



The Tennessee Advisory Commission
on Intergovernmental Relations



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MEMORANDUM

TO: TACIR Commission Members

FROM: Harry A. Green *Harry*
Executive Director

DATE: December 8, 2011

SUBJECT: Land Use Issues Referred to TACIR in 2011

Two pieces of legislation concerning land use were sent to TACIR for study in 2011:

- The House State and Local Government Sub-Committee referred a bill concerning an intergovernmental issue that is directed to the requirement that in a county without zoning, the county can approve or disapprove a municipality's efforts to adopt extraterritorial subdivision regulation and zoning within the municipality's urban growth boundary to TACIR for study. The Senate State and Local Government Committee concurred. The bill is SB0347 (Haynes)/HB0125 (Sargent), and it repeals a provision added by Tennessee's Growth Policy Act (Public Chapter 1101, Acts of 1998).
- The Senate State and Local Government Committee also referred Senate Joint Resolution 103 (McNally) to TACIR, which directs TACIR to study problems communities are having with vacant, blighted properties and return such properties to beneficial use. Below is a summary of the draft reports on these issues.

The following are highlights from the reports drafted by staff on these two issues. The full reports, which will be provided in advance of the meeting, will be presented for your approval.

I. SB0347 (Haynes)/HB0125 (Sargent)

This bill deletes the section of the Growth Policy Act that requires the approval of the county legislative body in counties without zoning before a municipality located there can adopt and enforce extraterritorial zoning and subdivision regulations. (See Attachment A.)

The Issue

Should a county legislative body in a county without zoning have the right to approve or reject a municipality's efforts to extend its subdivision regulations and zoning into the territory between its corporate boundary and its urban growth boundary?

Analysis

Although the proposed change relates both to subdivision regulations and to zoning, the heart of the controversy is zoning—what, where, when and even whether it should be done. Before the Growth Policy Act was passed, cities with regional planning authority granted by the state could zone in areas outside their boundaries in their designated planning areas unless counties had already adopted their own zoning ordinances. Zoning is controversial because it limits what landowners can do with their property and affects its resale value. Many counties and even some cities do not have zoning ordinances for this reason. Where they do not, land-use decisions are effectively made one parcel at a time, by private individuals, with only as much regard to what's next door as may affect the owner of the property whose use is changing.

The legislation at hand relates only to counties without zoning. Because zoning is so controversial, a provision was added to the Growth Policy Act that would allow even counties without zoning to prevent any imposition of zoning outside any city's corporate boundary, even within its urban growth boundary where the city has been granted extraterritorial planning powers. Where counties have adopted zoning ordinances, the county legislative body retains control over land-use decisions even where cities have extraterritorial authority to plan and regulate the subdivision of land.

Generally, municipalities favor the bill and counties oppose it. There is no obvious compromise other than to remove the part of the statute that allows counties without zoning to block cities attempts to regulate the subdivision of land in their extraterritorial planning regions. Perhaps the best route to compromise is at the local level through the Joint Economic and Community Development Board boards established under the Growth Policy Act. These boards exist in every county except those that have adopted a metropolitan form of government. Their makeup includes representatives of city and county governments, private citizens, and industries and businesses located in the county. They meet at least 4 times each year and are ideally suited to act as a forum for resolution of land-use planning issues at the local level.

II. SJR 103 (McNally)

This resolution directs TACIR to study the overall effects on local governments when blighted properties are left vacant and to recommend solutions to return the properties to beneficial use. (See Attachment B.)

The Issue

The initiative for this study came from Senator Randy McNally at the request of the city of Oak Ridge, which he represents. The problems in Oak Ridge stem from the city's

unique history in the development of the “Manhattan Project” and the city’s origin as a “secret city.” But blight is not just an Oak Ridge problem. Urban blight and decay is a problem in large and small communities across the state dating back to the early days of the 20th Century, and it affects various facets of a community. Unchecked, blight can be a plague on a place, a street, or a neighborhood and can impose significant costs on the overall community.

Background

Oak Ridge is unique in its history and founding as home to the uranium enrichment facility built as part of the World War II era Manhattan Project, the project that produced the world’s first atomic bomb. Tens of thousands of workers were brought into the area between 1942 and 1945 to build and staff the facility now known as the Oak Ridge National Laboratory. To accommodate the massive number of workers moved into the “secret city”, houses were either brought into the area or built on site. The houses, most of them small, were meant to be temporary dwelling units. Plans were to move them out when the war was over. However, the temporary dwelling units were never moved. Instead, they were sold to private owners, and the units sit there still today, some vacant, some occupied. Many of them are run-down and dilapidated.

Other cities have problems with blight. For example, according to local sources, Memphis has several thousand properties that are considered blighted. Springfield, a city of about 16,000 in size, has condemned 76 properties within the last year. Chattanooga has had some recent success in revitalizing blighted areas under their “Neighborhood Stabilization Program” that received funding from federal stimulus funds.

Analysis

A number of state laws are already in effect to enable local governments to address the issue of blight. Community development corporations can be an effective partner in the redevelopment of blighted properties. TACIR staff thinks a pro-active, as opposed to reactive, codes enforcement program is an important factor in reducing the number of blighted vacant properties. TACIR staff recommends that the legislature explore land banking as one solution to returning blighted properties to a beneficial use.

HOUSE BILL 125
By Sargent

SENATE BILL 347

By Haynes

AN ACT to amend Tennessee Code Annotated, Section 6-58-106, relative to a municipal planning commission's jurisdiction beyond its corporate limits.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 6-58-106(d), is amended by deleting the following language:

; provided, that in a county without county zoning, a municipality may provide extraterritorial zoning and subdivision regulation beyond its corporate limits with the approval of the county legislative body

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE JOINT RESOLUTION 103

By McNally

A RESOLUTION to direct the Tennessee Advisory Committee on Intergovernmental Relations to study problems local communities are having with vacant blighted properties and recommend solutions to return such properties to beneficial use.

WHEREAS, many local communities across Tennessee are experiencing significant problems associated with vacant, blighted properties; now, therefore,

BE IT RESOLVED BY THE SENATE OF THE ONE HUNDRED SEVENTH GENERAL ASSEMBLY, the House of Representative concurring, that the Tennessee Advisory Committee on Intergovernmental Relations (TACIR) is directed to perform a study of the overall effects on local governments when blighted properties are left vacant and recommend solutions that will assist such local governments to return such properties to beneficial reuse. It is the legislative intent that this study be conducted from TACIR's existing resources.

BE IT FURTHER RESOLVED, that all appropriate state departments and agencies shall provide assistance to TACIR.

BE IT FURTHER RESOLVED, that TACIR is requested to report its findings and recommendations, including any proposed legislation or interim reports upon conclusion of its study, to the Chairmen of the Finance, Ways and Means Committees of the Senate and the House of Representatives.