

WILEY

Review: Bohnsack on City Planning

Reviewed Work(s): Society, Space Order, City Planning and the Land by Gustav Bohnsack

Review by: Erich Zincke

Source: *The American Journal of Economics and Sociology*, Vol. 28, No. 2 (Apr., 1969), pp. 220-224

Published by: Wiley

Stable URL: <https://www.jstor.org/stable/3485354>

Accessed: 06-02-2024 00:19 +00:00

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



JSTOR

Wiley is collaborating with JSTOR to digitize, preserve and extend access to *The American Journal of Economics and Sociology*

Bohnsack on City Planning

By ERICH ZINCKE

THE AUTHOR¹ STARTS from the fundamental principles of any democratic social order, individual freedom and private property. It goes without saying that individual freedom is limited by the equal freedom of the others. This is explicit in the laws of democratic countries. As to private property, however, legal conceptions differ widely, especially where the rights of landownership are concerned. Some say that these rights should be absolute, others say that they should be restricted by social obligations, just as individual freedom is. Most western constitutions and correspondingly most codes of law only speak of the absolute rights of landownership. As to the respective laws the situation is not different in the German Federal Republic, though the text of the German Constitution suggests and allows legal restrictions.

Prof. Rudolf Hillebrecht, the City Councillor for Building of Hanover, who became internationally famous for his reconstruction of that war-ravaged city, in his introduction to Bohnsack's book speaks about the problem and quotes the recent decision of the Federal Constitutional Court (January 1967) concerning the contents and the limits of the rights of landownership: "The fact that land cannot be multiplied and is indispensable forbids leaving its use entirely to the opaque and uncontrollable play of free market forces and to the option of the individual; a just order of the law and of society rather asserts and maintains the interests of the community concerning land in a far higher degree than other property; land can neither economically nor socially be placed on a par with other kinds of property. In judicial proceedings it cannot be treated like a mobile good. From Article 14, Section 1, Sentence 2 of the Constitution, in connection with Article 3, no obligation of the lawgiver can be deduced that he should submit all objects of property whose value can be expressed in money to the same judicial principles. Nor is it correct to say that this would discriminate between financial capital and capital invested in agricultural and forested property.

"The Constitution itself has conceded the lawgiver a relatively wide range to issue laws that determine the contents of property (Article 14, Section 1, Sentence 2). According to it property does not only oblige, but

¹ *Society, Space Order, City Planning and the Land.* (In German). By Gustav Bohnsack, with an introduction by Professor Rudolph Hillebrecht. Karlsruhe, West Germany: Herbert Wichmann Verlag, 1967.

'its use shall simultaneously serve the common weal.' The makers of the Constitution had above all fixed their eyes upon the land order. The printed materials (Parliamentary Council, 8th session of the committee for principles) unequivocally show this. The command that use be social and just is, however, not only a guide for the concrete behavior of the owner, but is in the first instance a precept for the lawgiver to consider the common weal when determining the contents of property rights. Here is a denial of a right of ownership in which the individual interest would have the absolute precedence over the interests of the community."

The present state of things is, however, that the legislators have not adopted laws that prevent land speculation, which is one of the fundamental evils in our present social order. One thinks of more than 100 billion Deutsche Marks that had to be spent for building land in the German Federal Republic after the war.

The author looks at this problem from his professional point of view as a city planner. After discussing all the pros and cons as to absolute or restricted rights of landownership in past and present, at home and abroad, he gives detailed data about the development of the prices for land for building sites, and compares them with the development of living costs and building costs. In Hanover, for example, living costs between 1938 and 1965 had risen 225 per cent, building costs 410 per cent, building land prices 1100 per cent. One sees that a sudden rise of land prices took place immediately after the Federal Building Law came into force in 1961.

But there was still another reason. The cities had for decades under the monarchy and the Weimar Republic bought prospective building land, wherever it was cheap, in order to fight land speculation by competition. This accumulation of a public land reserve had been stopped in the Nazi period and was not resumed after the war. In 1960 the supply was exhausted. And this together with the Federal Building Law gave land speculation a free field.

But the Constitution also has an article about equality of rights. One of the highest judges makes use of it in the following declaration about land prices: "Social considerations with the aim of keeping land prices low have no basis in our Constitution. In our State everybody has a right to equal treatment. Thus social obligations of the community cannot be fulfilled at the expense of individuals, but only from the tax revenues to which every citizen contributes." And he warns that anybody who touches this principle may destroy the whole guarantee of private property given in the Constitution.

This eminent lawyer neglects the social obligation of all property, though it is clearly stated in the Constitution, but not yet made effective by laws. The absence of such laws apparently makes this social obligation non-existent as far as the law is concerned. At any rate the practice in lawsuits over the price of land is to decide in favor of the original owner, i.e. the new owner has to pay the full land price estimated to have prevailed at the time of the decision of the court.

Such decisions, which are the rule now, hinder the work of the city and country planners and even prevent order in the regulation of land use from being realized.

It is therefore natural that many planners and other land experts should unite with those social reformers who have shown again and again that the value of land is community-created and that therefore the social obligation of the landowners should at long last be required by law. They are joined by many non-political organizations such as the churches. In the Encyclical "Populorum Progressio" of March, 1967, Pope Paul VI wrote: "The right of land ownership and of free bargaining in land are subordinated to the fundamental right of man to obtain the necessities of life. In the face of the fundamental claim of the common weal there is no unconditional right of land ownership."

It is, however, not easy to propose effective laws that are certain not to shake economical and political life. The attempts to suppress or at least tame land speculation are legion in the western countries. Most of them are near a partial or total confiscation of the increment of land values at the moment of selling land. In Germany there was once a group of land reformers under Adolf Damaschke. They knew Henry George's land value tax and that it was just being substituted for the old real estate tax in some Anglo-Saxon countries and in Denmark. But they clung to John Stuart Mill's increment tax which in the end proved ineffective wherever it was introduced. They did not see that it is a *contradictio in adjecto* first to allow land speculation and then to skim its profits by taxation. Nevertheless they had a remarkable success in Kiautschou, about which Miss V. G. Peterson reports in *Land Value Taxation Around the World*.² The form of land tenure was a combination of a privilege to exercise administration, coupled with a land price tax and a super-imposed annual increment tax. Practically it was very near a genuine land value tax, in which the periodical revaluations were replaced by a progressive annual increment tax. But the effect was the same. In Kiautschou no land speculation arose. The Japanese accepted this form of land tenure and

² *Loc. cit.*, New York: Robert Schalkenbach Foundation, 1955, pp. 200-1.

adopted it in their other continental provinces. The model of Kiautschou gives hints on how to fight land speculation successfully.

Then the author sketches his two combined proposals, the land storing authorities—Americans call these land banks—and land value taxation.

Land speculation has its most dangerous effect in the areas which are of interest to country and city planning. Here the land bank authorities can directly fight land speculation. They must be given the sole right of buying prospective building land at a price that corresponds to the present use. They alone must be allowed to transform raw land into building land. On the other hand they must have the duty to return this new building land to the private sector at a price that only defrays the costs. When this is done it will no longer be possible to exact high initial prices at the first development of urban land. And in the parts of the cities that must be torn down and redeveloped it will also be impossible for speculators to demand high prices which frustrate all efforts at city planning.

The idea of setting up a land bank is of course a restriction of the free land market. But practical policy is nowhere a handbook of *laissez faire* policy, but a compromise. Thus it has already found its place in the law for furthering city planning and building. It may be compared to the provision for setting up bonded warehouses for imported goods, or for goods serving as loan collateral.

Land value taxation, the author holds, since it must be assessed on the basis of the estimated value of the site apart from buildings and other improvements, requires revaluation at short intervals because of the natural instability of land prices in a dynamic economy. The valuation is to be carried out just as it is done now in the valuation of real estate with the assistance of the sworn testimony of experts and other techniques of the appraisers of the cities and the *Laender* who deal with valuable property. No new authorities, no essentially new working methods! The ascertainment of the land value will be facilitated by the previous work of the expert committees, by land value maps, and by introducing self-assessment according to the Danish model.

Land value taxation is in most Anglo-Saxon countries and in Denmark the main municipal tax. Its introduction in Germany would require transforming the present real estate tax into a genuine land value tax. The author is sure that according to the experience in other countries its characteristic side effects will take place, *i.e.* that the owner would improve his property without the fear of being afterwards punished by taxation, and that land speculation would be discouraged, because unused

and underused land, the realm of speculation, would be taxed substantially for the first time. Appendix 8 is a draft of a law which would realize his proposals.

3011 Laatzen, Liegnitzerstr.3
Hanover, West Germany

Government Documents Catalog

THE *Catalog of Government Documents, Economics Division, New York Public Library*, has been published in 40 volumes by G. K. Hall & Co. of Boston.

This outstanding collection includes the fundamental documents of all national and colonial governments so far as they have been published or attainable. Holdings are strongest for the United States, Great Britain, its related states, and for the Scandinavian countries and western Europe. Eastern Europe, the Near East, Asia, Africa and Latin America are also well represented. The library is a depository for United Nations documents, and has a strong collection of publications on international and regional agencies.

In this catalog, entries are made under political units, and broken down by agencies under each unit's jurisdiction. The listings for each agency are in two groups: an alphabetical listing for serial publications; a dated file of listings for monographic publications.

Descriptive material on this publication is available on request. Inquiries and orders may be sent to the publisher, G. K. Hall & Co., 70 Lincoln Street, Boston, Massachusetts, U.S.A. 02111. [From the publisher.]

Contributors

NORMAN G. KEIG, PH.D., associate professor of economics, University of Florida . . . MASON GAFFNEY, PH.D., professor of economics, University of Wisconsin-Milwaukee . . . P. I. PRENTICE, vice president, National Association of Homebuilders Research Foundation, and ROBERT SCHALKENBACH Foundation; former editor and publisher, *House & Home* . . . GERRIT HUIZER, consultant for agrarian problems in Latin America, International Labour Office . . . MORTON D. WINSBERG, PH.D., associate professor of geography, Florida State University . . . EDWARD R. HARRIS, JR., senior vice president, The Fidelity National Bank, Lynchburg, Va. . . . REGINALD EDWARD MORRIS, M.A., director of industrial relations, Northrop Carolina, Inc., Ashville . . . WILL LISSNER, news staff, *The New York Times*; faculty, New School for Social Research . . . ALEXANDER BRODY, PH.D., department of economics, City College of the City University of New York (recently deceased) . . . ERICH ZINCKE, German educator and translator.