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ABSTRACT

Panel: Land Use - Persuasion or Regulation

The Best of Both Worlds

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Forty-two percent of the land in the U.S.A. is as regulated as government can dictate--and certain special interests will tolerate. Today the public owns 947 million acres, of the Nation's 2,264 million acres, certainly the ultimate in land use control.

On the 58 percent--1,317 million acres--still in private ownership, the Frontier Days of land use decision making--that time when it was nobody's business but the land owner and perhaps a zoning board on how a piece of property was used--are about gone. Increasingly, various levels of government, for example, must take more interest in whether prime agricultural land can be urbanized or critical wetlands can be filled in.

Changes in land use should and will more and more be a matter of public governmental concern. The question to be answered is not whether land use will be influenced either through persuasion or regulation--but how and by whom. The concern is that in the quest for the best of both worlds we end up with only the weak points of persuasion and regulation.

In every society it is always a minority (hopefully, elite) that governs; but in a good society it governs more by persuasion than by coercion. Even by definition persuasion--to be successful--must be able to urge, entice, impel, or convince.

Although the U. S. is dominantly a free enterprise, private ownership society--extensive public ownership of land is also firmly held. We have also gradually concluded that private rights in land must be restricted or limited in the general public interest. Land use controls now include zoning for development, scheduling public projects, public health codes, subsidies, tax incentives, and more recently class action suits.

Therefore, the U. S. must seek the proper relation between public authority and private rights in land. Private ownership of land has always rested upon public acceptance, as reflected in laws and customs, but the rights and privileges of that ownership have changed--and can be changed in the future.