

***A Life in Land:  
Lessons Learned over (nearly) 50 years  
of Professional Practice and Scholarship***

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## ***Biographical Statement***

**Harvey M. Jacobs** is Professor and Visiting Professor Emeritus, University of Wisconsin-Madison, USA (1984-2018) and Radboud University Nijmegen, The Netherlands (2012-2019). His specialty is the social and legal aspects of land policy, with a particular focus on property rights, and the structures (like zoning) that communities and societies develop to manage the relationships among different rights in property. He has been recognized through invitations to universities globally, the receipt of multiple Fulbright Specialist awards, and the awarding of an academic knighthood (L'Ordre des Palmes Académiques, rank Chevalier), presented by the French government in 2008.

## ***Abstract***

Land management is too commonly thought of as a technical undertaking, drawing from the physical and geographic features of land, and land policy is too commonly thought of as largely an economic undertaking where buyers and sellers act upon rational signals to make land use decisions. While physical, geographic and economic factors are key, early in my professional career I worked with local communities in the rural state of Vermont (in the northeastern region of the U.S.) to formulate their first-ever public sector land policy tools (most often zoning). What emerged from this experience was how land policy can serve as a proxy for a wide variety of cultural, social, and political values, many of which are difficult for individuals in communities to discuss otherwise. Rights of individual land owners, rights of neighbors, rights of future generations are all embedded in land policy, sometimes explicitly, often implicitly.

Here I reflect on my nearly 50 years of professional activity and how these initial insights about land policy became manifest in scholarship. Over the course of my career I have explored the feasibility of alternate land policy structures, the rise and impact of the right-wing, populist private property rights movement, how property is viewed and treated in the U.S. versus Europe, and conflicting visions for property in the 21<sup>st</sup> century. My research revolves around the argument that land policy is fundamentally social in nature. If this is true, then there are never 'right' and 'wrong' answers to the question – what should land policy be? – only negotiated answers. Thus a key role for the professional land manager is to help a complex multilogue (it is always much more than a dialogue) progress towards what will always be a temporary resolution in an ongoing discussion.

## *Leading Into a Life in Land*

My life in land happened accidentally. In 1973 I graduated the University of Buffalo with a degree in environmental design. This was a new program (I was in the second graduating class) that blended architecture, urban planning, policy analysis, and management, concentrating on creative, interdisciplinary thinking. As such, it drew from an eclectic set of materials including, for example, systems theory (Forester, 1971; Fuller, 1969; Meadows, Meadow, Randers, & Behrens, 1972), anthropology and cybernetics (Bateson, 1972), biological philosophy (Dubos, 1968), cultural history (Thompson, 1971), media theory (McLuhan, 1967), and socially responsible design theory (Papanek, 1971). But there was nothing per se in the curriculum about land management, land policy, or land issues.

My spouse and I wanted to leave Buffalo New York (a still vibrant, steel manufacturing based, industrial city) and move to the northeastern rural state of Vermont, which we had visited many times. I interviewed for several jobs there and was offered two – a social policy (health care) position and a comprehensive planning (land policy) position. The latter paid more and was in a nicer part of state – so that is where we went.

The position required me to work closely with local committees. Most of the people on these committees would be characterized as ‘simple Vermonters.’ What did this mean? It meant that most had not had higher education. They were farmers, forest workers, construction workers, shop keepers, maintenance personnel, first-level public employees (like postal workers). But I soon found out that they were deeply thoughtful, articulate (in their own truculent way), and respectful – of each other and of me (the young new-comer) (Sherman, Sessions, & Potash, 2004). My job was to help these local committees prepare their first ever land policy documents – primarily zoning regulations.

Knowing nothing about land management and land policy, I knew nothing about zoning. So why did I get hired? I knew something about public participation. And I had a personal commitment to the idea of democracy with a small d, the idea that people could, with facilitation, deliberate intelligently and make decisions ‘in the public good’.

Those who hired me told me ‘don’t worry; you’ll figure out the specifics of what you need to know’. And so began a five year post-baccalaureate, pre-doctoral apprenticeship, comprised of two to three night meetings per week, that set me on my life long professional course. My purpose was to work with local committees helping them translate already completed land use plans (done on a McHargian (1969) basis) into workable local regulations. ‘Workable’ meant that these that could be administered at the local level with a minimum of personnel, and that they would be adhered to by local people because they ‘made sense’.

What transpired in these meetings was, for me, both fascinating and transformational. Ostensibly we were meeting to discuss ‘mundane’ issues – zoning district designations, land use categories, land use specifications, etc. Yet, conversations and discussions were never solely about these matters. Instead they were often, very often, about a more fundamental issue: what it meant to be an American. Specifically what were ones’ rights as an American vis-a-vis the ownership and control of land? Did rights in land also carry responsibilities? And finally how

did the designation of a zoning district, a use listing, or a specification affirm or deny these ideas about rights and responsibilities. But discussants were not of one mind about these issues. They brought the diversity of opinions that have long characterized American political and legal discourse (see, e.g., Ely, 1992; Alexander, 1997; McEvoy, 1998). To use Alexander's (1997) terms, some saw land as a commodity, while others saw it as propriety. Or put another way, some argued that it was the owner's right to do with land as he or she wished, while others argued for the rights of a broader and future community. We always came to decisions, but not before a great deal of discourse.

After five years I left Vermont to undertake Ph.D. studies at Cornell University. But there I encountered a conundrum. I met faculty and told them I wanted to study land policy *and* social and political theory. Most often the reply I received was: 'what does social and political theory have to do with land'. I was shocked. The last five years had impressed upon me that land ownership, control, and management were all about social and political theory: who got to say what about what, and how various interests (of which there were always multiple) were managed amongst themselves.

### *The Early Period of Scholarship*

Fast forward fifteen years. As a young researcher I had been writing about aspects of land policy that seemed to me to have potential for addressing some of the core social and political conflicts that emerge in policy formulation and implementation. While my scholarship took several turns, this work continued through my career. At this point it was organized into two streams.

Stream one were investigations into what level of government should initiate policy design and implementation. Since the origins of modern land policy in the early part of the twentieth century, there was a tension between centralized goals and local implementation. Modern critics of local implementation see it as parochial, elitist, often outright discriminatory, and into the modern era an approach insensitive to ecological realities (Bosselman and Callies, 1972; Popper, 1981).<sup>1</sup> Drawing on Hardin's (1968) characterization, local control was framed as a form of the tragedy of the commons. Each individual local governing unit pursued its own self interest, but the result was a land management situation that was often understood as not in the greater social interest – socially, economically or ecologically. Yet localism in land policy is long-standing, sometimes by design and but also as a result of historical accident, and because land and its use is essentially local.<sup>2</sup>

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<sup>1</sup> **Error! Main Document Only.** Popper was an early and enthusiastic supporter of my work in this area and related areas, and remains so even though he himself has gone on to other foci of research.

<sup>2</sup> **Error! Main Document Only.** In the U.S. governmental authority is constitutionally divided between the states and the national government. There is no underlying authority for sub-state, local governments (counties, cities, villages and towns). Authority for these sub-state units is only as broad as individual states allow it to be. So, land use policy authority is inherently a state responsibility. In the 1920s states began passing legislation which devolved this authority to sub-state units, first cities and then other units. Why did they do this? Because

There have been many efforts for regional or central control of land policy, but these have always been contentious (e.g. McClaughry, 1976). Interestingly, defenders of localism have generally come from the political right, while challengers have often come from the so-called liberal left. More recently the discussion about scale has become a bit more nuanced, rather than broad brushed, with even those on the political right asking exactly when and where local control is most appropriate (e.g. Anderson, 2011). Yet, even when achieved – that is when control has been taken back from local units and put into a more centralized structure – the results have been both mixed and difficult to replicate and expand. A classic example is the management of the Adirondack Park region in northern New York State. An early example of environmental regionalism (from the early 1970s), it has also been an area of continual conflict over who should have the authority to make decision over matters of local natural resource management (e.g. Harris, Gross, & Auerbach, 2012).

My contribution to this discourse has been to argue that for many reasons – historical, political, cultural – regional and central control were unlikely to be broadly adopted. While critiques of local control have many valid elements, instead of seeking to wrench authority away from local units, the same effort should be expended towards a search for how to realize a more socially responsible localism (Jacobs, 1989a; Johnson & Jacobs, 1994; Armstrong & Jacobs, 1996; Krueger & Jacobs, 2016).

*Lesson learned: participants to this debate are, for the most part, so fixed in their initial conceptions (about the good or bad of localism) that it is essentially impossible for them to entertain new ways of thinking about the subject.<sup>3</sup>*

Stream two was about alternative land policy tools – most especially transfer of development rights (Jacobs 1994, 1997, 2009c), private, public-interest NGO land organizations known in the U.S. as land trusts (both conservation and community) (Institute for Community Economics, 1982; Foti & Jacobs 1989, 1991; Bassett & Jacobs 1997; Jacobs 2000, 2014), and land value taxation (Roakes, Barrows, & Jacobs, 1994).

Since zoning's inception in the early 1900s, it has been subject to stream of criticisms: it was too rigid (it was too inflexible), it oversimplified the complexity of local land use, it stifled market-responsive and appropriate land use activity, it was prone to bribery in administration, despite its appearance it gave a false sense of certainty because it was relatively easy to modify, it was actually relatively ineffective, and its distributed benefits and burdens to winners and losers inappropriately (Reps (1964) is one of a range of zoning's critics, though he is sympathetic one;

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it was cities that were experiencing the pressing need to respond to technological, economic, and demographic change with local land use policy. So states gave away this authority without fully considering the implications of their actions.

<sup>3</sup> **Error! Main Document Only.** A former colleague, a committed regionalist, would often say to me that the concept of 'socially responsible localism' was an oxymoron; it was an impossibility.

Siegan (1970) is the classic critique of zoning's ineffectiveness at shaping land use).<sup>4</sup> These criticisms have continued through the decades as zoning continues to be a mainstay of local government land use policy (e.g. Fields, 2014; Fischel, 2015).

Eventually, a school of thought emerged that zoning should be replaced entirely with market-based alternatives (e.g. Kmiec, 1981). Many of these criticisms came to be grouped into a broader critique of command and control regulation (Baldwin, Cave, & Lodge, 2012)

Since at least the 1930s, there has been active exploration of alternatives or supplements to zoning, though this exploration accelerated in the post World War II era (e.g. Buttenheim, 1939; Kransnowiecki & Strong, 1963; Reps, 1967; Ellickson, 1973). Many of these explorations sought to address one or more of zoning's shortcomings. One that the professional community became particularly enamored of was transfer of development rights (TDR) (Costonis, 1973; Woodbury, 1975; Pruetz & Pruetz, 2007). TDR strive to retain the strengths of zoning, even increasing its effectiveness, while introducing a market-style structure of property rights trading, which if successful would provide more fairness to those being regulated, and more transparency in the regulatory process. Since its introduction as a concept, there have been thousands of feasibility studies for TDR, yet only hundreds of implementations (Kaplowitz, Machemer, & Pruetz, 2008).

In the same time period (the 1970s forward) there was increasing interest in non-profit (NGO) land organizations, both for land conservation and the provision of affordable housing. There are about 1700 land conservation trusts in the U.S. and about 250 community land trusts (those focused on affordable housing). In the early decades of the twenty-first century these NGOs began to internationalize (see Korngold, 2011; Stein, 2015 for conservation trusts, and Moore & McKee, 2012 for community trusts). When they were established and when they succeeded, they could be useful compliments and supplements to mainstream land use policy, but the fit wasn't always easy (Gerber, 2012; Schwing, 2012). And there emerged a critique about whose interests were being served through their establishment (Meiners & Yandle, 2001). Yet even the most successful of these organizations had a reach far less than public sector land policy. For example, the Vermont Land Trust, a conservation trust established in 1977 (and which I helped co-charter), has worked to protect over 231000 hectares. While admirable, this is only ten percent of the state's surface area, all of which is subject to zoning and other land policy approaches (see <https://www.vlt.org/about>).

*Lessons learned: despite the criticisms of command and control approaches to public sector land policy, zoning (as the primary tool of this approach) is broadly used and widely accepted. Alternatives are enthusiastically discussed in the scholarly and professional literature, but rarely implemented. Despite its shortcomings, zoning and related land policy approaches endure precisely because they have proved to be flexible to changing institutional circumstances, and despite criticisms provide a degree of certainty among players in the land policy game – owners, neighbors, speculators, developers, regulators (see Jepson & Haines (2014) for an example regarding zoning's continuing adaptability; Babcock (1966) is the classic discussion of*

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<sup>4</sup> **Error! Main Document Only.**Reps was my Ph.D. supervisor. I was one of his last doctoral students before his retirement, and the last student in the area of land policy.

‘the zoning game’). *Alternatives introduce too much uncertainty into the land management process.*

### *The Rise and Impact of the Property Rights Movement*

Then there emerges in the early 1990s, and I begin writing about, the so-called private property rights movement (Brick & Cawley, 1996).<sup>5</sup> Here was an on-the-right policy movement that was fascinating for at least two reasons. Most importantly, they were asserting exactly what I had been saying – that the right to own and control land was a central element of the American ethos (Ely, 1992; Bethell, 1998). Therefore policy conflicts over land were not just technical disagreements but rather deeply philosophical ones. Policy conflicts went to the core questions of what property rights existed, what these rights meant, who had control over these rights, and how the private and public spheres could and should interact vis-a-vis policy design and implementation.

Yet, most of my professional colleagues did not understand the importance of this development. Instead of how I understood the movement – as a major challenge to public sector land and environmental management – my colleagues saw the private property rights movement as an annoyance which could be dismissed and which would be irrelevant to the central legislative and policy issues at the national, state, and local levels in the U.S.

For a second time in my career I was in shock. How could my colleagues not see the importance and significance of these folks and their agenda (Jacobs, 1995a; Jacobs & Ohm, 1995; Jacobs, 1996, 1998b, 1998c). During the 1990s the private property rights movement secured the passage of state-based laws in support of their perspective on property rights and land and environmental regulation in 26 of the 50 states (26 of the 48 continental states) (Emerson and Wise 1997). And after the 2005 U.S. Supreme Court Kelo decision (545 US 469 (2005)), they secured the passage of so-called anti-Kelo laws in 43 states (Jacobs & Bassett, 2011).

As I have emphasized to academic, professional, and public audiences through the years, these advocates are so impassioned in their conviction that they will continue in their advocacy, no matter public opinions polls or activist-based push back (Jacobs 1998a, 2010; Pellissery & Jacobs, 2017).

For the next two decades (until the present) the core of my research has used the advocacy actions of the private property rights movement to explore a broad range of issues (Jacobs, 2003). Among these are the deeply embedded role of property rights in American land policy (Jacobs & Paulsen, 2009), social conflicts over the very meaning of ownership and the rights it engenders (Jacobs & Bassett, 2011), and how social conflict (fighting) over property rights is likely to be an ever-present component of American social and political discourse (Jacobs 1999,

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<sup>5</sup> **Error! Main Document Only.** I say ‘so-called’ private property rights movement because the movement has gone through a set of identity evolutions, referring to itself as ‘the wise use movement’, ‘the land rights movement’, ‘the property rights movement’, and ‘the private property rights movement’. The latter two have become interchangeable, and now largely replaced the first two. For ‘the wise use movement’ see Helvarg (1994) and Echeverria and Eby (1995); for ‘the land rights movement’ see for example Yandle (1995).

2009b, 2010).

*Lessons learned: property rights, especially privately held property rights, are a highly ideological issue in the U.S. There are scholars and activists who view individual ownership of property as a fundamental issue tied to the American revolution, and as such are highly and deeply concerned about the evolution of modern day (post 1970) land use and environmental policy (mostly regulation). Proponents are creative and adaptive, constantly adjusting their approaches to contemporary issues and the failures and successes of their efforts at the national, state, and local levels of government. They will continue in this activism into the foreseeable future. Therefore social dialogue about the reasonableness and validity of public sector planning will be ever-present in American policy discourse, with planners and plans subject to attacks about how public sector land use management comports with American ideas about individual liberty and freedom.*

### *Comparative Planning Research*

The majority of my work has focused on understanding, assessing, and commenting upon land policy and property rights issues in the United States. Yet given renewed and rising international interest in land policy and property rights (see the next section below), beginning in the early 1990s and continuing until the present I have participated in national and sub-national dialogues in countries globally. My activities have focused on land use policy formation by national ministries and new local governments, with a specific focus on the definition of private property rights, devolution of administrative authority for land use planning and policy, and peri-urban land management (the containment of urban sprawl). I have had the fortune to work in eastern Europe (Poland (1991) and Albania (1994-1996, 2001)), Africa (Kenya (1996), Zimbabwe (2001-2003), South Africa (2001-2002), and Tunisia (2009)), Asia and South Asia (Taiwan (1994-2015), China (2014, 2015), and India (2015)), the Caribbean and Latin America (Trinidad and Tobago (2001), and Mexico (2016)), and North America (Canada (2010, 2011)). Some of these activities resulted in publications (e.g. Jacobs, 1995b, 2016; Bassett & Jacobs, 1997; Jacobs & Chavanduka, 2003; Pellissery, Davy, & Jacobs, 2017).

The most in-depth of these non-U.S. experiences has been comparative scholarship about western Europe (Jacobs, 2006, 2008a, 2008b, 2009a, 2012, van der Krabben & Jacobs, 2013, Vos, Jacobs, & Samsura, 2019 ). Beginning in 1993 and continuing through to the present I have interacted with colleagues in Belgium, France, Germany, Italy, Spain, Netherlands, Norway, and The United Kingdom. These interactions have included my conducting research, offering short courses, and consulting on curriculum re-design.

Americans have long been fascinated by European approaches to land policy and urban management. The invention of zoning in the early twentieth century came about after a study trip to Europe (Hirt, 2015). In the modern era, all aspects of U.S. land problems are mirrored in Europe, though handled differently, often more effectively (e.g. Strong, 1979; Beatley, 2000; Hamin, 2002; Harrington, Morgenstern, & Sterner, 2004; Lewyn, 2009).

My own contribution to this discourse focused on two elements. First, I sought to understand why it is that the core concept of property rights is understood differently, and most especially

why state action that impinges on private property rights has differing degrees of deference from landowners. Second, I asked (as the Europeans themselves were asking) if there are aspects of the U.S. experience in land policy and land development that might be useful to Europeans, as the European legal and policy landscape is changing.

What is striking is that the 18<sup>th</sup> century American and French revolutions began with similar ideas about property, the rights of the individual, and the appropriate role of the state. The founding documents from both revolutions provided for the shielding of an individual's land from unreasonable governmental expropriation, by requiring that government prove that the physical taking of land was for the public good, and that the individual would be compensated a fair amount for the expropriation. These ideas stayed similar through the eighteenth and nineteenth centuries. But then, in the early twentieth century, they diverged.

In the period of the late nineteenth and early twentieth centuries both Europe and the U.S. were experiencing rapid urbanization and rapid industrialization (and it was the latter that was fueling the former). It was this rapid change which prompted cities to initiate modern land policy (often in the form of land use regulations). Until the 1920s these regulations were treated similarly – that is, there was little constraint on cities (government in general) developing and implementing these regulations and landowners were required to comply with them for the greater good. Then in the early 1920s the U.S. Supreme Court took up the issue of whether there was a limit to how much the government can regulate private land. In the 1922 case of *Pennsylvania Coal Co. v. Mahon* the Court found that: ‘The general rule is that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking’ (260 U.S. 393, 1922: 415). That is, regulation that is too onerous (that ‘goes too far’) could be viewed by the courts as equivalent to physical expropriation and thus while allowed would require the regulating unit to provide compensation to those impacted. Interestingly the Court did not specify the precise place where regulation went from acceptable to unacceptable.

The impact of this case has echoed since its decision. While for cultural reasons governments in the U.S. were always cautious about developing and implementing too-strong land use regulations, now they had an added legal reason.

For the remainder of the twentieth century nothing similar transpired in Europe. Governments remained empowered to develop and implement land use policies (land use regulations) absent any ruling or interpretation that regulation might be judged to be the equivalent of physical expropriation. Added to this were several cultural elements. Europe as a region has twice the population on half the land area of the U.S. So the populace is, in general, more aware of the need for regulation. And Europeans attitudes toward ‘the state’ are decidedly different than American attitudes. While in the U.S. many people hold a skeptical view of public authority, public power, and public professionals, in Europe, it is almost the opposite. This is borne out of history. In Europe much of the land was owned by an aristocracy until the modern era. It took popular (democratic?) revolutions to wrest control away from the elite. Out of these actions an attitude developed (most pointedly in northern Europe) that government was a force for good on behalf of ‘the people’. Urban and regional plans were to be respected and followed, public professionals who developed and enforced these plans were to be trusted, and most pointedly,

individuals did not assume to have rights in their land which put them in a preferential position vis-a-vis the interests of the broader community (embodied in the state).

A shift occurred in the early twenty-first century. Largely as a result of cases brought before the European Court of Human Rights, the Court began to articulate a limit to public regulation and to define a basis for private individuals to seek compensatory action for ‘onerous’ regulation (Ploeger & Groetelaers, 2007; Allen, 2010). All of this was directly analogous to the 1922 *Penn Coal* decision in the U.S.. In part because of these decisions, and in part because of other factors changing in the public planning and private land development sectors, there has emerged an interest in U.S. planning practices. The U.S. is a place with strong market forces, strong property rights, and yet a broadly present public planning system.

*Lessons learned: property rights, especially private property rights, hold much of the same cultural value in the U.S. and Europe. What is different is how the legal systems allowed for the public planning systems to interact with these private rights. For much of the twentieth century U.S. local governments felt constrained, while European governments did not. The legal environment in Europe changed significantly in the early twenty-first century. As a result of this change European governments are looking to the U.S. for lessons in planning in a more market friendly, developer led situation, with sensitivity to the rights of owners. Yet, at least initially, it is not clear how many lessons there are. Europeans still carry the legacy of the twentieth century with them, in their expectations of governmental action and individual behavior vis-a-vis ‘the social good’.*

#### *Towards a Theory of Property Rights for Land Management*

To the surprise of many, the twenty-first century began with a renewed focus on property rights globally. Why this was true can be attributed to several factors: the globalization of the U.S. private property rights movement; the general rise of the populist political right globally, and the role property rights have traditionally played in right-wing populist theory and advocacy; country and region specific transformations, for example, the fall of the Berlin Wall in the late 1980s, the break up of the Soviet Union and the end of apartheid in South Africa in the early 1990s.

Yet significantly much of the renewed focus can be tied to the work of one individual. In 2000, De Soto published a non-academic book about mega-cities, informal settlements (urban slums), urban poverty, and economic development. His argument captured the attention of powerful interests – those at the World Bank and the World Economic Forum (Davos). His argument was a simple one. The reason there are extensive urban slums, urban poverty, and inadequate economic development is that residents lack ownership of the land on which they reside. They do not own their property; they have no property rights. And because they do not, they can not use property and property rights the way those in developed countries can – as collateral to jump start settlement upgrading and small-scale economic development.

Whether De Soto is correct in his assertions is one thing (he has been subject to wide-ranging critiques; see for example Gilbert, 2002). But whether he is or not, combined with the country and region specific changes noted above suddenly property rights and property rights reform were once again part of a global policy reform discussion (in a way that had not been since the

1960s and 1970s, when the focus was on rural land reform in Latin America, Africa, and Southeast Asia).

For these and other reasons there emerged a robust renewal of scholarship about property. These are wide ranging in perspective and include among many examples, Alexander (2006), Alexander, Peñalver, Singer, & Underkuffler (2009), Freyfogle (2007, 2010), Purdy (2005, 2010), and Heller (1998, 2008).

My own contribution to this discussion has had two related foci: one, on the social and legal institution of *private* property (in contrast to state property, common property, etc.), and the relevancy of eighteenth century conceptions of private property to the spatial, social, and economic conditions of the twenty-first century. In this vein I have explored how private property is likely to evolve in the next 100 years (Jacobs, 2004, 2009d), the functionality of private property when viewed through the lens of contemporary debates on human rights (Jacobs, 2013), the relationship of private property to new spatial issues such as climate change (Jacobs, 2018), and understanding the debate over private property as an ongoing, contentious dialogue about who has claims on property, and what ‘private’ even means (Jacobs, 2020). Understood this way, I now see that earlier work was part of this exploration – trying to understand what was fair in land policy (Jacobs, 1989b), and broad-brush speculation about how land planning (land management) might change in the twenty-first century (Jacobs, 1992).

Exploration of this sort is never a sole exercise. It emerges from a community. I was most affected and influenced by the work of two friends in particular: Davy (e.g. 2012, 2019), and Needham (e.g. 2014, and Needham, Buitelaar, & Hartmann, 2019). They strongly supported my investigations, and as importantly challenged me in my conceptions, while presenting me with multiple opportunities to present my work, even as they disagreed with some of my conclusions.<sup>6</sup>

What are my conclusions?

- That the very idea of what constitutes private property has always been socially contested.
- That part of this contestation are radically divergent views of the integrity of the private property rights bundle, and the rights and powers of the state to impact upon the rights in this bundle absent compensation for such action.
- That private property has been fundamentally re-shaped by changes in technology and social values.
- That the contestation over private property has, in general, led to a restriction of the rights

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<sup>6</sup> **Error! Main Document Only.** Davy also facilitated my fellowship at Bielefeld University in 2011-2012, and Needham helped me to more deeply understand The Netherlands through many wonderful day tours throughout the country during the period 2012-2019. In addition, I have to acknowledge and thank my friend and colleague Erwin van der Krabben, who arranged for my visiting professor relationship at Radboud University Nijmegen, The Netherlands for the period 2012-2019. We spent many an enjoyable hour talking through issues in Dutch, European, and American planning and planning education.

of the ‘owner’, and an expansion of the rights of others – neighbors, society, the ecosystem.

- That this dialogue about the rights of the owner and the rights of others is on-going, and never really settled. Instead it serves as a proxy for debates about other social values – e.g. the meaning of citizenship, liberty, freedom, social responsibility.
- That most of the participants in land management – owners, renters, neighbors, professionals, decision makers – have limited knowledge about the core theoretical issues in property. They too often approach social contestation over land management (land policy) with limited understanding for what could be undertaken to address a broad range of concerns.

*Lessons learned: Land management (land policy) affects a real thing. What is done to land today impacts future generations, but these generations are not at the table to be part of the management dialogue. And most of the participants to this multi-logue do not understand – in an explicit way – the concept at its core, property: what property is, what it is comprised of, how it comes to be, how it has changed over time, and thus how it can change into the future. A key role for the professional land manager is to make all this explicit, and in so doing to use it to help the multi-logue progress towards what will always be a temporary resolution in a continuing discussion.*

#### *Lessons Learned: A Life in Land*<sup>7</sup>

Nearly 50 years later the lessons I learned from those ‘simple’ Vermonters endures. Land matters. People, regardless of whether they are poor or rich, rural or urban, formally or informally settled, care about land, and thus land management and land policy; they care about property. Wars are still being fought over territory, people deprived of a homeland are homeless. The promise of property as land is that it should provide a degree of security, equity, and legacy for its owners. Thus while land management and land policy draws on technical data for its foundation it is not, nor can it be, solely a technical exercise; it is always a social exercise. Land management (land policy) is social policy.

Land management and land policy matter because they set the rules by which land may be used, and establish the relationships over land by the ‘owner’, neighbors, society at large, and future generations. There are no (and never will be) ‘right’ and ‘wrong’ answers to the question – what should this policy be? There are only negotiated answers, answers that in the best of circumstances emerge from a democratic multi-logue sensitive to the needs of the owner, neighbors, society, and the future. These answers are as correct as they can be at the moment, and always subject to change. While frustrating, it is what makes a life in land so rewarding as an arena of professional practice.

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<sup>7</sup> **Error! Main Document Only.** In more ways than I could ever list I am indebted to my spouse, Susan, who has, throughout my career, always supported and cheered me on. While I too often go on for too long about how ‘it really is all about land’ (and she is not so sure I am actually correct), she always listens, prods, and engages me. The insights and lessons learned detailed in this chapter would not have been possible without her.

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