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## Everything in its Place: Social Order and Land Use in America

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EVERYTHING IN ITS PLACE: SOCIAL ORDER AND LAND USE IN AMERICA.\* By *Constance Perin*. Princeton, N.J. : Princeton University Press. 1977. Pp. xv, 291. \$12.95.

There cannot be the slightest doubt that the reason for [municipal exclusion of low and moderate-income housing] has been to keep down local taxes on *property* (Mount Laurel is not a high tax municipality) and that the policy was carried out without regard for non-fiscal considerations with respect to *people*, either within or without its boundaries.<sup>1</sup>

We should certainly forgive the author of the influential *Mount Laurel* opinion for this statement; he surely wrote it with tongue in cheek, or designed it to pay lip service to political realities by allowing the township zoning officials to save face. After ruling their haven for expensive homes unconstitutional, he may have felt no need to rub salt into their wounds by speculating about any economic or racial discrimination. In fact, few of us will discuss our real reasons for attempting to keep types of housing unlike ours, or classes of residents different from ourselves, out of our neighborhoods. These are personal and private, they go beyond our abstract notions of societal fair play into the realm of personal, intimate preferences. In our society, especially our suburban society, the problem of residential land use and zoning often boils down to the questions: who will live next door or around the block, who will enter our spheres of privacy, who will see us with our hair down and our defenses relaxed, and who will peer through our windows. In few areas of public concern will so many thinking social liberals sound so reactionary.

In *Everything in its Place*, Perin attempts to uncover some of those hidden motivations. Lawyers beware: Perin is a cultural anthropologist, and she often speaks in the stilted and secretive language of her discipline. Nevertheless, her book supplies considerable insight into the reaction of established residents to new development.

Perin's central thesis is that persons who do not own a detached home are unstable, transitional people; she sees the reaction of homeowners to apartments as based on the homeowners' distaste for and distrust of these transitional persons rather than as a reaction against their form of tenancy per se. Owning a single-family home is the primary manifestation of success and decency in America; those who have not obtained it are not to be

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\* This book review was prepared by an Editor of the *Michigan Law Review*.

1. *Southern Burlington County NAACP v. Township of Mount Laurel*, 67 N.J. 151, 170, 336 A.2d 713, 723, *appeal dismissed*, 423 U.S. 808 (1975) (emphasis original).

trusted. While the strength of that mistrust may vary according to the type of multiple residence and the income of its occupants, Perin believes it often exists when the multi-family units are luxury apartments as well as when they are low-income subsidized housing, when they are condominiums as well as when they are high-rise rental buildings.

Perin's thesis grew out of interviews with participants in land development in Houston and Philadelphia. While she tells us little about the interviewees,<sup>2</sup> we learn that they include municipal officials and developers, men and women, whites and blacks. Homeowners, tenants, and other housing consumers, however, have no direct voice.<sup>3</sup> If, as she claims, Perin's objective is "[f]irst and foremost . . . a study of concepts Americans use in thinking about land use,"<sup>4</sup> those omissions seem unwise.<sup>5</sup> Nevertheless, the insights she gleans from her sample are pointed and provocative. She begins her analysis by arguing that, to a large degree, we realize the American Dream by owning a single-family detached home.<sup>6</sup> The truth of that perception appears not only in the comments of developers, but also in the pronouncements of public officials<sup>7</sup> and in the fact that the public sector still heavily subsidizes homeownership. Owning a home, she attempts to show, is a reward for an American life well-led, a tangible sign of success and self-worth. Unless he is an utter failure, or a retiree who has already owned a home and earned the status of homeowner, a tenant is merely climbing the ladder to homeownership, earning the right to pass into the mainstream as an immigrant earns the right of passage into society.

Most homeowners, of course, once endured an involuntary

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2. She interviewed three mortgage bankers, an appraiser, a public assessor, a city councilman involved in real estate, an elected municipal executive, two federal executives, three executives of large corporations involved in development, one architect and planner, a group of six development executives meeting together, and four "civic leaders concerned with development issues." C. PERIN, *EVERYTHING IN ITS PLACE*, 17-18 (1977) (hereinafter cited by page number only).

3. The four civic leaders might well have attempted to speak for housing consumers, and each of the interviewees is, of course, also a housing consumer. But all of them had a significant vocational or avocational involvement in housing; none were "just" homeowners or tenants.

4. P. 20.

5. This lack is partially compensated for by her use of earlier studies by others.

6. Perin briefly discusses the status of condominiums and cooperatives, which seem to be an intermediate step in the process.

7. A particularly revealing statement of Americans' attitudes toward homeownership is seen in a speech given by then Secretary of Housing and Urban Development Carla A. Hills before the American Bar Association in 1975, which is reproduced by Perin (p. 78).

period as a renter. Nevertheless, Perin asserts, homeowners are uncomfortable with persons who rent. The discomfort does not come from the physical structure, or from the crowdedness, or from any of the side effects of apartment buildings. Rather, Perin suggests, her interviews and other studies indicate that the homeowner distrusts the transitional, unstable renter, the trickster, the person between categories, the "socially polluting and dangerous."<sup>8</sup> While this sounds mystical, and while Perin does not fully explicate the reasons it should be so, a practical aspect of this categorization shines through: "The low cultural rating bequeathed to renters . . . and central cities sharpens the definitive achievements of their opposites and makes more crisp the attainments of the categories owner . . . and suburb, sweetening the struggle to achieve in so categorizing a world."<sup>9</sup>

To appreciate Perin's thesis, however, one must see the weakness of more conventional explanations of the usual opposition to multi-family housing. Perin mentions these explanations, but she does not effectively refute them. Her failure to do so makes her argument, though attractive and probably correct, ultimately unpersuasive. Those opposing the encroachment of multi-family housing in their single-family residence neighborhoods recite a litany of fears: decreased property values, increased taxes, congested traffic, obstructed light and air, ugliness, foul air, noise, heightened danger of crime, and so forth.<sup>10</sup> Quite clearly, any one of these consequences might actually be caused by a particular subdivision, apartment complex, or other development, and might even justify prohibiting that development.<sup>11</sup> But the first complaints—of increased property taxes and decreased property values—are the ones most frequently heard and most often believed at zoning hearings and other development forums. Perin's analysis would have been tightened had she pointed out that neither deserves the respect it receives.

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8. P. 110.

9. P. 125.

10. For an interesting discussion of problems foreseen in land use changes, see Williams, *Planning Law and Democratic Living*, 20 *LAW & CONTEMP. PROB.* 317 (1955). See also the discussion of the objectives of land-use controls in J. DELAFONS, *LAND-USE CONTROLS IN THE UNITED STATES* 32-40 (2d ed. 1969).

11. Some of the feared consequences of land-use changes, particularly the encroachment of persons of different racial and economic backgrounds, should never result in the valid prohibition of the proposed change. Few plaintiffs allege those fears as part of their complaints, however. For a repulsively blunt exception, see the complaint cited in Babcock & Callies, *Ecology and Housing: Virtues in Conflict*, in *MODERNIZING URBAN LAND POLICY* 219-20 (M. Clawson ed. 1973).

Homeowners widely believe multiple dwellings raise property taxes by both demanding exorbitant municipal services and returning negligible property taxes to the fisc. These beliefs arise whenever new growth threatens. Former Governor McCall of Oregon, when trying to discourage immigration to his state, cited a study which showed that each new 1,000 residents in a community include 270 families, 200 school children, 19 blind persons, 68 aged persons, 11 juvenile delinquents, 16 alcoholics, and 30 mentally retarded children. He said that "by no stretch of the imagination will these residents pay their own way, not for years and possibly not forever."<sup>12</sup> This argument is not wholly unimpressive. Multi-family units, of course, require almost all municipal services, including schools, roads, utilities, police and fire protection, garbage collection, and street lights. And since, on the average, tenants are poorer than homeowners, they may need more social services. Finally, since a single dwelling unit in a multiple residence typically costs less to build than a single-family house, its assessed valuation for property tax purposes should be less per family, and the landlord will pay less property tax per family. Thence the conclusion that apartment buildings do not carry their own fiscal weight.

But while that conclusion may be true of some multi-family housing, the presumption that it is fails for two reasons. First, multi-family units are frequently assessed at a higher percentage of full market value than detached homes. For example, in 1973, Cook County, Illinois, assessed single-family homes at twenty-two percent of market value and apartment buildings at thirty-three percent of value.<sup>13</sup> While this was an official policy, politically sensitive assessors not uncommonly arrive at the same result without announced policy—single-family homeowners tend to have a lot of political clout. Second, multi-family units in fact often demand fewer municipal services than detached houses, since their compactness concentrates many people in a small area. This reduces the road miles, sewer and water mains, street lights, and utility lines. It also lessens the distances travelled by police, fire, and garbage vehicles and facilitates better public

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12. Quoted in R. HEALY, *LAND USE AND THE STATES* 18-19 (1976). It is not mentioned whether Governor McCall realized that the figures were probably true of the earlier residents, now fighting to keep out newcomers, although they could not "pay their own way" at first either.

13. Berry & Bednarz, *A Hedonic Model of Prices and Assessments for Single-Family Homes: Does the Assessor Follow the Market or the Market Follow the Assessor*, 51 *LAND ECON.* 21, 21 (1975).

transit routes. Fairly large apartment complexes also often supply some of their own public amenities, such as off-street parking, outdoor lighting, and recreation facilities. The greatest savings from multi-family housing can come from the usual characteristics of its residents. Single people, young couples, and retirees are a large proportion of tenants, and they are less likely to have school-age children than the owners of detached homes.<sup>14</sup> These two factors taken together often mean multi-family units save cities money<sup>15</sup> and show more favorable budgetary effects than do single-family homes.<sup>16</sup> The tax benefits of many apartment developments will not shock zoning officials: studies showing those benefits have been around for years. As one author noted, "Although some [fiscal studies] have shown that multi-family units can pay their way, this finding has been ignored, thereby underscoring the primacy of suburban goals of homogeneity despite contrary fiscal evidence."<sup>17</sup>

Perin does discuss, briefly, the way multi-family units in a single-family-residence neighborhood affect property values, but her analysis needs amplification. The notion that multi-family residences tend to reduce the property values of existing homes seems legitimate.<sup>18</sup> Property values are sensitive to many factors of varying tangibility; the effect of an apartment building on neighborhood property values will depend on such things as the appearance and size of the complex; the income level of its tenants; traffic congestion, noise, and other by-products of the complex; and the amenities it supplies such as parks and playgrounds open to neighborhood residents. The simple fact remains, however, that, almost inevitably, the encroachment of multiple residences into a single-family home neighborhood will reduce the

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14. See, e.g., Sternlieb & Burchell, *The Numbers Game: Forecasting Household Size*, in 2 MANAGEMENT AND CONTROL OF GROWTH 555 (1975).

15. See, e.g., L. SAGALYN & G. STERNLIEB, ZONING AND HOUSING COSTS 14-16 & n.28 (1973) and sources cited therein; Ashley Economic Services, *The Fiscal Impact of Urban Growth*, in 2 MANAGEMENT AND CONTROL OF GROWTH 543 (1975). See generally Ellman, *Fiscal Impact Studies in a Metropolitan Context*, in ECONOMIC ISSUES IN METROPOLITAN GROWTH 8 (P. Portney ed. 1976).

16. See, e.g., James & Windsor, *Fiscal Zoning, Fiscal Reform, and Exclusionary Land Use Controls*, 42 J. AM. INST. PLANNERS 130 (1976).

17. L. SAGALYN & G. STERNLIEB, *supra* note 15, at 15.

18. Some see property-value maximization as the primary objectives of land-use controls, or at least as the primary measuring device to determine whether controls are "efficient." See, e.g., R. BABCOCK, *THE ZONING GAME* 116-20 (1966); Sonstelie & Portnoy, *Property Value Maximization as a Decision Criterion for Local Governments*, in ECONOMIC ISSUES IN METROPOLITAN GROWTH 48 (P. Portney ed. 1976).

value of the homes.<sup>19</sup> This simple truism is reflected in the literature of property appraisal, which emphasizes locational factors, particularly the presence of different uses nearby, as the primary determinant of residential property value.<sup>20</sup>

The problem with looking primarily at property values is that to do so begs the question: that a multiple residence in a single-family neighborhood reduces some property values merely demonstrates that single-family homeowners (and, more importantly, homebuyers) do not like to live near multiple residences. We dislike apartments in our neighborhood because they reduce our property values; apartments reduce our property values because we dislike them in our neighborhoods. As Norman Williams, a noted authority on planning law, put it:

When the argument is made that property values will be affected, what is meant is simply that some factor is present which some people may dislike, and which may therefore tend to result in a net reduction in the number of people interested in buying property in the area affected—thus tending to push values down.<sup>21</sup>

The problem, as Professor Williams later notes, is determining what factors cause the property values to decline.<sup>22</sup> Perin's book reveals those factors. Housing consumers, she notes, are also housing producers—the house we buy today we may sell tomorrow, so we will do our best to keep out anything (such as the "pollution" of renters) which might make our property harder (and less profitable) to sell.

Using the single-family house as the benchmark of "making it" in American society inflicts several costs. Perin notes that the economic costs of sprawl, exacerbated by the fuel crisis, pale in

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19. An interesting anecdotal account of the property-value impact of apartments is contained in R. BARCOCK, *supra* note 18, at 75-79. For a theoretical model which attempts to measure this impact, along with other factors, see Berry & Bednarz, *supra* note 13.

20. See generally S. KAHN & F. CASE, REAL ESTATE APPRAISAL AND INVESTMENT 70-79 (1977); R. RATCLIFF, MODERN REAL ESTATE VALUATION 150-51 (1965).

21. Williams, *supra* note 10, at 334.

22. Professor Williams notes that our sympathy for some of the value-reducing factors will be greater than for others:

Some factors which affect property values (or which are thought to do so) are legitimate subjects for public regulation, by zoning or otherwise; others are not. For example, the invasion of factories and the movement of Negroes into a residential neighborhood both may be thought to affect property values. Yet one is obviously a proper subject for zoning protection, while the other is not.

Williams, *supra* note 10, at 334. It is not at all clear, as Professor Williams acknowledges, that the movement of blacks into a residential neighborhood affects property values. See KENTUCKY COMM. ON HUMAN RIGHTS, PROPERTY VALUES IN LOUISVILLE'S CHANGING NEIGHBORHOODS (1967).

comparison to the social cost, the interaction and human richness missed, and the environmental costs. Moreover, owning a single-family house is becoming impossible for a growing segment of the population. The cost of single-family homes has grown rapidly in recent years, and the availability of moderate-cost housing within an affordable commuting distance of major employment centers has declined greatly. Inner-city neighborhoods, long the domain of low- and middle-income families, have now become fashionable for the affluent young, driving the cost of this housing out of the reach of most. As the multiple dwelling becomes the long-range possibility for more of society, single-family homeownership as the requisite proof of success dooms many to a stigma of failure. As Perin points out, if we are to avoid such stigmatization, our notion of the detached home as the reward for reaching the pinnacle of American life must be replaced by a value system which establishes "rewards . . . in the form of authentic self-respect and social esteem in the social arenas of work and everyday life."<sup>23</sup>

Despite her occasional repetitiveness, some unnecessarily complex jargon,<sup>24</sup> and some minor errors in legal analysis,<sup>25</sup> Perin's work is thought provoking and important. Planners, developers, environmentalists, and lawyers cannot prepare their cases without appreciating the stake of their opponents in the suburban status quo. The single-family home is much more than a nice, roomy place to live, much more than an investment. It embodies our highest dreams and is the first line of defense against our greatest fears. In short, Perin teaches us that there is no use talking about tax benefits, "fair share," and rational planning when the other side sees the destruction of their basic value system, their measure of self-esteem. To change our system of land use, especially our idolization of the single-family detached home, we must change some very basic American self-perceptions.

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23. P. 217.

24. Of course, Perin's language is probably clear to cultural anthropologists. I suspect that my understanding of the language of that discipline equals most anthropologists' understanding of legal jargon.

25. For example, she implies that the plaintiffs in *Warth v. Seldin*, 422 U.S. 490 (1975), would certainly have been held to have standing to litigate the denial of a specific building permit, at best a very presumptuous statement (p. 9). Her analysis of a portion of the American Law Institute's Model Land Development Code is also somewhat deficient (p. 187).