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Environmental Justice and
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Environmental Justice and Land-Use Planning

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QUICKNOTES

Environmental Justice and Land-Use Planning

Planning board and commission members, and planning directors and their staffs, need to be mindful of the environmental justice implications of everything they do—from the plans they prepare, to the policies they recommend, to the actions they take in approving development projects. Environmental justice (EJ) means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. EJ communities, which encompass environmentally burdened and marginalized communities that may include people of low income and communities of color, are typically identified as those areas that host a disproportionate impact of environmental hazards leading to, among other things, public health and economic disparities as compared to non-EJ communities.

In 1994 President Clinton issued an Executive Order (E.O. 12898) requiring, among other things, that federal agencies strive to make “achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States. . . .” The U.S. Environmental Protection Agency (EPA) hosts an Office of Environmental Justice that provides information, guidance, and data to federal and state agencies and to local governments to assist in meeting EJ principles and goals. EJ can best be achieved however, when fully incorporated into local land-use planning and decision making.

ENVIRONMENTAL JUSTICE AS A LAND-USE ISSUE

Commenting on the landmark U.S. Supreme Court decision in *Euclid v Ambler* (1926), Alfred Bettman noted that the decision: “. . . presents the conflict not as one between the individual and the community, but rather as between different communities, different social groups, or social interests, which is, when profoundly comprehended, true of all police power constitutional issues.” EJ goes to the core of traditional land-use decisions: choosing sites for locally unwanted land uses (LULUs) (geographic equity); the process for deciding where to site these unwanted land uses, including the location and timing of public hearings (procedural equity); and sociological factors, including which groups hold the political power inherent in land-use decisions (social equity). Planners are in a unique position to address EJ concerns and ensure that EJ principles are reflected in the local land-use planning and decision-making processes.

Comprehensive Plans

The process of developing a local comprehensive plan (known as general plans or master plans in some states) provides local governments with the opportunity to consider strategies and policies regarding such issues as land use, housing, economic development, transportation, community facilities and infrastructure, environmental protection, human services, historic preservation, and natural and manmade hazards. Following the lead of California, EJ should be an element of these plans.

PUBLIC PARTICIPATION IN PREPARATION OF THE COMPREHENSIVE PLAN

Planners and local officials should provide traditionally underrepresented populations with a meaningful role in the future development of their neighborhoods and communities through active public participation in the development of comprehensive plans. This requires a proactive approach that may entail public notice and information in more than one language, publication or posting of

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notices in conspicuous locations around the community, and not simply complying with minimum statutory notice requirements.

Zoning to Implement the Comprehensive Plan

When a municipality is ready to implement its plan or vision, typically it does so by enacting a zoning ordinance. Drafters of zoning ordinances must ensure that the laws adequately address EJ principles to eliminate disparate environmental impacts among various communities and neighborhoods. They can do so by prohibiting LULUs in minority and low-income neighborhoods, or by imposing enhanced mitigation requirements. Community representatives can also seek rezoning to achieve EJ goals. They will be most successful if they seek rezoning before specific controversies arise and if they suggest reclassifications that do not drastically decrease the value of the land.

Eliminating Nonconforming Uses

Undesirable uses are zoned out but preexisting uses may continue as nonconforming uses. Municipalities have the ability to eliminate through amortization nonconforming uses that pose health and environmental problems. This can be an effective tool for improving conditions in EJ communities.

Connecting Zoning and Environmental Review

A community impact statement (CIS) provides a mechanism for local representatives and groups to formulate their own statement of what they believe impacts will be if a particular use is approved or allowed to expand. One potential benefit of preparing a CIS is that it can be a stand-alone review, totally separate from an environmental impact review, which may not always be conducted under the “control” of members of the impacted community. If conducting CIS reviews becomes part of local zoning reviews, local officials could be required to take the results of a community group’s CIS into consideration, to hold one or more public hearings on the document, and to use the CIS as a vehicle for negotiating on behalf of residents of the impacted community with the applicant for a new or expanded facility. Requiring that a CIS be prepared and used in local zoning decisions could be important for impacted communities who might not otherwise have access to or influence over local decision makers and the results of other environmental reviews.

Membership on Local Boards and Commissions

In most localities, EJ considerations will be factored into local planning, zoning, and siting decisions only where the impacted communities are represented on the bodies empowered to make these critical decisions. A 1987 survey by the American Planning Association revealed that a majority of planning board members were older white males working in areas such as business, law, engineering, education, and real estate. Because boards lacking in diversity may disregard EJ impacts, either intentionally or unintentionally, planners should encourage appointing entities to consider the composition of the community to ensure fair representation of all people in the jurisdiction.

OTHER OPPORTUNITIES FOR ADVANCING EJ POLICIES

The following is a list of guiding principles that should be considered to advance other EJ policies:

1. Enact conditional use standards that restrict uses that could create EJ concerns.
2. Create overlay zones to cover predominantly minority and low-income neighborhoods.
3. Use performance zoning to limit environmental impacts, rather than just regulating land uses.
4. Place buffer zones between communities and uses with negative environmental impacts.
5. Impose exactions and impact fees on developers to help fund mitigations for minority and low-income communities.
6. Require zoning and planning board members to attend training sessions on EJ.

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