



Book Review

THIRTEEN PERSPECTIVES ON REGULATORY SIMPLIFICATION, ULI RESEARCH REPORT # 29

Annette Kolis (ed.). Urban Land Institute, Washington, D.C., 1979.
144 pp. \$10.75 (\$8.00 for APA members).

If expanding state and local initiatives in growth management constituted the so-called silent revolution of the early 1970s, the second half of the decade has sprouted a quickening, contrasting revolution of regulatory "simplification." More positive and broader than mere regulatory backlash to the earlier environmental and growth management inventiveness, however, this new movement can even be seen as an extension of that preceding movement, endeavoring now to improve *efficiency* of development guidance systems while at the same time maintaining or even increasing *effectiveness*. In its most responsible definition, the new phase of reform also continues to aim at improving *fairness* in our regulatory system. Thus, while not at odds with the philosophy of "less is more," the current regulatory reform movement, as discussed in this book, clearly is something more than "less regulation."

Thirteen Perspectives on Regulatory Simplification is a small softcover book that grew out of a 1978 Urban Land Institute seminar on regulatory reform. Its simple title is not as catchy as some of its predecessors on the topic -- *The Permit Explosion: Coordination of the Proliferation* (Urban Land Institute, 1976); *Groping Through the Maze* (The Conservation Foundation, 1977); *Housing Costs and Government Regulations: Confronting the Regulatory Maze* (The Center for Urban Policy Research, Rutgers University, 1978); and Bernard Frieden's *The Environmental Protection Hustle* (The MIT Press, 1978), all of which are recommended for the planner interested in regulatory reform. Nevertheless, the range of ideas in this monograph is broader and there is more attention to solutions. There is a crisp freshness, too, resulting in part from the authors simultaneously thinking through ideas and expressing them in the heat of seminar dynamics. Of course, this also means that the ideas are far from cut and polished gems. Furthermore, as in many such proceedings-like publications, there is no attempt to eliminate redundancy and less relevant material or to otherwise shape the kaleidoscope of ideas into a holistic presentation. An exegesis of a sort does exist in W. Paul O'Mara's "Regulation: Where Do We Go From Here?" *Urban Land* (ULI, May 1978), although it is a bit too journalistic and is based on the seminar itself rather than on the after-papers that comprise this book.

The conceptual overview section contains three excellent papers by Daniel Mandelker, Robert Einsweiler and Bernard Frieden. This reader found Einsweiler's superlative discussion of the problems, issues and potential solutions to be the best of any of the thirteen papers. He sees seven key targets for regulatory reform: (1) submission criteria, (2) development standards, (3) procedural requirements, particularly the number and sequence of review and permit decision steps and the degree and type of participatory activity allowed, (4) requirements for financial participation in the provision of infrastructure, (5) the uncertainty of permitting decisions and future public capital improvement programs, (6) the need for developers to assemble large land holdings in order to justify large investments in infrastructure and protect their investment, and (7) holding costs, perhaps the most important implied impact of the other six target areas.

Mandelker points to uncertainty and delay as the fundamental sources of increased development costs due to regulations. He also points out, however, that these two problem sources derive in turn from two trends that run deep in our regulatory system, especially at the local level. One is the trend toward increasingly discretionary permit decisions. The other concomitant trend is toward postponing decisions about the suitability of development to the time that a specific proposal is made, rather than the earlier time of ordinance adoption. Mandelker is not very sanguine about the possibilities for significant reform given that the sources of the problem lie so deep in the nature of our regulatory systems.

Bernard Frieden picks up a variation of the equity issue raised almost as an afterthought by Mandelker. Frieden complains, rather eloquently, in a short version of his book, *The Environmental Protection Hustle* (The MIT Press, 1979), that environmental regulation is not so much a system for managing growth to protect the environment as an exclusionary device for stopping growth, and without achieving environmental protection.

The middle section of five papers on "implemented solutions" is the least stimulating. Perhaps this is more a reflection of the state

of practice than a limitation of the authors. Three state level approaches are described: Washington's Environmental Coordination Procedures Act of 1973, Vermont's Act 250, and Florida's variation of the American Law Institute's model land development code. Unfortunately there is an overemphasis on describing the programs and an underemphasis on extracting lessons from them. The three papers on state level approaches are worth skimming at least. And they do serve to show that the movement toward greater state initiative in land management in the early 1970s can also be interpreted as an effort at making the state-local regulatory system more efficient and minimally cumbersome.

Of the two papers on locally implemented solutions in this section, Wickersham's is the best, and it is excellent. The Breckenridge, Colorado Development Code is a truly innovative alternative to zoning, winning AIP's Meritorious Program Award in 1978, and Wickersham is not reluctant to generalize from that experiment.

The third and final section of the report comprises five papers on suggested solutions that have not necessarily been implemented. An ASPO representative, two lawyers, two housing researchers, and two representatives of the National Association of Home Builders provide an appropriately broad range of perspectives. A jolt is offered in the thirteenth and last paper by Richard Babcock. Seeing no likelihood that any scheme to simplify and rationalize the permitting system will work, he proposes "draining the swamp" instead of "redecorating it." Abolish permitting, says he, with tongue only partially in cheek, and substitute the simpler system already operative in most industries, i.e., the developer who violates established rules takes the risk of law suits.

For the book as a whole, given the diversity of authors' perspectives there is no neatly summarizable message. One is struck by

several themes however. First, most of the authors recommend (explicitly or implicitly) procedural simplification rather than true reform of program content and institutions. Thus, the authors express little support for the so-called "one-stop, single permit" solution, for example. They opt instead for "coordination" through a "single entry point-one avenue through several permits-single exit" approach, which does not change the number of permits necessary, does not change who makes the decisions, and does not alter the criteria that are applied. Second, no one is proposing solutions at the federal level, a curious omission given general agreement that uncoordinated federal programs are a major source of inefficiency all the way down the governmental line. Alas, feasibility again seems to be the explanation. Third, several authors urge, and struck a responsive chord with this reviewer, that reform should expand beyond simplification of separate ordinances to encompass rationalization of the regulatory system, and more significantly to the rationalization of the total guidance system of planning activity, investment programs and incentives that coexist with the regulatory system and support or detract from its efficiency, effectiveness, and fairness.

Comprehensive understanding and complete answers are not found in *Thirteen Perspectives* but there are a good many ideas for us to consider and debate. Give it a read. Then keep looking to APA's *Planning* magazine which lately has had an article on regulatory reform in almost every issue. Finally, anticipate a HUD publication late this summer, tentatively titled *Streamlining Land Use Regulation: A Guidebook for Local Government*, written by APA's research staff.

Dr. Edward J. Kaiser is a professor in the Department of City and Regional Planning at the University of North Carolina at Chapel Hill where he teaches land use planning.