

It's just a gimmick!

DOWN in Montgomery County, in the State of Maryland, USA, a minor storm is brewing over the use, by property developers, of Transferable Development Rights (TDRs).

Mr. Robert Carbone, while campaigning to get into the Maryland House of Delegates, called TDRs "a planners' gimmick".

He now threatens to initiate legislation against the system.

TDRs were introduced in Maryland about a year ago, for use in the county's "rural density transfer zone."

They permit landowners in the zone - who have obtained permission from the County Planning Board to develop their land - to sell their development rights to others, who in turn can increase the density of their developments.

The idea is to preserve farmland or, as the *Olney Courier* put it, "to stem the growing conversion of prime farmland into parking lots, shopping centres and townhouses."*

Typical of proposals to use TDRs in Montgomery County, as reported in the *Courier*, is one by Soper Properties to use 87 TDRs (each relating to 5 acres of land in the original location) to increase the development density of its 38-acre site off Greencastle Road, in the eastern half of the county, from 3.6 units to 7 units per acre.

The *Courier* was not aware of the prices paid for the TDRs - nor what land they originally related to.

Another scheme has been submitted by Carl Freeman of Olney; he plans to use TDRs to develop a 228-acre site at Barnsley near Olney. Mr. Freeman owns both the farm where the TDRs came from, and the land to be developed.

According to Mr. Carbone, the TDR system is the primary cause of "runaway growth" near Route 29, the local highway in Eastern Montgomery, where he sees a "suburban slum" being created.

He says that TDRs were responsible for the high-density housing that has destroyed the residential character of local communities. Eastern county homeowners were being "surrounded by townhouses and apartment complexes."

The legislation he wants would prohibit the use of TDRs except on land adjacent to that covered by the original development permission.

MR. CARBONE claims that the TDR process, as introduced in Montgomery, is not authorised by county or state law.

"In theory, it is a great concept; in practice, I do not accept it because it is not public policy. There is no ordinance or law that says it is public policy," he says.

Mr. Carbone's charge is made despite the opinion of the Maryland Attorney General who is on records as saying, in 1980, that the Maryland Planning Commission and the Montgomery County Council were empowered to establish and carry out land-use policies.

By Bert Brookes

To people who are used to British law, and are accustomed to the precise and direct controls of the Town and Country Planning Acts, the roundabout ritual of the TDR system will appear a little bizarre.

If a developer wishes to increase the density of a particular urban development, it would seem far more sensible for him to apply for permis-

sion to do just that, instead of first seeking authority to develop a piece of farmland - which he has no intention of implementing - and then transferring the right to the urban area.

The system is, however, one way of linking increased development in one place with the application of a development stand-still in another. For the owner who sells the development right must, presumably, accept that his land in the rural area will remain undeveloped for the foreseeable future.

There must be suspicion, however, that the TDR system is primarily a device to enable owners of rural land to capitalise on its development potential, without losing ownership and without suffering its transformation at the hands of the builder and the bulldozer.

Selling the development rights - i.e. part of the land value - but being able to tell the buyer to go elsewhere to do his building, seems an arrangement to which any group of country landowners will gladly raise their glasses.

**The Courier*, Olney, Montgomery County, Maryland, 23 June 1982.

Air for sale!

NEW YORK dramatically illustrates the way in which the system of transferring development rights works.

Landowners calculate the rental value of the air space above their buildings - the value which they would reap if they developed their sites to their full legal potential.

This value is then capitalised and sold off to neighbouring landowners, who can consequently develop their sites to a higher density than would otherwise be permitted.

This is what happened with the Smith & Wollensky restaurant on the corner of E 49th St. and 3rd Avenue (pictured left).

The green ornately-painted two-floor building occupies a valuable site on Manhattan; but rather than develop it, the owners sold their rights to their neighbours.

The rewards can be handsome, as the Museum of Modern Art discovered four years ago. The Museum sold the air above its premises just off Fifth Avenue for \$17m to Charles Shaw. He went on to build a 52-storey skyscraper. The first tenants of the skyscraper moved into their apartments in March, some of them paying up to \$5m for the benefit of living near the museum.

