

Centralized growth management policy and local land-use decision making: Learning from Oregon's experience

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Evaluations of centralized growth management systems have tended to focus on descriptions of the technical and structural elements of different programs (DeGrove 1989). Missing from the literature are assessments of the implementation aspects of various programs, and, more specifically, the impacts of these centralized programs, especially state level programs, on local government behavior and land-use decisions. This research uses the state of Oregon, the state with one of the oldest and most well known statewide growth management programs, as a case study to look at the real influence of state level policies on local decisions. It examines the practice of local decision making and the de facto balance of power between the state and local levels. The research illuminates significant aspects of Oregon's governance structure with the expectation that lessons can be learned for designing a governance framework that maximizes the special expertise of both state and local levels of government.

The research involved interviews with a broad spectrum of people familiar with Oregon's statewide planning program. Thirty-three interviews were conducted during the winter and spring of 1993. Individuals were selected for interviews based on their practical experience in working within Oregon's program at either the local or state level, and included elected and appointed officials as well as staff from government agencies and public interest groups. Interviews were of a semi-structured nature to allow for a thorough discussion of each participant's perspective on the influence of state policies on local government land-use decisions and the balance of power between the two

levels of government (Armstrong 1993).

Governance—which level of government should hold primary responsibility for planning and land-use decision making—continues to be an important issue in the development of growth management programs (Bollens 1992, 1993; DeGrove and Mines 1992). Traditionally, local units of government have held most, if not all, of the authority over land-use decisions (Jacobs 1989; Popper 1988). Beginning in the 1960s, a “quiet revolution” has taken place that has resulted in a number of states establishing a prominent role in land-use decision making (Bosselman et al. 1972; DeGrove 1984; DeGrove and Mines 1992). The justifications behind these programs are the need to address extra-jurisdictional or regional problems associated with growth, to encourage growth and development where it is appropriate, to more efficiently plan and coordinate public infrastructure investment, and to provide protection for important natural resources (Barrows 1982; Bosselman et al. 1972; Delogu 1980). In general, local governments have tended to view expanded state roles as an intrusion into their domain and have generally opposed these programs and policies (Jacobs 1989).

From the local perspective, the crux of the debate centers on the notion that a large, centralized bureaucracy lacks accountability and an intimate knowledge of local conditions (Geisler and Martinson 1976; Hawkins 1975). However, local governments traditionally have shown a reluctance to make politically difficult decisions and are often too fragmented to deal with many of the growth problems of today (Bosselman et al. 1972; Delogu 1980; Fulton 1989). Therefore, some theorists suggest that growth management policy needs to involve a balancing act between the state and local levels (Bollens 1993). The state must maintain sufficient authority to address the larger issues, while the local level needs to have enough

discretionary power to deal with local issues. Within the context of an adopted state program, the local level often increases their level of activities, both as a response to issues raised by state policies and as a reaction to the state's intrusion into their traditional domain (Callies 1980; DeGrove 1984).

The case of Oregon

Oregon provides an excellent case study for this issue because it has one of the oldest and most well known state level comprehensive growth management systems in the country (DeGrove 1984; Bollens 1992; Knaap and Nelson 1992). The program was created with the passage of SB 100 by the State legislature in 1973. It provides for a set of statewide planning goals that are to be addressed by local comprehensive plans. These local plans are then “acknowledged” by the state for completeness and consistency with the statewide goals. In addition to the goals, the system relies heavily upon administrative rules and judicial interpretations to provide clarification for each of the goals. This entire body of policies serves as a framework for local level land-use decision making. Beyond the adoption of an “acknowledged” plan, the state program requires that all local land-use decisions be made in accordance with that plan. The program includes strong enforcement provisions to ensure local level compliance. Local land-use decisions can be appealed to a three-member judicial panel (the land-use Board of Appeals) that hears exclusively land-use cases. Also, local governments that engage in a “pattern or practice” of violating their own plans may face an enforcement order that compels them to take corrective action.

Oregon's program is arguably successful, especially in the areas of resource land conservation and urban sprawl containment (DeGrove and Mines 1992; Knaap and Nelson 1992). The Oregon program was initially driven by a concern for the environment and land conservation. In the 1980s, following a trend that is similar to other state level growth management programs, the program broadened its concern to include more quality of life and economic development issues (DeGrove 1989; Bollens 1992). State policies are credited with aiding economic development, maintaining housing affordability, and increasing the level of consistency and coordination between local plans (1000 Friends of Oregon 1991; Knaap and Nelson 1992). It is important to recognize that the program continues to

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evolve, and thus the relationship between the state and local level is dynamic.

As described above, the governance structure of the Oregon program is based on statewide goals and policies that are implemented solely through local decisions. The state can influence local decisions either through plan content requirements or direct oversight of the decisions themselves. Policies that influence plan content indirectly affect local land-use decisions because these decisions are to be made in accordance with the plans which have been acknowledged by the state to be in conformance with statewide goals and policies. Although local governments may be inclined to address most of the issues, state policies force completeness and the tangible result is that local comprehensive plans have more substance.

The singularly most significant conclusion that resulted from this research is that the balance of power between the two levels is situational. The state's influence is dependent on the context in which local decisions are made and on the specific land-use issue under consideration.

Decisions at the local level

Two factors influence the context for local decisions: the extent to which decision makers represent the broader public interest, and not just narrow, special interests; and the political nature of land-use decisions, especially those that involve close, personal relationships, which can make objective decisions difficult.

A concern expressed by some of the interviewees was that the views of the general public are not necessarily translated into political power and, therefore, may be misrepresented at the local level. The example often given is that of county governments. In many Oregon counties most of the voters come from urban areas. Yet, county board policies tend to reflect the concerns of the rural constituency. This bias is thought to result from the fact that counties provide most of their services to rural areas, so county officials see the rural population as their primary constituency.

The views of the interviewees varied on the influence of pro-growth coalitions of business and development interests on land-use policies. Some felt that certain local jurisdictions, especially those in rural areas, can be dominated by a "good old boy network." The situation in urban areas was believed to be much different. In urban areas active citizen involvement programs make it more difficult for pro-growth coalitions to unilaterally control the decision-making process.

Regardless of who local officials represented, many interviewees believed that the political nature of land-use decisions makes it difficult for these officials to be objective. In general, the interviewees perceived that local politicians lack the political will to make decisions which have negative impacts on local people's lives. This is especially true when there is a myriad of personal relationships which can make it difficult to say no to proposed land-use changes. So, in practice, incremental exceptions are often permitted with little sense for their cumulative impacts, and the end result is often an undercutting of the overall accomplishments of the state and local land-use policy framework. Interviewees believed that this lack of political will is closely related to the varying return time for the cost and benefits of most land-use decisions. That is, most positive land-use impacts tend to be long term whereas the negative political impacts are measured in election cycles.

Conflicting demands at the local level also affect the balance of power over land-use decision making. Local governments say that they want clarity and specificity from state policies. Yet, at the same time, they seek to maintain a maximum degree of flexibility and discretionary power. Discretionary authority to make decisions is the primary source of power for local elected officials. To the extent that state policies infringe on that discretionary authority and force local officials to make politically unpopular decisions, the state program can elicit a strong negative reaction from those officials. Some interviewees expressed concern that this reaction can lead to using the state program as a 'scapegoat' even when a local official may recognize the benefits of a state policy. There was concern that over time a growing number of people may come to think that all negative aspects of land-use decisions are caused by state policies, which may eventually erode support for the program.

Appropriate state role

Views varied widely on the appropriate roles for state and local governments. One end of the spectrum had "no confidence that there has been an evolution in the capacity of local governments to accomplish [good growth management] objectives without some direction from the state." The other end of the spectrum was represented by the view that the state tends to use a "sledgehammer" as a policy tool, and the program has resulted in "a set of draconian restrictions" and "a straight jacket" on local governments. The middle

view was that the state has little direct authority over local decisions and that, in reality, the state is only able to intervene in a handful of decisions which really only keep local governments from doing things that are "obviously dumb."

Oversight refers to the state's enforcement powers and its ability to challenge the actual decisions themselves. Many interviewees thought that state oversight is the key to changing local decision making. Although the state has not exercised that authority very often, its existence carries a significant psychological impact on local behavior. For example, out of approximately 12,000 local decisions each year, only an average of 200 are appealed to the state land-use Board of Appeals (LUBA) by all parties, not just the state (Liberty, 1992). Historically, the state has only been responsible for an average of eleven appeals per year, though this rate is increasing (Rohse 1992). Some interviewees expressed concern that the LUBA had become a more influential policy-making body than the state legislature. As one interviewee stated "If I am talking about influencing (state) policy I can do it much more effectively through LUBA." On the other hand, the state legislature has made adjustments to the program every session since SB 100 was passed. Each session provides an opportunity to publicly debate court decisions and to change the laws on which they are based. If the legislature does not change the laws then some thought that this is tacit approval for the way in which LUBA and the courts are shaping the program.

Controversy with the state policies arises over determining what is in the larger public interest and how far the state can go, in terms of regulatory requirements, to protect those interests. Some interviewees are concerned that the state-local partnership has not turned out as originally envisioned and accuse the state of being too bureaucratic and of micro-managing local decisions. One person explained that local governments will continue to say "Tell us the subjects you want addressed, empower us to address them and we will do it.", but the state says "We are going to tell you the subject, we are going to empower you to do it, and we are going to tell you how to do it." Among the interviewees there was widespread concern that the program may collapse under the weight of its rules and regulations.

The state has an undeniable presence in local decisions, but the fact that land-use decisions are still made at the local level is of considerable importance. Achieving statewide goals and implementation of state policies is a function of the count-

less, small, incremental decisions made at the local level. Some interviewees recognized the capacity of local governments and think that the local level can contribute a level of knowledge and understanding to land-use issues that is unachievable at the state level. Certain interviewees believed that land-use planning expertise at the local level, which was clearly deficient when the program was created, has increased and thought the state role should be reduced. But, as is common in land-use matters, others felt that the state policies need to be more restrictive and prescriptive, not less, because local decisions are not fulfilling the statewide planning goals.

Balancing centralized and local governance

Conclusions from this research on Oregon's growth management program suggest significant aspects that are important to recognize in the context of the ongoing debate about land-use governance.

In evaluating any growth management program, it is important to compare the program to the reality of state and local politics (the particular history and culture of a place), rather than to an ideal. In the continuing struggle over the balance of power, it is helpful to rise above the political rhetoric and as one interviewee stated "declare victory" and reach consensus on the accomplishments of the program and narrow the issues that need to be addressed further.

- **Flexibility is important.** Oregon has created an institutional framework to address issues as they change over time. The program continues to make adjustments, shifting its focus from resource conservation to quality of life issues, and from the rural to urban areas. Over the last few years the state has established a grant project to fund the development of innovative urban growth management tools at the local level.

- **The relationship between the state and local level is dynamic.** The balance of power and influence that each level of government wields over land-use decision making is inherently tied to politics and largely depends on the context and the issue. Recently in Oregon the state has sought to recognize that variability through regionally adjusted performance standards.

- **There is a clear need for a state role in growth management policy.** The state needs to address extra-jurisdictional issues and those of broader public concern. Within these areas, local governments need to maintain sufficient authority to

address locally significant issues. Collaborative processes need to be used to define the interests of the two levels.

Conclusion

This research shows that Oregon's governance structure, a state level framework to guide local decisions, may not be ideal, and that state-local relationships are often strained. Despite some weaknesses, Oregon is doing a much better job at addressing growth issues than many other states. Interviewees and observations suggest a few adjustments that could improve Oregon's situation and serve as lessons for other states.

- **Communication.** Currently in Oregon there can be a high degree of distrust between the state and local governments. This animosity is primarily the result of policy making through adversarial court cases and contentious battles in the state legislature. To the extent that statewide growth management programs can use collaborative processes to solve problems before they become politically charged, then these programs have more of a possibility of enjoying continued success and political support.

- **Citizen involvement.** Although Oregon has extensive public involvement programs, both levels of government need to increase citizen involvement in both policy making and implementation decisions. Public education efforts should be associated with this involvement effort to increase the awareness of what is at stake (Johnson and Jacobs 1994).

- **Consensus.** Some interviewees suggest that Oregon has not had consensus on growth management since SB 100 passed in 1973. Continually re-establishing consensus for a statewide growth management program is important to maintaining broad-based support for the program. Increased communication and citizen involvement can contribute to creating this consensus and the political will needed to support difficult growth management decisions.

Maintaining a partnership between the state and local levels, through inclusion and consensus, is essential in order to capture the benefits of a sound growth management system. This case study of Oregon's system demonstrates that, arguably, the most vulnerable links in Oregon's program are the areas, such as regulating rural development, where the partnership between the state and local levels has turned adversarial. It is the collaborative programs, such as those that deal with the urban growth management issues, that are becoming the most successful aspects of Ore-

gon's growth management program. ●

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