawaiian Bank/Hawaii Kai Branch Au, Cutting, Smith & Associates



First Federal Savings & Loan Building Lemmon, Freeth, Haines & Jones



Garden Court Office Building Donald D. Chapman



Robert Thurston Memorial Chapel Vladimir Ossipoff & Associates



Makua Alii Frank Slavsky & Associates

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Thomas Square Comfort Station Thomas O. Wells



AIA Awards Retrospect

Continued from Page 15



Waimea Village Inn Thomas O. Wells



The Black Angus Restaurant Thomas O. Wells



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Citizens Advisory Committee For the Oahu Metropolitan Planning Organization

by CHARLES A. EHRHORN, AIA

Providing citizen input into local transportation planning was the major reason for creation of the Citizen Advisory Committee to the Oahu Metropolitan Planning Organization (OMPO) in May 1977. OMPO is the transportation advisory body to the state and city. Its Policy Committee is made up of city and state legislative representatives.

The primary responsibility of the Citizen Advisory Committee is to advise the Policy Committee on the general activities of the Oahu Metropolitan Planning Organization the Overall Work Program, Transportation Improvement Program, Transportation Systems Management Element and the Long Range Plan. Each document represents a significant phase of the transportation planning that occurs annually for the Island of Oahu. Citizen involvement starts with the development stages and is not simply the review of final reports.

When the Citizen Advisory Committee was created, 23 organizations representing a wide range of community, business, professional, environmental and ethnic interest groups were invited to send representatives. Community interest has grown such that the Policy Committee has increased the membership to 34, thus including organizations who have regularly sent representatives to the monthly meetings.

Since its beginning, the Citizen Advisory Committee has devoted considerable time understanding the planning process and providing productive input to the Policy Committee. The recent completion of a poll of the transportation positions taken by the member organizations is an example of action taken by the committee as input to the Policy Committee. Member organizations were polled on four issues:

1-Construction of TH-3

2—Construction of the 14-mile bus-rail system

3—Construction of a deep draft harbor at Barbers Point

4-Construction of a new general aviation airport on Oahu

Not only were the positions of the member organizations sought, but more importantly, the reasons behind each position. It was recognized that each of these four issues

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is in a state of flux. Member positions will most likely change as new information becomes available. Each organization was free to select its own means for taking a position. As an example, the Hawaii Society of the American Institute of Architects developed its position based upon action taken by the HS/AIA Executive Committee and earlier polls of the membership. These positions were:

1-TH-3: No

2—14-mile bus-rail system: YES 3—Construction of a deep draft harbor at Barbers Point: Abstain

4-Construction of a new gener-

Continued on Page 20

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ОМРО

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al aviation airport on Oahu: YES

The Citizen Advisory Committee represents differing interests and knowledge of transportation among its members. Therefore, time has been spent informing the membership on certain relevant transportation issues. Monthly meetings have included speakers or panel participants. These have, included:

1—A presentation on the State Action Plan, prepared by the State Department of Transportation. The State Action Plan describes how the agency considers social, environmental, and economic concerns in planning for transportation.

2—Environmental considerations in transportation planning which saw panel participants addressing aesthetics, air, noise, and water quality.

3—Presentation on water transportation planning for Oahu which covered the future of Honolulu Harbor, Sand Island, and the downtown waterfront.

4—A panel presentation on the need for a general aviation airport for Oahu.

5—A presentation by the Department of Transportation Services addressing projected changes in land use around five stations of the proposed Bus-Rail System for Honolulu.

Those members interested in more in-depth or more technical issues, joined subcommittees in accordance with the directions established by the Policy Committee of the Oahu Metropolitan Planning Organization. Through the subcommittee structure, members are involved in more detailed transportation matters than is possible at the monthly meetings.

As an example, the Overall Work Program (OWP) subcommittee reviewed and assisted in writing proposed work elements for the OWP document. The document describes all transportation planning projects to be performed within a given year.

The subcommittee members wrote three work elements for the draft FY1980 OWP. These included,

"Highway Design and Beautifica-

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tion," "Noise Evaluation of Interstate Route H-1 between Punchbowl Street and the University Interchange," and "Air Traffic Noise Monitoring and Noise Complaint Correlation."

These work elements were presented to the Citizen Advisory Committee for review and approval before being submitted to the Policy Committee. The subcommittee also reviewed work elements prepared by the State and City agencies for the GY1980 OWP.

Two other very important subcommittees are the Transportation System Management Subcommittee and the Mass Transit Subcommittee. Both subcommittees have been instrumental in educating the CAC as a whole as well as working with various public agencies.

In summary, the Citizen Advisory Committee of the Oahu Metropolitan Organization continues to serve as an educational and discussion forum on transportation planning taking place in the community. Of particular importance, is the committee's role as an advisor to the Policy Committee, the Technical Advisory Committee and the Executive Director of the Oahu Metropolitan Planning Organization.

The committee's actions, reviews and comments on transportation elements serve as important input both to the organizations they represent, as well as to the Policy Committee. The future will continue to see a greater "two-way flow" of information between community interest groups and the Oahu Metropolitan Planning Organization.

Ehrhorn is an architect/planner with Belt, Collins & Associates, engineers, planning, landscape architects, and architects. He has been active on the Citizen Advisory Committee for OMPO and has recently been elected to serve as the committee's chairman for the coming year. He is currently secretary-treasurer for the Hawaii chapter of the American Planning Association. Following high school in Hawaii, he received his architectural degree from the University of Oregon and a Master of Urban Planning from Cornell University.



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FRANCIS EDWARD SKOWRON SKI; AIA Member; Territorial Architects, Ltd.; B. Arts and M. Arch. Syracuse University.

TOMM SMAIL; AIA Member: Wimberly, Whisenand, Allison, Tong & Goo; B. Arch., North Dakota State University. Spouse: Joyce.

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