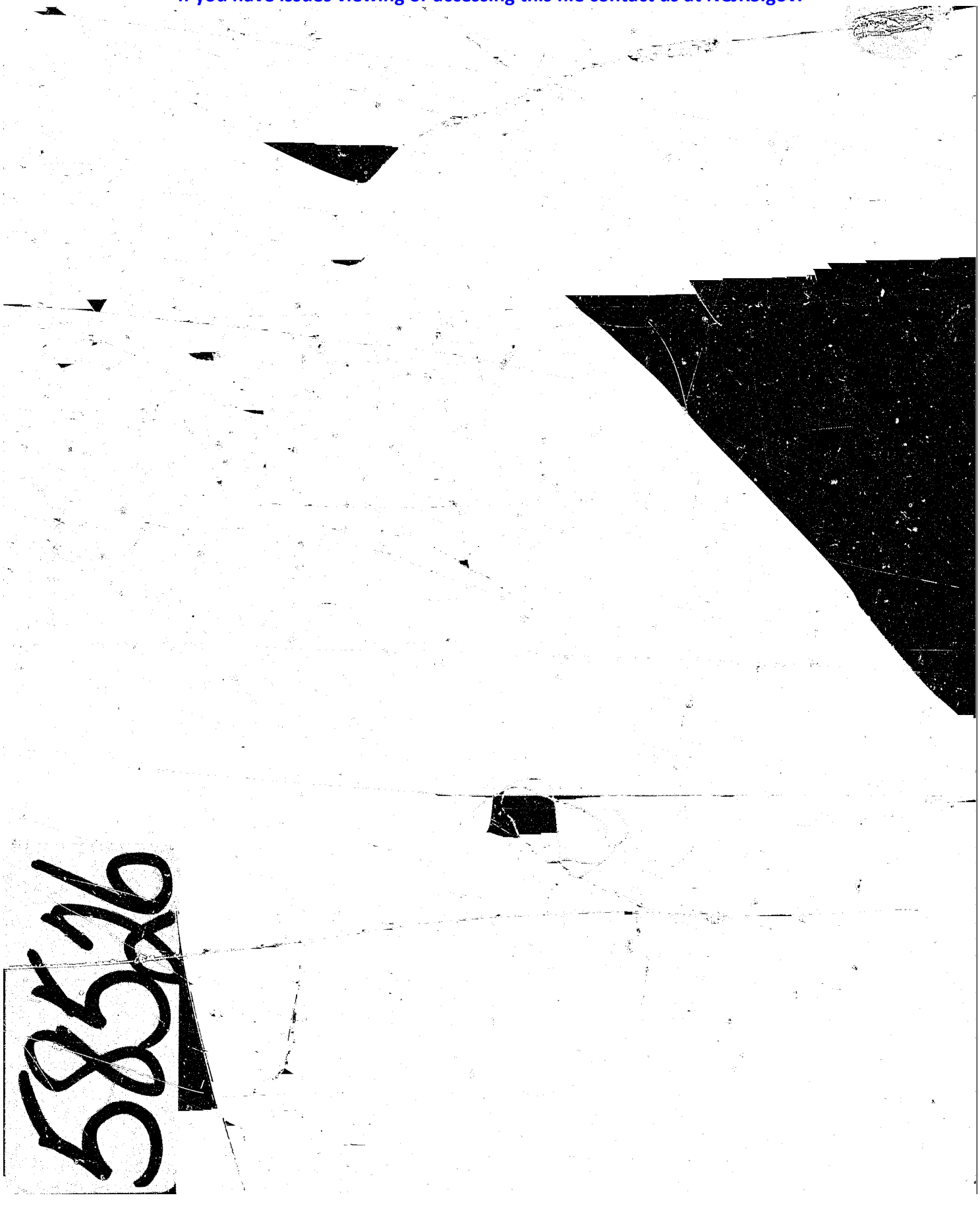

Corruption in Land Use and Building Regulation

Volume II Appendix: Case Studies of Corruption and Reform

Program for the Study of Corruption in Local Government
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PREFACE

Under a grant from the National Institute of Law Enforcement and Criminal Justice, SRI International (formerly Stanford Research Institute) has conducted a 2-year study of problems of local-government corruption in land use and building regulation. We have found such corruption to be a significant problem in many areas in the United States and it is not likely to be insignificant in the areas we could not study. To provide a detailed understanding of how corruption occurs and how it can be prevented, SRI researched the environment in cities that had faced corruption problems in recent years, undertook an extensive literature search, analyzed the causes of corruption, identified numerous corruption prescriptions, and commissioned specialized studies from recognized experts in the field. The methods available for carrying out this study had severe limitations. As a result, the study produced not firm conclusions, but hypotheses to be tested by other researchers in other, more rigorous situations. The methodology and its limitations are discussed in detail in Appendix A to Volume I.

The results of this 2-year study program are contained in six reports, as follows:

- Volume I: Corruption in Land Use and Building Regulation: An Integrated Report of Conclusions--A summary of the environment in which corruption can occur in land use and building regulation, and possible corrective and preventive measures. Illustrations are drawn from the case studies (Volume II).
- Volume II: Appendix--Case Studies of Corruption and Reform--Documented incidents of corruption in nine cities and one documented absence-of-corruption case. In each case study, the factors that acted to allow the corruption are pointed out.

- An Anticorruption Strategy for Local Governments--This report describes a countercorruption strategy that can be implemented by city administrators to monitor the performance of employees and to increase their understanding of what constitutes corruption and how to avoid it.

- An Analysis of Zoning Reform: Minimizing the Incentive for Corruption--This report, prepared by staff of the American Society of Planning Officials, discusses zoning reforms that can be considered by planners, zoning commissioners, and others involved in land-use regulation.

- Establishing a Citizens' Watchdog Group--This manual, prepared by the Better Government Association of Chicago, shows how to establish a citizens' group to expose corruption and bring pressure for reform.

- Analysis and Bibliography of Literature on Corruption--The results of a detailed search of books, journals, and newspapers made to identify descriptive accounts of corruption, theoretical analyses of the causes of corruption, and strategies proposed or implemented to control it.

ACKNOWLEDGMENTS

Projects that require years to complete and that require data to be collected from all over the country invevitably depend heavily on the contributions of many persons outside the project team. The project director and the authors of the various reports in this series take this opportunity to thank all of those who have talked, debated, and argued with us for the past two years. The project has benefited greatly from your involvement.

In addition to the grant from the National Institute of Law Enforcement and Criminal Justice, support has been provided by the University of Illinois (sabbatical support for John Gardiner), by the American Society of Planning Officials, by the Better Government Association of Chicago, and the executives and management of SRI International.

The six volumes of this series have benefited from, among others, the substantive contribution of the following SRI International staff: Thomas Fletcher and Iram Weinstein who have played major roles in defining and setting the initial direction for the project; James Gollub, Shirley Hentzell, Lois Kraft, Cecilia Molesworth, and Stephen Oura who have all helped shape various aspects of our work. George I. Balch from the University of Illinois and Joseph McGough and Thomas Roche from New York City's Department of Investigations have served as outside consultants providing valuable assistance.

The project has also been guided by an Advisory Committee, members of which have been drawn from the ranks of public interest groups, academia, and research. Representatives at the three Washington, D.C. meetings included Joseph Alviani, United States Conference of Mayors; William Drake, National League of Cities; Donald Murray and Nancy Levinson, National Association of Counties; Claire Rubin and Philip Singer, International City Management Association; Richard Sanderson, Building Officials and Code

Administrators International; Richard Sullivan, American Public Works Association; Nicholas Scopetta, New York Department of Investigation; Jonathan Rubenstein, the Policy Sciences Center; Geoffry Hazzard, Yale Law School; and Victor Rosenblum, Northwestern Law School. To these individuals we extend our appreciation; any frustrations their difficult role may have created were always masked by their evident enthusiasm.

Others have graciously taken valuable time to review one or more of the many working papers that underpin our final products. Elinor Bowen, Gerald Caiden, Michael Maltz, Daniel Mandelker, David Olson, and Larry Sherman have been prominent among these reviewers.

In each city studied for this project we talked with officials from throughout government service, journalists, clergymen, and citizens. While we will always honor our agreements as to confidentiality, we wish to express our gratitude to them for their comments and reactions.

Our project monitors, David Farmer and Philip Travers, justly deserve acknowledgment. They have been helpful not only in ensuring our compliance with the National Institute's rules and regulations but in helping us adhere to our research design even when we were in danger of being buried by the petty details of project work.

Finally, we could never overlook the people who put our often incomprehensible work into readable form. Edith Duncan, Sandra Lawall, and Josie Sedillo of SRI and Anita Worthington of the University of Illinois have earned more than simple acknowledgment, so let mention of their names serve as only a small token of our appreciation.

CONTENTS

INTRODUCTION

Corruption is a form of illegal behavior about which few data are available. We do not know the prevalence of corrupt acts, the extent of the problem, the distribution of various mechanisms of corruption, or the effect of corruption on participants or the public. It is possible to identify incidents reported to the police or in the press, but much is never surfaced. (It may be better to give than to receive, but in the case of corruption, either is illegal, so that a complaint is unlikely to be filed by either party.) The recent growth of victimization surveys concerning such crimes as robbery, burglary, and assault have documented the frequency and at times different characteristics of the crimes that are not reported to the police or reported by the police to the public. We do not have comparable surveys of the victims of official corruption. As a result, the study of corruption must begin with those incidents that become known and then expand outward to sketch the shadowy events likely to exist beyond those known incidents.

Any attempt to understand the policies and decisions of a community is a difficult endeavor; policies and decisions are the products of distant as well as recent history. There are interactions of official policy-makers and implementers with private individuals and organizations that must be understood. Constraints are established by Federal, state, county, and local constitutions, statutes, ordinances, and regulations, and also by executive, legislative, and judicial branches of government. Furthermore, the words "policy" and "decision" convey a concreteness that may not exist. Communities may or may not have written documents (ordinances, rulebooks, court decisions, etc.) concerning an issue, and those documents may or may not accord with the way things really get done.

Our desire to describe and explain the communities we have studied is also complicated by the fact that our interests focus on two policy areas: land-use and building regulation, and integrity and corruption.

Land-use and building regulation ultimately deals with community and neighborhood preferences for types of environments, for types of neighbors, for the composition and level of a community's tax base, for the quality (and price) of construction, and, in some cases, for size (big or small) and rate of growth. The issue of corruption or integrity blends into such issues as what kinds of people should hold public office, what are the boundaries between "public" and "private" interests, or how important it is to meet certain policy goals at the cost of omitting steps in the decision process. Attempts to separate the issues would not be only futile but inaccurate. We can point out policies and decisions that bear on land-use or corruption, but we cannot always assume that they arose from conscious, deliberate actions based upon a discrete goal of maximizing land-use or minimizing corruption.

Several considerations should be kept in mind as the case studies are read. The first concerns the period of time covered by each study. For each community, every attempt has been made to understand conditions as they existed during the period of study (1976-77) and the years immediately preceding it; our information on past years is necessarily less complete than on the present. Second, it should be understood that the cities were selected because they illustrate problems and opportunities, and because of the availability and accessibility of information on the corruption-integrity issue in these particular communities and the presumed relevance to the problems under consideration. It is likely that counterparts of the "bad guys" and "good guys" in these case studies can be found throughout the United States.

Since our goal was to gain a general understanding of the problems of corruption and steps which might be taken to alleviate it, we did not engage in systematic surveys of local residents or regulators, or carry out undercover observation of corrupters and corruptees at work. Instead, we developed our information from reviews of trial transcripts, newspaper accounts, and discussions with officials and citizens in each community. As a result, we cannot say how much corruption exists in a community (although we have included impressionistic estimates from local residents), and the following accounts are intended to be illustrative rather than definitive.

In each community, we sought to study land use corruption and integrity issues as the communities experienced them, rather than pursuing a fixed agenda everywhere. Zoning was the primary locus of corruption in some cities, building inspections in others; some cities had active programs to prevent corruption while others appeared to be unconcerned about the issue. Each of the case studies that follow provides information about the community and its governmental system, the structure of its land-use regulation systems, major instances of corruption that have appeared, and steps which the communities have taken (if any) to prevent future corruption.

The first four case studies deal with corruption in inspections programs. In New York City, corruption involved housing and demolition inspectors; in Cincinnati, inspectors reviewing Federally financed rehabilitation programs were taking payoffs from contractors. In Broward County, Florida, the corruption was among inspectors supervising new housing developments. Oklahoma City uncovered corruption in the licensing of electrical inspectors and their subsequent dealings with builders. The next five cases focus on land-use decisions: the awarding of zoning variances in East Providence, Rhode Island, use permits in San Diego County, and zoning applications in Santa Clara, California, and Hoffman Estates, Illinois. The final case study (Arlington Heights, Illinois) differs from the others, in that the community has experienced virtually none of the corruption that was common in neighboring towns; the focus of the case study is on why this pattern of integrity developed as it did.

CORRUPTION IN NEW YORK CITY'S CONSTRUCTION INDUSTRY*

Background

New York City is "The Big Apple," "Fun City," a world center of international finance, commerce, and culture. It is also a center for crime, poverty, overcrowding, urban decay, fiscal crisis, and the other ills that afflict America's large cities. New York has repeatedly been the focus of corruption scandals--Tammany Hall and the Tweed Ring at the turn of the century, the Seabury Commission investigations in the early 1930s, the Knapp Commission investigations of police corruption in the early 1970s, and countless smaller studies by the city's Department of Investigations. For at least 15 years, it has also been apparent that corruption is widespread in the construction industry. Accusations are common that building inspectors withheld permits until "expediting fees" were delivered, contractors bribed inspectors to overlook code violations, inspectors and their supervisors shared regular payoffs from builders and demolition contractors. This section describes the findings of major investigations conducted in recent years into patterns of corruption in the construction industry and the problems of the city agencies established to regulate the industry.

New York is a racially and ethnically heterogeneous city with over 7 million residents. Since World War II, the proportion of blacks and Hispanic residents has increased steadily, and many middle class residents have moved to the suburbs of Connecticut, New Jersey, and Westchester County. In 1975, the per capita income was $6,669, with a 10.6% unemployment rate. Politically, the city has long been overwhelmingly Democratic, although persons running as Liberals or Republicans have occasionally been able to win mayoral elections. New York has a strong mayor, weak council government; labor unions, civil service unions,

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*By Joseph McGough and Thomas Roche, New York City Department of Investigation.

Democratic district organizations, and corporate and financial institutions are usually regarded as the dominant influences on city decision-making.*

Several aspects of New York City government may have contributed to the corruption problems that have been uncovered. The first is its sheer size: in 1972, the city had a budget of over $9 billion and over 230,000 employees. New York City has a competitive civil service system that is encrusted with technical rules, thousands of titles, an endless array of regulations, numerous appeal avenues from the smallest determinations, and endless exceptions to seemingly straightforward guidelines. On the whole, the system is weighted heavily in favor of protecting the rights of the employees who are already employed over those of management. Lateral entry is discouraged by requirements for service in lower titles as prerequisites to higher titles, and disciplinary procedures require formal legalistic proceedings regardless of the severity of the infraction. Incompetent employees are not effectively dealt with in the system and few are dismissed for any reason short of the commission of a crime while in the course of their public employment.

New York City has underpaid and, perhaps, overpaid employees. Clerical and administrative employees have traditionally been paid at lower rates than their counterparts in private industry, although before the current fiscal crisis there was a significant closing of this gap. The salaries of uniformed service employees in the fire, police, and sanitation departments, on the other hand, are among the highest in the country. In general, city employees receive lower wages but better fringe benefits than private industry employees, which coincides with the wishes of older city employees who seek security over spendable income but makes city employment less attractive to the recent high school or college graduate

*On New York politics and government, see Jack Newfield and Paul Dubrul, The Abuse of Power: The Permanent Government and the Fall of New York (New York: Viking, 1977); Wallace S. Sayre and Herbert Kaufman, Governing New York City: Politics in the Metropolis (New York: Russell Sage Foundation, 1960); and Robert A. Caro, The Power Broker: Robert Moses and the Fall of New York (New York: Random House, 1974).

the city now needs to attract. The worst-off employees in the city in terms of salary are the middle and senior managers, whose salaries have at times been even lower than those of the persons they supervise and far out of line with those of private industry managers with comparable authority and responsibility.*

In the Buildings Department, the wages of the inspectorial force are fairly high in comparison with other city employees having similar duties, but are below those of journeymen in the trades whose work they inspect, not to mention the incomes of the builders and owners whose economic fate the inspectors can significantly affect. The salary ranges for the buildings inspectors in 1974 were: Inspector, $11,800-14,800; Senior Inspector, $13,170-16,570; Supervising Inspector, $14,770-18,320; Principal Inspector, $16,375-20,075. There are approximately 300 inspectors at various levels in the Buildings Department.

The selection process for city employees generally involves written examinations and physical tests. No psychological tests are used and, with the exception of those few titles involving special need for physical endurance (such as firefighting or sanitation work), the physical exam is limited to uncovering handicaps or disease. The selection process for building inspectors was commented upon by a New York County Grand Jury in a 1965 investigation of corruption in the Buildings Department. The grand jury stated at that time that

> The Civil Service examination that is given to candidates requires special knowledge of at least one building trade. But the testimony before the grand jury made it evident that the fact that one has this knowledge does not necessarily mean that he has acquired the techniques essential to the proper performance of the inspectors' duties. This knowledge was of very little value, if any, to the inspectors whose duties require knowledge of other building trades.

After this grand jury investigation, nothing changed with regard to the entrance examinations for building inspectors. Indeed, a police officer whose only knowledge of carpentry was gained from weekend work around

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*"Working for City Is No Longer a Plum," New York Times (October 23, 1977).

his home was able to pass the entrance exam and become an undercover investigator. Add to this the fact that the written exam makes no attempt to test the applicant's ability to handle the important responsibilities of an inspector and it is clear that, as in other cities, New York's inspectors may not always be chosen to meet the demands the job presents.

With the exception of those city agencies operated as paramilitary organizations, such as the Fire and Police Departments, discipline is largely a matter of the ability of individual supervisors to lead and the willingness of employees to follow. Discipline is hampered by cumbersome formal disciplinary and grievance procedures, by the fact that employees and their supervisors are members of the same unions, and by lack of interest from executives who see themselves as just passing through their positions and not anxious to upset the unions. The grand jury that commented upon the selection process for inspectors had this to say about discipline in the Buildings Department in 1965:

> The supervisors were not the only ones who did not work a full day, for as the testimony showed, the inspectors in the field generally terminated their inspectorial activities at about noon time. Though the inspectors who testified before the grand jury claimed that they were required to spend the balance of the day drawing up their official reports, the testimony of detectives and investigators revealed that on many occasions inspectors were seen going to places other than their offices. Some inspectors went to their homes, some went to bars, and others went to the race track.

In the area of ethics requirements, the City of New York is probably ahead of most other cities. It has had a formal code of ethics for employees and officials since 1960. Violation of this code is punishable by fine, suspension, or dismissal from employment; if intentional violation is shown, the violation is considered a misdemeanor. The code also creates a Board of Ethics which has issued over 300 opinions. Despite this rather sophisticated structure, little has been done to educate city employees about the restrictions the code places on their activities both on and off the job, with the result that there are many breaches of the ethics code. While many of these violations are committed out of ignorance of the code, the mere fact that they occur undermines the public's

respect for public employees and gives encouragement to those persons who would seek to corrupt public employees.

The City's interest in internal auditing, management audits and productivity improvements has ebbed and flowed during its history. There have been high points like the marriage of Mayor John Purroy Mitchell and the Bureau of Municipal Research, the forerunner of the present Institute of Public Administration, during the period 1914 to 1916, and low points like the tenure of Jimmy Walker from 1928 to 1932, where corruption and mismanagement were rampant. The City's chief fiscal auditor is the separately elected City Comptroller, who has the power to keep tabs on city revenues and expenditures. The degree to which this power has been exercised has varied; on the whole, the Comptroller's office has not distinguished itself as an independent check on city programs. As the current fiscal crisis makes clear, the Comptroller did little to halt the fiscal practices of several mayors which eventually led to the City's current problems.

The general public's involvement in anticorruption efforts is practically nonexistent. On occasion special interest groups band together and demand investigations of city programs that they feel are being poorly, and perhaps corruptly, run. These occasions are few and far between, however, and there is no group of citizens specifically devoted to the uncovering of corruption or mismanagement. The news media have played a significant role in uncovering corruption in New York. New York news agencies, both large and small, together employ a large number of investigative reporters and they have frequently brought to light corruption, conflicts of interest, and mismanagement. Indeed, it was a series of articles in the New York Times in 1972 concerning widespread corruption in the city's construction industry that led to the Department of Investigation's decision to begin the Buildings Department investigation that we will discuss.

Building Regulation Systems

The structure of building regulation in New York city is complex and covers many issues. It includes construction of buildings, demolition of

buildings, safety within buildings, maintenance of buildings, regulations pertaining to heat, sewage and other health issues, rent guidelines, and many other areas. The bureaucratic structure supervising the construction industry in New York City is fractionated as well; there are different departments to regulate different aspects of land use. New York City has a multiple permit system: separate permits are required from the Buildings Department, the Highways Department, the Fire Department, and so on; after permits are issued, a contractor must deal with different inspectors from different agencies often with respect to the same issues. Additional regulatory bodies exist to make policy, but in fact only further complicate matters. For example, there is a Board of Standards and Appeals that rules on exceptions, which may operate to further complicate the already overly detailed building codes.

Most building regulations are contained in the Building Code, a section of the City's Administrative Code. Unfortunately, there are many corruption-encouraging aspects of the Building Code. For example, the code requires the installation of "Z bars" on a party wall of a building adjoining construction. Since the code does not define what a "Z bar" is, this may often lead to disputes between the contractor and an inspector as to whether or not a conforming "Z bar" has been installed. Another example of a standard that need not always be fully complied with is the requirement to build catch platforms along the full length of the building when only part of the building is being worked upon. (A catch platform is designed to catch debris from the building while work is being performed.) Because the platform is put together from used lumber by workers, the primary cost is the cost of labor. Frequently, particularly in larger buildings, the requirement to have the platform along the full length of the building is simply not needed since work is not being performed in many areas. Therefore, a contractor, rather than expend money to construct a full catch platform, may wish to build a mobile catch platform which he can place wherever he is working; in the event that an inspector raises the issue, it costs the contractor less to offer a "gratuity" to the inspector for overlooking the requirement than to comply. Additionally, there are performance requirements in the City's Building Code that set

safety standards. Even though New York has been a leader in developing standards that are progressive, these standards are often unrealistic; while the city's Building Codes are clearly adequate from a public safety point of view, they do not always conform to modern building practices, creating a significant problem from the point of view of contractors.

Thus, some vulnerability to corruption is the result of a failure to update the Building Code regularly. The issue of building materials is an area where this problem has become particularly acute. For example, the Building Code might require a builder to install 4-inch-thick asbestos for safety reasons. It may well be that a new product has been developed that would allow the builder to maintain the same standards provided by 4-inch-thick asbestos by putting in a 1-inch-thick layer of the new material, which is just as effective, poses fewer toxicity problems, and costs considerably less. While a builder can go to the Board of Standards and Appeals for permission to use the new material, the process is time-consuming and uncertain, again encouraging builders to make private agreements with the inspectors.

Corruption in the Construction Industry

There have been investigations of corruption in the New York City government for more than 100 years. Exposés and scandals have occurred so frequently that one book on New York concluded: "These exposés have happened often enough to give wide circulation to the notion that the government and politics of New York hold high rank, if not the highest place, among American cities in the art and practice of official corruption. Actually, this impression is largely the result of the tendency of the city's system to ferret out and give great and dramatic publicity to violations of the rules. The system might properly claim first rank among American cities in the art and practice of exposing corruption."*

In 1960, the New York State Investigation Commission conducted a 10-month study of corruption in the Plan Examination Division of the New

*See Sayre and Kaufman, op. cit., p. 725.

York City Department of Buildings. Its conclusion? "The basic facts of the current pattern of corruption...are engagingly simple: if you want prompt service and fair treatment, you have to pay for it. If you do not pay you may be subjected to interminable delays, 'lost' files, highly technical objections, or other harrassment. It is as simple as that: pay or else."* The Commission's investigations uncovered evidence that almost every step in the process of securing a building permit required a small payoff--to clerks, to plan examiners, to housing inspectors, to plumbing inspectors, and so on. A Commission attorney asked an architect, "What would happen if you were to stop making these payments?" "Well, you just wait and wait 'till you get your plan approved, that's all; it is just an awful job to get action. You'd eventually get it because they couldn't hold you up but just so long." ..."Is it important that you get your plans examined rapidly?" "No question about it. When my clients order plans, they contemplate making an alteration to a building, and if they have to wait two months before it is assigned [to an examiner], and they have to wait another month or six weeks before the plans are examined and reviewed, why, it is--they are losing all that rent."*

One firm of architects told the Commission of the perils of not paying off the clerks and examiners. Planning a small renovation project, an architect took his plans to the Department, only to be forced to return again and again as files were "lost," corrections were required, and new code violations were found each time. "Often, after waiting for hours, he was turned away without having seen the examiner at all. He would then have to return another day. When the architect finally managed to see the examiner, the latter would only look at a small part of the plans and then say, 'That's all for today.' Day after day, this same sort of thing happened. Whenever the architect dared to mutter about

*State of New York Commission of Investigation, Corrupt Practices in New York City's Department of Buildings (Albany: Commission of Investigation, 1960), p. 7.

the problems he was having, the reply was always the same: 'You know how the Buildings Department works, don't you?'"*

Finally, the Commission documented the activities of a group of entrepreneurs called "expediters." Capitalizing on the fragmentation, complexity, obstructiveness, and corruptibility of the approval process, the expediters served as middlemen for architects and builders seeking permits. "For a fee, an expediter will file an application for a building permit, oversee its progress through the Buildings Department, and guarantee its final approval....The expediters apparently have two chief values to the architect. In the first place, they know how and where and to whom to make the payoffs that are necessary to obtain rapid approval of plans. In the second place, they successfully insulate the practicing architect from the tawdry details of graft in the Buildings Department, so that he need not know what is actually going on. There is no proof that all expediters are engaged in making payoffs. The point remains, however, that this whole group of entrepreneurs exists only because of the delays and procedural difficulties in the Department of Buildings."† Finally worn down by the system, the architects mentioned in the last paragraph got their plans approved--after they retained an expediter. "How it is done, the firm never asks."†

An expediter who talked freely to a reporter 12 years later indicated little change. He said that "without the graft he would be out of business. The service he had to sell was prompt approval of building plans; he could not accomplish that without paying bribes....Some prestigious architecture firms whose own employees act as expediters contend that they can get their plans processed without the payoffs. But others confess that they are not sure whether or not they are paying bribes through their expediters. As a result, they find the system very seductive. This insulation of the givers from the takers, the diffusion of responsibility

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*State of New York Commission of Investigation, op. cit., pp. 8, 15.

†State of New York Commission of Investigation, op. cit., pp. 19, 20-21.

‡State of New York Commission of Investigation, op. cit., p. 26.

for the bribery, typifies most aspects of the building industry, and it gives the system of graft an added resilience."*

The State Investigation Commission did not attempt to place a dollar figure on corruption, but pointed out where the burden would fall. "Once an owner has acquired property and made preparations to build, every day of delay in obtaining plan approval and a building permit means an economic loss. The costs of wasted hours for architects and their representatives in waiting for plan processing and in having to make petty corrections to plans involve large additional sums....How many millions of dollars the delays in the Department of Buildings cost each year one can only guess."†

In 1970, charges in the New York Times of widespread corruption in the polic department led, unexpectedly, to further revelations of corruption in the construction industry. Testifying before the Knapp Commission, the Chairman of the Board of Governors of the Building Trades Employers Association said, "It is virtually impossible for a builder to erect a building within the City of New York and comply with every statute and ordinance in connection with the work. In short, many of the statutes and rules and regulations are not only unrealistic but lead to the temptation for corruption.‡ The situation was not confined to one aspect, group, or set of performers, but was common not only in industry/government interfaces but within industry. Testimony from contractors, job superintendents, and policemen provided detailed evidence not only of payments to the police but also of corruption among members of the construction industry: "Contractors have been known to pay owners' agents to get an inside track on upcoming jobs; subcontractors pay contractors' purchasing agents to receive projects or to get information helpful in competitive bidding; sub-subcontractors pay subcontractors; dump-truck

*David K. Shipler, "City Construction Grafters Face Few Legal Penalties," New York Times, June 27, 1972.

†State of New York Commission of Investigation, op. cit., pp. 31, 33.

‡Knapp Commission, Commission to Investigate Allegations of Police Corruption and the City's Anti-Corruption Procedures, Commission Report (New York: 1972), p. 123.

drivers exact a per-load payment for taking out extra loads they don't report to their bosses; and hoist engineers get money from various subcontractors to insure that materials are lifted to high floors without loss or damage."* Payoffs to the police ranged from a few dollars to overlook minor violations of City ordinances to regular weekly or monthly payments to avoid harassment.

> In a small job like the renovation of a brownstone, the general contractor was likely to pay the police between $50 and $150 a month, and the fee ascended sharply for larger jobs. An excavator on a small job paid $50 to $100 a week for the duration of excavation to avoid summonses for dirt spillage, flying dust, double-parked dump trucks, or for running vehicles over the sidewalk without a permit....Steel erectors paid a weekly fee to keep steel delivery trucks standing by; masons paid; the crane company paid. In addition, all construction sites were approached by police for contributions at Christmas, and a significant number paid extra for additional police patrols in the hope of obtaining protection from vandalism of building materials and equipment.†

While the Knapp Commission was conducting its investigations focusing on the police, a new set of newspaper articles led to interest in corruption within the Department of Buildings. Investigative reporter David K. Shipler interviewed architects, subcontractors, and construction executives, and concluded that the costs of corruption amounted to 1-2% of total construction costs--at least $25 million per year. "Many contractors agree that a typical dishonest inspector for the Department of Buildings collects from $10,000 to $30,000 a year in bribes (tax-free) above his average $11,000 salary."‡ "While a few construction men report that they occasionally pay an inspector each time they need him promptly, most say they negotiate a total amount at the outset of the job, an amount that insures the inspector's cooperation at each phase. Then it is paid in installments as the work moves from step to step."§

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*Knapp Commission, op. cit., p. 124.

†Knapp Commission, op. cit., p. 128.

‡David K. Shipler, Study Finds $25 Million Yearly in Bribes Is Paid by City's Construction Industry," New York Times, June 26, 1972.

§Ibid.

Shipler also found that little was being done to investigate or prosecute corrupt members of the Buildings Department. Only seventeen inspectors had been prosecuted from 1968 to 1972, and most were given suspended sentences. Investigators were confronted with silence on the part of both honest inspectors and contractors, many fearing retaliation if they talked. As the State Investigation Commission had found 12 years before, applicants were harassed if they neglected to use expediters or offer payoffs, or if they complained about delays.

The New York Times articles and the findings of the Knapp Commission led to extensive investigations over 5 years by the city's Department of Investigations which uncovered criminal activity on the part of 95 employees of the Buildings Department and 63 persons in 23 businesses in the construction industry; an additional 75 Buildings Department employees were found to have been involved in other forms of misconduct. The Department of Investigations, to circumvent the silence of contractors and inspectors, devised imaginative approaches to the special problems of corruption. The Department decided that the primary thrust of the investigation would be to infiltrate the Buildings Department using a police officer in an undercover role as a building inspector. As a second approach it was decided to create a demolition company which would gather information from within the private sector and from contacts with employees of the demolition unit. The net effect of this two-pronged approach was to infiltrate the entire construction industry, both from within the regulatory agency and from within the regulated industry.

The undercover police officer worked as an inspector within the Buildings Department performing on a daily basis routine functions that were expected of any building inspector. Without solicitation on his part he was bribed 76 times during the year that he operated as an inspector. In the 3 months during which he was assigned to his own district he made 66 inspections. Specifically instructed not to solicit bribes or gratuities, he was nevertheless paid off 44 times, or in two out of every three inspections. These bribes totaled more than $2,500. The Department of Investigation in its 1974 report stated: "In fact, we found that corruption and its cover-up are endemic to the working day of

many building inspectors. Throughout their day, they contrive schemes through which they can be bribed and methods for covering up the bribes and gratuities they receive. Corruption is so taken for granted among these inspectors that they often light-heartedly discuss it. Several inspectors malingering one afternoon in the Manhattan office of the Buildings Department, recounted their corruption experiences. One offered this poem which was recorded by the investigators.

> 'We stood eyeball to eyeball and toe to toe,
> Just for a moment it was almost touch and go.
> But he quickly changed his tactics,
> And with a filthy grin
> He said, Welcome, Mr. Inspector, won't you come in?
> He then went to his pocket
> And a roll he then withdrew--
> Of brand new twenty dollar bills
> And he offered me a few.'"

The report continued: "The fact that a large percentage of Buildings Department employees concerned with construction have been criminally implicated by evidence gathered during the investigation should dispel any doubts that the inspectional system as a whole needs overhauling. Much of it is clearly corrupt."

Evidence gathered by the investigators led to 133 indictments. Of the civilian indictments, 54 resulted in convictions by a plea of guilty and one resulted in conviction after trial; there were no acquittals, but seven cases were dismissed. Of the defendants employed by the city, 45 pleaded guilty, 11 were convicted after trial, 4 were acquitted, and 6 cases were dismissed. Twenty-two civilians went to jail and there were additional penalties of fines. One corporation was fined $80,000, but the highest individual fine was $10,000. The majority of the fines ranged from $350 to $500. While not all of the city employees had been sentenced at the time this study was completed, twenty employees received sentences ranging from 30 days to 5 years; most were sentenced to at least one year or more.

While the investigation into the Buildings Department was continuing, the inquiry into the demolition industry was also moving forward. As in the case of the Buildings Department, the thrust of the investigation

into the demolition industry was to uncover the extent of corruption; in the demolition case, the investigation began from the viewpoint of the contractor.

The Department of Investigation was able to develop a fortuitous relationship with persons who had experience in the demolition industry; eventually, the Department went into business as a demolition contractor. The company bid on various jobs awarded by the City. After winning some bids and being awarded contracts, the company hired crews and began work at a number of sites. As the company continued operations, a decision was made to place a police officer into the company in an undercover capacity. It was hoped that he would be able to engage city employees and other contractors in conversation which would provide information as to their knowledge of noncompliance with required procedures and of corrupt activities. This approach proved productive; it was quickly learned that the only way that a small contractor could do business was to pay a gratuity to inspectors based on an existing formula. When it was invited to participate in this scheme of corruption, the company for the first time began to make a profit, since it was no longer required to conform to all the procedures stipulated in the codes.

Through the continued operations of the company and the investigation, the Department of Investigation was able to develop other sources of information within the Housing and Development Administration and within the private sector. One of these sources was an undercover demoliton inspector. Over a long period of time, he had numerous conversations with other employees of the city's Demolition Unit and with many contractors. Having earlier had the opportunity to fully chart the life of a demolition contractor, the Department now had the opportunity to chart the life of a demolition inspector.

From the information that the Department of Investigation gathered, it was found that all of those inspectors, other city employees, and contractors involved in the demolition business with whom the Department had contact during the investigation, were either corrupt or had first-hand knowledge of the existence of corruption. It was learned that a demolition inspector receives a bribe for virtually every job to which

he is assigned. The undercover inspector, whose bribes were all unsolicited, received on the average $15,000 in bribes per year. Other inspectors, not bound by the constraints imposed on the undercover inspector, could actively seek gratuities and bribes from contractors with whom they were dealing. Therefore, it is safe to assume that they could take in considerably more money than the undercover inspector. The $15,000 in unsolicited bribes received by the undercover inspector represents a pretax salary of approximately $20,000. This figure, added to his regular city salary of approximately $14,000, raised his total annual income to approximately $34,000, the salary of a Deputy Commissioner in the Housing and Development Administration. It should be pointed out that this income was earned by working 3 to 4 hours a day, which the investigation showed to be the average working day of demolition inspectors. The investigation also revealed that inspectors, including the undercover inspector, were required to turn over approximately one-third of the bribes they received to their supervisor. Based on the average number of inspectors reporting to a particular supervisor, the Department of Investigation concluded that a supervisor could take in approximately $18,000 in gratuities from the men under his direction. Again assuming that the $18,000 in bribes received by the supervisor represents a pretax salary of approximately $25,000, adding this figure to his regular salary of approximately $18,000 results in a total annual income of approximately $43,000, nearly equal to the salary received by the Administrator of the Housing and Development Administration.

Corruption, Investigation, and Reform

Earlier, we quoted a study which estimated that New York City leads the nation in the art of exposing corruption. Investigative journalists and investigators of the State Investigation Commission, Knapp Commission, and Department of Investigation have done outstanding work in uncovering patterns of corruption in New York's construction industry, documenting their cost to the community, and prosecuting those involved in criminal activity. Each exposé has been well covered by the media, and each had led to the prosecution and dismissal of city employees. There is little indication, however, that these actions have significantly diminished

corruption in New York City. On the day after the Department of Investigation issued its report on the Buildings Department, with a newspaper whose headlines proclaimed the Department's findings of corruption tucked under his arm, a demolition contractor, commenting on the publicity that the Buildings case generated, cautioned the undercover inspector to be careful and thereupon paid him a bribe. The 90 days that followed the announcement in the Buildings case proved during the course of the investigation into the demolition industry, to be among the most active days in terms of the payment and solicitation of bribes and other unlawful gratuities.

The Department of Investigation concluded its 1974 report on the Buildings Department by saying: "Exposing criminal conduct is not enough. Changes must be implemented which will assure the people of this city that their buildings are safe and habitable. That is the ultimate concern of this investigation."* The investigations did not, however, cause the New York City government to undertake major reforms of their administrative structure or construction regulation systems. While its investigations were still under way, the Department of Investigation began systematically to canvass representatives of the various groups involved in the construction industry including builders, union officials, architects and engineers concerning methods to reduce the level of corruption by city employees and officials. It was the general opinion of these representatives that a major factor that caused corruption was the inspectors' ability to delay the approvals that are necessary at various stages in the construction process which must be obtained before construction or occupancy can begin.

After the investigation was completed and the evidence turned over to the appropriate District Attorneys, the Mayor created a Special Board of Review consisting of a Deputy Mayor, the Investigation Commissioner,

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*New York City Department of Investigation, Preliminary Report to the Mayor on Findings of Corruption in the Construction Industry and in the Buildings Department (1974); Edward Ranzal, "City Report Finds Building Industry Infested by Graft," New York Times, November 8, 1974.

the Buildings Commissioner, the Commissioner of Public Works, and the Director of Construction to prepare recommendations for reform. Based upon the information gathered during the investigation, a review of past investigations and the reforms which had been tried over the years in the Department to reduce corruption, and the opinions of construction industry representatives, the Board concluded that there was little that could be done with the present inspectorial system which had not been tried already and been proven ineffectual by this investigation. Accordingly, the Board decided not to make any recommendations for changes within the Buildings Department but to direct all its efforts to constructing a new inspectorial system.

The new system proposed by the Board set up a series of certifications by licensed architects and engineers, whose qualifications had been accepted by the Buildings Department, to replace the inspections conducted by Buildings inspectors. This new system was made mandatory for all major construction projects, since most of these are supervised by architects and engineers, and was made available as an option to the contractor on smaller construction jobs. Under the proposed system the Buildings Department would spot-check the certifications of the architects and engineers and perform inspections on small jobs where the contractor decided not to use the certification mechanism. Misstatement by the architects and engineers in their registration applications or certificates was made a crime under the proposed amendment and grounds for the loss of their professional licenses. This proposed system was designed to allow the contractor to control the timing of the inspections he needed to finish his job, and thus do away with that which the industry had identified as a major cause of corruption--the inspectors' ability to delay construction.

On September 30, 1975, the final amendment package was submitted to the City Council for its action; months later this push for major reform died when the council failed to act. At the hearings on the package the council members were less than enthusiastic. Some expressed the opinion that the investigation had cleared up the problem and refused to accept the Department of Investigation's conclusion that the corruption in the

Buildings Department went far beyond what the investigation had specifically shown. Others stated that they saw no reason to introduce a new system since the old one had worked well for years, with a few exceptions such as had been found during the investigation. By these comments the council members showed at the very least a lack of appreciation for the magnitude of the corruption problem involved and at most a total callousness to the anticorruption effort the amendments represented.

The most damaging testimony at the hearing held by the Council was that of union leaders who characterized the proposed system as antiunion since it required fewer inspectors. This argument, coupled with their own lack of enthusiasm, was enough to keep the Council from even voting the amendments out of committee. Thus, the entire effort of the city administration was stopped with little likelihood that the amendments would ever be passed, particularly since public and press interest in the subject had died down.

Exposures of corruption did little to mobilize support for change; the massive fiscal crisis of 1975-76 may have forced actions that will encourage reform. Among the administrative changes implemented are a new budget and accounting system which puts more information and control over agency actions in the hands of senior agency managers. There is now a vastly increased emphasis in accountability not only to reduce expenditures, but also to increase productivity, as the city is forced to do the same work with fewer people. This emphasis on accountability not only implies greater and closer supervision which, in turn, may mean fewer opportunities for corruption, but may also lead agencies to take steps to get rid of incompetent and dishonest employees. This interest in stricter discipline can be attributed to the morale problem managers faced during lay-offs when they had to let good junior people go because they had never taken the time to get rid of incompetent senior employees.

In addition to the changes brought on by the fiscal crisis, the city began in January 1977 to operate under a substantially revised City Charter. The new Charter strengthens the Code of Ethics and empowers the Board of Ethics to conduct investigations on its own initiative. It

strengthens the authority of the Department of Investigation over the Inspector General offices set up in the various city agencies by giving the Commissioner of Investigation the power to approve or disapprove the appointment of Inspectors General by agency heads, and to monitor the activities of the Inspector General offices and set standards for the performance of their functions. The Charter also decentralizes many of the personnel functions; it mandates a reduction in the number of different titles in the civil service system, permits agencies like the Buildings Department to create their own exams, both oral and written, for the titles that are peculiar to it, such as that of Building Inspector, and requires the establishment of a performance rating system for all city employees based on a detailed job analysis. These ratings are to be the basis for all salary increases and promotions. The Charter provides for a system of incentive awards and bonuses for outstanding performance, permits lateral entry into the civil service system at every level, and creates a managerial service with lateral entry and special management training. Further, the Charter gives new strength to the City Council by giving it a budget review office similar to that created for Congress at the Federal level so that it will have more information on agency operations. Finally, to increase citizen participation, the Charter divides the city into service districts similar to the planning districts, provides for professionally staffed district offices, and requires all the city's service agencies to send representatives to newly created district boards. These agencies are then required to report their activities to the public on a district-by-district basis so that the citizens can be aware of all government activity in their district.

Another reform, not related to the fiscal crisis but directly related to corruption control, came from the city's decision in the midst of the fiscal crisis to institutionalize the Department of Investigation's Corruption Prevention Bureau. This Bureau, which had been created under a Law Enforcement Assistance Administration grant, had analyzed the patterns of corruption uncovered by the Department in several different agencies and prepared management improvement programs using opportunity-blocking techniques from the field of industrial engineering to prevent

recurrence of the corrupt activities in the future. In its first year of operation under the grant, the Bureau installed prevention programs in several agencies which are estimated to have prevented losses of $11 million annually.

Conclusion

New York City has had both endemic corruption and highly sophisticated investigations systems. For 20 years, corruption has been found in the construction industry and in regulatory systems whenever journalists or investigators have explored the field. In plan examinations, in the construction process, and in building demolition, investigators found that almost nothing happened unless money changed hands. Patterns of corruption survived both investigatory commissions and active prosecutions. Yet efforts to establish prevention systems continue, and an outstanding Department of Investigation continues to perfect its strategies for uncovering official wrongdoing. With the impetus of the reforms forced by the fiscal crisis, the effort may succeed.

HOUSING REHABILITATION IN CINCINNATI*

Background

Cincinnati, Ohio, is a city of contrasts. It is one of the oldest cities in the Midwest (when it incorporated in 1819, Chicago was still a frontier trading post), yet its economy is thriving and its downtown areas have been substantially redeveloped since World War II. In the late Nineteenth and early Twentieth Centuries, it was dominated by political machines similar to those in other cities, but the Cox machine was ousted in the 1920s and the city has been run by progressive forces for 50 years. A 1958 article in Fortune magazine described Cincinnati as "the best governed city in the United States," but even Cincinnati is not immune to corruption, as shown by a series of incidents exposed in the last 3 years. After 50 years of having confidence in the integrity of city government, city officials are now trying to establish mechanisms to identify and remove the possibilities for corruption to prevent future scandals. In this section, we will look at a major scandal that arose over the administration of housing rehabilitation programs and describe the efforts under way to encourage employee integrity.

Cincinnati developed as a manufacturing, trading, and transportation center for the Ohio River valley; its diversified economy survived the Depression better than many cities that depended primarily on heavy industry. Cincinnati's population reached a high of 504,000 point in 1950, and has declined slowly ever since; the estimated population in 1975 was 436,700, when Cincinnati itself represented one-third of the metropolitan area. The 1970 Census showed a median family income of $8,894, a median educational level of 11.2 years, and a 28% minority population.

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*By Theodore R. Lyman and Thomas W. Fletcher.

Since the 1926 adoption of a city charter creating a council-manager form of government (Cincinnati was the first major city to adopt the system), city elections have been officially nonpartisan. However, slates of candidates for nine at-large council seats are prepared by Republicans, Democrats, and the Charter Committee, a nonpartisan group first formed to work for the adoption of the manager charter. The Charterites dominated the city council until the mid-1950s; Republican majorities were then elected until the late 1960s, when Democrats and Charterites merged forces to regain control of the Council. Council members serve for two-year terms, and select one of their number to serve as mayor, a ceremonial position with no administrative functions. Two-thirds of the Council members who have been elected since 1926 have been business executives or attorneys; 65% have held graduate degrees.

As anticipated when the charter was approved, the city manager has served as the focal point of administration in the Cincinnati government. Most managers are selected through nationwide searches, and serve at the pleasure of the council. The city charter provides that "Neither the council nor any of its committees or members shall interfere in any way with the appointment or removal of any of the officers and employees in the administrative service," that the Council deal with city employees "only through the city manager," and that the manager shall exercise "all executive and administrative powers conferred by the laws of the state." In short, Cincinnati has established a strong city manager form of government, and vacancies have attracted highly qualified applicants from around the nation. Only eight men have held the position since it was created in 1926, seven of them recruited from outside the city. The then-current manager had previously served in Tacoma, Washington, in Scottsdale, Arizona, and in Montclair, California. Managers and the city council have been similarly willing to import outsiders for senior management positions; faced with a problem in the city's building inspections program, the city hired as director a professional engineer who had been a consulting engineer and who had previously worked for the city of St. Louis.

Many modern management techniques have become standard in Cincinnati. A civil service system established by state law is administered by a commission appointed by the mayor. An office of Research, Evaluation, and Budget conducts analyses for the City Manager, and productivity programs and management-by-objectives techniques are used by the City Manager to structure budgeting and management decision-making. The city actively pursues Federal funding opportunities, and has used redevelopment programs to combat neighborhood decay and rebuild the central business district. Expecially notable is the historic Public Landing area along the Ohio River; once totally rundown, the area is now brightened by a new sports stadium and extensive parks.

In short, Cincinnati has earned a national reputation as a progressive city, a city that has survived a declining population and rapid suburban growth. Active efforts by the business community and the city government have attracted new companies and kept existing firms from leaving the city. An upper-middle-class coalition has sustained reform government longer than in any other major city in the county, and no major challenges have emerged. The city government has kept pace with management innovations and has attracted high quality administrators. As an article on Cincinnati in the Saturday Review noted, "If the local citizenry has a certain smug pride in the city's accomplishments, one can scarcely blame them."*

The Housing Rehabilitation Cases

The Federal Government has created a number of programs to fund local housing rehabilitation efforts. Local agencies handling Federal urban renewal programs can award grants or low-interest loans to cover repairs and improvements to homes and apartments to bring them into compliance with housing code requirements. The mechanics of the program are briefly as follows: the building owner applies to the city agency for funding

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*William Marlin, "Cincinnati, Acropolis on a Riverbend," Sat. Rev. 3, p. 21 (Aug. 21, 1976).

(either grant or loan) indicating the repairs that will be needed. A city rehabilitation specialist works with the owner to draft specifications for work to be done by private contractors; a finance specialist then determines that the applicant is eligible for funding. Assistance in obtaining bids and contracts is sometimes provided by private not-for-profit housing groups. As repairs are made, the specialist works with the owner to inspect progress, authorizes partial payments ("draws") to the contractor, and certifies at the end that the work has been done.

Early in 1976, the Deputy City Manager of Cincinnati began to receive reports that city housing rehabilitation specialists were being paid by local contractors for preferential treatment in securing business and carrying out repair contracts. The City Manager assigned a staff investigative team to investigate the reports. The team began its investigation by reviewing HUD regulations, program guidelines, and files on individual housing rehabilitations completed by city staff and by contractors. To develop the kind of evidence necessary for prosecutions, the team began interviewing city residents who had called and reported shoddy workmanship by contractors. Eventually, the team interviewed 50 homeowners, 40 contractors, and 35 employees of Cincinnati's Department of Urban Development. To assess the validity of allegations regarding shoddy workmanship by both city inspectors and contractors, the team asked inspectors from another department (the city's Department of Building and Inspections) to reinspect completed projects. These and other sources of information such as arrest records, employment data, handwriting analysis, and work permits led the team to conclude that the city's Urban Development Rehabilitation Program had, at the very least, serious managerial problems, and that there was the possibility of criminal activity.

After 45 days of investigation, the team reported to the city manager that there was cause to believe that some city employees were, in fact, receiving cash payments, gifts, and services from contractors in return for favors of one type or another. Examples of favors alleged to be provided to the contractors by city employees included:

- Information as to how much to bid on a contract to win the award.
- Coercion of homeowners to select contractors recommended by city employees.
- Acceptance of poor quality materials and workmanship through lenient job inspections.
- Coercion of homeowners to sign work completion forms by falsely promising that contractors would, in fact, complete the work.
- No requiring accurate legal documentation such as work permits and construction affidavits.
- Helping contractors to obtain releases from problem contracts.
- Helping contractors to use all available contingency money on every contract.
- Assigning contractors work on incomplete jobs without going to a competitive bidding process.

In its investigations, the team concluded that many corruption problems had been facilitated by weaknesses in management practices and a lack of understanding by homeowners of official procedures and the nature of the contracts they were signing. The Rehabilitation Office had established few controls over the work of the rehabilitation specialists, and it had become common gossip that contractors provided Christmas gifts to those specialists and provided home repairs for some city employees at little or no cost.

When section supervisors were confronted with the investigative team's findings, they stated that they were unaware of any abuses by their subordinates, even though there was evidence that showed a clear pattern of illegal payments made right in the office over a three year period, and earlier reports had been made by employees of suspected irregularities.

The investigation also pointed out how personnel control systems, once adequate, were slowly allowed to deteriorate. The pressures of Federal funding, especially the pressure to spend all the available money or risk having to turn the money back, apparently caused an erosion of the managerial environment that once controlled abuse. Office supervisors were forced to spend the Federal funds or lose them, whether or

not such spending resulted in efficiency. The loss of control then accelerated to the point that few controls of any type were in place at the time of the investigation.

After completing their investigation the team turned their findings, including more than 150 transcribed interviews, over to the Hamilton County District Attorney. Shortly thereafter the grand jury brought indictments against 5 employees of the Urban Development Department, which ran the housing rehabilitation program. Two employees resigned and the remaining employees were immediately suspended and later dismessed. All subsequently pleaded guilty to criminal charges. No contractors were indicted, puzzling mid-level officials who felt that bribery, extortion, and kickbacks were a two way street.

Other Patterns of Abuse

Other incidents have contributed to an increased sensitivity to the potential for corruption and to the development of administrative reforms, which will be discussed shortly. Several allegations were made that, if borne out by investigation, should show not only individual corruption but also sloppy accounting and supervisory procedures: 600,000 gallons of gasoline, valued at $250,000, were alleged to be "missing" from the city garage; $17,000 was alleged to have been skimmed from municipal parking lot receipts. Payroll padding at the city hospital was alleged, and employees of the water department were reported to be working on personal projects on city time.

In a series of newspaper articles in 1975, the Cincinnati Enquirer alleged that a city councilman had collected funds from the city for nonexistent staff expenses, that a local contractor had paid the salary of the councilman's city hall staff aide, and that the councilman had "received expensive gifts, employment, and campaign contributions from people dealing with city government." The newspaper further suggested that, as the councilman was a member of the city planning commission and chairman of the council's urban development and zoning committee, favors received from developers and contractors would constitute a clear

conflict of interest. In his council role, the paper charged, he delayed or killed legislation providing a tenants' bill of rights that would permit tenants in substandard buildings to pay rent into escrow accounts, and that would require a certificate of housing safety before a building could be sold. The paper went on to say that in both council and planning commission roles, he voted to approve rezoning applications submitted by a developer who gave him both cases of liquor and campaign contributions. He subsequently pleaded guilty in criminal court to a number of related charges, and resigned from the council.* The city hall investigations team was not involved in this case; the county prosecutor investigated and brought charges.

Responses to Corruption Problems

A 1977 article in Public Management magazine prepared by the city manager's staff discussed Cincinnati's responses to its corruption problems.† The city manager took the position that what was needed was not simply to focus on corruption per se but to recognize widespread problems in the administration of city programs; corruption, he argued, was a symptom of poor organization, inadequate supervision of employees, and a general absence of accountability for the performance of official duties. In a report to the City Council, he concluded:

> The problem of developing accountability in our city government cannot be solved by one single plan or the application of a single management tool. A number of issues need to be addressed, ranging from honesty to the introduction of new methods of increasing productivity. The events of the past year make it clear that the city administration has not been

*See Gerald White, "Ex-Aides Deny Getting Paid What Chenault Said They Got," Cincinnati Enquirer, March 5, 1975; Gerald White, "Chenault Aide Paid by Builder from Dayton in 1973," Cincinnati Enquirer, March 6, 1975; and Gerald White, "Chenault Got Favors from Builders," Cincinnati Enquirer, March 7, 1975.

†Debbie Chapin and Frank Sefton, "Corruption and Accountability," Public Management, Vol. 59 (February, 1977), pp. 7-10.

> effectively controlling the operations of city government for some time. In an atmosphere where each day seems to bring to light some new evidence of mismanagement, it is tempting to look for a 'miracle' solution that will put everything right in a few months. Whether that miracle is called management auditing, accountability, or productivity improvement, such an approach is doomed to failure and will only develop a false sense of accomplishment unless we realize that the problems we have arise from a number of causes that occurred over a long period of time and can only be solved by the application of a number of management techniques over a period of time.

His programs to prevent corruption and improve employee accountability can be grouped under five headings: the establishment of a staff investigations team, auditing systems, management analysis, training, and the enhancement of employee sensitivity to corruption issues.

Investigative Team

In 1975, in response to inquiries concerning the administration of a Federal manpower program, the city manager established a team composed of a senior police detective, a management analyst from the Department of Research, Evaluation, and Budget, and an attorney from the solicitor's office. The detective interviewed personnel suspected of improper activities, the analyst reviewed the management routines of the program, and the attorney provided legal advice on the requirements of the program and procedures for documenting any criminal or disciplinary charges which might arise. As their experience with investigations increased, the team developed standard working procedures. The detective and the management analyst participated in all investigations, calling upon the attorney and other specialists to help on individual cases; in the housing case, for example, inspectors from the Building Department were utilized to determine the extent to which contractors had met code requirements. Each investigation results in reports made to the prosecutor or department head recommending criminal or disciplinary actions, if appropriate, and management reports recommending organizational or administrative changes.

Since the original manpower investigation, the team has been assigned other cases, including the rehabilitation specialists case, which have come to the manager's attention. Over the two years that the team has

been working, it has reviewed civil service testing procedures, stealing of supplies, misuse of city machinery, forging of public documents, solicitation, and bribery. Six employees were indicted (all pleaded guilty), and at least 25 employees were dismissed, demoted, reassigned, or retired as a result of team investigations. One department was reorganized and a variety of policies and procedures were revised.

Auditing Systems

Auditing systems can be used to check financial records of a program, to review management practices, or to measure the effectiveness of programs in attaining other objectives. When the city manager arrived in Cincinnati in 1974, he found few auditing systems available or in use other than the annual financial audits performed by the state government. When the rehabilitation cases began, he created a management audit team to review all aspects of the Department of Urban Development. This team eventually recommended a complete reorganization of the department's functions. Later in 1976 the department was completely dismantled with the housing rehabilitation program being placed with the Department of Buildings and Inspections under the supervision of the man brought in two years earlier to reform that department.

Management auditing then became a citywide interest. A team of management analysts was formed to go through the city government, department by department, systematically reviewing procedures and auditing the adequacy of management control systems. Specialized outside assistance was to be retained, when necessary, in areas such as accounting, work measurement, and systems analysis. The first effort was an audit of seven agencies performing city planning and development functions. This audit resulted in a 20% reduction of staff (60 positions), a 15% reduction in costs ($750,000), and increased management responsibility, control, and accountability.* To institutionalize the audit process and complement

*Debbie Chapin and Frank Sefton, "Corruption and Accountability," Public Management, Vol. 59 (February, 1977), pp. 7-10.

the annual studies conducted by state auditors, the city has established an internal audit division within the Finance Department checking both the financial affairs and managerial efficiencies of city departments.

A 1976 review of the building permit system illustrates the usefulness of these auditing procedures. Following increasing complaints about delays in the issuance of permits, an ad hoc team drawn primarily from within the Building Department traced the complex path followed by permit applications through the city government; 5 city departments were required to complete at least 13 reviews on all applications, while on more complex projects as many as 28 reviews were required. Informal practices had been developed to allow builders to "walk through" simple applications. At the completion of their study, the team recommended simplification of the walk-through process, consolidation of some reviews, and automation of several information and records-keeping functions.

Management Improvements

To focus the attention of city departments on the efficiency of their programs, a program of productivity improvement was established. This effort included the development of work standards in most areas of city operation. Two grant programs developed prototype productivity measurement programs in the Highway Maintenance Division and in the Police Division. The management auditing teams were also asked to apply the methodology learned in the two grant programs to other city operations.

A second element involved training. A training officer was employed to establish an overall training strategy specifically addressing the elimination of duplication and the development of training programs in the area of ethics, integrity, and accountability.

Finally, a citywide program of management by objectives was implemented for the general improvement of processes and procedures. The program had as a specific goal the improvement of management accountability and the development of information necessary for effective evaluation of specific programs.

Increasing Awareness of Integrity Issues

While these steps were being taken to improve the general efficiency and effectiveness of Cincinnati government, the city manager sought to inculcate in his staff a sensitivity to specific practices that might lead to corruption. The Police Foundation president and a University of Wisconsin law professor were invited to conduct a day-long seminar with department heads discussing analytical procedures for identifying corruption-producing situations. At the end of the seminar, each department head was asked to submit to the manager a report on problems that might arise in his organization and steps being taken to combat them.

To expand awareness of the issue of official integrity, the manager also asked the Board of Middle Management to address the issue of a code of ethics, feeling that a staff-developed code would have greater acceptance than ultimata issued by the manager or the city council. Ethics issues had surfaced before in Cincinnati; a 1963 investigation of personnel of the Public Utilities Department had led to the drafting of a short code of ethics prohibiting outside employemnt or other interests conflicting with city duties. Employees had to get approval from their supervisors before accepting outside employment; an Ethics Board would rule on questionable cases. In 1974, for example, a supervisor in the Building Department was refused permission to engage in consulting work for an architectural firm whose work was supervised by the Department.

In 1973, the state legislature adopted a financial disclosure law requiring state, county, and city officials to disclose sources of income, investments, properties, and debts.

To supplement these general rules, the Middle Management Board drafted a ten-page Code of Ethics providing both broad principles and detailed guidelines to be used as tools for judging employee activities. Employees were forbidden to accept any gratuities from firms dealing with

the city, to utilize city time or resources for personal activities, to engage in any outside activities incompatible with official duties, or to own a financial interest in firms dealing with the city. The Code specified minor exceptions--awards from civic organizations, free meals at conferences, bank loans at nonpreferential rates, etc.--but reaffirmed the general principle that "officers and employees must avoid any real or apparent conflict between their private interests and their public duties."

Conclusion

As the city manager indicated in his statement to the Cincinnati city council quoted earlier, no "miracle" solution could be expected to produce official accountability in a few weeks or months. Presenting to the Council his plans for the reforms which have been described, he concluded, "While none of the steps I have outlined will instantly produce a better management system in the City of Cincinnati, or increase the accountability of its employees, they will, taken together over a period of time, insure that our citizens get their money's worth." His success in identifying and acting against problems in the city government has led citizens and public employees to volunteer reports of other problems. Department heads have started to conduct their own audits and propose reforms.

Cincinnati, although damaged by a series of investigations indicating that employees have abused their office, is proving once again why her supporters far outnumber her detractors. City officials have recognized that corruption, perhaps a fact of life in other cities, is a problem that simply cannot be tolerated in their city. They have also learned that the potential for corruption is always just below the surface, that employee abuses can occur when external forces identify internal weaknesses.

In Cincinnati, the battle cry is accountability--the City Manager has predicated his response to corruption on the premise that city hall is afflicted more by a lack of accountability than by any inherent inclination to commit crimes. The article in Public Management magazine concluded that "the crimes being committed by city employees are crimes of opportunity rather than hard core white collar corruption. The key was to take away the opportunity, and Cincinnati is developing a system of accountability to do just that."

CONSTRUCTION INSPECTION IN BROWARD COUNTY, FLORIDA*

Background

Broward County, in the heart of Southeast Florida's "Gold Coast," has sprung from the reclaimed low lands adjoining the Everglades. Immigrants from states to the north began to settle in the area around 1910. The Broward County boundaries were formally established on October 1, 1915, when the county was carved out of the existing Dade and Palm Beach counties. At that time, the county had 800 people, 8 small but identifiable communities, and 1,200 square miles within which to grow.

And grow it did. The end of World War II signaled the start of sustained growth that would continue until the national recession of 1973-74. During this period, 29 cities incorporated. By 1960, the population had reached 334,000; as of April 1976, the population was 924,000. The Bureau of the Census reported that during the decade of the 1960s Broward County was the fastest growing county in the country. In the early 1970s, the growth rate exceeded 8% per year. In 1973, at the height of the building boom, it was reported that people were moving into the county at a rate of nearly a thousand per week. During 1973 alone, more than 63,000 new residential units were built, most of them condominiums. Developers, even those with little experience, had little trouble getting speculative financing; real estate investment trusts (REITS) often guaranteed developers "pre-profits" by lending up to 130% of construction costs. There were 36,000 construction workers in the county, but only 200 building inspectors.

As the building boom began to subside and the nation slid into recession, it was becoming clear that not all of the thirty independent building departments in the County had been able to keep up with the

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*By Theodore R. Lyman.

new construction, nor were they able to provide adequate enforcement of the South Florida Building Code. In late 1974 and in 1975, a grand jury twice returned indictments against officials from throughout the County. Citing the "shocking state in which (they) found conditions concerning the state of building and zoning departments in the various governments in Broward County," the grand jury demanded that local officials do something about code violations that were, they reported, "a frightening reality." This case study explores the zoning and building inspection problems highlighted by the grand jury and the context within which Broward County's problems developed.

South Florida is generally regarded as the adopted home of retired senior citizens from the North. Indeed, immigration from the North has swelled the county's population. However, it is not only retirees who have been moving into Florida. The median age is about 37, suggesting a higher-than-expected representation of the young. Interestingly, this distribution of ages and the relative affluence of the county's residents has had an important impact on the local construction industry. Residents of South Florida, and especially of Broward County, utilize more housing units per person than almost any other place in the country. In 1970, of all the housing units in the county, 59% were inhabited by only one or two people, a percentage far above the national average. During the rampant growth of the 1960s, a new housing unit was built for every two to three people coming into the county.

Between 1960 and 1970 the number of housing units in the county nearly doubled. As the result of a strong trend away from single family units during that period and up to 1974, the 420,000 residential units existing in 1976 were almost evenly split between single-family units and apartment or condominium structures. In 1975 and 1976, however, after the boom had ended, approximately 60% of all residential construction was for single family units. The county's 1976 land use plan explains this sudden shift:

> The peak building years of 1972 and 1973 reflected not only an increased real demand but a flooding of the market with speculative demand. Developers overestimated the demand for

multi-family units and thus grossly overbuilt, resulting in a 1 to 2-year oversupply of multi-family units in 1974-1975.*

Thus, the shift largely reflects a relatively constant demand for single family units and an excess supply of multi-family units that is being slowly drawn upon as demand builds.

Politics and Government

Broward County has had an interesting political pattern emerge from its pattern of rampant growth. Much of the population is represented in civic and political matters by associations of home and condominium owners. These associations have become the focal point for organized politics. Several Executive Councils made up of the presidents of owners' associations are perhaps the strongest political forces in the county, especially outside of the well-established Fort Lauderdale and Hollywood areas. Although these councils endorse slates of candidates, they also encourage their member associations to sponsor candidate nights, giving all office seekers an opportunity to be heard.

One mayor views these associations as important enough to warrant an automatic dialer on his telephone set to the number of the association president in his city. Indeed, most candidates for office find that they must build linkages to these association presidents because of the large number of votes they can muster. A condominium, for example, is densely populated with registered voters who, when the polling place is located in their building, turn out at a rate of almost 90% to vote for candidates endorsed by their association.

Tax rates and general government efficiency are the most frequent issues in local politics. Land use matters have begun to receive increasing attention from voters; annexation, zoning, and growth in general have been political issues in recent County and municipal elections. Since the building recession of 1973-74, many elections have turned on

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*Broward County Planning Council, "Broward County Land Use Plan, 1977," Final Draft, Broward County, Florida (November 1976).

the matter of growth versus no-growth, with the compromise policy of "growth management" usually resulting.

Administratively, the governments of Broward County are not particularly strong. With low tax rates and little industrial tax base, local governments, by and large, simply do not have the resources to hire top-flight, progressive administrators. In fact, only in about half the municipalities do the elected officials employ a professional administrator or city manager to run the city. In at least one city, the city council only recently began asking the city manager what the budget increases were for (and this is in a city of 31,000 having an operating budget in excess of one million dollars).

Land Use Regulation

Land use regulation in Broward County in the past has been a matter of each of the 30 incorporated municipalities enforcing its separate zoning ordinances as it saw fit and the County enforcing its own ordinance. However, after the recent passage of a new charter for the county, there are many signs that the 30 zoning ordinances may soon be coordinated under the umbrella of a countywide land use plan.

By 1970, urban sprawl had begun to cover much of the prime land in the county. Acting at this time to control land use throughout the county, the Area Planning Board (a planning organization for Broward County) embarked on a project to produce the County's first regional land use plan. A few cities and the County adopted the resulting plan as a set of guiding principles. However, because the plan did not have the status of law, its effect on land-use decisions by local governments was negligible in most cases.

Although each city had its own zoning ordinance, nearly all the newer, growth-oriented jurisdictions were so zoned that any type of development could be proposed. In many cases, the developer's proposal would then be negotiated between the developer and the municipality's elected officials. Because the cities depended almost entirely on

building permit fees for their operating revenues, officials generally jumped at the opportunity for new development and accepted essentially any proposals that would result in revenue to the city.

In 1974, the electorate approved a charter for the County that, among other things, dissolved the Area Planning Board. In its place, the charter called for a new Planning Council with a strong mandate to coordinate land use regulations of all jurisdictions in the County--the Council was directed to develop a countywide Land Use Plan and enforce its provisions. Subsequent to final adoption of a plan, the State of Florida passed the Local Government Comprehensive Planning Act of 1975. In August of 1976, the first draft of a plan was presented to the Board of County Commissioners. After 10 months and more than a dozen stormy public hearings at which city officials, developers, and citizens advocated various positions, the plan was modified in early 1977 by the Planning Council and adopted in late 1977.

In general, the plan calls for stringent growth management--growth is to be allowed only when the municipalities can provide community services, facilities, and transportation. Perhaps the most significant requirement of the plan is the authority granted to the Planning Council. All permits, plans, and municipal approvals must now be routed through the Planning Council for final approval. In what the cities call a "surveillance program," all applications for land use from throughout the county will be gathered, recorded, and evaluated by the Planning Council as to consistency with the Land Use Plan; if the Planning Council concludes that a municipality-issued development order is inconsistent with the County Land Use Plan, the violation will be reported to the Board of County Commissioners where pressure can be brought to bear against the offending municipality. If no change is made, legal action against the municipality would presumably be considered and the charter places the municipality in the position of having to prove that it did in fact conform.

Construction regulation enforcement, however, has been (and remains) a local matter. All construction in the county is regulated by a single

code--the South Florida Building Code--which is enforced by the building officials of each jurisdiction. A rather complex and bulky document, the code regulates everything from construction standards (e.g., mechanical, structural, electrical, plumbing) to the roles and responsibilities of local government building officials. While the code reasonably sets forth the goals, purposes, and philosophy of construction regulation, interpretation of code requirements is often rather difficult. To adjudicate disputes, a code amendment in the early 1970s established a County Board of Rules and Appeals. Board members (initially 26 but reduced to 19 by a recent charter amendment), who represent the construction trades and municipal and county interests, meet regularly to hear testimony from contractors and building officials regarding either interpretations of the code or appeals of decisions made by municipal inspectors.

The younger jurisdictions of the county lack the sophistication (and much of the complexity) of the more mature municipalities. In many municipalities, the entire building department consists of no more than three or four people. The largest, the Broward County Building Department, has approximately 30 inspectors. In the few larger jurisdictions (e.g., Broward County, Fort Lauderdale, Hollywood), the staff is large enough to provide some degree of analysis in addition to the basic work of inspection and application review. Until the building boom collapsed in 1973-74, many of the smaller jurisdictions, because of a small revenue base and extraordinary growth demands, had seriously overworked staffs. Many were unable to provide more than a limited amount of attention to required work assignments; inspections, when performed, were often cursory, and code violations often escaped official notice in many communities.

If many building and planning departments can be said to have been somewhat inadequate during the height of the boom, so too were many of the Zoning Boards in the county. Seldom do the backgrounds of Zoning Board members match the requirements for the job. As in many jurisdictions throughout the country, there are no specific requirements in Broward County that members of such boards have experience in areas

reflecting a knowledge of land use regulation. Appointing authorities seldom delve into the background of candidates for appointment to determine the extent to which qualities of integrity and/or judgment exist.

Grand Jury and Other Investigations

In late 1973, as the rate of construction was decreasing and citizen complaints of shoddy construction were on the rise, the State Attorney's Office in Broward County initiated an investigation of what was soon to be called a "chaotic situation" in land use regulation throughout the county. Spurred in part by an aggressive Assistant State Attorney whose own house had numerous potentially dangerous violations of the electrical code, the investigation was turned over to the grand jury, which heard testimony from people representing both public and private interests. Shocked by early evidence, the grand jury asked for and received a 90-day extension to investigate in greater detail the practices and procedures of municipal building and zoning departments as well as the County's department. The expanded investigation was also intended to determine the qualifications (or lack thereof) of individual inspectors.

In its summary statement, the grand jury commented on the "shocking state" in which they found conditions concerning building and zoning departments in the various jurisdictions in Broward County.* Specifically, their report recommended that the apparent confederacy between various appointed and elected municipal and County officials and large developers come immediately to an end. They noted that rezoning by both the County and a number of the municipalities appeared to be based on friendship with (and the power of) the developers and not based on factual studies, although the County seemed to be moving, to a limited degree, in the direction of more objective decision-making.

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*"Final Report of the Grand Jury to: The Honorable Judges of the Circuit Court of the 17th Judicial Circuit of Florida, in and for Broward County," Broward County, Fla. (January 4, 1974).

They urged that municipal officials wake up to the fact that building departments are to be established for the protection of the consumer and not solely to being revenue to the city and County. They condemned the way some cities supported the entire cost of government operations through building permit fees, pointing out that this over-reliance on one source of revenue placed the city in a subordinate role to developers, to the extent that many believed that builders were "negotiating" favorable construction stnadards with city councils in return for the permit fees they paid.

The grand jury asserted that the municipalities and the County must plan in unison so that they (and not the developer) would dictate the future growth of Broward County. Noting that many municipalities had completely failed to control the standard and the amount of building within Broward County, they ascribed the failure to a "gross inability to realize, understand, and grasp the immense problems relating to unplanned high density, high impact development." They also found that the elected officials within Broward County, at both the municipal and state levels, had "completely refused to rationally address themselves to the issue of annexation ... so that it may be too late to correct the problem that now faces Broward County."

In discussing the problems in the enforcement area, they found that employees in the building departments were deficient in experience, background, and qualifications for their positions, and were inherently unable to monitor the development of Broward County. They said:

> Some chief building officials and a great number of plumbing and electrical inspectors do not meet the certification and/or experience set forth in the South Florida Building Code requirements. We recommend each of these cities who employ unqualified inspectors to require each of their inspectors to have the proper experience and proper certification in his area of inspection.

The county inspectors and those of the largest cities in the county were excepted from the charge of incompetence in inspection.

The grand jury condemned practices in the smaller jurisdictions, noting that "one Chief Building Inspector received his Certificate of

Competency as a 'gift' from a neighboring Chief Building Inspector, through falsification of the latter city's documents." The grand jury further condemned the lack of building department procedures in the smaller jurisdictions, which precluded adequate review of plans submitted to the departments by contractors. They noted that in a number of cities such as Lauderdale Lakes and Dania, the Building Department had "absolutely no record-keeping system as to which units have been inspected or as to which inspector has done the inspection, if any." They found the situation "absolutely frightening" and cited a case in Coral Springs where the Building Department had issued a certificate of occupancy to a dwelling whose roof had been put on backwards. Once having issued the certificate, the Building Department had no power to force the builder to rectify the problem, to prevent him from building additional units, or to suspend his license. They further asserted that Certificates of Competency for general contractors were being issued by many municipalities in a "careless, reckless and completely unprofessional manner."

Questionable and possibly criminal acts were also reported. A county commissioner was accused by the grand jury (but not indicted) of improperly intervening in a personnel matter (i.e., appointment of a friend to a county inspector's position and subsequently to the Board of Rules and Appeals, even though the friend had failed his competency examination). Developers testified that they were continually placed in the position of giving gratuities, such as bottles of liquor and $25.00 gift certificates to employees of building departments of the municipalities. (Officials testified that they never received any gratuities but that gifts "suddenly and mysteriously appeared in their automobiles without their knowing from whom or where they came.")

Broadening its scope of inquiry, the grand jury then investigated financial conflicts of interest. Zoning commissioners, city attorneys, councilmen, and mayors were said to be using their official positions to advance their own financial interests. However, the grand jury was unable to find evidence indicating that these officials had violated the state's criminal statutes, and no criminal indictments were returned.

The public officials were, however, castigated by the grand jury for acting in a manner contrary to their responsibilities to their community.

The grand jury recommended legislation requiring contractors to post a surety bond with the state to secure the performance of quality workmanship, and also concluded that local building officials were not enforcing the construction code provisions for misdemeanor penalties. Rather than simply withholding certificates of occupancy, the grand jury recommended that cities should file criminal complaints in cases where the code had been violated. Last, they recommended that the 30 building departments be consolidated into one inspection agency, "thereby being completely free of political pressures."

Following the release of the grand jury report in early 1974, there was a quiet period of about a year and half. The building boom ended and building departments began to catch their breath. The Board of Rules and Appeals (BRA) stepped up its monitoring and certification activities somewhat. However, little substantive reform resulted. One county official said "the cities swallowed the pill, as bitter as it was, and then just continued along." There was no movement toward a consolidated inspections department, perhaps because the cities depended so heavily on permit fees to cover operating costs. No legislation requiring surety bonds was enacted. The developers' interests continued to prevail.

The quiet of 1974 and the first half of 1975 were shattered in the fall of 1975 when an aggrieved inspector in the community of Lauderdale Lakes wrote a letter to the mayor accusing the city's chief building official of not allowing him to properly inspect a major shopping center then under construction (i.e., he was told by the official to forego certain required inspections). The letter was forwarded to the BRA. This act created a furor that has yet to die down.

The BRA held a certificate suspension hearing for the Lauderdale Lakes four-man building inspection department. At the hearing, the chief building inspector argued that his approach to inspections was different but adequate. Rather than inspect each "bay" of the shopping center, he preferred to inspect a single "typical bay" and then approve

all "bays" as being in compliance with the code. The Board was unconvinced and one BRA member told the Lauderdale Lakes official that he had given the builder carte blanche by not inspecting each unit for final electrical and plumbing code compliance.* It was then learned that the shopping center was being built by a man who had previously been the official's immediate supervisor.

The Lauderdale Lakes official's certificate as an inspector was first suspended and then revoked. (The city's own certificate was also suspended but was later restored after appeal.) Fighting back, the building official publicly accused the mayor and two councilmen of political interference--putting pressure on him to approve the construction prematurely. However, the mayor, whom the press said was "somewhat embarrassed" by the whole matter, fired three of the four inspectors in the department and, under pressure, decided to start a new department from scratch.

During the course of the BRA hearings, a Miami Herald reporter became interested in the Broward County situation. In a series of articles in late 1975, the writer criticized local officials for their nonreaction to the grand jury report. He closely followed the BRA meetings and reported on their deliberations and actions. Then the Fort Lauderdale News picked up the story and, in a highly critical editorial, blasted building inspectors who were still failing to enforce the code.

A ripple effect developed. Individual city councils began their own investigations. Cities rushed to reform their building departments. As the press continued to follow the story during the fall of 1975, inspectors were fired by Broward County and by at least one municipality (Tamarac). In the midst of the uproar the State Attorney decided to open a second investigation of building departments. The original intent was to impanel a special grand jury to follow up on the findings of the

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*"Florida: Condo Craze Swamps Regulatory Resources," Building Official and Code Administrator (June 1976).

first grand jury, and to appropriate funding for a special team of investigators, but this plan was dropped by the State Attorney. Instead, the probe was turned over to the assistant who led the first investigation.

Recognizing that the first investigation was perhaps superficial, the second probe was to be a "no holds barred" look at possible criminal acts on the part of elected officials, inspectors, and contractors, since there had been continuing reports of bribes paid by contractors to building inspectors. Focusing primarily on a few cities in the northwest corner of the county, the investigation was also to result in recommendations for "comprehensive reform and improvement."

Shortly after the investigation began, indictments were being returned. A former Tamarac electrical inspector was indicted and charged with two counts of accepting bribes from an electrical subcontractor, and the ex-supervisor of building inspectors in Lauderdale Lakes, who had figured in the earlier BRA suspension hearings, was also indicted. Both men pleaded no contest, thus thwarting the prosecutor's objective of presenting evidence at a public trial.

The second grand jury report,* delivered in March 1976, rather anticlimactically concluded that the allegations of serious code violations publicized earlier were, "in fact, a frightening reality." Commenting on the apparent deep-rooted indifference and apathy that public officials had demonstrated toward their responsibility for ensuring adequate inspections, the report said some of the major causes of the continuing chaotic conditions were: inadequate salaries of appointed building inspectors, overt and subtle political pressure and interference, poor education and/or lack of knowledge of pertinent provisions of the code on the part of electrical inspectors, vague and ambiguous sections of the building code, and "failure of the Board of Rules and Appeals to vigorously and uniformly exercise its powers."

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*"Final Report of the Grand Jury, Fall Term 1975," Broward County (March 4, 1976).

The grand jury found that many proposed building plans were not adequately reviewed. Plans frequently were reviewed in their entirety by one person, rather than by a committee that would include competence in all related areas including electrical wiring, plumbing, and mechanical installations as well as construction. Further, some construction was begun on residential and/or commercial structures without any permit ever having been obtained by the builder, and thus without any municipal review of the plans. Finally, poor internal control by municipalities resulted in lost, altered, or duplicate building plans.

Although the grand jury found that building permits were issued "carelessly and recklessly, especially in Lauderdale Lakes," and that the form of building permits was often inadequate and they were not posted in a conspicuous place, they also found more significant deficiencies even than those. For example, certain mandatory inspections required by the South Florida Building Code, such as inspection of foundations or reinforcing, were not always made. Also, some inspectors, by reason of lack of experience, poor education, lack of competent supervision, or inability to comprehend and interpret the code were unable to discern violations. Others were competent, but were not "red tagging" violations while working for a municipality, whether because of apathy (perhaps related to their totally inadequate salaries), pressures by developers (or contractors or subcontractors) to pass a particular job, overwork, or political interference by local elected officials (i.e., telling inspectors "not to make waves" or to "lay off" a particular development). In some cases, there was reason to believe that refusal to "red tag" a violation was a result of payments to inspectors by developers and/or contractors that amounted to unlawful compensation.

Contractors and subcontractors were found to be using alternative materials not authorized by the code, and to be hiring unqualified, inexperienced, and indifferent workmen. All of these practices resulted in code violations that were not being acted on, as well as shoddy workmanship.

Finally, the grand jury noted that the money realized by municipalities from building permit fees was not being allocated in the area most needed, that of salaries for building inspectors. They cited the example of Tamarac: the municipality received $281,430 from building permit fees during fiscal 1974-75, but the Chief Electrical Inspector was paid $13,804. A similar discrepancy was reflected in the Broward County department, where $633,125 was received in fiscal 1974-75 from building permits while the listed salary range for the Chief Electrical Inspector was from $11,502 to $15,433. Five recommendations were set forth by the grand jury:

- Reduce the membership of the Board of Rules and Appeals from 26 to 15, including two architects, three general contractors, one structural engineer, one mechanical engineer, one electrical engineer, two master electricians, two master plumbers, one fireman, and two civilian consumer advocates. (This recommendation has subsequently been adopted.)
- Establish a county-wide inspection agency with total responsibility to make all mandatory inspections throughout the incorporated and unincorporated areas of Broward County, including all residential and commercial structures. Maintain a full staff of competent and qualified inspectors whose duties would be to inspect and enforce the code. It was further recommended that all full-time inspectors of this agency be empowered to issue stop-work orders when construction is being done contrary to the provisions of the code, and that the costs of the agency be borne by the county, thereby allowing each municipality to retain any and all building permit fees paid to it. (This recommendation has not been acted on and it is generally felt that no such change will ever be achieved.)
- Immediately increase by at least 20% the salaries of the code inspectors. (Only a few cities moved to drastically increase salaries.)
- Conduct similar investigations in the cities of Margate, Sunrise, and Pembroke Pines.
- Instruct the Broward County Commission to establish a Construction Trades Qualifying Board (no board has been formed).

Other Corruption

About two years before the building inspectors case broke, the State's Attorney's Office formed a Special Investigations Unit in response to allegations of political corruption in the county. Currently responsible for investigating consumer fraud as well as political corruption cases, and staffed by two attorneys and two investigators, the unit was responsible for the investigation of the inspections case and has brought more than 20 cases of political corruption to a close. (Approximately 50% of the Special Investigation Unit's time is spent on political corruption; according to the Assistant State Attorney, "The county is politically dirty.") Cases in Broward County other than the building inspectors include that of the Civil Service Chairman of Miramar convicted of falsifying evidence; a Vice-Mayor of Cooper City convicted for soliciting a bribe; a County Comptroller convicted of perjury and a state representative convicted of perjury and jury tampering. Many of these cases concerned land use regulation and included deals between developers and officials. Waste water and solid waste management is another area where abuses seem to have been common.

The political corruption of Dade County, just to the south of Broward County, suggests a regional pattern that extends beyond county boundaries. In the last ten years 21 Dade County officials have been arrested on charges ranging from accepting bribes to stealing dirt from a city dump. Fourteen were cleared of charges (at least two because the statute of limitations had run out), three were convicted, and four have charges still pending.

Responses to the Inspections Cases

Unlike the first grand jury report, the second investigation of the building inspection situation appeared to generate substantial public clamor for reform. Perhaps because 1976 was an election year, the issue finally had the visibility which had been lacking for so long. In their campaigning, some county commissioners called for the consolidation of all building departments into a single agency. The cities, however,

again so vociferously opposed consolidation that the proposal was put on the back burner until other less radical approaches were tried.

Seeing that reorganization was unlikely, the reformers (e.g., the State Attorney, county commissioners, some city managers, and an assortment of private citizens) then looked to the BRA for implementing reform. An Assistant State Attorney had accused the BRA of "do-nothingism," declaring that "the Board had wide authority to find fault and punish those responsible, but it [has done] nothing." In response to the accusation BRA members said that, lacking staff support, they couldn't devote the time it would take to go out and look over every construction site. Other members pointed out that nearly every BRA member was in the construction business and that they would not be able to pass judgment objectively on their competitors' work.

After an additional $100,000 was appropriated by the County, three important reforms were adopted by the BRA: Four code compliance "super inspectors" were hired. Each was an expert in a major construction field (i.e., electrical, structural, plumbing), and was given the job of randomly checking on the code enforcement work of municipal and county inspectors. BRA statistics on the number of code violations found in previously inspected work indicate that the independence of BRA "super inspectors" and the random selection of sites to review have resulted in less "overlooking" of violations (50% fewer violations were found in work inspected earlier by municipal inspectors after one year of stepped up BRA efforts). A second reform was intended to upgrade the competence of local inspection personnel. It was decided that an ongoing education program, required of all inspectors and building officials, would not only increase the competence of inspectors but would serve to make interpretations of the code more consistent among officials of the many jurisdictions. Moreover, to ensure that the education process was working, the Board initiated a program of testing and certifying inspectors. A professional examination would be required each year of each inspector; without BRA certification, an inspector would not be allowed to work. Third, the BRA has formed a small committee to work out difficult

interpretations of the code. This has effectively provided a forum for rational discussion of differences thus reducing certain incentives to corruption (i.e., payments to resolve disputes).

The BRA has clearly moved into a very visible role as a legislatively mandated independent "super agency" responsible for hearing and investigating citizen and contractor complaints, enforcing code compliance, and educating building inspectors. While the Board does not have subpoena authority or any prosecutorial role, it is an innovative approach to removing abuses in the inspectional services.

To be sure, the BRA approach has its own set of problems, one of which was the recent indictment and conviction of a past BRA chairman, who was the building official of the small municipality of Pembroke Pines. He was accused by yet a third grand jury of accepting bribes from two builders in return for favoritism. He was tried, convicted, and sentenced to a 5-year prison term.

In addition to the BRA reforms, building officials themselves have moved to police and improve their profession. A professional committee has been organized around each of the major inspection activities; nearly all inspectors in the County are currently active on one or another of these committees. Many observers feel that the education programs sponsored by these committees (focusing on specific sections of the code) are resulting in consistent interpretations of code requirements from jurisdiction to jurisdiction. Increased consistency, especially, is expected to eliminate those corruption-inducing situations where a contractor can play one building official's code interpretation off against that of another official. It would also appear that a healthy sense of professionalism is developing.

The homebuilding industry has also begun to address itself to problems--such as shoddy workmanship--pointed out by the grand jury. One year warranties on new construction are now offered by many home builders. With an economic incentive (i.e., not to have to honor a warranty claim), some observers feel that workmanship has improved. Higher quality construction can reduce opportunities for corruption

that arise when an inspector finds a code violation that should have a "red tag" but the contractor is unwilling to admit legal responsibility that would show incompetence or negligence.

Florida's legislature moved, in 1974, to enact statutes in the area of ethics and financial disclosure. The state's citizens also acted in 1975. The Sunshine Amendment, the first constitutional amendment placed on the ballot under Florida's initiative procedure, was adopted; it required all elected officers, elected constitutional officers, and candidates for such offices to annually disclose their financial interests. The state's new Ethics Commission is the focal point for monitoring standards of conduct applicable to state and local officials. Complaints regarding violations are investigated by the Commission; findings of criminal violation are forwarded to the State Attorney or other agencies for prosecution. Findings suggesting administrative discipline are forwarded, with reports of the investigation, directly to the official or body authorized to impose such penalties. Remedies and penalties are formally established ranging from impeachment (or dismissal from employment) to restitution for damages.

While reforms such as those undertaken by the profession, the industry, and the state were necessary, these bodies were not singled out by the grand juries as needing improvement as much as the municipalities. Responses by municipal officials have varied. Not all the 29 cities had the same problems; it was primarily the young, rapidly expanding suburbs to the northwest that received the ire of the grand jury. Their response to the investigation and findings ranged from denial that such problems existed to significant reform. In Sunrise, long dominated by a growth-oriented mayor, little was done to address specific problems pointed out by the grand jury. Although a strong "growth management" faction has emerged on Sunrise's City Council, the mayor's orientation appears to still dominate. Indicative of Sunrise's lack of concern over code violations was their "grand opening" of a new civic music center. Scheduled to open for months, the building still did not meet the building code's basic fire prevention and alarm requirements on

the evening of the civic affair. With over a thousand citizens expected to be inside the building, a debate raged over whether or not to postpone the affair. The mayor's position was that it should open, and the event took place as scheduled (albeit with the fire department deployed around the building).

Other cities have moved to improve specific situations criticized by the grand jury. Political reform has swept growth interests from office in Tamarac, Coral Springs, and Lauderdale Lakes. Tamarac's new officials hired a new city manager who quickly replaced the chief building official, requested and received higher salaries for inspectors (putting them at the same level as journeymen in the construction industry), and generally improved the organization and administrative apparatus of the Building Department. Significant personnel, organization, and administrative improvements also occurred in Coral Springs. Higher salaries, microfilming of records for retention (records that didn't even exist earlier), computerized applications, and staff enhancement programs have contributed to a situation observers say is vastly improved over that existing only a few years ago. In Lauderdale Lakes, where the entire Building Department lost its certification in BRA action immediately after the grand jury investigation and where the former chief building official was tried and found guilty, complete political reform has resulted in a new "management orientation" to civic administration. Perhaps the most significant change in Lauderdale Lakes was the election of a politically astute, business-school-educated individual to the office of mayor who has effectively moved the city away from the development orientation characterizing it in the early 1970s.

One of the most significant changes in all the Broward County municipalities over the past few years addresses a problem that was highlighted by the grand jury--overreliance on building fees for operating revenue. The change resulted when the economic recession caused a serious slowdown in building, and nearly all municipalities were forced to increase their property tax rate. As an example, Tamarac doubled the property tax rate in 1974 and increased it another 25% in 1976. The

grand jury had recommended that municipalities not rely so heavily on construction fees, in part to end the close economic linkages between builders and elected officials. The recession so altered this particular situation that city officials were forced to move by economic pressures, independent of grand jury pressure.

Conclusion

At the time of the grand jury investigations, the Broward County situation had its roots in the problems and pressures of rampant growth. Building inspectors were overworked. Construction itself was of low quality, thus code violations were built into many of the new structures. Skilled construction people took high paying jobs with large contractors, so local governments ended up in many cases hiring those who were less competent. Elected officials were as greedy for the developers' fees as the developers were greedy for low construction costs. Quality was sacrificed for money.

The total costs of the abuses and corruption that existed could probably never be determined. Inspectors who were indicted and convicted however, were involved in deals ranging from one to ten thousand dollars.

Damage to the public interest also could probably never be accurately determined. Some developments in Tamarac, for instance, were said to contain potentially dangerous violations of the electrical code in every house, although no one is aware of a Tamarac resident receiving a serious shock or injury because of improper wiring. However, the cost to correct the shoddy workmanship would very well be significant. For example, the owner of the house in Coral Springs that was granted a certificate of occupancy even though its roof had been placed on backward was expected to incur large costs to prevent structural damage.

Suburban sprawl is as serious in Broward County as it is in any part of the country, but the cost of this misuse of land cannot be calculated. The abuses pointed out by the grand jury have, at the very least, made parts of Broward County less desirable as a place in which to live

than it would otherwise have been, and the cost of that is incalculable, whether in social, economic, or environmental terms. On the other hand, housing units were in demand and the demand was met, regardless.

Reactions to the problems depended, in large measure, on the extent to which citizens and policymakers could recognize the verity and importance of the grand jury's wide-ranging and often general criticisms. Where it was clear that the criticisms were on target, elected officials and administrators developed programs to overcome problems. Even where officials did not actively consider reform, organized citizens were often successful at the election box--they voted nonresponsive officials from office.

In those jurisdictions that couldn't (or didn't) accept the grand jury's findings, little was done. However, because the recession had hit and effectively eliminated the growth pressures and because county-wide agencies like the Planning Council (with its Land Use Plan for all jurisdictions) and the Board of Rules and Appeals (with its "super inspectors" and education activities) had stepped up their activities, even officials in municipalities that chose not to improve themselves were effectively controlled. The real question is whether or not any of the reforms or all of them in concert actually worked to prevent a continuation of the kind of abuses once common. Essentially every person interviewed felt that the situation was now under control--that abuses were not occurring at the rate they were earlier--and that if the growth pressures returned, as some feel will happen in the next year or two, the control systems would be adequate. This remains to be seen.

ELECTRICAL INSPECTORS IN OKLAHOMA CITY*

Background

The capital of Oklahoma, Oklahoma City, was founded in 1889 when the territory was opened for settlement. It was settled almost overnight as thousands of landseekers poured into the newly opened Indian lands on April 22, 1889. By 1900, the city had a population of 10,000, which grew to 244,000 by 1950. The character of the city changed substantially between 1950 and 1970 as massive annexations of surrounding agricultural lands increased the area from 51 square miles to 636 square miles. Until overtaken by Jacksonville, Florida, Oklahoma City had the largest land area of any city in the United States. Although the population continued to climb, it did not keep pace with the growth in land area. The current estimated population of Oklahoma City is 390,000, with 788,000 residing in the Oklahoma City SMSA. The median family income in Oklahoma City was $9,130 in 1970. Of the residents in 1970, 84% were white, 14% black, and 2% American Indian.

Clearly, Oklahoma City has substantial room for growth. Currently only one-third of its area is urbanized and over one-half of the city is zoned agricultural. Residential land developments in the agricultural zone are limited because of the requirement that houses must be built on 10-acre lots.

Oklahoma City's growth has been largely haphazard. However, this pattern may soon be changing with the adoption of a comprehensive land use plan, which provides a slight emphasis on preservation over growth. This emphasis reflects the results of a citizen survey conducted by planning consultants which indicated that Oklahoma City residents were in favor of controlled growth.

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*By Lois Kraft.

Oklahoma City is the leading wholesale and distributing point for the state. It is one of the eight primary livestock markets in the country, and has the nation's largest stocker and feeder cattle market. Over 30,000 Oklahoma City residents earn their living from the oil industry. There are 352 oil wells in Oklahoma City producing 5,000 barrels a day. (Even the State Capitol is flanked by oil wells; the producing wells on the Capitol grounds have generated $8 million in revenue for the state.)

Politics and Government

Oklahoma City has a manager/council form of government, with eight members on the city council, elected by district on a nonpartisan basis, and a mayor, elected at large. It is unusual for one member to support the candidacy of any other individual running for the council. Oklahoma City's mayor during the difficulties was first elected to the City Council in 1967 as part of a slate sponsored by the Association for Responsible Government, which broke the tradition of independent candidacies. She was elected mayor in 1971, and is the only individual sponsored by the ARG who is still on the council.

Despite the fact that the mayor's salary is only $2,000 per year, she considers it to be a full-time job. She is the first mayor since the adoption of the city manager form of government to assume more than a ceremonial role. When she took office, the entire staff for the mayor's office and city council consisted of one secretary. The mayor currently has two secretaries and a research assistant, and the councilmen share one secretary. The mayor has spent most of her life in Oklahoma City, and is from a well known Oklahoma City family. She attended the University of Oklahoma in nearby Norman and did her graduate work at Columbia University.

The city council reflects a distinct split in the city between north and south, divided by the North Canadian River. This animosity dates from the early 1900s when the north "stole" the state capitol from the south. Most of the city employees live in the southern portion of the city. The south typically votes against all bond issues that do not benefit their

interests exclusively. The northern portion includes the upper middle class whites, the black community, and the central city, while the lower middle class and poor whites live in the south. In the corruption studied in this chapter, the councilmen from the north did the investigating while the councilmen and employees from the south were being investigated.

In recent years, the city council has begun to take a more active role in city government rather than deferring to the city manager. The council members are only paid $20 per week, yet several of them spend close to full time on city matters. Two of the current members are attorneys, one is a minister, one is a lobbyist for the Good Roads and Streets Association, and the other four are local businessmen. The city council has not typically been a steppingstone to higher office, although one member recently ran unsuccessfully in the Democratic primary for Congress.

The turnover of city managers is extremely high in Oklahoma City. Managers average 18 months in office and there have been four managers in the last three years. One problem experienced by the city managers is the tendency of the council to get much too involved in administrative matters rather than concentrating their efforts on policymaking. One person interviewed cited, as an example, a 45-minute council discussion regarding whether there should be one or two free toilets in the women's restrooms at Will Rogers Airport. Nevertheless, the city council appears for the most part to be a hardworking, dedicated body.

The city does not have a civil service system. Technically, department heads are supposed to choose from among the top three candidates as determined by the Personnel Department. However, some favoritism had characterized the personnel procedures in the past, with department heads rejecting Personnel Department candidates or not consulting the Personnel Department at all. This has changed in recent years, not because of a change in formal personnel procedures but rather because recent city managers have hired department heads from outside the city who are primarily interested in upgrading their departments.

Land Use Regulation Systems

Oklahoma City's land use pattern has generally been haphazard, and zoning, planning, and code enforcement have historically been weak. Apart from any concerns about possible bribery or extortion, code enforcement was an area of particular concern to the mayor when she took office. The fire marshall came to the mayor soon after she took office and complained that the fire department was not being given building plans to check, as was required by city policy. The fire marshall's action angered the city manager, who subsequently put through changes in the pension plan that encouraged the retirement of the fire marshall. When the mayor first joined the council in 1967, she stated in a news interview that the majority of the council was not the least bit interested in code enforcement and was in league with violating contractors. She felt that some bribery was probably taking place, but that in general conflict of interest problems were more common than outright bribery.

A large apartment fire in 1970 increased the mayor's interest in code enforcement when it was disclosed that the apartment had had many code violations. A series of newspaper articles in 1970 covered charges about the building department made by the mayor including irregularities in variances granted and shoddy inspections.

The permissiveness of Oklahoma City zoning policy is apparent to an outsider as oil wells, expensive homes, and factories are intermingled throughout the city. The city is currently developing a comprehensive plan, but decisions on land use development have up until now been made on a case-by-case basis. When the Planning Commission turns down a request for a zoning variance, the individual can appeal to the District Court of Appeals. The court has typically ruled in favor of the person seeking the variance, generally basing the decision on traffic counts on the street where the variance is being sought. If the traffic counts are high, the court will grant the variance to, say, build a tire store, even if the street is otherwise totally residential. Oil drilling permits are also easily obtained through the City Council, and operating oil wells are spread throughout the city. A City Charter Revision Committee

is currently in operation, and it will likely become even easier to obtain an oil drilling permit if a new city charter is adopted.

One currently developing situation illustrates the policies that affect land development in Oklahoma City. Worsening traffic problems have dictated the need for another arterial road extending west from the center of the city. In lieu of extending Main Street straight out, which would minimize costs, plans have been developed to have the street take a four block long jog north and then south again. A friend of a council member owns land to the north of Main Street and stands to benefit if a street is built on his land.

The city adopted the B.O.C.A. building code in 1972, but until corruption charges exploded in 1973, there was little strict code enforcement. Major organizational changes, discussed in further detail below, were a direct result of the corruption case. Late in 1974, a Community Development Department was established to provide short-term planning, code administration, and code enforcement. Salaries, benefits, and job security are competitive with those earned by tradesmen in the public sector, and turnover is not a problem in the Department.

The Electrical Inspectors Case

In May of 1973, a local electrical contractor came to the mayor and complained that he had been forced to pay a $3,000 bribe in order to obtain his contractor's license. The mayor did not report the charge to the city manager or district attorney, but rather had the contractor testify in an open City Council meeting on June 12, 1973. The disclosure came as a tremendous shock to the city manager who was already under fire from the City Council.

The mayor then appointed three councilmen to a special committee to investigate the charges. A young lawyer from a wealthy Oklahoma City family was appointed to head the committee. This committee, despite its lack of subpoena powers, seems to have been largely responsible for the fact that four electrical inspectors were indicted (they were later convicted) and for the major organizational changes that subsequently took place.

The initial focus of the committee was the investigation of allegations concerning the Electrical Inspection Department. Two types of corrupt activity were highlighted in the resulting indictments:

- What amounted to selling of electrical contractor and electrician licenses. Typically, a payment of $1,000 or more was required to obtain test answers. The questions on the examinations were so ambiguous that the answer key was usually necessary to pass.
- "Short counting" in electrical inspections. Oklahoma City's permit fees are in part determined by the number of electrical outlets in the structure. In a short count, the inspector would note on the inspections form a lower number of outlets than the actual count. Then the contractor would either pay the entire difference directly to the inspector or they would split the difference. For example, a $1,000 permit might be written up as a $600 permit with the electrical inspector receiving up to $400 from the contractor.

The principal results of the investigation were:

- Four electrical inspectors were charged with accepting bribes, and pleaded guilty. One received a 2-year suspended sentence, and three were to be sentenced later.
- Four contractors and one electrician were charged with bribery. Two pleaded guilty and were to be sentenced later; one pleaded guilty and received one year on supervised probation; and in two cases the charges were dismissed.
- Six journeymen electricians surrendered their licenses and three licenses were revoked.
- Three contractors surrendered their licenses and one contractor's license was revoked. (The police department was outraged at the revocation of the license, as the contractor involved had been enormously cooperative in the investigation; there was no doubt in anyone's mind that he was a competent contractor who had merely been caught in a situation where he had to bribe to get his license. The contractor sued in state District Court, which ruled that his license should be returned to him without his having to take the examination.)

A part of the investigation, two special inspectors were hired by the city to reinspect city structures to determine if short-counting had taken place. Incomplete record-keeping on the part of the special inspectors makes it impossible to determine how many structures were reinspected. However, at least 114 correction notices appear to have been issued. The revenue lost to the city from the initial inspection of these structures ranged from $.40 to $4,651.20.

During the investigation by the City Council committee, an Oklahoma City police sergeant, who was also a local electrical contractor, charged that he had been a victim of extortion one year earlier. At that time he had gone to his supervisor in the police department. Apparently an investigation had been launched by the police department but was quickly abandoned. At the time of the City Council investigation, the police department claimed that the investigation was discontinued because they had botched an attempt to set up a recorded extortion involving the accused inspector. Regardless of whether or not the police department actually did carry out the investigation, this incident was puzzling for a number of reasons. The sergeant making the disclosure was fired by the police department, although he was eventually reinstated under pressure. However, he has been unable to regain his contractor's license which he was forced to surrender and has also been unable to be promoted above sergeant.

Other Corruption

The City Council investigating committees quickly moved from a focus on the Electrical Inspection Department to other inspection functions and other areas of Oklahoma City government. Testimony was taken from over one hundred city employees who came forth voluntarily. Charges were made against virtually every department in the city. (At one point the mayor stated that the only two departments where corruption charges had not yet surfaced were the planning department and the zoo.)

Despite these investigations, there were no criminal indictments other than those relating to the Electrical Inspection Department. One reason for this was that recordkeeping systems and procedures of the accused departments often precluded an accurate determination of what was going on. For example, a charge that batteries were being stolen from the city garage could neither be substantiated nor refuted because no one knew how many batteries the garage was supposed to have.

Major investigations were conducted in the following areas:

- Twenty-four allegations against the Water Department were studied. Most of these charges dealt with city employees doing work that

was not the responsibility of the city and with preferred treatment being given to certain developers. The district attorney in all cases determined that the allegations involved mismanagement, rather than criminal intent, and that there was insufficient evidence to prosecute.

- Numerous allegations regarding irregularities in the issuance of building permits were investigated. However, recordkeeping problems hampered the investigation. In one case, the building permits had been stored in a cabinet underneath the main counter. A sewer line broke and workmen cleaning up the mess mistook a number of permits and plans for trash and threw them away.

There were minor investigations into numerous other city departments, including the Finance Department, the Sanitation Department, the Traffic Control Department, the Animal Control Department, the Facilities Maintenance Division, the Municipal Court of Record, and the City Garage. All of the charges were tied in with accusations of mismanagement, often making it impossible to sort out whether the charges had resulted solely from mismanagement or whether corrupt activity had been involved. For example, one of the charges against the Oklahoma City Water Department involved irregularities in the payroll system. These could not be substantiated because the payroll clerk kept no permanent records.

Responses to the Inspections Cases

There was extensive press coverage of the inspectors' cases. In addition to coverage of case developments, there were numerous editorials and interviews with principals in the case. Articles discussed how the system worked, how the corruption was linked with the city manager and attempts to fire him by the Council, and how the allegations of extensive corruption might eventually lead to a strong mayor/council form of government in Oklahoma City.

An article appearing in the Oklahoma City Times on August 16, 1973, was headlined "Corruption Called Rampant, Mayor Says City in 'Mess.'" The article covered a wide-ranging interview with the mayor aimed at increasing the public awareness regarding corruption in Oklahoma City government. In the interview, the mayor said: "The real issue at city hall is corruption and whether we are going to be able to clean it up so

that city government can better serve our citizens." She also stated that "Corruption and inefficiency are widespread in city departments, and all of this is costing the city's taxpayers needless expense." The mayor was portrayed by the press as an energetic crusader in rooting out the corruption in city hall.

Three years after a case it is difficult to gauge what the public reaction to it was. However, the contractor who cooperated with the police and subsequently had to fight in the courts to retain his license stated that he felt he had strong public support in his efforts. Much of it was verbal expressions of support, but he did receive several letters commending him for his efforts to root out corruption in the city.

He estimates that with direct legal costs and indirect costs in lost business and time, he lost from $15,000 to $25,000. He states that he probably would do it again, but would have to give it a harder look than he did the first time.

Despite the fact that legal action went no further than the four electrical inspectors and several electrical contractors, there have been widespread organizational and management changes in Oklahoma City government since 1973. Some of these changes have been fully implemented, others are still in the developmental stage.

There have been several major organizational changes affecting the planning and inspectional functions since mid-1973. At the time of the bribery allegations, zoning enforcement and inspections, and code enforcement and administration were handled in the Building Department. The city manager had planned to abolish the Building Department, to move the zoning function to the Planning Department, and to move the various inspectional functions to the Public Works Department, where they had previously been lodged. However, he was fired before he was able to carry out any of his organizational plans.

The following changes were undertaken by the acting city manager during the months directly following the breaking of the case:

- Zoning inspections were transferred to the Planning Department.

- The head of the Building Department was demoted to Chief Building Inspector. He is now Assistant Superintendent of the Code Enforcement Division.
- Numerous inspectors were suspended or fired. Few Building Department personnel employed in mid-1973 still work for Oklahoma City.

The new city manager made two major organizational changes during his tenure. Soon after he assumed his position in early 1974, he transferred the functions of the Public Works Department to the Water Department and Public Events Department, and abolished the Building Department, transferring its functions to the Planning Department. Late in 1974, he established a Community Development Department which assumed the previous functions performed by the Building Department and many of the Public Works Department functions. Its principal mission is short-term planning for Oklahoma City, while long-range planning is handled by the Planning Department. The Code Enforcement Division is headed by a former Public Works engineer. The general trend has been to have professional engineers assume positions formerly held by tradesmen, such as electricians or plumbers.

The splitting of Code Enforcement and Code Administration into two divisions is also seen as a major change, since the persons granting the permits are no longer the people who do the inspecting. The Director of Community Development explained this by saying "This means the cashier and the auditor are no longer the same person."

In addition to shifting functions from one department to another, numerous procedural changes were instituted:

- Licensing test procedures were improved. The examination is changed every year. There has been a large turnover in the Licensing Board appointed by the mayor. For a while, Oklahoma City and neighboring communities were considering a unified licensing system, but this plan was abandoned due to political opposition.
- Salaries were raised so that city employees' salaries are considered to be comparable with those in the private sector. In Fiscal Year 1973-74, the chief inspectors were paid $11,182 and the inspectors $8,939. In 1976-77, the chief inspector is paid $14,431 with the inspectors having salaries ranging from $9,935 to $12,168. The division is no longer experiencing turnover problems.

- Recordkeeping procedures have been improved so that detection of irregularities should be made easier.

In general, it is felt that code enforcement and code administration have improved enormously in the past three years. While Oklahoma City adopted the B.O.C.A. code in 1972, vigorous enforcement did not begin until 1974.

The work of the city council investigating committee was severely hampered by the lack of adequate City recordkeeping. The firm of Peat, Marwick, and Mitchell is currently developing a management information system that will overhaul the accounting and personnel systems of Oklahoma City and will eventually have an auditing module. An Information Systems Committee is charged with determining the priority for various possible additions to the system. As is common with computer systems, numerous bugs remain to be worked out, but it is hoped that parts of the system dealing with accounting, personnel, and inventory control will be operational in the near future. Once in operation, it is likely that this information system will make it possible to spot improper activities on the part of city employees.

ZONING VARIANCES IN EAST PROVIDENCE, RHODE ISLAND*

Background

East Providence, Rhode Island, has roots going back to the arrival of Pilgrims in nearby Plymouth and Puritans in Boston. Both groups contributed their people, their ideas, and their disagreements to the community of Old Rehoboth (originally Seekonk) that preceded the incorporated city of East Providence. It took 240 years for the settlement, just a few miles from Providence, to grow from the hundred or so inhabitants of those early days to the 1,850 that decided in 1862 to incorporate as the City of East Providence. By the end of World War II, the population had grown to 32,000, at which point it became clear that the traditional New England town meeting system of government was inappropriate for a city of this size. In fact, the city had achieved a notoriety of sorts as the largest community in the country to be so administered.

A change in political power precipitated East Providence's move to the council-manager form of government. Republicans had been firmly in control until 1946 when the Democrats first won a measure of representation. Two years later the Democrats won complete control of the council and thus domination of town government. The resulting changes were soon quite visible. The League of Women Voters immediately initiated a study of East Providence's government and issued a scathing report on widespread inefficiency, waste, and political patronage in the operation of the town. Shortly thereafter, alternative means of streamlining the city's government were being investigated. Spurred in part by the declining Republican party, the reform movement turned towards the manager form of government. A bitter battle ended with the adoption, in 1957, of a charter calling for a city manager form of government, with a five

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*By Theodore R. Lyman.

member council (four to be elected from districts and one at large) developing policy, leaving policy implementation to the city manager. The exceptions to this professionally run organization would be the politically appointed commissions. Patronage, as the system evolved, would still have its outlet in the way matters such as zoning, planning, and taxes were to be handled. In 1961, recognizing the "vigorous citizen action in bringing about major civic improvements," East Providence was honored by the National Municipal League as one of a select number of All-American Cities.

Today, East Providence is a community of slightly more than 50,000 middle class people of largely European background. Twelve percent of the population were either born in Portugal or had a parent born in Portugal. Another 20% are direct descendants of English, Irish, or Italian settlers. The 1970 median family income of $10,179 is relatively high for Rhode Island cities, yet 5.8% of the families are below the poverty level and the unemployment rate remains above the national level. East Providence, like hundreds of other cities, has faced the problem of maintaining existing levels of public service over the past decade without the tax base growth that would offset rising costs of service delivery.

Since about 1800, development of the open space to the east of Providence, the state capitol, has been a public issue. At the time of the last land use analysis in 1965, only 28% of the available land within the city's boundaries remained vacant and only a portion of this was considered suitable for development. Lacking prime land to build on, the heretofore active development and construction industry shifted from industrial and single-family construction to apartment complexes. Building permits for single-family units declined from 191 in 1965 to only 35 in 1971, compared to the more than 300 permits for apartment units granted in the same year. Population growth had subsided to an increase of less than 2% a year in the 1960s, and is estimated to be even lower in the 1970s. Because much of the construction of new buildings has subsided, land use decisions of the city council and Zoning Board of Review have focused more on relatively minor rezonings or zoning variances than on approving large new subdivisions or shopping centers.

Politics and Government

After the reform movement of the late 1950s, partisan politics was replaced by nonpartisan "personality politics," although many of today's stronger politicians are closely identified with the Democratic Party. Politicians in power do not necessarily share the same political doctrine, and are not organized in any way resembling the "machines" of Chicago, Philadelphia, and the like; there simply is no clear structure for the city's politics.

East Providence has elements of a very progressive system of administration; salaries are higher than average for most job levels and the many applicants drawn by high salaries are carefully screened before employment is offered. While there is no formal disciplinary plan, the city manager has used his discretionary power to discipline employees on occasion, and staff discipline is reasonably well maintained. Tests given to job applicants cover ethical considerations as well as technical skills. However, because the city lacks a formal code of ethics and because it has only recently (in 1976) come under a state conflict-of-interest code (applied to elected, appointed, and civil service employees), it might be said that ethical issues are not surfaced as often as they are in some other cities.

Indications of the city's administrative progessiveness include a Personnel Department training program for all new employees, two formal grievance systems (one is sponsored by the union; the other is internal and can lead to a hearing by the city manager), and internal audit procedures. A move is under way to initiate zero-based budgeting.

Leadership in the city clearly comes more from the city council than from the city manager. Although the tenure of city managers has been slightly longer (averaging 6 years or so since 1958) than the national average (3 to 5 years), there is evidence that the council plays a relatively large role in city administration (one manager was fired over a dispute regarding who had final authority in administrative matters).

While the overall character of public administration appears to be rather progressive, voter apathy plagues the city. Citizens turn out to

vote or to attend sessions of the city council or the commissions in reasonable numbers only when matters directly relating to taxes are discussed. The exception to this general apathy is the activity of the local Citizens League, a government "watchdog" group with twenty or so active members. While their political endorsements seem to carry some weight, they haven't been particularly successful in recruiting a membership large enough to affect public decisions.

Land Use Regulation Systems

Zoning functions as undertaken and administered in East Providence appear more vulnerable to corruption problems than inspections or systematic code enforcement (i.e., corruption erupted in the Zoning Board of Appeals while there was no evidence of wrongdoing in the other two functions). Accordingly, the discussion in the following sections relates primarily to zoning and the actions of the Council and the Zoning Board of Appeals.

In East Providence, the zoning ordinance and any modifications to the ordinance such as amendments, subdivision approvals, and the like, come under the purview of the five-member City Council. Applications for zoning variances go before the Zoning Board of Appeals; unlike most cities, appeals of decisions by the East Providence Zoning Board are heard by the Superior Court rather than by the City Council. The zoning ordinance is a part of the city's comprehensive administrative code, and spells out the powers of the Council and the Board, the purposes and scope of the ordinance, and the general methods used in enforcing the ordinance. Specific regulations are contained in a comprehensive land use plan (in rather technical language) which is updated periodically.

While there is a Zoning Officer (accountable to the city manager) who acts as clerk to the Board and generally works with citizens and reviews applications for zoning variances, it is the Planning Department that reviews all land use matters and makes recommendations to the Council and Zoning Board. Their recommendations are made part of the permanent record, perhaps as a way of inhibiting any capriciousness on the part of the Council or Zoning Board.

The staff and the decision-makers generally complement each other. The staff (Planning Department, Zoning Officer, and City Solicitor) routinely speak out if they feel strongly about decisions. (However, at least one staff member reported having sensed wrongdoing on the part of the Zoning Board prior to 1973 but having insufficient evidence to go to the proper authorities.) The elapsed time from receipt of an application for variance to the time the Zoning Board makes its final decision is approximately one month. Although this time is spent in technical review (the Board seldom continues matters from one meeting to the next), homeowners and contractors routinely complain that one month is an unreasonable delay.

The Zoning Board, appointed by the City Council, comprises five members, each having a term of 5 years. While the terms are staggered, there is no limit to the number of consecutive terms a member can serve. Appointments to the Board are political rather than professional. There are no requirements as to the experiences or skills required of members, and the Board has included a college administrator and a barber. However, the Zoning Board has seldom included people who had expert knowledge of land use principles or zoning techniques. While there is now a conflict of interest statute, it is not geared to the kinds of conflicts that pervade small towns--Zoning Board members know nearly everybody in town and do business with many of the town's commercial establishments. It is probably fair to say that minor conflicts of interest are inherent in nearly every Board decision.

Although there is a Sunshine Law requiring open meetings in Rhode Island, there is little public interest in Zoning Board meetings. It is not uncommon to have only the principals in attendance at any given meeting.

It would appear that as growth has stabilized in East Providence, there has been a trend away from rigid adherence to the zoning ordinance and master plan and toward much more flexibility in land use regulation. Recent amendments to the zoning ordinance have made it more discretionary, and Zoning Board members have placed more reliance on the professional

views of the Zoning Officer and Planning Department. This has especially been the case since 1975. Much of this change has come about as Zoning Board members realized that decisions have wide-ranging ramifications that their lack of technical expertise prevents them from appreciating.

Corruption

In early 1973, rumors circulated that somebody or a group of people were soliciting funds from persons appearing before the city's Zoning Board in exchange for favorable action on petitions for zoning variances. As it was later brought out in court, a successful local contractor active in city politics apparently mentioned a specific bribery solicitation to his friend, a three-term city councilman and leading East Providence politician. As it developed, a local builder had sought money from the contractor in return for "guaranteed" favorable action by the Zoning Board on a variance that the contractor had requested. The builder claimed that he had two Zoning Board members in his back pocket. The inference was clear. Since the five-member Zoning Board grants variances on only a unanimous or a four to one affirmative vote, two no votes can defeat any proposal. The builder was claiming control of the two votes that could determine any decision and, by inference, that "his" Board members could deny the contractor's application.

The councilman, learning of the builder's demands first went with the contractor to the East Providence Police Department and then to the city's Assistant Solicitor where he requested a full-scale investigation.

At about the same time that the Assistant Solicitor went to the State Attorney General for assistance in the investigation, the builder, apparently unaware of the pending investigation, approached the councilman directly and requested a meeting "on a matter of great importance." At a meeting in the middle of a ball field, the builder requested the councilman's favorable council vote on the city's choice of an architect for a public project in return for $25,000 cash. In addition to the cash payment, the builder claimed, he could arrange a favorable Zoning Board vote on the application by the councilman's friend for a zoning variance.

In the fall of 1973, the Attorney General began his investigation. An investigator for the Attorney General's office interviewed the councilman and other City Council members, Zoning Board members, city administrators, and finally a number of citizens who had recently complained about demands placed on them for Zoning Board action. The investigation was given widespread newspaper coverage and shook the city.

After a 6-month investigation by the grand jury, three indictments were returned:*

- The councilman, accused of lying about the ball field conversation regarding his vote for $25,000, was charged with perjury.
- A former Zoning Board member long-time ward politician was charged with accepting a $200 bribe in return for favoritism in a zoning matter.
- The builder was charged with eight counts of either obtaining or attempting to obtain money under false pretenses (claiming that he could influence Zoning Board decisions).

Although when he announced the indictments, the Attorney General declared that "this investigation is not closed" the life of the grand jury ran out in the summer of 1974 and the subsequent grand jury was not given the case. People interviewed in the course of this study concluded that the investigation was beginning to look too much like a political witchhunt and that it was dropped before the embarrassed Democrats, in the interest of showing equally questionable acts by Republican officials, lashed back with allegations of wrongdoings in the State House.

The perjury charge against the councilman grew from his answer to the grand jury's question regarding the topic of the ball field conversation with the builder. While he told the investigator that the conversation was about $25,000 that was offered in return for his vote, in front of the grand jury he claimed that the conversation was about recreational equipment for the ball park. At his trial, it was essentially the

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*Journal Bulletin, Providence, Rhode Island (May 1974-July 1976).

councilman's word against the investigator's. The prosecutor was able to introduce testimony from two colleagues on the City Council that he had told them of the $25,000 offer. The councilman was convicted of perjury and lost an appeal to the Rhode Island Superior Court.

The councilman was given a 2-year suspended sentence in the summer of 1975 and was placed on probation for 3 years. One year later, succumbing to pressure from his colleagues on the council and from organized citizen groups, he resigned his council seat before his final appeal had been heard. However, he decided to run for his "vacated" council seat only a few weeks later, and overwhelmingly defeated his competitor in the primary election. His political career ended when he failed to win in the November 1975 general election.

The builder pleaded not guilty to charges that he obtained (or attempted to obtain) money (ranging from $500 to $1,000) from citizens on the claim that he could influence Zoning Board decisions relating to their applications for zoning variances. The prosecutor charged that the builder told eight separate parties that "if you pay me money I will see to it through my influence, my control, my power, my political connections, that a zoning petition which you have filed will be signed." Twenty-two witnesses were expected to be called to testify and it was expected that the prosecution would link the builder as a bagman to at least two Zoning Board members. However, after 3 days of testimony, he abruptly changed his plea from innocent to no contest. He was then fined $4,000 and given a number of suspended sentences. The switch effectively cut off any testimony that might have linked him to any other officials.

The final trial was of a five-year veteran of the Zoning Board. He pled no contest to charges that he received a $200 bribe in exchange for voting favorably on a zoning petition before the Board. Again, a no contest plea prevented testimony that was expected to link the builder to the two he "had in his pocket." The Zoning Board member was also fined and given a suspended sentence.

The case that so shocked East Providence ended rather quietly and without a sense of the matter really being closed. The builder was never

linked to the Zoning Board. It was never determined where the money he demanded went. The prosecution's case seemed to many to be based on the premise that the builder and the board member were operating alone, a premise offered by the prosecutor even after people interviewed in the course of the investigation commented that the builder told them that he had two board members in his pocket.

Other Corruption

While there is no hard evidence (other charges, prosecutions, exposes) that corruption in East Providence extended beyond what was brought to the surface in 1973, subtle comments about broader patterns suggest that a more serious problem existed in 1973, and before, than came before the grand jury. When asked about official abuses, an activist clergyman commented that "East Providence is corrupt and always has been." He went on to note that a major organized crime "family" is headquartered in the state capitol two miles to the west. That perception of corruption is reflected by others.

When asked about citizens' tolerance of corruption, one official agreed, saying "tolerance, you bet, you are in Rhode Island now." However, the city's Zoning Officer commented that he has seen a shift in the nature of Zoning Board decisions. Far fewer "illogical" decisions are made now and much more attention seems to be paid to the broader ramifications of zoning variances. Despite indications that East Providence may have had a history of official wrongdoing there was no indication that this extended into the city's adminstrative agencies. This may result from the administrative policies of the city managers, or may reflect the lower stakes involved.

Responses to Corruption

The corruption in East Providence was characterized by a number of factors:

- Politics dominated the zoning process (e.g., political appointments to the Zoning Board, favoritism to political friends, and alliances between private political figures and elected or appointed public officials).

- The low visibility and limited public input into zoning decisions.
- The Zoning Board was small (five members) and the five-year terms of office allowed formation of close personal and political relationships among Board members. A contributing factor was the small size of the city--as mentioned, Board members knew most of the applicants.
- The City Council, responsible to the electorate, was bypassed in matters relating to zoning variances except for their role in appointing Zoning Board members. Even appeals of Zoning Board decisions bypassed the Council and went directly into the court system.

There has been little change in administration or political procedures directed at preventing a recurrence of the 1973 corruption. Claiming he was a victim of circumstances and that he was convicted in a Watergate atmosphere, the councilman not-so-quietly left the political scene. While a new mayor has been elected and there have been new appointments to the Zoning Board, it does not appear that any of these actions had prevention of curruption as its objective.

Because there has been little change, it would appear that once the corruption issue dies down, the same patterns of vote selling and influence peddling could reappear. The few recommendations that surfaced during the case (for example, to make the Zoning Board an elective body) seem inappropriate in light of its already politicized character. It would seem that changes directed toward making Zoning Board decisions more visible to the general public (by encouraging the formation of a citizen's watchdog group) could act to reduce, if not prevent, the kinds of abuses demonstrated in East Providence. As far as could be determined, neither these kinds of changes (or others) were ever proposed in East Providence.

The corruption in East Providence was of a scale far less than what many would term pervasive. What happened in East Providence could probably happen in any city. Perhaps the most interesting aspect of this case is that there was apparently no clamor for reform--caring citizens didn't rise up and demand a higher level of integrity from their public officials. Is East Providence just more tolerant of its public officials? Perhaps, it will remain to be seen whether the same patterns of improbity surface

again. If they don't, the argument could be made that the case was just a political aberration. If charges and allegations of vote selling or favoritism do come up again, the citizens of East Providence should seriously consider implementing reforms as comprehensive as those undertaken in the 1950s.

USE PERMITS IN SAN DIEGO COUNTY, CALIFORNIA*

Background

San Diego County is one of the largest counties in California both in area and population. It has experienced a typical California urban growth pattern, alternating between phenomenal growth and stagnation. It has a low minority population and a high transient population related to military training nearby. Its appointed officials have had a reputation of stable, clean, and efficient administration. County politics, on the other hand, has recently been characterized by public fighting among supervisors, both over issues (growth control) and personalities (charges of unethical practices).

The county is bordered by the Pacific Ocean on the west and by Mexico on the south. The county encompasses approximately 4,200 square miles, and is divided by a mountain range. The eastern side of the range is a sparsely populated desert area, the western side contains the densely populated urban coastal plain. Prior to 1920, the San Diego area was primarily farmland. The mild climate and one of the world's finest natural harbors led to the rapid expansion of a naval base, established during World War I, and the growth of the aircraft industry during World War II. These basic activities geared to defense needs spurred a rapid expansion of manufacturing employment, particularly in the aircraft industry.

After World War II, business leveled off and manufacturing declined. With the stimulus of the Korean War the economy spurted ahead largely due to the expansion of commercial aircraft and missile systems production. However, the period 1961-65 again saw a sharp drop in the defense industry employment.

The employment base consequently began to shift noticeably. Employment gains occurred in finance, insurance, real estate, and commercial sectors. Nondefense industry employment gains have been registered,

*By Thomas W. Fletcher and Bernard Greenberg.

particularly in research-oriented firms. Tourism has accounted for major economic gains.

During the 1950s the county had the fastest growing population of any county in the state. Although fluctuations in population growth rates have occurred over the last two decades, the total population of the county was estimated to be slightly above 1.5 million in 1975. The City of San Diego accounted for 60% of the county population in 1950, 55% in 1960, and slightly under 50% in 1975, as the county population growth exceeded the city's. Whites constituted 84% of the 1975 population; 7% were black, and 6% had Spanish surnames. The mean family income reported for the county in 1975 was $11,435.

The construction industry has known significant fluctuations, paralleling the population shifts over the last two decades. Over 38,000 construction permits were issued in 1955 and nearly 55,000 permits in 1972; but significant declines were registered for the years 1973-75, reflecting a downturn in the construction industry. Fewer than 42,000 permits were granted in 1975, but with a total valuation of $6.5 million.

Politics and Government

San Diego County has five elected supervisors who serve overlapping 4-year terms. The supervisors appoint a Chief Administrative Officer (CAO) who is responsible for the administration of all county functions except those under elected county department heads (District Attorney, Sheriff, Assessor). Until the early 1970s, the county was known for its political and administrative stability. Supervisors were rarely defeated for reelection. However, over the last 6 years there has been a complete turnover on the Board. There were only two CAOs for the 25-year period prior to 1973, but the CAO appointed in 1973 was fired in 1975 and was replaced by the head of the Department of Public Works.

The administration of San Diego County has been noted for its modern techniques, its efficiency, and effectiveness. It has modern personnel, budgeting and financial control systems, and has gone to the "superagency" concept that groups similar functions under a single agency head.

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The land-use superagency is the Integrated Planning Office (IPO). The county also has an ongoing productivity improvement program that will ultimately address both effectiveness and efficiency in most government operations. In the Department of Human Resources, this program is said to have saved over $1.5 million. The county has also been operating under a program budget system for the last 3 years, and uses zero-based budgeting. Further exemplifying the county's progressiveness, the CAO employs the group-team process for most key administrative decisions.

Land Use Regulation Systems

The Department of Land Use and Environmental Regulation is responsible for land use planning, construction inspection, and (subject to final approval by the Planning Commission and the Board of Supervisors) processing land use permits. A Board of Planning and Zoning Appeals adjudicates disputes that may arise in the permit approval process. Appeal from a decision by this body can be taken to the Board of Supervisors, which has the final decision-making authority. A Zoning Administrator, appointed by the CAO, hears and approves zoning matters relating to variances, special uses, and the like. His decision may be appealed to the Board of Planning and Zoning Appeals.

Each supervisor nominates one member to the Planning Commission, subject to approval by the Board of Supervisors. Each commissioner serves for the same term as his or her nominating supervisor and must be renominated by the supervisor after reelection. Any commissioner may be removed by majority vote of the Board of Supervisors. The members of the Board of Planning and Zoning Appeals are appointed and serve on the same basis as the planning commissioners, except that there are seven members rather than five; two of the supervisors nominate two board members rather than one. No specific qualifications are required of members serving on either the Commission or Board.

Land use regulation is big business in San Diego County because of its rapid growth. The Department of Land Use and Environmental Regulation, which combines traditional planning functions with building and

code enforcement, has almost 200 employees in three divisions: Regulation Planning, Regulation Services, and Administration.

Land-use regulation is achieved through a General Plan, ordinances, codes, and a variety of rules, regulations, and policy statements for the guidance of applicants and decision-making bodies. Further guiding the regulatory function, the County has developed a number of critical path and PERT schematics. For example, on lot-splitting actions, 29 separate steps have been identified, involving six different departments or divisions of the agency. All of this suggests that the County's land use regulation operation is modern and client-oriented, but also somewhat complex and time-consuming.

History of Allegations

During the early 1970s, there were two factions on the Board of Supervisors, one advocating a no-growth policy with regard to land development and the other a growth policy. One supervisor, speaking for the no-growth advocates, alleged in the fall of 1974 that there were gross improprieties and conflicts of interest on the part of certain Board members who possessed large land holdings, and that corruption existed in the County Planning Department. Another supervisor was singled out as using his official position to secure favorable decisions on property rezonings. Stating that he found evidence of "corruption involving planners and private developers concerned with land use decisions in the county," the supervisor demanded an investigation. In November of 1974, the Board of Supervisors voted to request the grand jury to hold public hearings to resolve controversies involving the Planning Department and land dealings by public officials.

In a 1975 report, the grand jury stated that it had investigated "three serious complaints" from private citizens in 1974, but "in no case did the jury find a violation of law or willful misconduct." The Board's request for another investigation was then rejected. In a related action, the Chief Administrative Officer stated that an internal management audit triggered by the supervisor's allegations found no evidence of criminal misconduct by county personnel.

Undaunted, the supervisor performed his own investigation, then issued a report alleging that one supervisor had engaged in certain specified improprieties. Furthermore, the report alleged that two planning commissioners never opposed land-use decisions in which this supervisor may have had an interest.

The Dehesa Case

In the midst of this controversy a case of a more serious nature was unfolding. In 1972, a Minneapolis company was awarded a $28 million contract to construct a 7-mile road segment and a bridge in the vicinity of Pine Valley Creek on Interstate Highway 8. One of the firm's subcontractors was the Dehesa Sand Plant in El Cajon; when the owner died in 1973, the Minneapolis firm purchased the Dehesa plant, and began operating the plant under the use permit granted to the previous owner. The company purchased adjacent property and desired to expand the depth of mining and obtain a use permit to begin operations in the property addition. An engineering firm was engaged to assist in preparing an environmental impact report to be filed with the new use permit application.

The company's California counsel suggested a law firm that was familiar with permit filing procedures; the law firm assigned to the Dehesa case a former deputy county counsel whose duties had included advising the county Planning Commission. He advised the Dehesa plant manager not to file the application until January 1974. The stated reason was that the county was preparing a sand mining study for the Board of Supervisors and that the Planning Commission was turning down all applications pending the completion of the report.

Between January and May 1974, the lawyer and the engineering firm preparing the environmental impact report participated in many meetings with County agencies involved in the review process. He advised that a postponement of the initial Planning Commission hearing might occur in view of the Commission's desire to evolve a master plan for all sand extractors. The plant manager, objecting to the Commission's plan, did not want to be included with other firms who were requesting permits as

his firm was. One company did obtain a permit at this time independently of other firms; the lawyer is then said to have remarked "I wonder how [he] bought his permit."*

According to the official grand jury report,* on the morning of May 9, 1974, the lawyer drove to the Dehesa plant and took the manager for a short drive. According to the manager, the lawyer stated that he had been "bar hopping" the previous night with a planning commissioner and learned that the firm granted the permit had "bought and paid for it." The lawyer then declared that one commissioner controlled four out of five votes required at the Planning Commission, and three out of five at the Board of Supervisors level. The lawyer mentioned that he could guarantee approval of the permit if $7,000 was contributed to campaign funds: $1,000 for each of two supervisors, and at some future date $5,000 for a state-wide primary candidate.

The plant manager sought advice from the parent company who suggested that another law firm be contacted; he then went immediately to the assistant district attorney who asked if he would cooperate with investigators to gather evidence on the culpable parties. That was a start of a long ordeal for the plant manager (from May 1974 through January 1975). His phone conversations were recorded and investigators from the district attorney's office photographed various encounters between the manager and involved parties. Photocopies were made of cash, check, and other transactions between the manager and the lawyer. Some 350-400 telephone calls and 28 personal conversations were recorded during this period. This surveillance revealed that the lawyer often referred to the need for the manager to build his political stature with influential officials by "paying his dues," indicating on numerous occasions that this was a conventional procedure for doing business. The "dues paying" contributions that the manager made took the form of cash and check payments (payee left blank) for breakfasts, dinners, and barbecues. Cash and checks on occasion were laundered through the law firm, but only one partner was directly implicated. A total of $4,050 was actually transmitted through the lawyer.

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*San Diego County, Grand Jury Report CR-37048, Vol. I (April 1976).

After all of this activity, a one-year permit (far short of its request) was granted to the company in November 1974. Perhaps trying to be encouraging after this costly setback, the lawyer told the manager that one firm was denied a permit because the owner refused to pay a requested sum and incurred a supervisor's displeasure.

As a result of the collected evidence, the lawyer was indicted in October of 1975 by the grand jury and pleaded guilty to a charge of illegally soliciting campaign contributions. Sentencing was delayed so that he could testify in the grand jury's bribery and conspiracy hearings relating to the Dehesa case.

From December 1975 through April 1976, the grand jury held hearings on the bribery and conspiracy aspects of the Dehesa case, particularly the activities of one planning commissioner and an attorney associate of the commissioner. Extensive testimony by the plant manager directly implicated both men in bribery and conspiracy, and also touched on their dealings with various planning commissioners and members of the pro-growth faction of the Board of Supervisors. The testimony alleged extensive conflicts of interest among several officials of the Commission and Board holding large amounts of land.

Although testimony was given on various activities of four supervisors and two planning commissioners, indictments were handed down for only the planning commissioner and his attorney friend. Each was charged with conspiracy and bribery in connection with the solicitation of $4,050 in campaign funds for two supervisors and the state-wide candidate, none of whom was directly implicated in these solicitations.

Concurrent with the district attorney's investigation of the Dehesa case, Federal investigations were proceeding in a suspected union fund embezzlement. As a result of these investigations the two indicted in the campaign solicitation case were indicted for bribery and conspiracy again, this time by a Federal grand jury. In this case they were among 35 individuals indicted on charges of conspiracy to embezzle hundreds of thousands of dollars from the pension, health, welfare, and vacation funds of the laborers' union representing county employees. Furthermore

the indictments charged that bribes were offered to certain fund trustees to influence the hiring of the law firm to administer the funds. In early 1977, the two were found guilty on the union pension fund indictments. The trial of the Dehesa case indictments began in August 1977; the former planning commissioner was acquitted, and the attorney pleaded guilty to a lesser (misdemeanor) charge.

Responses to the Dehesa Case

The permit for the Dehesa plant was finally granted in June 1976, 18 months after the application was filed. As one writer observed, "Ironically, none of the financial shenanigans expedited action on the application....While the plant manager, the apparent easy mark from out of town, was gathering vital information during the 'wheeler-dealer' maneuverings, the planning bureaucracy was proceeding at its own pace in moving the application through its labyrinthine channels."

The Minneapolis company incurred over $100,000 in costs to cover legal fees and other expenses during the investigation ordeal, and also suffered direct business losses in the San Diego area as construction firms cancelled contracts with Dehesa. The manager (and others) suspected that the cancellations occurred because a pervasive uncertainty surrounded Dehesa. The manager conceded that had he known that the investigation process was to be so involved, he never would have volunteered to undertake the undercover role.

One of the principal investigating officers was of the opinion that this case was an "aberration," although San Diego County has had some history of political contribution irregularities. The Dehesa incident, however, was the first case of a "quid pro quo" in which a political contribution was solicited specifically in return for a government action. The investigating officer indicated further that the indicted planning commissioner just did not understand the ethics and processes of county government and was acting on his self-perceived ideas of how government probably worked.

As a direct result of this case, an ad hoc committee was created to study the need for new or modified administrative rules and procedural changes. The committee consisted of representatives from the Board of Supervisors, Chief Administrative Officer, District Attorney, County Counsel, Grand Jury, Planning Commission, Board of Planning and Zoning Appeals, and Zoning Administrators.

The committee's report was submitted November 1, 1976, and called for a series of ordinances addressing ethical and legal practices of elected and appointed officials. Two principal changes were proposed and adopted, the first dealing with contacts between county officials and applicants or petitioners and the second with the training of county officials.

In the first area, members of the Board of Supervisors, Planning Commission, and Board of Planning and Zoning Appeals were prohibited from making any contact or having any discussion with proponents or opponents on any case of planning or zoning which had been set for public hearing. Any written material received, any contact made, or any specific knowledge possessed by any member of these boards must now be revealed publicly by that member at the beginning of the relevant public meeting.

With respect to training, all newly appointed board and commission members and newly elected supervisors in the county are now required to attend a training course conducted by the County Counsel's office relative to State laws and County ordinances relating to planning, zoning, and other land use matters. Supervisors and commission and board members are also required to attend annual training sessions.

Although the ordinances have been in effect only since early 1977, representatives of the County Counsel's office sense that the new requirements are having the desired effect--San Diego public officials are becoming increasingly aware of what is required in maintaining high ethical standards.

REZONING IN SANTA CLARA, CALIFORNIA*

Background

Santa Clara, California, is one of many bedroom communities that have replaced truck farms and orchards in the Santa Clara Valley, approximately 50 miles south of San Francisco. Although Santa Clara is often viewed by the people of the Bay Area as just another suburb, the city has certain aspects that set it apart from the suburbs around it, including a large industrial base.

Like the other communities in the Santa Clara Valley, the city of Santa Clara has experienced rapid growth--its 1950 population was only 11,700. With a current population of nearly 88,000, the city has seen and weathered, seemingly without serious problems, the substantial pressures of real estate development. While thousands of single-family homes and apartment units were built in the 1950s and 1960s, the boom in this kind of development essentially came to an end in the early 1970s; the prime residential land had simply been covered over with buildings and pavement. Only a relatively small section of land on the north side of town, long zoned for light industrial use, remained vacant at that time. During the past few years even this land has been developed nearly to capacity.

Much of the population growth has stemmed from the business success of a large concentration of electronics firms in the city. Hewlett-Packard, National Semiconductor, and Memorex are the leading employers. These firms require highly skilled engineers and technicians and have attracted a relatively affluent citizenry to the city. The median family income in 1970 was $10,915 but 25% of the households had incomes over $15,000. Like most of the bedroom communities in this area, Santa Clara is rather heterogeneous. Its 1970 population is 77% white, non-Spanish

*By Theodore R. Lyman and Lois Kraft.

surnamed; 18% white, Spanish surnamed; 3% Oriental; 1% black; and 1% of other ethnic groups.

The shift in development activity from residential to light industrial uses occurred during a time when the electronics business was booming. Manufacturers of secondary products moved quickly to locate near the companies that assembled components. General service companies moved in to serve the affluent businesses and residents who were employed in the growth industry. Business opportunities abounded and the resulting rush to buy and build on the little land available caused a boom in land sales, building materials, construction, and, inevitably, government regulation.

Politics and Government

Politics in Santa Clara has changed little over the past 20 years. A basic pattern of nonpartisan personality politics has been disrupted a few times when political slates were organized to bring some focus to the city's policies (in 1959 a slate successfully campaigned on a platform of "fiscal responsibility"). Santa Clara has had a manager-council form of government since 1952. Council members seldom involve themselves in administrative matters, leaving them to the city manager and his staff. The council, as recently as the late 1950s, seldom even involved itself in the budget process.

As evidence of political stability in the city, one person has served as mayor since 1958 and the current city manager was appointed in 1962; his tenure in excess of 15 years far surpasses the 3-5 year average tenure of city managers nationally. The style of political and administrative leadership in the city is without distinguishing characteristics--solid, but without flair.

Organizationally, the city is unlike other cities in the region for two reasons. First, the police chief is directly elected, thus making the police department a somewhat autonomous unit of the government. Second, the city owns and operates its own electric and water utilities. Largely because of the revenue generated by the utilities, the city has an extraordinarily low tax rate that the council has been able to continue

to reduce. Even with low and decreasing tax rates, the city provides many more services, like free trash collection, to its residents than many surrounding cities.

Internally, the personnel system is like those of other small, younger cities. A small staff of personnel analysts administer a civil service system, under the supervision of a Civil Service Commission. Salaries and civil service procedures are similar to those of other cities in the area. There is a published code of ethics (although no formal disciplinary system) and public officials come under the State's conflict of interest statute.

Citizens seem to be rather actively involved in the affairs of the city. Even though municipal elections often see only 30% of the registered voters going to the polls, 28% is considered a large turnout for this region. Council meetings are routinely attended by one hundred or so interested citizens and, from time to time, the audience overflows council chambers designed to seat 350. Numerous commissions and advisory committees are active. One civic organization, the Citizens Advisory Committee, has viewed itself as a watchdog group, although they are widely viewed as less than effective in that role. Meeting formally once a month, members of this committee report on and discuss issues coming before the City Council and the various commissions.

Land Use Regulation Systems

The process of land use regulation in Santa Clara is basically the same as in other California cities, and is based almost entirely on its General Plan, a zoning ordinance and building code. The Planning Division staff handles technical matters and the Architectural Review Board and the Planning Commission, both appointed by the mayor and City Council, consider policy issues and are responsible for reviewing applications and making recommendations to the City Council. The Council has final approval authority over all matters relating to land use.

The zoning ordinance and building code are comprehensive and rather complex. Like many such regulations, standards and requirements are

often technically intricate. Technical interpretations are provided by the staff of the Planning Division following a comprehensive general plan mandated by the State. Each application for a sign, a variance, or rezoning is first reviewed by the staff. A professional technical recommendation is then made by the staff and is forwarded with each application to the Planning Commission for review. Eventually the application, with the technical recommendation and the recommendation of the appropriate citizen commissions, is sent to the City Council for final approval. Both staff and commission recommendations are made a part of the final record.

For many reasons the council and/or Planning Commission often do not follow the staff recommendation. Staff members, however, see this as appropriate given the fact that the staff review focuses on the application's compliance with the comprehensive plan and the zoning ordinance, while the commissioners and council members often weigh broader political issues (e.g., the relative value of improving the sales tax base if a rezoning were allowed).

In Santa Clara and surrounding communities, no special expertise or experience is required of Planning Commissioners or Architectural Review Committee members. Of course, elected members of the City Council need demonstrate no technical expertise. Moreover, appointed members of the Planning Commission and Architectural Review Committee are not required to submit to a check of their background. Thus no attempt is made to determine qualifications or whether or not one has a record suggesting a lack of integrity. Planning commissioners and other citizens on committees or commissions have long been appointed primarily on the basis of being known to the Mayor or City Council. In the past, campaign managers, campaign finance chairmen, and others involved in political activities have routinely been appointed to the prestigious commissions and citizens' committees.

A second question that has received a good deal of attention concerns conflicts of interest. Prior to 1974, little attention was paid to financial disclosure. Sometimes a decision maker would forget to declare,

as required by a local resolution, his/her interest in a matter before the council or the commission. The mayor was a real estate broker, and other councilmen were closely associated with land sales, building materials, construction, and the like. A Planning Commissioner was also a consultant to firms wanting to know whether or not to relocate in Santa Clara. The City Manager owned a hardware store in town. In sum, the decision-makers in Santa Clara were civic leaders in every sense--they were heavily involved in both local government affairs and local commerce.

Santa Clara had a Code of Ethics stating (emphasis added):

> No councilman or other public official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or would tend to impair his independence of judgment or action in the performance of his official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political associations.
>
> Incompatible Employment. No councilman or other public official or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties. In the event a councilman, official, or employee should possess a financial or personal interest in any business or transaction, any presumption of conflict of interest with his public duties shall be removed by his disclosure of the nature and extent of such investment to the proper authority for the records of that authority.
>
> Disclosure of Confidential Information. No councilman or other public official, or employee, shall, without proper legal authority, disclose confidential information concerning the property, government, or affairs of the city. Nor shall he use such information to advance the financial or other private interest of himself or others.

The Case

On December 31, 1973, New Year's Eve, Santa Clara's mayor and a Bay Area carpet merchant were talking when the mayor began to brag about how free Santa Clara was of political corruption. Much to the mayor's

surprise, the merchant revealed that he had recently been solicited for a bribe in Santa Clara. As he stated in the transcript at a subsequent trial:

> On the way over, this gentleman that the mayor was talking to in the car said something--could have been Watergate or something came up--and the mayor made a crack about three times talking to him that, you know, these things are unnecessary if you run your city right. Well, there was no corruption in this, and that, and the other, and so on. After about the third time he said it, I thought it would be very cute to tell him (the mayor) that I admired his sincerity but I damn sure wouldn't want to be the star witness that he called in at his trial when he tried to prove that was no corruption in his fair city.

The mayor didn't press the issue at that time but a short time later he appeared on a television program sponsored by the merchant. Off the air, he mentioned that he had been troubled about the bribery comment and asked the merchant to explain. The merchant then revealed the whole story--that a former planning commissioner had solicited a $1,000 bribe from him to ensure passage of a use permit and sign variance for his carpet store. The mayor did not immediately go to the District Attorney or the police department, but he did tell a fellow councilman of the allegation. From there the information was somehow transferred to a Santa Clara Sun reporter who verified the story with the merchant and reported it on February 12, 1974, a month and a half after the mayor first became aware of the allegation. After the charge broke in the Sun, the mayor discussed the matter with the city manager who immediately asked the police chief to investigate the case.

The former planning commissioner was a well-known civic leader in Santa Clara. In 1963 he had been appointed to a local school board and later that year to the Planning Commission. In 1969, he resigned his civic positions and moved to Ohio to take a job as an executive for a health care company. Returning in 1970, he was reappointed to the Planning Commission. In 1972, he was named president of the Chamber of Commerce, a position he held at the time of the allegation of the $1,000 payment. In addition to his civic duties, his occupation changed during this time. In 1973 he proclaimed himself to be a management consultant.

He began working with businessmen in and around the city as well as people from outside the city who were thinking of moving their business into town.

One month before the $1,000 bribe charge arose, conflict of interest charges were leveled after his participation in an Architectural Review Board review of landscaping and irrigation plans for property he was part owner of. After two executive session meetings on the matter, the City Council decided to take no action on the charges.

The merchant owned several high volume carpet outlets in the San Francisco Bay Area. Earlier in 1973 he had failed in an attempt to secure permission to open an outlet in Burlingame, a city north of Santa Clara. He had already ordered carpet to stock the Burlingame store and thus was anxious to locate a site for another store. He made an application for a use permit and sign variance (his outlets are well-known for their garish signs) which came before the Santa Clara Planning Commission on June 27, 1973. Prior to the Planning Commission meeting, the merchant and one of his employees met with the commissioner who was acting in the role of president of the Chamber of Commerce. At least in this capacity and, as it developed, in the capacity of chairman of the Planning Commission, he assured the merchant and his colleague that the use permit and sign variance would pass the Planning Commission's review.

A week after the Planning Commission meeting, the commissioner met with the merchant, his lawyer, two of his employees, and his sign contractor in a local restaurant to discuss strategy. The commissioner testified that at this meeting he offered to do a marketing survey at a rate of $30 per hour plus expenses. The merchant and the others in attendance claimed that the discussion actually revolved around what would be done to ensure approval of the use permit by the City Council. The merchant pointed out that it would have been ridiculous for him to request a market survey after he had already decided to open his outlet. The Planning Commission had apparently denied his application because his sign did not meet specifications and because parking at the site was going to be inadequate. But, because he had promised to relocate his billing operation to the new Santa Clara store, the City Council voted, with only one

dissenting vote, to grant a use permit and a sign variance in anticipation of the additional sales tax revenue the new store would bring to the city. There was only limited discussion at the council meeting--centering on how the sign would look rather than whether or not the site was appropriate for a high volume carpet outlet. The discussion ended when the merchant agreed not to use Day-Glo pink paint on either his building or his sign.

Evidence regarding the bribe allegation was presented to a county grand jury in May 1974. All members of the City Council, the city clerk, the commissioner, the merchant, and others testified. However, the grand jury voted not to return an indictment. Despite this setback the District Attorney, his investigator, and a lieutenant from the Santa Clara Police Department pressed on with their inquiry. Two weeks after the grand jury's refusal to return an indictment, the District Attorney formally charged the commissioner with four felony counts--grand theft, soliciting a bribe, and two counts on perjury (charging that he had lied in his grand jury testimony)--and one misdemeanor count (asking and accepting a gratuity for an official act). Two counts were added later: one of perjury for falsifying an affidavit when registering to vote (he had lied about his citizenship); and one of preparation of false evidence (arising from the allegation that he had prepared a questionable "market survey" to account for having received a check for $992.42 from the merchant.

The commissioner pleaded innocent to all charges. In July 1974, he resigned from the Planning Commission. For the next year, his trial was delayed pending a number of appeals. The perjury charge of falsifying a voter registration affidavit was dropped after the First District Court of Appeals ruled that the statute of limitations had expired. In July 1975, the former commissioner was found guilty of four felonies (grand theft, two counts of perjury, and giving false evidence to a district attorney's investigator) and one misdemeanor (accepting a gratuity for an official act). He was acquitted on the count of bribery. On October 25, 1975, he was sentenced to prison for 1-14 years.

The commissioner did not testify in his defense. Thus his personal history did not come out at the trial. However, in a subsequent letter from the prosecutor to the Probation Department, a history of lies and deceit emerged. Despite his image as a civic leader, the former commissioner was shown by the prosecutor's investigation to have had a criminal background including conviction at age 19 of embezzlement and false pretenses (in Canada); desertion from the Canadian Navy; illegal entry into the United States on several occasions; falsifying of dates, places of birth, military service records, and educational background (including claims of being a registered pharmacist and a graduate in business management from the University of Santa Clara); conviction for forging U.S. Treasury checks in 1951; and falsification of voter registration forms and marriage certificates.

The conviction was a complete surprise to many who knew him. He had been widely perceived a a "good" planning commissioner--better than the others. He studied applications before voting and demonstrated leadership on a commission that had none.

Reaction to the case varied. The mayor felt that the former commissioner probably had used his position for personal gain--but that the activity fell into a grey area and was not bribery. The mayor was somewhat bitter over the treatment of the case by the press and the District Attorney. Referring to the Watergate affair, the mayor felt that one of the reporters covering the case was trying to "pull a Woodstein" while the District Attorney was playing Special Prosecutor. He felt that the ex-commissioner had effectively fooled everyone in the community--he had attended church every Sunday, and even served as the mayor's campaign manager. Perhaps indicative of the ethical norm in the city, the mayor candidly stated that he had probably used his office at one time or another to serve his clients in the real estate business and felt that by doing so he had violated no formal or informal code of ethics.

Other Incidents

Upon initial inspection, this case appears to be a prototypical "rotten apple" case. There was no evidence that the money paid to deliver votes on the City Council was ever passed on to any council member. The response of city officials to the case was to vigorously investigate what was viewed as an isolated incident.

Despite the initial impression that the case was one of a "rotten apple" in an otherwise clean barrel, there were other questionable acts and situations in Santa Clara that could suggest a broader pattern of improprieties. In fact, several individuals close to the case expressed the opinion that the investigation focused only on the one commissioner in order to divert attention from other investigations (these cases revolved around the conflicting interests of council members and certain improprieties concerning councilmen's travel privileges).

At about the same time that the case was develping, city officials were wooing, and being wooed by, entrepreneurs interested in building a major amusement park in the open land to the north of town. Two parties were vying for approvals to build a theme park: while nothing was ever formally investigated, there continue to be persistent rumors that city officials overstepped their roles as the private sector vied with public officials. Eventually, the Marriott chain prevailed and went on to build the now popular Great America Amusement Park.

While nothing ever came of the amusement park matter, a formal investigation was launched into rumors that certain councilmen were falsifying their travel expense claims. Subsequently, one pleaded guilty to a formal charge, admitting that he had the city pay for personal travel, and a second resigned from the council amid similar charges.

Because no formal charges have been brought against officials other than the commissioner and the councilman, it is not possible to state precisely the extent to which local officials improperly used their positions in Santa Clara in the early 1970s. However, it would appear that there was a pattern of wheeling and dealing in the city, centered around the commercial interests of city officials, that was not typical of other

Bay Area communities. Besides the mayor who was a prominent real estate agent, there was one councilman who was a prominent local contractor and another who owned a truck company doing business with the city and with firms who have received favorable rulings from the City Council. The city manager owned a local hardware store. One of his former employees served on the Planning Commission and then went on to hold a position at the theme park. While these activities are not in themselves illegal, it would appear to the outside observer that the distinctions between public and private interests were hazy, at best, and that the atmosphere of wheeling and dealing was probably a contributing factor to an unwise appointment to the Planning Commission and subsequent extortion.

Unlike the political side of the city's government, there have been no charges, either formal or informal, of wrongdoing among city employees. The Police Department has remained free of scandals and there have been no substantial abuses documented or charged in the Planning Department. Even with the high level of political activity, a planning department official commented that he had never seen any interference from elected officials into the affairs of the planning professionals.

Responses

As mentioned, the affair was viewed largely as an isolated incident. No specific reforms were implemented to prevent a recurrence of the abuses. The Citizens Advisory Committee has never become particularly effective as a watchdog group, retreating instead to a role of a "political needler." Financial disclosure requirements came to Santa Clara at the same time as other California cities--through the passage of a state referendum* and other legislation. Background checks of prospective commissioners were considered but dropped in the face of mounting concern over the rights of privacy. The council seriously considered requiring technical expertise of planning commissioners but dropped that idea when the minimum qualifications could not be agreed on.

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*In November 1977, a trial court in Los Angeles declared this proposition to be unconstitutional; appeals were under way at the time this study was completed.

In sum, the case occurred in an atmosphere conducive to that kind of influence peddling. Nobody questioned the appropriateness of having a local management consultant to business and president of the Chamber of Commerce serving as a planning commissioner because this kind of closeness between public and private interests was the rule rather than the exception. The only kind of reform that would have been meaningful would have been a citizens revolt at the cabal-like relationships that existed. This wasn't to happen because the citizens were complacent--the tax rate was dropping and Santa Clara continued to provide more free services than its neighboring cities.

ZONING PAYOFFS IN HOFFMAN ESTATES, ILLINOIS*

Background

At the close of the Korean War, large sections of Cook County, Illinois, remained as undeveloped farmland, their growth as bedroom suburbs of Chicago awaiting expressway construction and the westward push beyond O'Hare Airport. In 1954, developers purchased 600 acres of cornfields in Schaumburg Township and built 1500 homes. In 1959, the 6,100 residents of the subdivision incorporated as the Village of Hoffman Estates. Since 1959, the Village has expanded to cover 25 square miles; its 1976 population was approximately 33,500, and it may reach 50,000 by 1990, through further expansion into surrounding farmlands.

The community which has emerged from the Schaumburg Township cornfields falls in the middle range of Chicago's newer suburbs: the new houses, which sell for between $35,000 and $75,000, tend to be less fancy than the estates in Barrington to the north but more highly priced than the densely packed tracts of other suburbs. The median family income was $14,549 in 1970 and only 4.7% of the families earned less than $7,000 in 1970, and 46.5% made more than $15,000. Hoffman Village is overwhelmingly white and middle class. Most of the land has been developed as single- and multiple-family housing. With only a few medium-sized commercial areas and virtually no industry, homeowners have borne almost all of the Village's tax burden since incorporation.

During most of its 18-year history, Hoffman Estates elections have been characterized by personality politics and voter apathy. With no local history and few institutions to build upon, candidates for local office tended to come from the homeowners' associations in the various subdivisions

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*By John A. Gardiner.

or from the PTAs. Until 1969, candidates tended to group together on "slates" with little to differentiate their platforms. Starting with the 1969 elections, however, most successful candidates have been slated at a convention organized by the Republican Organization of Schaumburg Township (ROOST); any dues-paying member of ROOST who has voted as a Republican over the past two years is eligible to vote in the nominating convention. With low voter turnout (27% in 1973 and only 8.7% in 1975) and firm control of the last two elections, some local officials predict that ROOST politics will dominate Hoffman Estates for the foreseeable future. While ROOST may have succeeded in structuring the electoral process, it has played almost no role in village government operations, as the trustees generally take individual positions on village policy issues.

The Barrington Square Case

Since the Village incorporated in 1959 and thereby acquired jurisdiction over zoning, a series of developers have negotiated for permission to create subdivisions in Hoffman Estates. Negotiations over proposed developments generally center around two issues, the density (number of units per acre) and the capital improvements that will be provided by the developer. During the late 1960s, there was a heavy demand in the Chicago housing market for middle range housing, both in single- and multi-family units; since land acquisition costs were high and capital improvement costs did not increase in proportion as the number of units per acre increased, developers would maximize profits if they built high-density developments. Furthermore, if developers did not have to finance some or all of the necessary capital improvements (water lines, sewers, streets, schools, parks, and playgrounds) but could convince the municipality to finance them through municipal bonds (to be paid off through assessments against property owners), the developers would not have to add those costs into the purchase price and would have a competitive edge over other developments. In a number of subdivisions approved prior to 1969, developers secured very favorable terms from the Village Board and other village officials.

In the course of Federal prosecutions concerning the Barrington Square development, both prosecution and defense witnesses stated that payoffs had been made by other developers as well but the details of the payoffs were not substantiated, and neither officials nor developers were prosecuted on those charges. For purposes of this case study, it is perhaps sufficient to note that the Barrington Square payoffs were part of a pattern of corruption rather than an isolated event. Furthermore, while it is rather clear that corruption ceased after the local elections in 1969, it was impossible to identify the point at which it began.

Anglo-American common and statutory law distinguished between bribery (in which a public official receives payments in return for official actions) and extortion (where the payments are demanded by the official).* In the Barrington Square case, a defendant who admitted making payments claimed that he was the victim of extortionate demands made by the Hoffman Estates trustees; the officials, on the other hand, testified that the developer had taken the initiative. The conviction on bribery charges was upheld by the United States Court of Appeals for the Seventh Circuit, and the Supreme Court declined to review the decision. Since the bribery-extortion issue is at least vague, the common term "payoffs" is used here.

In 1972, Federal agents investigating fraud in government housing programs obtained evidence from developers that a former mayor of Hoffman Estates, trustees, and at least one member of the Plan and Zoning Commission had been taking payoffs for zoning changes; at least half-a-dozen developments might not have been started if not for a zoning change. The only payoffs that led to prosecutions concerned the Barrington Square development of Kaufman and Broad, Inc. (K&B), one of the nation's largest home builders. The following account is based upon testimony presented

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*Rollin M. Perkins, Perkins on Criminal Law (Brooklyn: Foundation Press, 1957), pp. 396-409.

during the trial of a lawyer who was convicted on bribery and tax evasion charges for serving as the intermediary between K&B and Hoffman Estates officials.*

The Barrington Square story started early in 1968 when the owner of a large tract of land on the western edge of Hoffman Estates, sought to arrange its sale to home builders. The landowner contacted a lawyer who had served in the state legislature and was active in Cook County Democratic politics, offering a finder's fee if he could help to sell the land. The lawyer took the proposition to K&B, a Detroit-based firm which had already begun building in the Chicago area. The land was sufficiently attractive to lead K&B to buy an option; K&B was given until the end of the year to secure zoning that would permit the construction of a substantial number of townhouses and garden apartments. K&B retained the lawyer to secure the necessary zoning from the village. The two major proponents of rezoning, therefore, were a large corporation which had an opportunity to make a substantial profit if the land was reclassified for high-density development, and a lawyer who stood to collect $53,000 as a finder's fee and $50,000 in legal fees <u>if</u> rezoning led K&B to pick up the option.

As K&B's plan to build multifamily housing became known in the summer of 1968, opposition developed, led by a "slow-growth" coalition centered in the School Board and various homeowners' associations. Both groups had been living with the practical consequences of the village's rapid growth over the past ten years--schools so overcrowded that they were running double shifts, no hospitals, inadequate water and sewer systems, and, in the absence of a significant industrial or commercial tax base, a tax burden falling almost exclusively on homeowners. The proposal to

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*The defendant's conviction was affirmed by the Sixth Circuit Court of Appeals in December 1975, and the United States Supreme Court denied certiorari in October 1976. All quotations are from the trial transcript.

erect a large complex of multifamily housing was viewed by the school board and homeowners as exacerbating the overload on existing facilities while bringing to the village new residents who would require more in services than they would add to the tax base. As one school board member (and later mayor) recalled, "we got to be known as the 'screamers and shouters' at all those board meetings on new developments."

The conflict between the progrowth developers such as K&B and the groups opposed to multifamily housing was to be arbitrated by the Plan and Zoning Commission and the Village Board. Throughout the 1960s, the Commission had been a rather passive group, simply hearing presentations by the developers and deferring to the Village Board's wishes on both the feasibility of proposed plans and the extent of capital improvements that should be provided by the developers. During the period between 1965 and 1969, the Commission was chaired and dominated by a former mayor who worked for an insurance company. The seven-member Village Board was composed predominantly of men who had lived in the village since the first houses went up in the mid-1950s. They were social as well as political friends; also, most were salesmen or local businessmen (the mayor owned a hardware store in the village). Along with four of the six trustees, the mayor tended to support proposals for new developments.

It was to the mayor that the lawyer went to test K&B's proposal for the Barrington Square development. Meeting in the back of the hardware store, they quickly arrived at the issue of payoffs. The mayor testified: "I asked [the lawyer] what brought him to see me and he said that he wanted to talk to me concerning Kaufman and Broad rezoning and I said with what respect and he said he wanted to talk about getting zoning through, and at the earliest possible time, and he used the statement, 'a drop,' and I said 'you mean money?' and he said 'yes.' As I recall my reply, I stated that the town, the Village Board and planning and zoning were not totally in favor of the zoning as presented and that I wasn't sure if money was a way that the zoning could be accomplished; that in order to give him any kind of affirmative anwer I would have to talk to various people and get back to him with some kind of an answer."

Several days later, as the mayor told FBI agents in 1973, he called a private meeting with the chairman and four trustees (the other two were suspected of being either opposed to high-density zoning or otherwise "unreliable.") "At this meeting, [the mayor] told the other members of the offer by [the lawyer] in the form of a bribe, and he stated that the meeting was called to determine how much the cash payment should be and the details of how the payment was to be made ... The group agreed that amount to be requested should be $60,000 which would allow for a $10,000 payment to each village official present, and the payment was to be in cash."*

The lawyer carried the mayor's proposal back to K&B. The price suggested was no problem, but two tactical questions were raised: how could the deal be concealed in the company's books, and could the Hoffman Estates people be trused. The solution to the first problem was simple, but costly: the payoffs would be paid to the lawyer as "attorney's fees," augmented by enough extra funds to permit the lawyer to pay normal income taxes on the money. To ensure that the officials remained cooperative throughout the construction process, K&B decided to split the payments: each of the six officials would get $5,000 as soon as the rezoning was approved by the Board, and the remainder would be doled out as each house was completed. "I told [the lawyer]" said a K&B official at the lawyer's trial, "that we would pay him attorney's fees of $100 a unit each time we got a certificate of occupancy on one of the townhouse units ... I told them that that was necessary in order to keep the village officials honest; that if we paid them now they would just make demands upon us, maybe during building construction they would shut us down and want more money, but once you have gotten your certificate of occupancy and you have built the house then there is not too much they

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*Without telling his colleagues, the mayor claimed a double share ($20,000) for himself, and later tried to persuade K&B to give him land for a gas station in the new development. There was also talk of sending construction business to the hardware store and to the insurance office of a trustee. In the end, the only completed payoffs were the $35,000 divided among the six officials.

can do to you in a particular unit, but also they won't stop the project because there is more money yet to come." In a final meeting with the officials just before they were to vote on the Barrington Square rezoning, a K&B leader testified, "we told them they would just have to take our word for it that they would get paid. Of course they would have us by the throat ... They could always shut down the development. When we wanted to go for plant approval or sewer approval, they could give you--they could delay it, table it. You are still under the control of the local government to get the rest of your construction approvals."

This arrangement proved acceptable to the officials, and the high-density zoning ordinance was prepared. As anticipated, the chairman quickly secured the approval of the Planning Commission; as also had been anticipated, opponents showed up at the public hearings in large numbers to challenge K&B assertions that existing facilities would be able to handle the new residents. At one point in the heated debates, the lawyer followed a school board member (and later mayor) into an anteroom. "What will it take to make you happy?" the lawyer demanded. "What did you say?" she asked, then said "I don't need anything to make me happy!" Knowing better than she how the votes would be counted, he shouted "This thing is going through," as she stormed back into the meeting hall. As arranged, the ordinance passed by a vote of four-to-two.

With rezoning accomplished, K&B exercised its option on the land and paid the lawyer for his "legal services." Laundering the payoffs through two colleagues, he then delivered $10,000 to the mayor and $5,000 to each of the other officials. The conspirators were turned out of office in elections 5 months later, and never received their second installments. When the ex-mayor came for his money, K&B simply shrugged, pointing out that he was no longer in a position to guarantee speedy construction.

The story of the Barrington Square payoffs remained unknown for four years. In 1972, a Federal investigation of payoffs in housing program led an official of Kaufman and Broad to volunteer information concerning the Hoffman Estates transactions. Late in 1973, the United States Attorney issued indictments charging all of the conspirators with tax evasion and

corruption in interstate commerce. K&B pleaded guilty and paid a fine of $50,000; the city officials pleaded guilty and received prison sentences ranging from 2 years (the ex-mayor) to 18 months (Planning Commission chairman) to 6 months for the trustees.

The intermediary, however, contested the charges, leading to a 3-week trial in 1974. A prosperous lawyer active in local politics and charities, he stood to lose the most if convicted; his defense, quite simply, rested on the argument that the payoffs represented extortion on the part of the officials, rather than bribes offered by K&B. The jury failed to accept his interpretation, and he was sentenced to serve 3 years in Federal prison (later reduced to one year).

During the lawyer's trial, a limited amount of information was presented relating to other corrupt activities of the Hoffman Estates officials. During the investigations which led to the Barrington Square inductments, the FBI took statements from developers and officials about other payoffs. To substantiate the existence of extortion, the defense repeatedly attempted to introduce evidence relating to the other deals. The judge refused to allow the attorney to present this evidence to the jury. This summary of the officials' statements to the FBI is based upon the attorney's argument to the judge in the jury's absence.

In short, it became evident that at least half-a-dozen developments approved between 1967 and 1969 had involved payoffs. In some cases, there were simple cash payments; in other cases, the deals were more complicated. Five of the conspirators had organized Twinbook Investments, funneling payments through the company. One developer provided a "sweetheart" (minimal cost) lease for a restaurant built by the group, while another helped to set up an insurance company for a trustee. In a third development, the conspirators split the fees earned by an assessor classifying new properties.

Were these zoning decisions bribery or extortion? Were fast-buck developers forcing money into the hands of naive country bumpkins or were greedy officials squeezing every dollar out of every opportunity which

arose? In all probability, both were involved. At a minimum, we can conclude that land-use regulation in Hoffman Estates had evolved into a system of extensive payoffs.

Responses to the Barrington Square Case

Local elections held in 1969 marked a turning point in the affairs of Hoffman Estates. The central features of this turnabout have been the increasing role of the Republican Party in local elections, the development of administrative institutions and procedures, a more controlled approach to urban development, and a cessation of payoffs as a central feature of land-use regulation decisions. While these policy changes occurred simultaneously, only the first three were the products of planned efforts by local officials; the absence of corruption in Hoffman Estates today is primarily a reflection of the efforts and good intentions of current officeholders rather than the product of a systematic program to ensure integrity.

The decision of the Village Board in October 1968 to approve high density zoning for the Barrington Square development served as a catalyst for the formation of a movement to capture control of the Village Board in the 1969 elections. Spearheading the movement was a local engineer who was active in Schaumburg Township Republican affairs. In previous elections, slates of candidates had campaigned under the mantle of local ad hoc "parties"; he decided to capitalize upon the heavy Republican majorities in ovter registration by seeking endorsements for his slate from the Republican Organization of Schaumburg Township (ROOST). In 1969 and every election since, ROOST candidates have been elected in a local "convention" (in which any dues-paying member of ROOST who had been a registered Republican voter for the past 2 years could vote) and have swept the local elections. The ROOST platform in 1969 directly challenged the zoning policies of the incumbent mayor and trustees, opposing additional zoning for apartments, calling for the development of a professionally prepared master plan and the involvement of neighboring communities and special districts (school, water, sanitation, etc.) in all planning

and zoning decisions. Additionally, the Republicans called for the appointment of a fulltime professional village manager, the construction of a municipal building, and "strict adherence to the state's open meetings law."

Since their victory in 1969, the Republican mayors and trustees have devoted most their efforts to the development of a municipal administration to service the needs of a population that has doubled to its present size of 33,000. In place of the casual, "private clique" style of the pre-1969 officials, the recent trustees have systematically developed professional administrative practices and programs. Since 1969, a fulltime manager has directed the day-to-day operations of the village, constructing a municipal building and recruiting professionally trained personnel for the finance, engineering, inspections, and other major functions of a growing community. Revenue and expenditure budgets are now developed on a systematic annual basis, and internal auditing mechanisms check against the possibility of improper expenditures. All meetings of the Village Board and village commissions are open to the public, and provide substantial opportunities for public participation; regrettably, except in cases arousing widespread interest, few citizens have made use of these opportunities to become involved in local decision-making.

In addition to the general steps taken to develop a functioning village administration, a number of developments specifically relate to the administration of zoning and inspection programs. Initially, the advisory function of reviewing proposals to change the classification of land had been fulfilled by a Building Commission; in 1969, separate Plan and Zoning Commissions were created. Basically, the Plan Commission considers developers' plans and proposals to change the zoning classification of property, while the Zoning Commission reviews requests for variances from established classifications. By dividing the responsibility, local officials feel that more people will become involved, minimizing any danger that one or a few people might sell out to special interests. Candidates for Commission positions are interviewed by the Village Board to identify both their level of interest in village affairs and their attitudes toward development policies.

Immediately after the Plan Commission was created, a professional planning consultant was retained to develop a detailed zoning map for the Village. Replacing the amorphous "residential" zoning category which had allowed the 1960s Village Board to approve almost anything, the new map provides for a variety of lot sizes and unit density classifications, but clearly establishes priorities for different areas of the community. No proposal with greater density than nine units per acre has been approved since 1969; village officials hope that, in addition to other single-family housing developers, they will be able to attract commercial and light industry construction to improve their tax base.

A notice of every application for a new subdivision or zoning change is immediately sent for comment to adjacent land owners and to the special districts (schools, water, parks, etc.) which will be affected; all are encouraged to submit comments and to testify at subsequent meetings of the Plan Commission and the Village Board. It is hoped that, as a result, there will be no repetitions of the 1960s situation in which developments were approved with few or no provisions for the school and other services needed by the new residents.

The Plan Commission formalized a series of steps to be taken by any applicant for annexation to the village, approval of a subdivision plan, or rezoning. Applicants initially meet with the Village Manager to discuss their proposals. The Plan Commission then publishes a Legal Notice of a proposed public hearing on the application, based on an extensive statement of what is to be constructed, public services that will be provided, and the anticipated impact on the area. Not less than 15 days after the Legal Notice is published, the Plan Commission holds a public hearing, and all testimony is recorded by a court reporter. Provisions are made for testimony by the applicant, experts from the village administration, and any others who appear either supporting or opposing the proposal. Not more than 30 days later, the Plan Commission submits its recommendation to the Village Board, together with recommended stipulations, e.g., that the builder contribute specific capital improvements. The Board then holds a somewhat briefer hearing on the proposal and votes approval or rejection. While none of these procedures <u>prevents</u> individual Plan

Commission or Village Board members from selling their votes, they at least guarantee sufficient time and opportunity for anyone to study the proposal and register objections, and they result in a written record of the Commission and Board proceedings and the votes of each member.

In recognition of a problem peculiar to Illinois law, where land being proposed for development is held under a "land trust," the trustees must identify all of the trust's beneficiaries before the Plan Commission acts on the application. This step guards against problems encountered in other Illinois communities where the land has been secretly held by local politicians or persons with questionable reputations.

As the village administration has grown, the village has acquired staff expertise to review developers' proposals. A professional planner serves as a consultant to the Plan Commission, and a number of full-time engineers have been hired by the village; an engineering firm renders technical evaluations of water table problems in new developments. While the continued use of engineering and planning consultants leaves open the possibility of conflicts of interest between the village and the consultants' other clients, the village is slowly acquiring the ability to compete with the technical staffs of developers. As one village official put it, "even if a developer were able to buy approval of his plan, we would now be sure that it will be a plan of professional quality meeting high engineering standards."

Acutely aware of the tendency of some developers to skimp on construction quality, the manager and chief building inspector have attempted to check out applicants by contacting other communities in which they have worked. During actual construction, both men also visit construction sites in an attempt to keep the individual inspectors from becoming too tolerant of the contractors' work.

In an attempt to identify potential conflict of interest situations, "statements of economic interest" must be filed with the County Clerk by all elected officials, members of the Plan and Zoning Commissions, and any village employees earning in excess of $20,000 per year.

On several occasions since 1969, actual or potential conflicts of interest have led to action being taken against individuals or firms. Two building inspectors were let go by the manager for "becoming too loose with contractors," although no bribes were shown. A finance director, already in trouble for poor performance, was fired when it was learned that he had asked banks serving as depositories for Village funds to purchase tickets to a benefit for a charity with which he was associated. A consulting agreement was cancelled with an engineer who, during the corrupt administration, had issued an inaccurate statement for the benefit of one of the local developers. An insurance agent serving on the Plan Commission was forced to resign when his agency bid on a Village insurance contract, and a savings and loan association that employed a village trustee was judged ineligible to serve as a village depository even though it offered the highest short-term interest rates in the area.

After the 1973 Federal indictments of the officials involved in the Barrington Square development, the question was raised as to whether the village should seek to collect damages. It was finally decided not to sue the officials individually, since two had left the state and two were destitute, but two actions were taken against the developer. First, the village cancelled Kaufman and Broad's Building permits, restoring them only after the firm paid $75,000 to the village and agreed to provide more open space and recreational equipment for the area. Second, a group of homeowners in the development filed a civil suit; an out-of-court settlement by the developer involved the construction of several recreational facilities and a payment of $25 to each of the original purchasers.

Since 1969, the Village of Hoffman Estates has been governed by men and women of good will who have energetically developed a functioning government apparatus. The current mayor has been exceptionally dynamic in leading the Board of Trustees, devoting full-time to her position for a salary of $2,400 per year. Since the 1960s, she has been an outspoken critic of uncontrolled growth, and her testimony helped to convict the defendants in the Barrington Square corruption cases. Several of the other trustees who lived through the scandal have been equally

concerned about the possibility of future corruption. Despite their good intentions and their record over 8 years, however, a number of problems remain.

In response to the question whether corruption could return under a new Board of Trustees, one trustee explained his optimism in this manner: "Because of our past, people here are particularly sensitive to the danger. As a new community, the only reason outsiders have heard of us is because of the Barrington Square scandal; no one knows that Hoffman Estates is a very pleasant residential community. We feel very competitive vis-a-vis neighboring suburbs, so we won't let anything happen again to damage our reputation. We are proud of our community, and will do anything to protect its reputation."

Other trustees, however, are less convinced that their policy of integrity is certain to endure. As in other suburban areas, voter apathy is endemic; while the 8.7% voter turnout in 1975 may be attributed to the lack of issues or competition for the trustee positions, other elections have rarely seen more than 20-30% turnout. Virtually no one attends the meetings of the Village Board or the Commissions which regulate land use, so it would be unlikely that many people would notice a change in policies unless an egregious development such as Barrington Square were approved. Board members' salaries are low ($2,400 for the mayor, $1,200 for each trustee), and persons in such roles elsewhere have often come to feel that they should share in the profits the developers will reap, or that the low salary justifies spending little time on official duties. As a result, despite all the attempts of the reformers to "open up" village government, it is still conducted by only a few citizens. Sentiment within the Board about the need for an active program to control corruption is sharply divided, as was evidenced by the trustees' 18-month debate over a code of ethics governing officials and village employees (finally adopted in 1977).

During its 20-year history, Hoffman Estates has seen both blatant corruption and honest government. While local voters can't be assigned blame for the past corruption, their apathy may be responsible should it ever return.

CORRUPTION AND REFORM IN FAIRFAX COUNTY, VIRGINIA*

Background

Fairfax County, Virignia, lies across the Potomac River from Washington, D.C. Since the end of World War II, the expansion of the Federal bureaucracy has caused massive growth in Washington's Maryland and Virginia suburbs; Fairfax County's population grew from 40,000 in 1940 to 567,600 in 1977. Most (86%) of the county's housing has been built since 1950, serving a predominantly (93%) white and upper-middle income population; (the median family income was $24,500 in 1977). The median sales value of single-family houses in 1977 was $64,600. The transition from a rural agricultural and estate environment to heavily developed suburban sprawl covering over one-half of the county has been the basic fact of life for the 399 square miles of rolling farms and woodlands of Fairfax County; indeed, it was only a slight overstatement when a county supervisor expressed the opinion that construction was the only industry in the county, and that zoning lawyers and developers were the most influential participants in county affairs.

Since 1952, the county has operated under the urban county executive form of government.† (The incorporated cities of Alexandria, Fairfax, and Falls Church are independent of county control.) Recent county executives, while having substantial professional training, have had little independent authority, holding office at the pleasure of the county board and implementing the detailed policies which it sets. A nine-member Board of Supervisors (eight elected from districts, and a chairman elected countywide) sets county policy, approves budgets and tax rates, and makes all

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*By John A. Gardiner.

†A referendum in 1967 revised the system to provide for popular election of the Board chairman.

decisions related to planning and zoning. Supervisors receive an annual salary of $15,000 (raised from $10,000 in 1973); about one-half of them (primarily those with working spouses) devote full-time to their duties, while the others maintain a variety of professional positions in the county or in Washington.

Land Use Regulation Systems

Over the past 30 years, the county government has varied in its position on the issue of development.* The Virginia legislature and courts have been recurring participants in decision-making, nullifying or modifying Board attempts to slow the pace of growth. A 1956 Board decision to zone all undeveloped land for 2-acre lots, for example, was overturned by the Virginia Supreme Court, which ruled that the county could interfere with landowners' desires only when necessary to protect the health, safety, morals, prosperity, or general welfare of the public. The county then stressed cluster zoning and planned developments spotted throughout the western two-thirds of the country. In 1966, following a series of indictments of supervisors and planning commissioners for zoning corruption, a Zoning Procedures Study Committee composed of citizens, businessmen, and developers studied county practices and recommended major revisions; the major recommendation was that decisions on zoning appeals, rezoning applications, and public facilities planning should be tranferred from the Board of Supervisors to a three-member Land Use Review Board.† Strongly opposed by the Board of Supervisors, the proposal was rejected by the Virginia legislature, and the recommendations of the planning staff and Planning Commission remain only advisory to the Board.

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*This history is based upon John T. Hazel, Jr., "Growth Management through Litigation," Urban Land, Vol. 35 (November 1976), pp. 6-14, and on Grace Dawson, No Little Plans: Fairfax County's PLUS Program for Managing Growth (Washington: Urban Institute, 1977). Hazel is a leading zoning lawyer in Fairfax County; Dawson is a policy analyst on the staff of the Urban Institute.

†Zoning Procedures Study Committee, Planning and Zoning for Fairfax County, Virginia (Fairfax: Zoning Procedures Study Committee, 1967).

The 1970s have seen a series of attempts by county officials to slow down or channel growth. In 1970, the state imposed a moratorium on new sewer hook-ups, which was quickly overturned in the courts. Elections in 1971 produced a Board strongly committed to stopping growth. A previous practice of slowing growth by simply refusing to hold hearings on rezoning applications was criticized first by the courts (which insisted that the Board hear applications in chronological order at the rate of 20 per month until a backlog of 300 was eliminated) and then by the Virginia legislature; under pressure from local builders, the legislature decreed that all applications must be acted upon within 12 months (the backlog had risen to the point where decisions were delayed 18 to 24 months).

In 1973, the Board sought to get ahead of the developers through the $1.5 million Planning and Land Use System (PLUS) effort to establish a county wide planning and capital facilities program that could withstand court scrutiny. To buy time for PLUS implementation, the Board issued an Interim Development Control Ordinance suspending all development (except that which required no new rezoning or site plans) for 18 months; a consent decree reached during the ensuing litigation set a timetable for the hearing of existing zoning applications to commence after PLUS was completed.

The impact of these restrictive policies is suggested by the following data on housing units authorized by Fairfax County:*

Year	Units Authorized	Year	Units Authorized
1968	6,212	1973	11,506
1969	7,285	1974	4,834
1970	8,115	1975	3,155
1971	13,579	1976	3,819
1972	16,943	1977	4,082

*Fairfax County Office of Research and Statistics, Standard Reports: 1977 (Fairfax City: Office of Research and Statistics, 1976).

Not all of this decline in construction should be attributed to the Board's policies, however, since the 1973-75 recession would have reduced housing demand in any event. (Opinions vary as to the impact of these policies; one developer viewed restrictive policies as a blessing in disguise, minimizing the level of overbuilding at the point where the recession reduced demand. Another developer, however, concluded that fear of county restrictions had led many landowners and builders to accelerate their building in 1972 and 1973, exacerbating problems when the recession hit.)

Since the completion of the PLUS program,* development in Fairfax County has proceeded fairly smoothly. In the 1975 elections, a strong environmentalist Board chairman was narrowly defeated for reelection by a candidate supporting more rapid growth. The completion of PLUS planning, the resurgence of demands for housing, and more accommodating Board policies have led to more active development and relatively tranquil consideration of zoning applications. In contrast to the eighteen to twenty-four month backlog in the early 1970s, applications are now acted upon within six to nine months and proposals consistent with PLUS plans are uniformly accepted. As an attorney for the developers concluded, "No growth appears to be history; controlled growth and managed growth are terms which are better understood in the context of the real world....An optimistic tone has returned to relations between the development industry and government."†

In light of repeated statements by the Virginia courts that the county could not prevent growth or even delay it until capital facilities were available, it should be noted that conflict during the 1975 election focused on the type of growth to be encouraged; the incumbent Board chairman advocated a continued emphasis on residential construction and public incentives for the provision of low income housing; the successful challenger called for greater industrial development and a reliance on

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*For one analysis of the successes and failures of PLUS, see Dawson, op. cit.

†Hazel, op. cit., p. 14.

private-sector decisions to set price levels rather than on government incentives and subsidies.

The 1966 Zoning Cases

Oldtimers in Fairfax County describe politics in the days before the heavy influx of Washington commuters as being dominated by "the courthouse crowd" or the "squirearchy." The squirearchy consisted of the large landowners--estate owners and large dairy farmers--who were prominent in social and political circles. In traditionally Democratic Virginia, the "courthouse crowd" was a vague term used to describe the local supporters of the Harry F. Byrd machine who held (or determined who would hold) most local offices. Together, they described a politics dominated by a small group of long-time Fairfax County residents, an old-boy network in which cameraderie and personal friendships outweighted professionalism and textbook municipal administration. In 1966, it became apparent that some members of the courthouse crowd were involved in corruption as well as land development. (Some local residents who worked with county officials had perceived corruption as early as the late 1950s; the 1966 indictments were the first public disclosure of corruption.)

As county land values escalated after World War II, a number of landowners, attorneys, and state and local politicians prospered from the sale of land. As in other areas, the market value of Fairfax farmland was strongly tied to its zoning classification; land zoned for commercial or high-density residential development was worth many times as much as the same land zoned for 1- or 2-acre housing. The assessed valuation of one parcel of land at a strategic intersection, for example, escalated from $3,675 to $76,110 when it received a "commercial" designation. At some point in the 1950s, some developers and their lawyers began to share their good fortune with several members of the Board of Supervisors. Shortly after the Board voted to approve construction of high-rise apartment buildings on an estate overlooking the Potomac River, Federal investigators began to check the tax returns of supervisors, zoning lawyers, and developers. In 1966, after a grand jury scrutinized twelve rezonings, the U.S. Justice Department issued indictments against six

developers, five supervisors, two zoning lawyers, the county planning director, and his deputy. Charges in subsequent Federal and state trials included bribery, conspiracy, and the use of interstate facilities to promote bribery; prosecutors charged that they had uncovered a pattern of zoning decisions that began with developers and lawyers offering bribes to planning officials and supervisors and ended with regular demands for payoffs from some developers.

Sorting out the evidence in the corruption trials which followed* is complicated by the unavailability of transcripts in some cases, by the fact that some of the cases were dismissed on jurisdictional rather than substantive grounds, and by the fact that the defendants and other participants rarely testified. The charges and outcomes of six of the cases can be summarized as follows:

- A lawyer was charged with giving a supervisor $3,000 three days after rezoning on a factory site was approved; the supervisor characterized it as a "loan" (a state judge declared a mistrial after the jury voted 8-4 to convict).
- A lawyer was charged with giving a planner $500 after an apartment complex was approved; the case was dismissed.
- A lawyer was charged with giving three supervisors $5,000, $1,000, and $12,000, which they characterized as "campaign contributions" or "no-interest loans"; all were found not guilty.
- A lawyer was charged with giving a supervisor $5,250 to buy 1,000 shares of stock in a shopping center being rezoned; both the lawyer and the supervisor were convicted and given 2-year prison sentences.
- Four developers of a trailer court were charged with giving $5,500 to a supervisor who was alleged to have distributed it to others. The developers and two supervisors were convicted; one developer received an 18-month sentence, and the other defendants were sentenced to 2 years in prison.
- A lawyer developing an apartment complex was charged with giving $12,000 to five supervisors and $37,500 to two planners; the defendants characterized the money as "loans" or "campaign contributions." A Federal judge dismissed the case, concluding that there was no evidence that use of "any interstate facility,

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*The Federal and state trials arising out of these investigations are summarized in Stephen Clapp, "The Great Fairfax Zoning Scandal," Washingtonian Magazine, Vol. 4 pp. 36-39, 57-58 (February 1969).

including mails, was ever known, reasonably foreseen, or intended by any of the defendants" except the lawyer who, terminally ill, was never brought to trial.

The years since 1966 have seen a major reorganization of Fairfax County government, with a substantial increase in the role of professionals in planning, zoning, and county administration, and a number of steps specifically designed to prevent corruption. All observers, both inside and outside county government, believe that corruption has disappeared from the zoning process and that only occasional, isolated, low-level corruption remains in other areas. A long-time builder in the county, for example, estimated that there was nothing more serious than an occasional bottle of liquor being given to building inspectors at Christmas. In 1976, an inspector was fired for accepting a Christmas turkey from a builder; police investigators who talked with contractors at the time could find no other problems.

In 1973, two inspectors who purchased damaged appliances at reduced prices from a construction superintendent were charged with conflict of interest violations; one was convicted on testimony from the other. A school board employee was dismissed when it was learned that he had asked a contractor to bring a load of bricks to his house for a small home-improvement project. In none of these cases, it should be noted, was there any evidence that employees abused their regulatory powers in return for the favors; they were prosecuted and/or dismissed simply for accepting gratuities. The infrequency of post-1966 corruption incidents and the relatively trivial scale of those which have surfaced lend credence to the comment of one local lawyer that "hanky-panky is not a way of life in Virginia."

Explanations for Current Patterns of Integrity

If the zoning scandals are evidence of major corruptions and favoritism in Fairfax County during the 1950s and early 1960s, how can we account for the universally held judgment that the county government has been clean since 1966? At the outset, it should be noted that both Federal investigators and long-time county residents believe that participation in the former corruption was rather narrowly confined, that not

more than ten to twelve officials were ever involved. Unlike many cities of which it might be said that prosecutions reveal only the tip of the iceberg, it may well be that Fairfax had only a small, albeit well-placed, group of corrupt officials, and thus that today's integrity is a continuation of long-standing practices rather than an abrupt termination of a deep-seated malaise. While this issue of past history may never be resolved, we can point to a number of aspects of present-day Fairfax County that appear to contribute to official integrity.

External Factors Inhibiting Corruption

One explanation offered for the current absence of corruption at the level of the board of Supervisors involves a gain-risk analysis. On the one hand, the possible gains to be realized from zoning corruption have greatly decreased since the early 1960s: while building continues, growth rates have slowed down, many basic planning and zoning decisions have already been made, and more profitable opportunities for instant wealth may lie elsewhere (for example, in leasing buildings to the Federal Government).* At the level of building inspections, one contractor noted simply, "Why should we pay off to avoid the building codes? In Fairfax County, we have a steady demand for high quality houses, and buyers would spot shoddy construction. Therefore builders have a stake in a good inspections system."

On the other hand, the anticipated risks of corruption have increased at the same time. The 1966 prosecutions showed the capacity of the Internal Revenue Service and the Justic Department to become involved in local affairs. State investigators or prosecutors might act under the state's Conflict of Interests Act† or bribery and extortion statutes, although

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*Charlie McCollum, "The Dealing of Joel T. Broyhill," Washingtonian Magazine, Vol. 10 (November 1974), pp. 96-99, 190-192.

†Areas of weakness and ambiguity in the Act are analyzed in D. Patrick Lacy, Jr., "The Virginia Conflict of Interests Act: An Overview," Virginia City and Town, Vol. 12 (May, 1977), p. 407.

Fairfax prosecutors have tended to react to crises or Federal indictments rather than to search out problems. Annual State audits of County records provide an opportunity to spot fiscal irregularities. At the level of inspections, a department head also sees a great willingness on the part of builders to police the inspectors: "If one of my men solicited a payoff or let a builder get away with something, you can be sure the other builders will be calling me."

A different and possibly more tangible risk to the inspectors surfaced in 1973, when a 24-story building under construction collapsed, killing 14 workers and injuring 34 others. While no evidence of corruption or collusion between builders and inspectors ever appeared--all evidence focused on negligence on the part of the concrete subcontractor in removing shoring timbers from lower levels before the concrete above had fully cured (the construction company was fined $300 for negligence)--Fairfax inspectors are said to fear personal liability for future catastrophes.

Whether or not these threats of investigation or prosecution constitute serious external risks to potential corrupters and corruptees, everyone interviewed in Fairfax County gave credit to a major force on the local political scene, the growth of citizen activism. Since the 1940s, civic associations have developed throughout the Country, and the issue of land development is high on every association's agenda. Well-educated, highly articulate, and politically adept, Fairfax citizens have been very vocal participants in county affairs, providing analyses of proposed county budgets, testifying at hearings on planning and rezoning proposals, and scrutinizing the performance of high- and low-level officials. The PLUS program, for example, evolved through several hundred public meetings over a 2-year period; the Planning Commission held 146 public meetings in 1976 alone.

As planning and zoning proposals became more and more concrete, they became more important to the current residents, and interest and participation increased accordingly. Summarizing public attitudes toward PLUS planning, one observer concluded, "The citizens reviewed the plans

with the objectives of seeing that their lifestyle would be preserved and that land and housing prices would be maintained for current residents. They were concerned with the County's transportation, environmental, and other public facility problems, but did not want to endorse solutions that would alter the county's low density, single-family character.* With a high degree of openness and active citizen involvement in land development decision-making, as the chairman of the Planning Commission put it, "it is hard to be corrupt."

Development of Administrative Structures and Procedures

Fairfax County's "urban county executive" form of government is similar to a strong council--weak manager system. The Board of Supervisors appoints the County Executive and most senior administrative officials, sets quite detailed county policies, and makes all planning and zoning decisions. The Board elected in 1967 retained a management consulting firm to lay out a new organization chart and develop procedures and systems to provide accountability.† The chief consultant joined the county government and, in 1970, was named County Executive. During his 3 year tenure, he established a strong, centralized structure, discharged a number of former employees, and actively recruited professional managers. A number of his recruits hold doctorates and now occupy senior positions in the County; most of the staff involved with planning and land-use decisions hold graduate degrees in planning.

Over the past 10 years, the administrative structure for land-use decision-making has become streamlined and professionalized. While the

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*Dawson, op. cit, p. 131. On pp. 97-111, Dawson reviews the course and significance of the extensive citizen participation component of the PLUS program.

†Cresap, McCormick, and Paget, "Fairfax County Management Audit of the County Government Organization and Operations: Preliminary Recommendations" (Washington: Cresap, McCormick, and Paget, 1968). Administrative changes in the county from 1968 to 1973 are reviewed in Terry Spielman Peters, The Politics and Administration of Land Use Control: The Case of Fairfax County, Virginia (Lexington: Lexington Books, 1974), pp. 17-20.

debates between the advocates of "no-growth," "slow-growth" and "rapid-growth" continue, policies have been translated into sophisticated zoning and subdivision ordinances, detailed zoning maps providing for planned unit developments and flexible density ranges, and detailed procedures providing for both extensive staff analysis and open public review of development proposals.

One developer gave major credit for current integrity to the requirement that zoning cases be heard on an expeditious and chronological basis and to the fact that the county now had a set of fundamental principles defining the relationship between government and landowners that had earlier caused much of the problem in a number of the land use cases. A review of planning practices in the 1960s concluded that "First, the housing industry provided the impetus for eleboration of planning and rezoning criteria. Secondly, Planning and later County Deveopment staff responsed to industry initiative by modifying the master plans and zoning ordinance. Finally, the boards never paid full attention to criteria developed by staff.* Today, by contrast, as one planner put it, "The planners have gotten out in front of the developers."

Current procedures for review of applications for rezoning are outlined in Figure 1. Several aspects of these procedures should be highlighted. First, in the application, the applicant identifies all of the owners of the land and brokers or attorneys who have acted on their behalf, and swears that within the past 5 years, no members of the Board of Supervisors or Planning Commission have held any interest in the land. Second, the "Staff Report" is prepared by a team of professional planners and representatives of environmental, engineering, transportation, legal, and planning offices within the County government; the report analyzes the impact of the development on the environment and various public

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*Peters, op. cit., p. 21, citing John L. Hysom, Jr., "An Evaluation of the Effects of the Planning and Zoning Criteria Used for Allocating Land for Residential Purposes in Fairfax County, Virginia" (unpublished Ph.D. dissertation, American University, 1973).

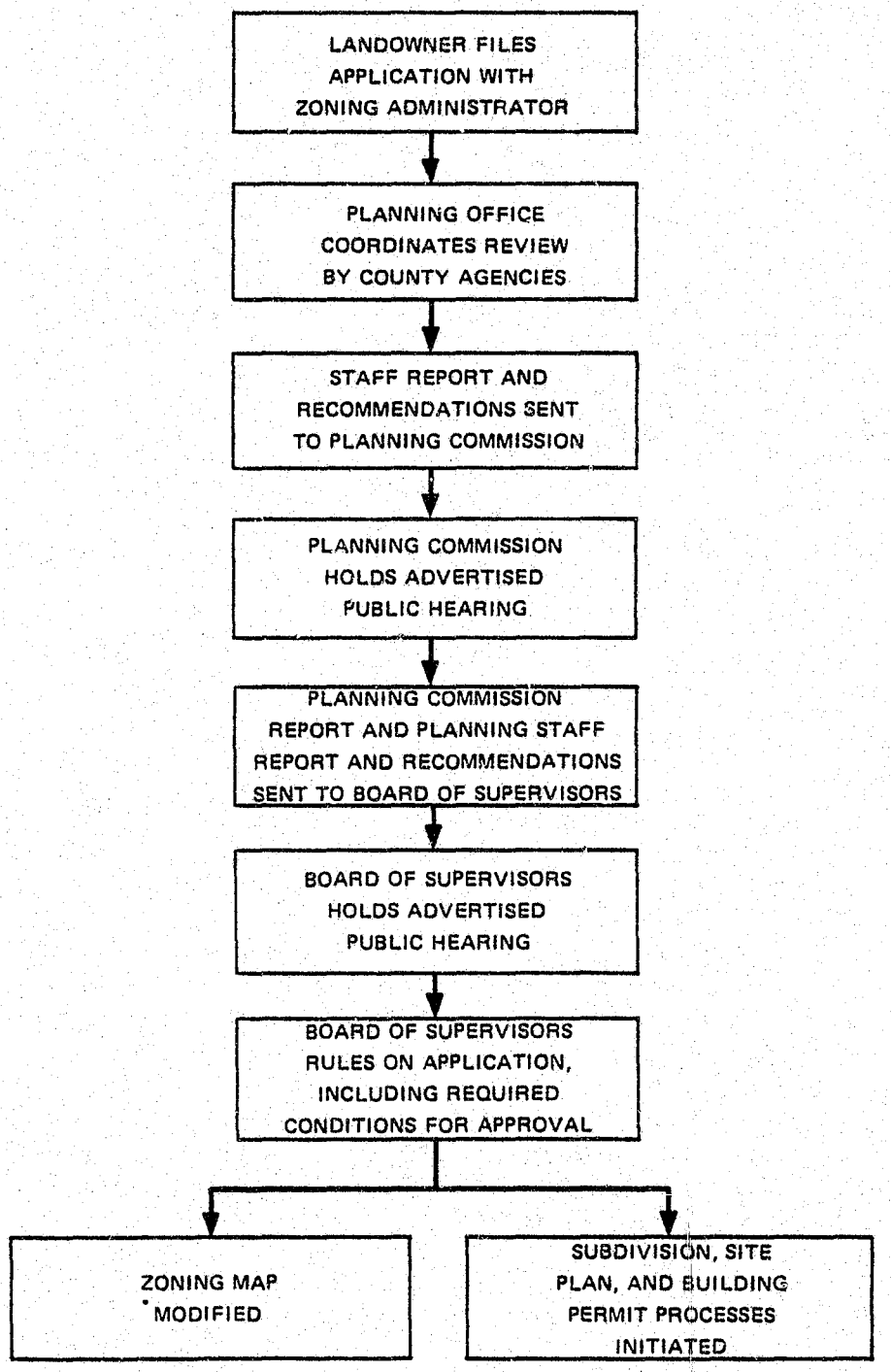

FIGURE 1 FAIRFAX COUNTY REZONING APPLICATION REVIEW PROCEDURES

facilities, specifies its consistency with master plans, and identifies modirications and capital facilities contributions (locally termed "proffers") which the developers should make as part of a contract or conditional zoning agreement. Finally, the Staff Report and both Planning Commission and Board of Supervisors hearings are open to the public, often leading to heated discussion and recommendations for change in the plans. Several planners concluded that the process had become too visible to let any possible collusion with the developers get very far. One said "Eight to ten people from different offices contribute to the staff reports, so one corrupted official would not have much of an impact. The master plan is given a great deal of credence in the review process, and any fooling around would be very visible."

Various steps have been taken to upgrade the inspections functions of the county. Following the 1973 collapse of an apartment building, the County commissioned a review of inspections programs by Building Officials and Code Administrators International (BOCA), a professional association of building inspectors.* While a number of the BOCA recommendations relating to reorganization of the offices handling inspections and the recruitment of additional inspectors were rejected for cost and/or effectiveness reasons, the BOCA study led to an extensive multi-agency review of inspectional services.† Current BOCA building codes are now in force, additional inspectors are assigned to "critical structures" like the high-rise building which had collapsed, and efforts are being made to upgrade staff training.

As in other communities, however, supervision of inspectors in the field and recruiting applicants away from better-paid private construction positions remain constant problems in Fairfax County. (The pay is not high; one supervisor commented: "If we pay them poverty wages, how can

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*"A Study of Code Enforcement in Fairfax County, Virginia" (Chicago: Building Officials and Code Administrators International, BOCA, 1973).

†John Yaremchuck, Director of County Development, "Report of the BOCA Task Force" (Fairfax: Office of County Development, 1974).

we expect to get inspectors who can deal with complicated projects?" The effectiveness of current operations remains, perhaps inevitably, open to dispute; a leading contractor in the area declared that Fairfax County maintained the highest quality inspections program he had ever worked with, but a survey by the county's Consumer Protection Commission found a high incidence of complaints by new home-buyers.* It should be noted that many of the citizens' complaints involved aesthetic problems (unpainted areas, poorly mounted cabinets, and the like) whose correction, since they are not covered by the code, cannot be demanded by the inspectors. One developer pointed out that "The citizen complaint and the building inspector's response is all too often over a trivial item such as a poor paint job....A vocal constituent can frequently preempt too much of the inspector's time over this kind of trivia to the detriment of major structural items which are far more important to both the individual and the county." However, not all complaints are trivial; apparently uneven workmanship is an endemic problem among both construction workers and inspectors.

Development of Corruption Prevention Strategies

The zoning scandals of the 1960s took place in a setting in which some supervisors and other political leaders held substantial stakes in the future of land development. Conflicts of interest were frequent, and some supervisors and planning commissioners even voted on zoning proposals affecting property which they owned or for which they were serving as broker or attorney. Since that time, a number of steps have been taken to ensure openness in county decision-making and to minimize conflict of interest problems. Planning Commission and Board of Supervisors meetings are open to the public, as are all applications, reports, and other records affecting development; executive sessions are limited to legal, financial, and personnel issues. Rezoning applicants must

*Fairfax County Consumer Protection and Public Utilities Commission, "New Home Buyers Study" (Fairfax: Consumer Protection and Public Utilities Commission, 1973).

disclose ownership of the land and specify that no Planning Commission member or supervisor holds an interest; Commission and Board members have a parallel duty to disclose any interest in land being revieved. Finally, all supervisors, commissioners, and senior county employees must file annual financial disclosure statements listing, for themselves and their spouses, all outside employment, property ownership, business affiliations, and other income or securities in excess of $1,000. (One official observed, "More than a few citizens have commented to me on my good--or bad--choices of common stocks.") The finanical disclosure forms of the current board reveal the change from earlier days: with the possible exception of one supervisor holding a part-time position as vice-president of a savings and loan association, none was involved with development interests.

Conflict of interest problems are minimized by a series of official County policies. County personnel rules forbid outside employment without the consent of supervisors, threatening dismissal where such employment "conflicts with the duties and responsibilities of the employee to the County." Dismissal is also threatened where an employee accepts "money or other valuable consideration given with the intent of influencing the employee in the performance of his official duties," or uses his "official position or authority for personal profit or advantage." As in other communities, conflict situations are less well articulated with regard to campaign contributions for candidates for elected office. During the 1975 elections, the supervisors voted to disclose contributions in excess of $10, to limit total expenditures, and to prohibit contributions from persons or firms that could benefit from rezoning decisions. Thus, Fairfax County has issued fairly clear policy statements concerning conflict of interest and gratuity issues; apart from the handful of dismissals noted earlier, it could not be ascertained how actively these regulations were enforced.

Fairfax County has grown in 30 years from a rural community dotted with crossroads villages to a heavily developed home for Washington commuters. Through 10 years of internal debate and conflict with the Virginia legislature and courts, the county has evolved a sophisticated planning and zoning system. Conflicts of interest and blatant corruption

have disappeared, replaced by a highly professionalized administration and conscious policies to promote openness and integrity. As development continues, the potential for corruption still exists, but extensive citizen involvement, dominant political and administrative styles, and administrative procedures tend to suggest that it will not be a major problem in the foreseeable future.

ENGINEERING INTEGRITY IN ARLINGTON HEIGHTS, ILLINOIS*

Background

In 1971, a local historian dubbed Arlington Heights, Illinois, "Prairieville, U.S.A.," chronicling its settlement in the mid-nineteenth century and its quiet life as a farm town in the rich farmlands northwest of Chicago. Bucolic tranquility ended abruptly after World War II as tract after tract of cornfields was bought up by developers, and the population soared from 8,768 in 1950 to 64,884 in 1970; during the 1960s, Arlington Heights had the highest growth rate in Illinois. It became one of the most prestigious of metropolitan Chicago's bedroom suburbs; the 1970 Census found a median family income of $17,034 in a community that was 99.5% white. Of the adult population, 42% fit the Census categories of professionals or managers; the median number of school years completed was 13.6. As a Chamber of Commerce publication puts it, "Arlington Heights offers a peaceful small town atmosphere" 24 miles from Chicago's Loop.

Corruption

Unlike many of its neighboring suburbs, Arlington Heights has made the transition from farm town to upper middle class suburb with an apparent total absence of corruption. In one after another of the cities and villages of Cook County, Federal prosecutors found county commissioners, village trustees, tax assessors, building inspectors, and others demanding or accepting payoffs in connection with land development. Corruption was linked to zoning variances, construction permits, and taxation. In some communities, the payoffs started when the developer first inquired about rezoning and continued throughout the construction process; in others, one-installment payoffs completed the deal. In at least one city, a $20

*By John A. Gardiner.

bill (locally termed "kitty money") had to be inserted in a building permit before the application was even considered; in others, a builder would have to deliver thousands of dollars to secure the rezoning of 40 acres of cornfields.

Surrounded by an environment in which minor payoffs to building inspectors were common and many local officials grew rich through the sale of zoning variances, Arlington Heights developed as a model of righteousness. As an experienced Federal prosecutor concluded, "we looked at land development in Cook County for five years. We got contractors to tell us about little bribes and big payoffs all over the county. But we never heard a thing about Arlington Heights--they all swear the town is completely clean!"

A month of interviews and observations in Arlington Heights supported the prosecutor's conclusion. It was not surprising that no payoffs were observed; it was unusual, however, to find an almost total absence of charges of even minor infractions, even from political enemies of those in office. A major issue raised during local elections in 1975, for example, concerned contractor's payments to the village for capital improvements; while dissidents vehemently denounced the village manager for not negotiating high enough contributions, not a whisper was heard that he or other city officials had been bought off.

Each city building inspector had his own stories of contractors new to the community who had to be forcibly convinced that Arlington Heights did not "play by Chicago rules," i.e., that the arrival of a building inspector was not an automatic solicitation of a $10 or $20 "expediting fee." One concrete subcontractor, apparently working on his first building outside of Chicago, ran over to an inspector with a fistful of money; a fast word to the better-informed general contractor led to the exit of the subcontractor from the site. Deviations from building code requirements, whether through incompetent craftsmanship or conscious attempts to shave supply costs, regularly lead to abrupt orders to stop work and do it over; the tentative feelers of "isn't there some way this can be taken care of?" are promptly squelched with "Yes--do it right!"

A further indicator of the degree to which official honesty is a pervasive norm in Arlington Heights is found in the relatively minor character of the transgressions that have gotten city employees in trouble. A police sergeant was suspended for 30 days and taken off the promotion list when he walked out of a discount store with a $1.79 gadget. A housing inspector was fired in the 1960s for failing to secure a building permit to erect a garage on his own property. A sanitary inspector whose duties included checking health conditions in establishments selling food and liquor was forced to drop a part-time job as a clerk in a liquor store. Vendors doing business with the village have been startled to find Christmas presents to the village manager returned by policemen--opened, appraised, and accompanied by a firm letter citing village policies against the acceptance of gifts.

Finally, the extensiveness of the integrity norm may be reflected by the issues still regarded as "gray areas," activities locally felt to compromise the spirit of official policies yet not formally illegal. As in most communities, Arlington Heights policemen accept free or discounted meals in local restaurants, and are quoted "police prices" in some stores. As elsewhere, minor Christmas gifts--usually liquor--are accepted by many city employees, although the manager usually circulates before Christmas a memorandum cautioning against "gifts and gratuities" from persons doing business with the city. Finally, policies are evolving on a case-by-case basis to identify which outside moonlighting jobs conflict with village conflict-of-interest ordinances and which do not.

Explanations for the Absence of Corruption

Extended interviews with a variety of persons in Arlington Heights, and observations of local regulatory practices, consistently reinforced the conclusion that official integrity is a widespread norm in the community. Insiders and outsiders alike were hard-pressed to identify serious recent deviations from this policy; the instances that were recalled were so minor, so covert, and so quickly rejected as to confirm the pervasiveness of the norm. The question then must be one of explaining this policy, of identifying factors that have contributed to the

development of an environment in which such corruption as does emerge is quickly suppressed. Since we are concentrating on a nonevent--the absence of significant corruption--we must necessarily be cautious in claiming a causal relationship between outcomes (e.g., official integrity) and particular policies. At best, we can only say that a number of characteristics of Arlington Heights--its people, its government, and the ways that it conducts its affairs--support the norm of integrity that was found.

"Integrity Is People"

Many of the people interviewed in Arlington Heights gave the greatest credit for local honesty to the citizens of the village. A number of explanations were offered for the linkage between citizens and official integrity: "The Germans who settled here in the nineteenth century wanted everything on the up-and-up, and they controlled Arlington Heights until the 1950s." "Many of the people who have bought homes here are moving out from Chicago, and they don't want anything to do with Chicago-type politics." "We have a lot of professional people here that move around the country, and they demand a good environment for their families."

All of these comments seem plausible and probably contribute to the story. We should also consider a number of other factors. As in other upper middle-class communities, the citizens of Arlington Heights are active participants in local affairs; whether as lay members of official commissions or as outside observers (e.g., through the League of Women Voters), their active scrutiny would tend to make potential corruptees nervous. Second, it was noted by several local officials that the professionals and corporate executives who take greatest interest in local affairs are also most likely to appreciate--and be willing to pay for--top-quality professionals in senior positions in the village administration. Finally, with regard to the issue of land use control which has generated so much corruption in the Chicago area during the postwar decades, upper-middle class residents have a particular stake in the outcome: the reputation that Arlington Heights has developed as a prestigious residential community is believed to affect property values, and these might be expected to fall if corruption led to the construction of high density housing or unsightly commercial strips.

"You Won't Get Corruption under this Type of Government"

In 1956, the voters of Arlington Heights adopted the city manager form of government. A village president and eight-member Board of Trustees are elected on a nonpartisan basis; the President has a part-time salary of $4,800 per year, the trustees $1,200. Collectively, they set policies that are administered by a professional village manager. Since 1958, the Arlington Heights village manager has been a professional manager trained in both civil engineering and public administration. Several attributes of the manager form of government, as implemented in Arlington Heights, have strengthened his authority. First, since the system was established by referendum rather than by vote of the board, it could only be repealed by referendum; the board could not by itself abolish the position should it so wish. (The manager recalled advising one trustee who asked how he could participate in the selection of a city department head: "Well, you've got two choices--you could fire me and fill the job yourself, or you could ask the city voters to repeal the manager form of government.") Second, under Illinois laws village trustees are forbidden to deal directly with city departments; one department head recalls rejecting a simple request for information from a trustee and asking that it be rerouted through the city manager. Finally, since local elections are conducted on a nonpartisan basis (although groups of candidates run as slates endorsed by a local caucus), there is less interference from the partisan County and State governments.

Beyond the formal characteristics of Arlington Heights' governmental structure are the professional backgrounds of its major officeholders. Recent mayors and many trustees have been lawyers and corporate executives; local observers feel this explains the board's historic willingness to recruit and reward high quality professionals in the city bureaucracy. "They're used to having good talent in their companies, so they want to see it in the village government as well." With the kind of salaries those guys pull down, why would they want to mess with bribe money?" The city manager receives a salary of $42,500; department heads receive between $22,000 and $30,000.

A final factor, uppermost in the minds of virtually everyone asked to explain the norm of integrity found throughout the community, is the leadership the current manager has brought to the Manager's office. Over 18 years, he has supervised the tripling of the city's population, the recruitment and retention of loyal and professional department heads, and a spotless reputation for integrity, which extends throughout the administration. His supporters regard him as "firm," his detractors feel he is "unresponsive" to citizen requests; everyone agrees that he is absolutely honest and firmly in command of the village government. As a result of his long tenure and close familiarity with the personnel and programs of the village, it is not surprising that people assume he would quickly learn of any employee abusing his/her position.

"Forewarned Is Forearmed."

Many of these characteristics of Arlington Heights' citizens and government have contributed to the establishment and maintenance of a well-managed town, and it may well be that much of the credit for the absence of corruption should go to people who take pride in doing their jobs professionally and well. If this is true, then we might conclude that official integrity is an incidental byproduct of a satisfying work experience. Whether this is true or not, we should also take note of a series of policies that have been developed specifically to prevent corruption and/or conflicts of interest. Their overall purpose has been to spell out the obligations of employees and to identify individuals who might find themselves in actually or apparently compromising situations.

The first component of the corruption prevention program occurs during the recruitment process. Applicants for police, fire, and department head positions are required to undergo psychological testing and to detail their financial status; recent candidates for the position of police chief were also required to submit to a lie detector (polygraph) test. The city manager concluded that the polygraph requirement kept a number of persons from applying and weeded out one finalist with a burglary record. He feels that the psychological testing is a useful indicator of the applicant's ability to handle stress, including the temptations of corruption.

The second component is a strict regulation of outside employment, all of which must be approved by the Village. In general, "Outside work is permitted to the extent that it does not prevent employees from devoting their primary interest to the accomplishment of their work for the Village or tend to create a conflict between the private interests of the employee and the employee's official responsibility." Specifically,

> An employee shall not perform outside work:
>
> (a) Which is of such a nature that it may be reasonably construed by the public to be the official act of the Department;
>
> (b) Which involves the use of Village facilities, equipment, and supplies of whatever kinds; or
>
> (c) Which involves the use of official information not available to the public, or
>
> (d) Which might encourage on the part of members of the general public, a reasonable belief of a conflict of interest.
>
> While an employee is not prohibited from performing outside work solely because the work is of the same general nature as the work he or she performs for the Village, no employee may perform outside work:
>
> (a) If the work is such that the employee would be expected to do it as part of his or her regular duties; or
>
> (b) If the work involves management of a business closely related to the official work of the employee; or
>
> (c) If the work would tend to influence the exercise of impartial judgment on any matter coming before the employee in the course of his or her official duties.*

The third mechanism is the requirement of an annual disclosure of employment or financial interests; all employees must identify all outside positions held or business in which they possess a financial interest. When instituted in 1975, this led several employees to terminate second jobs.

A fourth step, approved by the Village Board during the fall of 1976, is a Code of Ethics covering all elected and appointed officials

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*Memorandum from Village Manager to department heads, dated August 4, 1975.

and city employees earning more than $20,000 per year. The Code requires the disclosure of all real estate owned within the Village, all gifts or fees received from persons doing business with the Village, ownership interests in firms doing business with the Village, and all outside employment. It then declares, subject to a penalty of $500 per offense, that "No elected or appointed official or employee of the Village, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or would tend to impair his independence of judgment or action in the performance of his official duties."

The fifth segment of local antigovernment corruption policies concerns gifts. Virtually everyone interviewed in the Arlington Heights government had stories of unsolicited gifts arriving from firms doing business with the city or otherwise subject to its control. The most frequent gift, usually at Christmas, was liquor, although others mentioned a small television set or a basket of fruit. The reactions of the recipients varied, depending on the gifts, the donor, and the recipient. All seemed to abhor cash or "expensive" gifts. They also seemed wary of donors they had not known for some time; whether this reflected a personal friendship dimension or a fear that a stranger could get them in trouble, is unknown. When the gift was a token, such as a bottle of wine or liquor, from a friend, many persons interviewed seemed to regard it as an acceptable offer, legitimized by a social code as not compromising the official's position.

Throughout his tenure in Arlington Heights, the city manager has refused to accept this interpretation, regarding all gifts and free meals as first-step compromises upon the "arms' length" posture which a city official must both maintain and be perceived as maintaining. To convey this message, he has gone beyond simply declining gifts: when a gift shows up at Village Hall, he has it opened, appraised, and returned by a Village policeman, who must obtain a signed receipt. (He wants written proof

that the gift was rejected and that it got back to the sender, not just his messenger.) Prior to the Christmas season, employees receive a written reminder that "gifts and gratuities" are forbidden, and on several occasions he has sent to all firms doing business with the city the following letter:

> Gentlemen:
>
> We are again approaching the Holiday Season. We wish we had a way that we could remember each of our contractors and suppliers for their helpfulness during the year. Unfortunately, being a public agency there is no way this can be done. We hope you will understand, and, of course, we would be embarrassed if you thought of us with more than a card.
>
> In order to continue cordial but impartial relations with all firms doing business and to insure the public's continued confidence in our Village Government, we appreciate your past cooperation in honoring the Village's request that you omit the names of all elected officials as well as employees of the village from your Holiday list.
>
> Sincerely yours,
>
> Village Manager

It was impossible to tell how many firms got the message. It was obvious, however, that the persons who admitted not refusing a bottle of liquor did not want the city manager to find out about it.

"If You Can Do Your Work
Without Having to Pay Off, Corruption Won't Be A Problem."

At the turn of the century, Henry Jones Ford pointed out that the corruption Lincoln Steffens condemned was actually making it possible to build an urban America in spite of the archaic organization of local government. If the effect of following the rules was only to produce stalemate and delay, he argued, then inevitable growth will be facilitated outside of the legally prescribed procedures.* An analogous argument

*Henry Jones Ford, "Municipal Corruption: Review of Lincoln Steffens' The Shame of the Cities," Political Science Quarterly, Vol. 19, pp. 673-686 (December 1904).

could well be made regarding the absence of corruption in Arlington Heights: because the village made plans for its development through realistic planning and zoning procedures, and because its building codes kept pace with technological developments in the housing industry, developers were not forced to bribe their way into the community. Of course, there were still incentives to pay off if developers wanted to violate the codes or erect buildings not consistent with the local plan; the point is only that builders who were interested in most markets and were willing to build in accordance with the code were not manipulated into payoff situations by unrealistic requirements. Revisions to the plan and the zoning ordinance are regularly considered by the Village Plan Commission and the Village Board of Trustees, the Director of the Department of Building and Zoning, and the Building Code Review Board composed of an engineer, an architect, and a representative of the building trades. While it can be (and has been) argued that Arlington Heights' codes make construction expensive, no one can complain (as some builders do about the city of Chicago) that the codes are either obsolete or self-contradictory.

"Eternal Vigilance Is the Price of Integrity"

Regulation of the development of Arlington Heights has evolved into a series of mechanisms and procedures which, in the hands of professional and highly motivated members of the Village administration, provide a number of checks against both corruption and substantive violations.

All proposals to modify or grant exemptions from code and zoning requirements are considered by at least two bodies. Changes in the comprehensive plan are considered in public meetings by the Plan Commission and then by the Board of Trustees. Requests for zoning changes or variances are initially decided by the Director of Building and Zoning; appeals are acted upon by the Board of Trustees sitting, in open session, as a Board of Zoning Appeals. Changes in the construction codes are recommended to the Board of Trustees by the Electrical Commission or the Building Code Review Board. Each procedure thus permits inputs from affected professionals and citizen groups, and ends in a decision of public record, permitting the identification of those officeholders who advocate

particular changes as well as their arguments. Both the affected village departments and the advisory boards and commissions contain persons with professional training in engineering or the building trades, so the Village is rarely at the mercy of the technical claims made by the developers

Every request for a building permit undergoes multiple reviews. Upon receipt in the Department of Building and Zoning, each application is reviewed by an Architectural Committee, chaired by a local architect, which checks a number of design issues; by the Engineering Department, which is concerned with grades and drainage; and by each of four inspectors (electrical, structural, plumbing, and zoning) before the department director approves the permit.

During the construction process, each site is visited at least twice (for "rough" inspection before drywall and "final" inspection when the builder wishes approval to let the purchaser take possession) by each of the four inspectors. Each inspection is marked with a sticker left at the site and is recorded in a project file in the Village Hall.

For at least 15 years, department directors have made it a practice to spend a few hours a week visiting sites themselves; they have not been unwilling to point out violations missed by their inspectors, and have often issued formal stop-work orders, forbidding contractors to go further until errors have been corrected. One told of catching a fast-buck operator putting a tenth apartment into a building whose approved blueprints called for nine; with the support of several large policemen, the construction crew was sent home until the original layout was restored.

Finally, to handle a peculiarity in Illinois land practice, the village has required the identification of all owners of land up for rezoning. Whereas in other communities in the state it has been possible to use "land trusts" to disguise true ownership by either local officials or persons with criminal records, Arlington Heights requires disclosure of the names of all current owners of beneficial interests.

The effect of all of these procedures has been to minimize the possibility that one or two people could by themselves enter into a

corruption or conflict-of-interest situation relating to the regulation of land development. A "paper trail" is left which fixes accountability for approval of all construction at the stages of zoning changes, permit application, and rough and final inspections. Planned redundancy has been created such that deviations could be spotted by a number of persons at each stage; all would have to be paid off to cover up anything significant.

Perhaps the greatest credit both for building the inspections system and for making it work, however, must go to the handful of highly motivated individuals who have built the Department of Building and Zoning. Since 1960, the four inspectors and the department head have overseen the construction of 8,000 single family residences and 6,000 multiple dwelling units. Each member of the department has had substantial training, whether as a carpenter, plumber, electrician, or engineer, and all take obvious pride in their role in the community's development. They see themselves as defending the homeowners' interests: "If we don't spot something and it shows up in a year or so, the purchaser will never be able to even find the contractors who built his house," one inspector noted. They take pride in keeping their codes up to date and in keeping local contractors honest. The two men who have directed the department since 1960 have been unquestionably honest and dedicated, backing up their men when hassled by the contractors, but making them toe the line when they become too complacent about some well-established builders. In sum, the men have created a highly professional department and take pride in their work. They know that they are respected and feared by the builders, and are contemptuous of other communities who, through laziness or corruption, have let the builders do whatever they want. They regard local residents as their clients, and feel that they are providing what the community wants.

Conclusion

It has perhaps become obvious that there is no one answer to the question of why Arlington Heights, Illinois, has developed and maintained a strong practice of official integrity. In many ways, we might say that the norm has become so accepted that everyone takes it for granted--simply

the way that things are done here. We might also say that integrity is a tribute to a few key men who would not know how to operate on any other terms. Yet, finally, we might note that habits of playing by the rules can be engineered through systems and procedures that open up the decision-making process and identify individuals who might be susceptible to conflicts or temptation. All in all, Arlington Heights has developed a system that works, and people seem to want to keep it that way.

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