

much needed successor volume, and it, too, will become a valued resource.

Nonlawyers will find most of the book understandable. More importantly, even though this is not a planning practice book with model regulations and the like, this comprehensive and well organized book will be highly useful to planners. In addition to covering landmark cases and different takings tests, the authors devote entire chapters to such topics as growth management, wetland protection, exactions, billboard controls, and water rights. While property law junkies might read it cover to cover, most readers will only read the portions relevant to their concerns.

The first three chapters provide background for those who are new to takings law. The next five deal largely with legal procedure. While most planners would not be interested in such issues as the right to a jury trial, planners could benefit from the discussions on ripeness, standards of review, and other issues more closely related to their work. Clear chapter titles and subheadings make finding topics of interest easy. The authors also place much of the esoteric legal discussion and citations in the copious footnotes, which lawyers will appreciate. This is a serious legal text that Island Press should keep current with frequent supplements.

Chapters 9 through 14 explain the different takings tests that the Court has developed. Despite the attractiveness of bright-line rules, the Court has only developed such rules for total takings, permanent physical occupations, and permit conditions of an improper nature or degree. Permanent physical occupations refer to cases in which the government or a private party with government permission occupies a portion of somebody else's land either temporarily or permanently. Bright-line rules refer to rules that are clear and that provide easily predictable results in the majority of cases. For example, while rules for setbacks are unambiguous, aesthetic zoning requires more judgment to implement. Takings jurisprudence typically requires a number of factors to be balanced on a case-by-case basis—an ad hoc application of the different takings tests. Consequently, there is a good deal of uncertainty regarding the outcome.

The discussion of all the takings tests

is nicely organized. It begins by distinguishing a "facial" challenge, which claims a regulation is unconstitutional under all circumstances, from an "as-applied" challenge, which claims a regulation is unconstitutional in an actual factual context. Then, rather than approaching cases in chronological fashion, the authors begin with the easier physical occupation cases before covering the more complex regulatory cases.

The next 15 chapters focus on specialized topics, and planners will find the discussions helpful. For example, if your city is considering a building moratorium, the authors give "a Cook's tour of a few recent cases [that] may help in understanding the boundaries of acceptable moratoria" (p. 273). Using a format that is followed throughout, the footnotes point the planner to instructive examples from other jurisdictions.

Fearing huge money damages, many regulators have become overly cautious. While the Court's conservative majority has weakened a well established tradition of judicial deference toward land regulation, the authors repeatedly reassure readers that "[g]overnment continues to enjoy ample room to regulate land use responsibly without significant chance of being made to pay" (p. 9). Still, as they point out, good planning is essential: "The new burden of justification will require government regulators to rely upon sound planning and to demonstrate its relationship to the tools they use" (p. 254). Unfortunately, many agencies and cities won't be willing to pay for good planning and will instead forego the benefits of regulation.

The authors include two appendices. Appendix A contains briefs of major decisions, allowing for quick review. Appendix B contains a flowchart for analyzing a takings claim, which might help the takings newcomer understand where the different legal tests fit.

I close with two brief comments. First, while I enjoyed seeing photographs of the sites of the landmark cases, maps would have been far more useful in understanding them. Second, even though the authors acknowledge that the conservative justices have revised established law and created new law, they regrettably chose to avoid the debate over this judicial activism. Some key cases involved a sharply

divided Court, and the debate over the development of new tests is far from over. The authors could have contributed meaningfully to this ongoing debate.

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Rent Control

Rent Control: Regulation and the Rental Housing Market

W. Dennis Keating, Michael B. Teitz, and Andrejs Skaburskis. Center for Urban Policy Research, New Brunswick, NJ, 1998. 246 pp. \$14.95 (paperback).

This is a very important book, essential reading for social scientists, elected officials, community activists, and the real estate industry. *Rent Control* will spark a much needed debate on opportunity and equity in housing policy.

Two of the book's authors (Keating and Teitz) rank among the best housing researchers in North America. Keating is the world's top rent control scholar, as exhibited by the numerous articles he has written on the topic over a 25-year period. Teitz is considered one of the best housing economists, and he sees research as science rather than ideology. Other notable authors contributing to this volume are Margery Austin Turner and Stephen E. Barton.

The authors emphasize that the goal of the book is to provide a balanced and objective perspective on rent control. One of its strengths is that they accomplish this. In addition, they correctly note that most research on rent control is deeply flawed and ideological.

The chapters that cover the origins, history, legislation, court rulings, and politics of rent control are the best and most informative, and are written by Dennis Keating. He also provides an illuminating and compact account of New York City's regulations. Stephen Barton

writes about Berkeley's rent control, Michael Teitz about Los Angeles' moderate housing regulations, and Margery Austin Turner about housing regulation in Washington, DC.

On the other hand, the discussion of housing markets from an economic perspective was disappointing, as was the critique of conventional housing economic theory, which is partial, naïve, and narrow. In addition, the authors ignore the important research of sociologists who have shown that rental housing markets are not competitive but cooperative ventures. For example *Rethinking Rental Housing* (Temple University Press, 1998) written by Richard Appelbaum and me. This study, which analyzed over 100 American cities, shows empirically that rents do not respond to vacancy rates, nor does building new housing result in lower rents. Moreover, rental housing has changed dramatically in the past 40 years from a "mom and pop" operation to an industry with associations and management programs at the federal, state, and local levels. Cooperation, not competition, is the rule. Effective rental housing policy will never be developed unless a full understanding of the social, political, economic, and legal dynamics of the rental housing markets are understood.

Kenneth Baar's short chapter on New Jersey's rent controls misses the mark. Baar fails to note several reliable studies showing that over a 20-year period, rents regulated in 100 New Jersey cities are not significantly lower than rents in a comparable set of cities without rent control. These studies are illuminating and important since they show what most rent control proponents do not want to admit. In New Jersey, rent control has had very little impact on containing the escalating rents.

The case studies are disturbing in terms of what they reveal regarding the small amount of rent relief tenants can expect from modern rent control programs. Turner notes that the best estimate of monthly rent savings in Washington, DC, was approximately \$100 a month. Teitz writes that in Los Angeles rents in controlled areas increased at about the same rate as in uncontrolled areas outside of Los Angeles. Nash and Skaburskis' study showed that Toronto rent control saved tenants \$32.11 in 1986,

but by 1991 rents in Toronto were \$15.51 higher than those for comparable unregulated housing in the city of Vancouver. This was based on their assumption "that depreciation rates and tenure discounts in Vancouver would have been similar to those in Toronto were it not for rent control" (p. 189). Keating's review of 45 years of rent control in New York City calls it a "protracted saga," in which "it is difficult to give any definitive answer as to whether New York City's rent controls have worked" (p. 168), especially given the numerous changes in the law, politicized studies, and varying rent control systems for different kinds of rental units.

Barton's study of rent control in Berkeley, the most interesting of the case studies, shows how one of the nation's strongest rent control laws could result in some momentary rent relief. Nonetheless, the study alerts that "it is still important to recognize that rent control alone was not a sufficient means of assisting poor tenants" (p. 96). By my estimate, based on the numbers provided, approximately 70% of very-low-income, nonstudent tenants were paying more than 30% of their incomes into rent, and 36% were paying 50% or more of their incomes into rent. Even this, the strongest modern rent control law in the country, has not stopped three fourths of the low-income tenants from paying unaffordable rents.

With rent control in several hundred cities in America, only a handful have provided a strong system of controls that create a modicum of rent relief for tenants. And this kind of relief has only been temporary since the laws face a prolonged and vicious counter attack that landlords usually win (even in New York!). For example, *Community Versus Commodity: Tenants and the American City* (SUNY Press, 1992) written by Stella Capek and me is a case study of Santa Monica, CA. In that city, there are many social, economic, and political benefits from the rent control law for the poor, disabled, and elderly. This progressive law, however, has been gutted by court rulings and legislation. In comparison, under Berkeley's current system of controls, rents are now at market rates. The authors note that perhaps the benefit of moderate rent control regulations is not necessarily a substantial reduction in rents.

In analyzing rent control in Los Ange-

les, Teitz agrees that "rent stabilization is probably best described as a marginal factor. Its greatest effect appears to have been in smoothing the impacts of housing market fluctuations on tenants in times of inflation without destroying owners' incentives to stay in business" (p. 140). On the other hand, Barton notes that rent control programs might divert the energy of housing activists away from other innovative affordable housing programs. By 1996, local nonprofit housing organizations acquired only 100 units in Berkeley, while surrounding cities without rent control, such as Hayward, CA, "had far larger nonprofit housing sectors" (p. 107). Unfortunately many rent control leaders minimize homeownership strategies for renters, fearing they will lose a portion of their political base.

This book is a fresh, provocative, and bold account of the impacts of rent control in the United States and Canada. It is important because it gives the most balanced account available of the economic, political, social, and legal impacts of rent control. It is the best book of its kind, and the authors did an admirable job. The book helped me to rethink my perspective on rent control. I thank the authors for providing a stimulating and thought-provoking book. The authors posit a most important implicit question. What kind of housing policy should activists seeking greater fairness and equality address as we move into the new millennium? Rent control is the past, not the future.

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