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Introduction

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Introduction

Joel A. Mintz*

It has been more than a decade since the Florida Legislature enacted the Local Government Comprehensive Planning and Land Development Act. A product of contention and uneasy compromise, this pathbreaking statute, commonly referred to as Florida's Growth Management Act, has engendered much controversy. For all the diverse stakeholders whose concerns the Act touches, its implementation has led to both triumphs and disappointments. The land use planning process created by the statute remains very much a "work in progress," whose specific requirements are still being adopted and implemented by local government officials, Florida state agencies, land owners and developers, and concerned private citizens.

This *Symposium* reviews the considerations that led to the statute's passage in 1985. It summarizes the key elements of the Florida Growth Management Act and the intricate growth management process which resulted. The *Symposium* assays, from a variety of perspectives, the Act's strengths and shortcomings; and it examines the discrete body of case law and follow-up legislation the statute has spawned.

In its opening piece attorney Richard Grosso, a seasoned and highly effective advocate of the growth management cause, describes the requirements of the Growth Management Act in considerable detail. Grosso considers the statute's purposes and procedures. He also surveys some significant substantive issues that have arisen in its implementation.

Among other matters, Grosso focuses on the adequacy of the support data used to determine whether locally prepared comprehensive land use plans are consistent with the statute's mandates, the role of future land use elements and maps, the appropriateness of local land development regulations as a means of implementing comprehensive plan policies, and the enforcement of comprehensive plans in the context of challenges to particular development orders. Before concluding, Grosso evaluates Florida's ongoing effort to manage its own growth. He notes both the extent to which the Florida Growth Management Act has transformed land use planning in certain parts of the state and the "compartmentalization" of land use regulation that has kept the Act from achieving its highest potential as a mechanism for rational, managed growth and development.

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Two informative student notes provide ecological, historical, and comparative perspectives on Florida's growth management efforts. Joy Brockman's essay describes two sensitive ecosystems found throughout Florida, beaches and sandy shores and coastal wetlands and estuaries, and notes the problems that development may cause for each. She also considers the mechanisms that are presently in place under Florida law for the regulation and protection of these threatened resources.

Vanessa Steinberg-Prieto's note explores the historical evolution of growth management legislation in Florida. She also discusses the interrelationship of Florida's Growth Management Act and an important federal environmental statute, the Endangered Species Act, as well as efforts by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency to protect Florida wetlands under section 404 of the Federal Clean Water Act. Steinberg-Prieto investigates the growth management statutes of Vermont, Oregon and other states and she considers the effect of a key provision of Florida's Growth Management Act, and its "concurrency requirement," on the overcrowding of Florida public schools.

Concurrency, the statutory requirement that local comprehensive plans require the availability of adequate public facilities and services to support new development, is the focus of two other contributions to the *Symposium* as well. In *Waiting for The Go: Concurrency, Takings and the Property Rights Act*, Brenna Durden, David Layman and Sid Ansbacher analyze when the concurrency requirement constitutes a compensable taking of private property. Their article considers pertinent decisions of the Supreme Court of the United States and the Supreme Court of Florida. It also examines the impact of the Harris Act, a 1995 Florida statute which created enforceable rights for property owners where future government actions "inordinately burden" private property.

Craig Robertson's student note describes the gradual development of the concurrency doctrine in Florida over the 1970s and 80s. He considers judicial review of concurrency, and analogous requirements in Florida and other states. Robertson's note also discusses the effect of concurrency on school overcrowding; he examines the "even swap" technique employed to implement concurrency in Jacksonville—a technique that Robertson argues, with some force, is unauthorized by the Growth Management Act.

Finally, Charles Siemon and Julie Kendig critique the standards established by the Supreme Court of the United States and the Supreme Court of Florida respecting judicial review of local government decision-making regarding land use regulation. Their article includes a close analysis of the leading Florida case in this area, *Board of County Commissioners v.*

Snyder, which defines certain local rezoning decisions as “quasi-judicial actions,” subject to greater judicial scrutiny than “legislative acts.”

The remaining articles in this *Symposium* consider a significant subset of the plethora of legal and public policy issues raised by Florida’s Growth Management Act in the eleven years since its passage. Very clearly, the writings that constitute this *Symposium* will not resolve those issues conclusively. Instead, one may hope that, against a background of continued rapid population growth—with the stress on natural resources and the pressure for new construction which such growth inevitably brings—these essays will focus and inform a thoughtful debate as to the future direction of land use planning and growth management in the nation’s fourth largest state.