

California HOMESOWNER

September, 1969

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San Diego pioneers Open Space law

See story on page 3

6950

California Homeowner Magazine

Vol. 8, No. 3 September, 1969

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California Homeowner Magazine is published by the Statewide Homeowners Association.

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Mailed quarterly. Controlled Circulation postage paid at Los Angeles and San Diego

San Diego pioneers Open Space law

by John Nagy

To know San Diego is to know a city that has changed from a Navy town before and during World War II to a city with charm, beauty and culture which it is today. San Diego is truly a city in motion, not only because of the new skyline of beautiful high rise office buildings and now the new San Diego Coronado Bridge, but because the people have a spirit about San Diego that the people of Los Angeles, Detroit, Chicago, Cleveland and many, many more cities do not have. San Diegans have a feeling about the Zoo, the Old Globe Theater, Sea World, Shelter Island, Mission Bay Park, Vacation Island, Balboa Park, Old Town, the Stadium and many other things and places they have preserved or created to make San Diego the community it is today. The pride extends county-wide. San Diegans proudly talk about Chula Vista, La Mesa, Alpine, Del Mar, Coronado, El Cajon, Vista, San Marcos, Escondido and National City. Likewise the people in outlying cities and in the unincorporated areas of the county enthusiastically refer to Mission Hills, the Presido, Rancho Santa Fe, La Jolla and Mission Valley. Pride in State College U.C.S.D., U.S.D., the S.D. Chargers and the S.D. Padres have no boundaries.

COMMUNITY SPIRIT

Where the community spirit and pride

starts, nobody knows. With so many newcomers in the past few years, it is amazing how quickly and thoroughly they become "San Diegans." One of the most unique features of San Diego is its canyons in the heart of the city. Most canyon property in other cities are miles from the heart of the city. Many areas of San Diego have these natural, built-in green belts which until recently were thought to be as permanent as the coast line, the harbor, the bay, or the sunset as San Diegans look to the Pacific Ocean toward day's end.

CITY ORDINANCE TO PRESERVE CANYONS

Recognizing the value of canyon green belts in San Diego, the City of San Diego on Feb. 27, 1969, adopted The S.D. Park District Ordinance of 1969, an ordinance permitting neighborhood groups to preserve open space areas and develop parks by forming assessment districts. The measure, which grew out of efforts by several community planning groups to find a way of preserving canyon areas as open space land, was approved by a unanimous vote of the council.

OPEN SPACE AT NO COST TO THE CITY

The ordinance will permit groups to form assessment districts, levy and collect assessments to pay for acquisition and improvement work and sell bonds. The city can

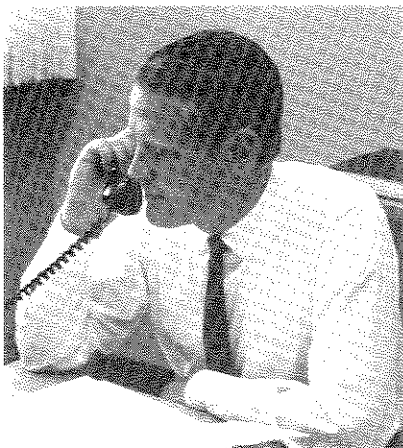
also initiate open space and park developments by utilizing the ordinance. The new ordinance also provides that the city would not be obligated to expend public funds to improve or maintain the acquired lands.

Open space at no cost to the city is almost unbelievable these days. The San Diego City Council, City Manager and Planning Dept., should be commended for such a forward step at a time when most cities are facing the fact that open space opportunities are gone forever, or the costs would be so high, and the politics so thick, that it will never happen.

To allow San Diego canyon properties to be developed would be like selling Balboa Park to commercial interests for development.

FIRST IN THE NATION

Rector K. Fox III, deputy city attorney and architect of the ordinance told this reporter that to his knowledge, no other city, county or state has such an ordinance. He said that sources for the ordinance were several existing laws, among them, the Improvement Act of 1911, Municipal Improvement Act of 1913, Parking Law of 1949 and Park and Playground Act of 1909. It is his hope that the Legislature will enact a law to give this

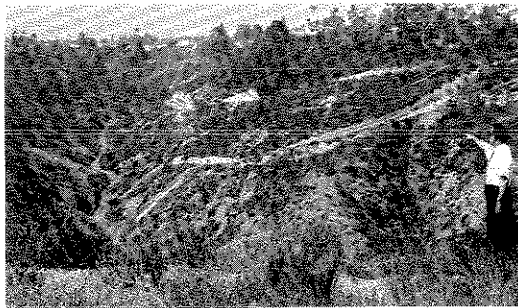


Rector K. Fox III, Dep. Atty.

same opportunity to other cities and unincorporated areas of California. Fox pointed out that of particular help in drafting the ordinance were dedicated men, such as Max Schmidt of the planning department and John Fowler of the engineering department.

THREE AREAS ALREADY INTERESTED

One area of the city has already formed its open space district and two others are in the process of doing so.



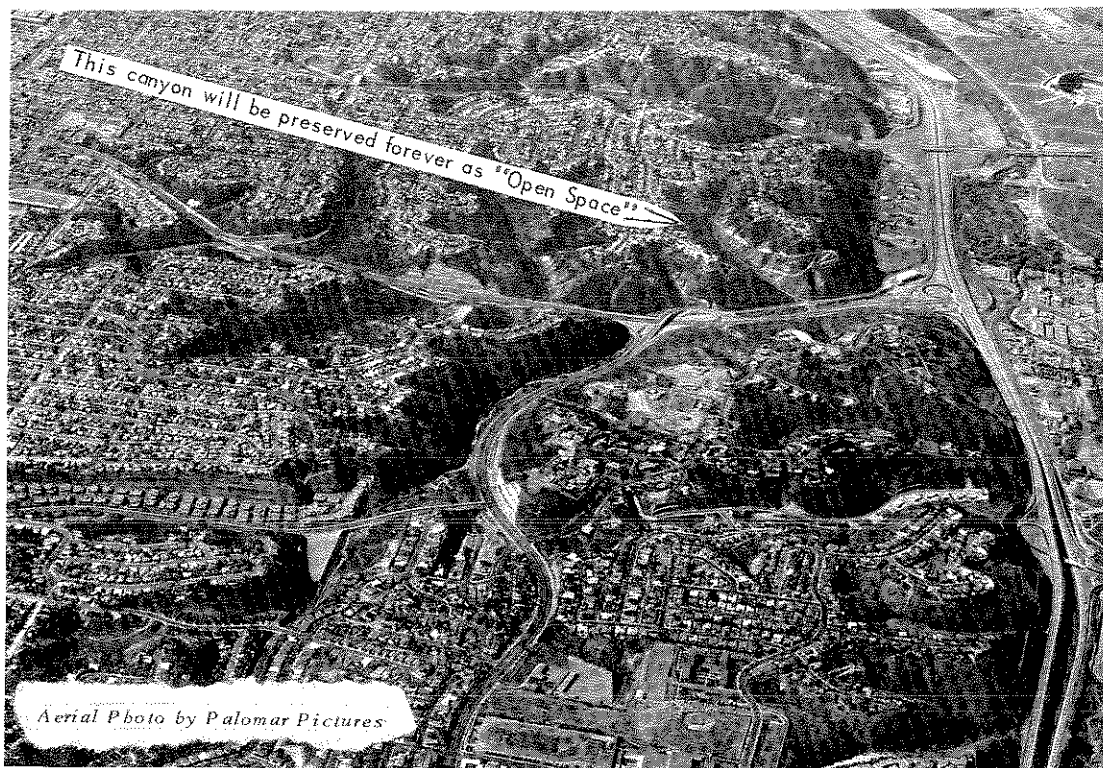
A. A. Pfeiffer, Jr., Kensington area chairman, pointing to the canyon designated as "Open Space" assessment district.

The Kensington area group, whose chairman is A. A. Pfeiffer, Jr., has secured enough signatures to form the assessment district. The Tecolote Canyon and Lindberg Park areas are working towards their districts.

SERIOUS BLOW

Pfeiffer's group, while in the final stages of securing the necessary signatures, was dealt a serious blow by the same Council who unanimously voted for the open space ordinance, when it granted a conditional use permit for construction of 153 high density units and parking spaces for 459 automobiles in the canyon.

While it is true that the assessment district can condemn the canyon property, the fact remains that at the eleventh hour the Council through their unfortunate action increased the market value of the canyon from approximately \$50,000 to \$300,000.



Aerial view of first canyon to be designated Open Space, made possible by new ordinance adopted by San Diego City Council in February, 1969. It is the first in the Nation, and may soon be adopted state-wide and nationally.

SHORTSIGHTEDNESS OR WHATEVER?

Shortsightedness or whatever the reason was for the council to grant high density use at such a crucial time could kill the whole meaning of the well-intended open space ordinance. In fact, it could become a total failure for open space and a windfall for land speculators. In this case, with one vote on the Council being the deciding vote, a land speculator was handed \$250,000. The reason I refer to him as a speculator is because he was given a higher density use for this canyon about 4 years ago and failed to develop the property. A typical tool of land speculators is to gain higher density use for the sole purpose of increasing the market value of the land. The speculator showed bad faith in the past, and it is difficult to understand the action

taken by the Council after telling Pfeiffer and his group that granting the higher use would be delayed to give them the opportunity to secure enough signatures. Elected bodies are usually not that deceiving. Championing the cause of the speculator was Helen Cobb, who previously had announced her intention to retire from the Council after her present term.

OPEN SPACE - - A DREAM OR REALITY?

Only the years ahead will determine if the City of San Diego has pioneered the path to a dream of conservationists, homeowners and serious public servants. Unfortunately, it may have also showed the way to kill that dream as many other dreams have been destroyed, namely that, before your dream can come true, the land speculator must be paid off.
END

Homeowners Fight to Save the Hills

BY M. H. GREENHILL

When the first residents of the beautiful canyons of Beverly Hills, Bel Air and the Santa Monica Mountains settled on their hill-sides it was a daring and difficult thing to do. Banks refused to finance hillside homes, fire and insurance companies either refused to insure them or charged very high rates. The disastrous Bel Air fire and the floods of 1966, 1968 and 1969 have brought even more expense to hillside homeowners, but they fight to save their privacy and their view. They fight so hard, in fact, that Art Seidenbaum in an article in the Los Angeles Times "WEST" magazine dubbed them the "Fighting Montagnards" after the hill people of Viet Nam.

Said Seidenbaum, "The hills are a shrinking green island in a sea of asphalt and stucco, the last refuge of hawks, foxes, deer, coyotes and nonconformists yearning to breathe free."

"In a plundered, polluted land where the nation's capital is located on a running sewer and every patch of wilderness must be tamed for snack bars and comfort stations, it is not surprising that the peace and privacy of the montagnards is regarded as an obstacle to progress.

"Hardly has he built his aerie in the hills, longing to 'sit on a green knoll apart,' than, ironically, he discovers that only by banding together with his neighbors can he ward off the mercenaries bent on despoiling his mountain fastness."

Band together they did, in an extremely

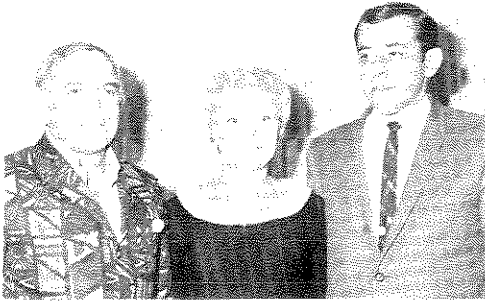
effective organization called the Federation of Hillside and Canyon Associations, which represents 17 groups located in the mountains from Griffith Park to the San Diego Freeway. To find talented City Hall fighters like Mrs. Lillian Melograno, Harriet and John Weaver, Ben W. Bennett, Jack Thompson, Mrs. Eva Case, and hundreds more, takes a real cause, which they have. Their foes all have the same face, Land Developers. As Lillian Melograno says, "We have never opposed any development which lived up to the Master Plan and adhered to density restrictions."

Unfortunately, few developers are content with the 1 1/2 dwelling units per acre allowed under the Santa Monica Mountain General Plan. The profits to be made from zoning variances and conditional use permits which allow high density development in the hills are great, great enough to allow for large campaign contributions at City Hall and lots of "friendships" cultivate among those who can grant favors.

CURRENT BATTLE

Twice in an historic summer week-end, while two American test pilots were touching down on the surface of the moon, the residents of Benedict Canyon crowded into the American Legion Hall in Van Nuys to protest a 500-unit planned residential development and private tennis club proposed by William Bone and his associates in Allied Canyon Co.

The Memphis-Beverly Hills syndicate



(l to r) Marshall Geller, project chairman, Mrs. Lillian Melograno, past pres. and Irwin "Chip" Chasalow, president.

has acquired a 200-acre parcel in the Deep Canyon area. Much of the land is unbuildable, all of it is zoned for single family residences on minimum lots of 15,000 square feet, and part of the property is deed-restricted to 1 1/2 acres.

The applicants are seeking two conditional use permits to get around these physical and legal limitations, and their proposals have aroused universal opposition in Benedict Canyon. Residents have collected 973 signatures to petitions calling for disapproval. Of these, 138 are from homeowners within a 300-foot radius of the tract.

The first conditional use application, heard July 18 by Fabian Romano, Associate Zoning Administrator, involved a private tennis club with a pool, snack bar, sauna baths and twelve tennis courts, one of which would have a grandstand for tournament play. Canyonites pointed out that England's famed Wimbledon has only fourteen courts. They have named the Bone Club, "Wimbledon West."

The residents expressed vehement opposition to the club's projected sporting goods shop, which would mark the first intrusion of a commercial enterprise in Benedict Canyon.

After a lengthy hearing, Mr. Romano took the matter under advisement pending a decision on Bone's second proposal.

This application, heard July 21 by Roy Bundick, hearing examiner for the Planning Department, calls for a conditional use permit to build a condominium development of 500 homes on sites averaging 4,400 square feet, less than one-third the legally required lot size for this RE-15-1-H community. The lots would be 55 feet wide instead of 80 feet, as present zoning laws demand.

After a strong opening presentation by Irwin (Chip) Chasalow, president of the Benedict Canyon Association, Mrs. Frank Melograno, past president of both BCA and the Federation of Hillside and Canyon Associations, made a detailed attack on the developer's density figures.

"We don't feel that there should be more dwelling units than would normally be possible under proper subdivision practices," Mrs. Melograno said, and listed five factors which should be considered in reducing the number of homes in the development by at least 50 per cent.

1. Normal hillside development would call for 1 1/2 dwelling units per acre rather than 2 1/2.
2. Approximately five acres of the tract would be taken up by the proposed tennis club. Thus, the development's density figure should be based on a total of 195 acres, not 200.
3. About 15 percent of the total acreage is restricted by the Santa Monica Mountain General Plan to one home per acre. A corresponding reduction should be made to reflect this restriction.
4. The maximum number of homes, according to the Master Plan, should be based on the premise that all other prerequisites of the General Plan prevail. Under this Plan Benedict Canyon is classified as a "Minor Traffic Street," which is defined as a 40-foot roadway within a 60-foot overall width, designed to carry four lanes of moving traffic. The canyon, however, has only two

traffic lanes along its entire length and none is 60 feet wide. In other hillside projects with such an access problem, the developer has been compelled to reduce the number of lots accordingly, Mrs. Melograno stated, and saw no reason why an exception should be made for the Bone syndicate.

5. No credit for dwelling units should be given for that part of the 195 acres which will be subtracted from the total for streets.

Jerrold Rudelson, a past president of BCA, then called on the Planning Department to apply the Master Plan's provision to the Bone proposal. The cluster concept, according to the Plan, was intended to provide "minimum disturbance of the natural terrain."

TRAFFIC REPORT

A traffic report was presented by Mrs. Jerrold (Jody) Rudelson, also a past president of BCA.

The developer's contention that his tract road would "bypass and eliminate the double switchback portion of Benedict Canyon Drive" was disputed by Mrs. Rudelson, who pointed out that "there are no plans included in this development to close off the existing Benedict Canyon Drive."

SAME FIRM , CONFLICTING REPORTS

The developer sought to minimize the traffic problems of his proposal by quoting a report prepared for him by traffic consultants, Donald Frischer & Associates. Mrs. Rudelson quoted the same authorities, referring to a 1965 report prepared for BCA when it was conducting its successful campaign against a proposed 62-unit RPD on Hensal Drive: "Our observation along Hutton Drive." BCA's Frischer report stated, "have indicated that due to the absence of sidewalks and curbs, and the presence of parked cars, a potentially hazardous condition exists during periods that school children wait for school buses. This

condition will become more pronounced as the area is developed to full capacity. . . . It is estimated that if the ultimate development of 450 residences is reached, there will be a demand of between 4,000 and 4,500 vehicles per day on Hutton Drive."

SCHOOLS

The condominium's effect on the area's already burdened school facilities was stressed by Don Loze, a BCA board member, who called attention to existing conditions at Warner School. No monies are available for expansion of school facilities, Loze pointed out, and asked what would happen when children from the Beverly Glen tract of 850-900 homes also started pouring into the community's classrooms?

Among other probing questions, former president Marshall Geller asked: "Is there an adequate storm drain system within the development and how is drainage from the entire 200 acres to be handled?" Al Edelson, a subdivider who lives on the edge of the project expanded on the problem of drainage, using the developer's tract map to show the potentially hazardous effects on homeowners living below the condominium.

WHOSE CITY IS THIS?

BCA President Chasalow concluded his remarks by looking out over the crowded auditorium where the two opposing interests were seated. Mr. Bone and his associates sat at a small table near the examiner. Everyone else had come to the steamy, smoke-filled room to defend their homes against what Chasalow called "a massive assault on our way of life." Indicating the developer on one side, the homeowners on the other, he asked three questions:

"Who should prevail?"

"Who WILL prevail?"

"Whose city is this?"

Following is a letter from John D. Weaver, member of the Benedict Canyon Association, to Calvin Hamilton, Director, Department of City Planning, Los Angeles:

Dear Mr. Hamilton:

July 21, 1969

If our community were beset by vandals bent on defacing our property, the police department would rush to our assistance. There would be no need for us to call an emergency meeting of homeowners to employ an expert in the field of criminology, and make an elaborate presentation to police officers on the socially unacceptable aspects of vandalism.

When we are threatened by a proposal to break down the legal barriers protecting our homes against the intrusion of commercial enterprises and substandard building sites, there should be no need to sit for hours in undertaker chairs in a bleak hearing room, pleading with a city's zoning and planning officials to uphold laws designed to preserve the zoning integrity of our neighborhood.

We took such protection for granted when we bought our homes. We selected an area zoned for single-family residences, not for private clubs and sporting goods shops. We paid a premium to move into a hillside community zoned for building sites of at least 15,000 square feet, not 4,400 square feet, which is the average lot size of this proposed condominium.

The law provides for zoning variances to cover hardship cases and for conditional use permits when some public purpose would be served, such as building a school or a fire station in a residential area. The present application pleads no hardship, serves no public purpose. It simply seeks to put this land to certain uses which the law forbids.

This is a speculative venture, or, to be blunt about it, a gamble on the part of a Memphis-Beverly Hills syndicate. The applicants have acquired a 200-acre parcel, some of it unbuildable, all of it zoned for single-family residences, and part of it deed-restricted for 1½-acre sites. Instead of designing a tract conforming to the limitations of the law and the land, the syndicate is gambling on the hope of getting permission to intrude commerce on the canyon and, by declaring its unbuildable land a "green belt," to crowd 500 homes on substandard lots.

Our homes should be as safe from such proposed zoning abuses as from attempts to break and enter. The right of absentee landowners to develop their property does not include the right to develop it in such a way as to interfere with the property rights of the area's residents. If the sale of tennis balls is permitted on one residential street, there is nothing to stop the sale of fried chicken on another. Today a tennis club, tomorrow a motel.

A city must protect its zoning integrity as zealously as a woman protects her reputation. If her honor is in doubt, she will be more frequently called on to defend it than a woman whose virtue is beyond question. City authorities must be equally careful to let it be known that their zoning laws are not open to seduction. Should approval be given this proposed assault on the character of our community, no residential area in Los Angeles would be safe against similar propositions. Zoning integrity, like chastity, can be lost in a moment. But once it has gone, it can never be recovered.

Sincerely,

The battle goes on, some are won, some are lost. One thing is for sure, it pays homeowners to organize, and stay organized. The enemy is only waiting for you to go to sleep

for one minute. Some day, soon I hope, officials will be elected by people, not money. In the meantime, be alert.

END

WHEELS WITHIN WHEELS

Major Sam Yorty of Los Angeles requested an inquiry be made into the tangled financial affairs of a Beverly Hills land development by the State Attorney General's office. Mayor Sam had discovered that his building and safety commissioner, Roy G. Lewis, was on the payroll of the Beverly Ridge Estates, a country club development once known as the Dean Martin Country Club. Lewis was fired although City Councilman James B. Potter and Frank Matula pleaded for leniency on his behalf. Potter was a leader in the City Hall fight to get a road put through to the proposed club. Frank Matula is international trustee of the Teamsters Union. The Teamsters Pension Fund is supposed to have made a series of loans totaling \$13.5 million to the firm.

Potter was running for office at the time and campaign funds from the various organizations and firms associated with the building of the development are being traced to see if influence was brought to bear.

County Assessor Philip Watson has admitted a \$5000 loan was received from the Interstate Excavation firm associated with Beverly Ridge Estates but says it was a "private matter." An odd source for a private loan! Watson was masterminding a campaign for Proposition 9 about that time, a proposal to limit the property tax.

Permission to build the club was originally granted under strange circumstances. City records show that Beverly Ridge applied to the Zoning Administrator for a zoning variance. Before he had a chance to investigate the proposal, the application was taken out of his jurisdiction and placed before the Board of Zoning Appeal. (This procedure has since been outlawed as a result of the findings of the citizens' committee which investigated zoning practices.)

The BZA granted permission to build the country club, but the firm failed to start construction on time and the permit has now lapsed. Tons of earth has been moved around in one of the most extensive grading projects allowed in the hills. Memberships were sold to many prominent residents of Beverly Hills. However, the money was returned, so it was said, as they could not promise an opening date. Dean Martin long ago pulled out and took his name off the club. What happened to the \$13.5 million loaned by the teamsters is now being questioned. Another inquiry is into the road supposed to lead to the club. A.M. Hill, director of Los Angeles Bureau of Right of Way and Land admitted under questioning that the proposed route for the road "does incorporate acceptable features of an alignment study prepared by Beverly Ridge Estates Corporation." Public Works officials had previously denied there were any alternatives to the route chosen by the city, later they admitted there were some feasible alternatives.

Beverly Ridge Estates had originally promised to pay part of the cost of the \$4 million road which would extend Beverly Drive from the north city limits of Beverly Hills. Homeowners in the area have demanded the road be cancelled for some alternate route used, as the one proposed would mainly serve Beverly Ridge Estates.

The Teamsters Pension Fund has sued the development in the Superior Court to foreclose on their loans. They have also contested Beverly Ridge's Chapter XI bankruptcy petition in Federal Court.

Headquarters for the development are located at the home of Leonard Bursten 2201 N. Beverly Drive. So far, Bursten has refused to testify in the case, but agents for Attorney General Thomas Lynch has gotten court orders to force other witnesses to testify. It should be quite a story when he does. The stakes are higher and higher as the demand for land increases with population growth and public expenditures for things like \$4 million roads, schools, sewers, fire and police protection should not be allowed to line the pockets of land developers!

HOMEOWNERS FIGHT BUILDER and SLIDING SLOPES

by DOROTHY HAY



*Dorothy Hay, member.
Laguna Niguel Homeowners*

What would you do if you walked out of your back door and suddenly found that half of your back yard had disappeared? Or you saw a hillside of thick adobe mud come sliding down into your living room like a volcano overflowing. This is the sort of thing that happened to Laguna Niguel homeowners, and many others throughout Southern California during the heavy rains of the winter of 1968-69. Mr. and Mrs. L. B. MacLachlan of Laguna Niguel West lost 540 square feet of their back lot, including corner posts sunk in four feet of concrete, plus some of the concrete slab used for the patio. As most of the homes in Laguna Niguel are built on terraced pads carved out of hilly ravines, the house below the MacLachlans received the earth which slipped from their banks.

What could have been a fatal and costly experience was in this case relieved by the fact that the house below the MacLachlans was empty and both homes had been repossessed from builder William Churchill, along with 32 others, by the State Mutual Savings and Loan Company which had financed them.

The Savings and Loan Company agreed to repair the banks at no cost to homeowners, so the MacLachlans were spared what could have been a \$5000 expense or more. But what of other homeowners?

Laguna Niguel has developed several miles of rolling hills between San Juan Capistrano and Laguna Beach, just on the edge of the 90,000 acre Irvine Ranch. Developer John Klug, of Newport, is a noted sportsman, receiving much publicity for the super sports cars he drives and races, one motor only, not the car, costing \$45,000. Klug can afford little playthings like this because he is a land developer, and everyone knows that all big money these days is being made in land development. Look at the big firms like Kaiser Industries and Boise Cascade and Pennsylvania Railroad, all of whom decided they could make really big profits in land development, and have.

Many people believe the slopes in the Laguna Hills failed because of improper soil engineering and construction. The Saddleback Valley, as it is called by local residents, has



Mr. and Mrs. L. B. MacLachlan

been described by one soil engineer as having every fault known, clay soil, sandy soil, major slide formation, every condition needed to cause what did happen to happen. With this fact widely known it is amazing that a lenient county allows developers who, as they say, "are under pressure to make as many lots as they can from each acre of raw land" so as to sell the houses a little cheaper than the competition. I wonder about this. Grading slopes a little less steep does not allow for fewer houses, plus the developer charges all the traffic will bear, with no evidence of reduced home costs.

It is time that Orange County homeowners put pressure on developers and the county building and safety department for a stiffer grading ordinance.

Los Angeles has a grading ordinance calling for slopes no steeper than 30 degrees. In the "great flood" of winter 1968-69, the hillsides which gave way were mostly in the old 1 1/2 to 1 grades, while the new 2 to 1 hillslides held up well. So why is Orange County still allowing the dangerous 1 1/2 to 1 slopes?

Geologists have said the hillsides of California, mostly sandstone and some adobe, were never meant to be built on. Developers will tell you that homebuyers hunger for beautiful surroundings and a view makes it almost

mandatory to build in the hills because the flatlands are already built up. Anyway, no one will pay \$45,000 for a house in the flatlands. Developers also blame the zoning and grading ordinances because they won't allow curved roads, a developer has to straighten out the roads and make a square or nearly square development because this is all some cities will allow.

F. G. McLellan, Orange county director of building and safety blames a lot of slippage on the homeowners, saying they overwater (in all that rain?) underwater, plant the wrong materials, like iceplant, or dump dirt on the slope or divert the water from its natural run-off channels. There are at least 100 homeowners ready to sue to prove that he is wrong.

Chester Brisco, attorney, recently told the Laguna Niguel Homeowners and Community Association about the legal aspects of their situation. They had two alternatives, act as a group and hire an attorney to get the developer to fix their slipping banks, or to hire someone to fix them at their own expense. Either way it would be expensive, but if the developer were proved liable, the expense could be compensated. Brisco cited the case of Thomas and Carol Ann Avner versus Longridge Estates. The rear portion of their lot failed twice and the Avners sued the developer, Longridge Estates. Their attorney used the case of Kreigler v. Eichler Homes in which the judge said, "There is little distinction between the mass production of homes and lots and mass production of automobiles and that the pertinent overriding policy considerations are the same." In other words, a faulty product is a faulty product, no matter where it is manufactured.

In the Avner case, attorneys for the Longridge Estates agreed that homes might be compared to automobiles, but not lots. A land developer, they maintained, might grade property, cut and fill depressions, but he did not alter basic characteristics of the soil. Thus, he had to contend with various natural and latent conditions in the soil and its subsurface.

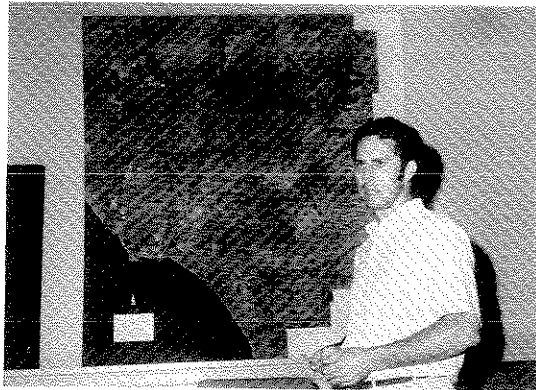
The appellate court disagreed: "It is common knowledge that with modern grading and trucking equipment, earth is moved considerable distances for filling purposes, that it is not improbable for the imported soil to have entirely different characteristics from those of the native soil. It is also common knowledge that geologists and soil engineers are able to determine with a reasonable degree of certainty the stability of soil from tests of the surface and subsurface, and that if adequate and proper tests are made, it is highly improbable that any condition affecting stability will remain unknown and latent."

The court held that the Avners had bought a house built on a lot "manufactured" by cutting, grading, filling and compacting, so it was up to the "manufacturer" not the purchaser, to determine by soil tests that the manufacturing process had been defective. . . . "Is the purchaser of a manufactured lot under obligation to employ a soil engineer to make expensive and disruptive tests?" No, the court ruled, and held the manufacturer of the pad responsible for his product.

Despite this clear legal guideline, McLellan has sent letters to victims of the soil slippage that they must repair their slopes themselves. Plus, the county has set a deadline of Sept. 30. According to Jack Norris, assistant in the Building and Safety Department, this is merely to insure no further damage in next winters rains, which may be as heavy as this years. The county also said the homeowners would be charged a building permit fee, which would be based on the value of their homes. This was the straw that drowned the camel and pretty near drowned McCellan, so the fee was dropped but homeowners still had to get the permit "for their own protection." As this meant taking a day off to go to the county building to fill out the papers, the homeowners were not happy with that idea either. Although the county seems to feel it has authority to order individual homeowners to repair their banks, the county, in the persons of Norris and McLellan, said they did not have authority to stop builders from continuing to manufacture the building

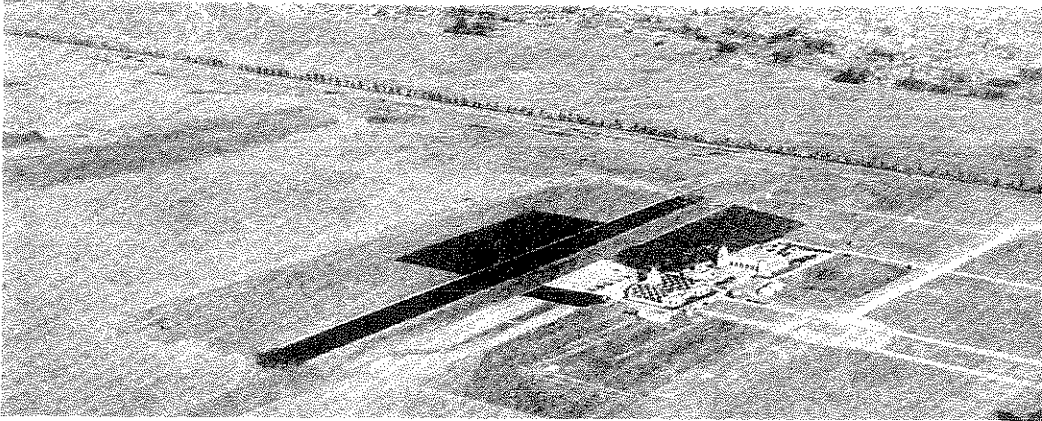
pads on the slipping slopes.

Builders who have faced their responsibility and are repairing the damage at their own expense include the Mission Viejo development and Deane Homes. Mission Viejo's repair consists of steel pipe driven down into the slope with redwood boards making a sort of terrace holding the clay soil up on the hill-sides until plantings will take over. They are planting Acacias, honeysuckle and croceum, a small-leaved succulent. To a builder, making repairs with his own soil engineer and equipment might cost a hundred dollars or so a lot, to the individual homeowner trying to hire the work done, the repair of the bank could cost between \$1500 and \$5000.



*Bob Hurst, president,
Laguna Niguel Homeowners*

Bob Hurst, hardworking president of the Laguna Niguel Homeowners Assn., feels the homeowners should get together and demand repairs, by way of a letter from the attorney, and be prepared to sue if the demand is not met. At a meeting of homeowners from several developments on August 6th, it was difficult to get the diversified group to agree. In union there is strength, we hope the homeowners band together and get proper legal aid. A situation where the county demands repair of the banks without any idea of what safe requirements are, and no guarantee from anyone that dirt piled back on the slopes will hold, or a clear legal precedent holding the developer responsible, seems to be a situation calling for expert help. **END**



Beanfields to Jumbo Jets

M. H. Greenhill

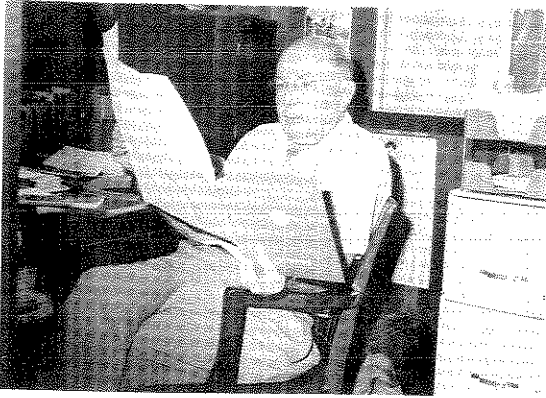
The above photo was taken of Los Angeles International Airport in 1929. Charles A. Lindbergh had captured the imagination of the world with a flight across the Atlantic in 1927 and the Air Age was born. The city had to have an airport and Judge Frank D. Parent of Inglewood and a group of citizens named by the Mayor picked the Bennet Rancho, 640 acres of beanfields. The property was leased in 1928, bought outright in 1937.

As a teenager I learned to fly at what was then called Mines Field and I can report it was very far from the city (it took two buses and a street car to get me there) the runway was unpaved and full of ruts, and not one person within a hundred miles would have said it would grow into the monstrous and busy Los Angeles International Airport. I might say the city fathers were not very farsighted in buying only 640 acres to start off, but then, I

spent \$500 of my hard earned money to learn to fly and I should have spent the money on buying beanfields next to it.

As we who were airplane watchers in those days admired a revolutionary new plane being tested over Southern California little did we dream that the twin-tailed P-38 and other birds of prey like it would soon take over Southern California. World War II brought contracts for more P-38's and DC-4's and 6's and many more aircrafts of every size, shape and weight. The aircraft factories settled in places like El Segundo, Inglewood, Culver City and Santa Monica. Homes for the workers who built the planes suddenly began to cover the beanfields and cities grew apace. It was during this period that Los Angeles became known as "87 suburbs in search of a city." These homes built to sell for \$4500 and up, were selling after the war for \$11,000 and up to \$15,000. These homes are now in the spreading pattern of jet noise.

So what do you do when jets roar overhead at three minute intervals? You sell out and move, if you can. George Albert Heap is a retired engineer who lives in a development of 944 homes in the path of the new North runway which LAX plans to use while it rebuilds the old South runways to accommodate the Jumbo Jets. George is one of the few people past 60 who does not want to turn back the clock. He



George Heap "What can a little guy do?"

accepts the air age and does not wince when a jet goes over, but George has a problem. The Heaps have a very comfortable home on a long lot which backs on commercial frontage. Under present zoning and the deeds and covenants restrictions of the development (due to expire in 1970) the lot might sell for \$28,750. Many in the area have already sold (590). United Savings and Loan has been acquiring lots in the development for up to \$45,000 and now owns 14 lots. Another group of property owners have acquired six to ten lots. Tishman development corporation has land next door, other industrial developers are bidding as much as \$70,000 per lot for choice corners. The airport would like to acquire land from Aviation Boulevard West to the Ocean, north to near Manchester, which means condemnation proceedings for many more homeowners and many more lawsuits.

The lawsuits pile up, one from the city of Inglewood has demanded an injunction to halt construction of the new runway and charges that the existing runway and other airport facilities used by jet aircraft already bring intolerable noise, loss of sleep health impairment, fear, interference with television, radio and phone reception and school operation. Considering the tremendous growth of property values created by the airport, one wonders if Inglewood has brought suit merely to satisfy voters, because the city must be aware that industrial uses take over when

homeowners move out. The Northrup Institute of Technology has expanded in a compatible manner with the airport while another school, Airport Junior High, has announced it will close in February of 1970, and Westchester Elementary school has already been closed. Yet, the school district is not losing money. Airport Junior High is located on 20 acres of land. The facility was referred to as a \$4.6 million school facility. If land in the area is really selling at \$10 per square foot, the school district stands to make a substantial profit on the land. Let's hope the Real Estate department of the school district realizes this potential.

Another suit brought by the Citizen's Health and Welfare Council claimed inverse condemnation by the airport. This suit, now in process, has many officials of the Federal Aviation Administration and private appraisers testifying as to the depreciation of properties as a result of the airport operation. It is unfortunate these people did not spend the money on holding on to their property instead of on a lawsuit. If they continue to hold the property it will become valuable to an industrial user even if it is unliveable as a home.

Another pan of worms was revealed when the Palisades Del Rey Property Owners filed suit to halt construction of hangar facilities near their homes. The tiles on the zone change permitting this construction were "tabled" on the desk of the councilman representing this area for over a year. Councilman Ferraro ordered the filed papers "opened" and they revealed that the Board of Airport Commissioners had agreed to condemn 372 parcels of land in return for the approval of plans to build the hangars. The councilman has already retired and many homeowners in the area felt it was long overdue. The airport meanwhile has withdrawn plans for the hangar facilities and the Palisades Del Rey Property Owners said they knew all the time the airport didn't mean to condemn their property.

Meanwhile, George Heap and other homeowners who don't believe in fighting the



Aerial photo by Los Angeles Dept. of Airports

AERIAL VIEW LOOKING WEST of 3,000 acre Los Angeles International Airport as it looks today, with two 12,000-foot runways (center) and another 10,00-foot runway (upper-right). Lying between the two runway systems (lower-right) are airline maintenance complex, passenger terminal complex and Cargo City, which stands on site of former passenger terminal. Tall buildings on Century Blvd. opposite Cargo City are part of vast complex of office buildings, hotels and industrial plants which have sprung up around the airport.

When the city of Santa Barbara passed an ordinance against sonic booms a couple of years ago, many people sniggered and said they had little chance of enforcing it. Now the Federal Aviation Authority has given a legal ruling, in answer to a query from the Orange County counsel, that state and local governments do have the right to impose non-discriminatory noise level limits and other restrictions at government owned airfields.

What effect this will have on the millions of dollars worth of lawsuits filed against airport operations in Los Angeles, Orange County and against the private airport at Lockheed Burbank, will have to be decided by the judges. However, it does give more positive authority to local government, always a step in the right direction. Local governments now must meet with airport authorities and find acceptable noise levels and timing for flights so that residents can at least get some sleep. The rest is up to the courts.

inevitable are trusting to Assembly Bill 2266, introduced by Robert G. Weverly. The bill has passed both houses and is now awaiting approval of the Senate changes. If it is then signed by the Governor it will allow the city to compensate homeowners for losses due to relocation. Similar to Senate Bill 1 which was introduced in the United States Senate by Senator Muskie and some 30 other Senators, it was called the Uniform Relocation and Assistance and Land Acquisition Policies Act of 1969.

There is no question but that land speculation has played too large a part in the development of the Los Angeles International Airport. It has created a climate favorable to condemnation because the airport and the free-way builders can say the homeowners are trying to collect inflated values for their homes. Well, why not? These values were created by the growth of a facility paid for by the community. The airport was financed by general obligation bonds issued in 1941, 1945 and 1956. In 1947 the voters approved a charter amendment establishing an independent self-supporting department of airports, charged with the responsibility of operating the airport at no cost to the taxpayer. The airport has been paying \$750,000 each year to the city treasury and next year this will be increased to one million. In addition, possessory interest taxes are levied against tenants of the airport and in 1967 these came to \$6.5 million charged against airlines, concessionaires and other leaseholders. Los Angeles received \$1,430,000 of this, the rest goes to the county and other local taxing districts. The airport pays for most of its services, fire and police protection are furnished. So, is the airport a nuisance and liability, or is it a great boon to the community? Depends on where your home is located.

Many say the airport is impossible to live with, citing the fact that men who work near the jet engines have to wear ear protectors and the limit the human ear can stand without damage is 85 decibels of sound while a jet on takeoff runs up to 150 decibels. Yet the Proud Bird and other fine restaurants and

hotels spring up along the runway of the airport and are busy all the time with diners who like to watch the great birds land and takeoff. "Intolerable" as a residence, but compellingly attractive to visitors.

Will the George Heaps and others like them be able to find homes just as comfortable and attractive away from the airport? If they can get the cash out of their present property and not have to finance under present tight money circumstances, probably. Will the entire area become commercial? Probably. Will any homeowners be able to fight the growth of the airport? They might stay on if they soundproof their homes, and in Palisades Del Rey, with a beautiful view of the ocean, it is worth while. For the rest of the area their only hope is the development of the proposed "Jumbo Jet" Airport in Palmdale. An area which is already experiencing a preliminary rush of land speculators buying up everything around the area. It will be all of the LAX problems all over again unless the Airport Commissioners buy up the land first. The Los Angeles County Aviation Advisory Commission asked the Los Angeles Board of Supervisors to step up the study of a STOL-Port at Catalina Island. (Short takeoff and landing.) Meanwhile, there is one on the Imperial side of the airport and one has been planned downtown near Union Station. However, when the city officials learned this would mean the aircraft would take off over their heads, they asked for a year's postponement for study.

Land, with its location advantages, is back of most of the problems of growth for the airport and the rest of the city, a few people came first and were able to corner some of the most desirable locations. A few more, buying some and getting more rezoned, were able to benefit greatly from the growth of the community. We point up the problems when land developers, through campaign contributions and friendships carefully cultivated among legislators are able to shape a city or a state to their own best interest. We hope the day will come when windfalls will go to the community, and not to land speculators who may or may not have paid off.

END

America's Land Boom

by Daniel M. Friedenberg

Excerpts from Harper's Magazine, May 1968

The rush into land development today seems to be nearly universal. Yet preferential tax treatment for speculators continues to create serious imbalances—encouraging urban sprawl, enriching slumlords, and penalizing homeowners.

Land is a prime buy. Year after year surveys of growth items spotlight the rise in value of a small group of steady winners: old paintings and graphic art, rare books and manuscripts, and antique furnishings. Only after these comes the stock market; rarely does the Dow-Jones average of thirty industrial issues come near the upward thrust of art objects. Invariable, however, such surveys end by pointing out that land prices equal or top the rise in all other speculative investments. In a special issue devoted to land several years ago, for instance, House and Home stated flatly that "since World War II land speculation has created more millionaires than any other form of business investment." The simplest and most obvious reason for this is that the quantity of land is fixed while the population grows and grows. Actually, the amount of land being inhabited by this growing population is shrinking, because urban growth swallows a million acres a year, and highways and airports absorb still more. In addition, both the government and private corporations have been engaged in stockpiling, which, while it does not diminish the actual amount of land, removes it from the domain of speculation.

Perhaps even more significant is the social revolution through which America has been passing: that is, the accelerating flow of people from rural to urban centers.

Another feature of this revolution has been the large-scale shift in the work force from the blue-collar workers to white. The U.S. Department of Labor calculates that during the 1960's with a population increase of 15 per cent, there will be a 30 per cent increase in the national clerical force and a 40 per cent increase in professional and technical personnel. Already one out of seven employees is a clerical worker. One crucial result of the revolutionary new emphasis on consumer goods and services has been the construction of larger and larger office buildings, often packed together for convenience of business. Another is the parallel construction of high-rising residences nearby for the management elite—both bringing land values up at a dizzying rate.

In terms of physical size, the leader is California, which once created the realty fortunes of Huntington, Stanford, Hopkins, and Crocker, and is still an El Dorado for speculators. Land prices in San Francisco are second only to New York City. Southern California, with its ideal climate, has seen the price for suburban land rising at an annual rate of about \$800 an acre.

J. Paul Getty and the Tishman interests are strong in California, particularly in and around Los Angeles. There is also a new young generation of speculators. Arthur

Carlsberg, not yet thirty-five, hit upon a technique to "harvest the farms" of Southern California, and at last report had made over \$5 million by buying outlying farmland for subdivision. Joan Irvine, no older than Carlsberg, is an even more impressive case. She is principal heiress to over one-fifth of the Irvine Company, a ranch welded out of three Spanish land grants. The Irvine Ranch, some 138 square miles, and reaching from the Pacific Ocean to the Santa Ana Mountains south of Los Angeles, may be the world's most valuable remaining feudal fief. Dreary waste short years ago, the Irvine land, if sold intact, would probably fetch half a billion dollars-and twice that if liquidated piecemeal.

What Creates Land Values

It is essential to bear in mind that land itself is useless; what creates its value is what is done to it. Frequently land is "improved" by factors quite extraneous to it, such as the construction of nearby roads, bridges, railroad sidings, or jet airports. Staten Island was only fifteen years ago a bucolic retreat boasting no more than 3 per cent of New York's inhabitants. Now the Verrazano-Narrows Bridge which connects the island with Brooklyn, completed in 1964, has helped to double its population in less than five years. Land values have jumped a minimum of 400 per cent over the past decade, and certain large blocks of farmland have jumped even more; farms selling for \$3,000 to \$6,000 an acre in 1959 went up to \$20,000 to \$30,000 an acre. Even the municipal government, which once owned the greater part of Staten Island, got on the bandwagon and began to sell off its holdings as fast as they could be mapped.

The same thing happens each time a major artery is added to an urban center. The

taxpayers of New York State spent more than \$400 million to build the New York Thruway, and the immediate effect was to add much more than that amount to the land prices along the route. The Tappan Zee Bridge-connecting the White Plains area with Nyack on the other side of the Hudson River-was first opened to traffic in 1955. It had been predicted that after twenty years the bridge would be used by some twelve million vehicles per year, but as it happened, within the first decade fifteen million vehicles were crossing annually; Rockland County on the far side of this bridge, is now the fastest-growing area in all New York State. Yet another example is that of the Long Island Expressway, which made accessible an area in Babylon Township where land prices then tripled in four years.

Speculators vs. Homeowners

Frenzied or not, land speculation is an integral part of American economic activity. The courageous speculator is a dynamic force in our nation. Without risk capital devoted to future expansion, without daring and optimistic projection, the American people would never have conquered a continent and created a standard of living the envy of the world. But certain problems are created by this land speculation which must be dealt with in the immediate future or the very daring which created our dynamism may, in a new climate and a new age, do the reverse and paralyze national growth.

To understand why this is so, we must understand the difference between land and other commodities. Unimproved land is distinct from other private property. It has not been created by any of its owners. Moreover, as we pointed out earlier, its value is often enhanced by what others who do not own it

do to it. As John Stuart Mill once remarked, "Landlords grow rich in their sleep." What he meant, of course, was precisely what we have seen: that the increase in population automatically makes land more valuable. Thus the distinction between a successful and a unsuccessful land speculator often has more to do with the ability to interpret and predict the movement of population than with sagacity about how to improve the land itself.

A further difference between unimproved land and all other commodities in our society is that it is subject to lower taxes than they. This fact has its roots in history. Present tax policy was established at a time when most Americans were farmers and when the society's foremost problem was to get the nation settled. The age-old distrust of the city dweller by the freehold farmer in America intensified by the fact that the farmer tended to be white and Anglo-Saxon old American, while city immigrants were of different ethnic and religious backgrounds-blossomed into the kind of tax policy that could automatically be supported by rural-dominated legislatures.

Fifty years ago land carried nearly one-half of the total tax load. Today, while it constitutes one-third of our total national wealth, land carries less than 5 per cent of the total tax load. Preferential tax treatment makes land that is vacant a top investment for speculators; why shouldn't they keep this precious, dwindling commodity off the market as long as the annual increase in market value exceeds the property taxes? Particularly since, when they finally do sell the land, they are only subject to a capital gains, or 25 per cent, tax on the profits.

It should be obvious, then, that land speculation tends to price single homes out of

the market-indeed, it would seem to be the largest single factor in the meteoric rise in prices of single-family dwellings. According to the latest available statistics, the proportion of land cost to total product cost rose from 10 per cent in 1950 to 23 per cent in 1962. Land values in the suburbs have tripled during the past decade-and would appear to be repeating this performance yet again-while the homeowner's average real income is estimated to have risen by no more than 30 to 40 per cent. A study conducted in 1963 indicated that the same three-bedroom house would cost about \$35,000 within fifteen miles of Times Square and \$14,000 fifty miles away.

The preferential treatment of speculators is also the major cause of what has been called "urban sprawl." Because land is held out of use until rising population forces the price up, developers are forced to leapfrog over vacant tracts, creating those jumbled suburbs which are so typical of our major cities. The social costs of servicing these communities, such as bringing gas and water and electric lines to them, or creating autonomous police and fire forces, are greatly raised as well.

Within the central city, the undertaxing of land has also directly served to enhance the enrichment of slum owners. Since tax increases are mainly levied against improvements rather than land, slumlords can find it more profitable to do nothing. It pays them to let their property deteriorate and take advantage of lower assessments. Moreover, in addition to the cost in discomfort and demoralization to those who must live in them, slum buildings also cost the community a great deal more in the way of services such as fire and police protection. Thus, the property least taxed costs the

general taxpayer most. Slum clearance, then, is in fact cheap in the long run, paying for itself by increasing taxable sources and reducing the social cost. Current tax policy, on the other hand, tends to work just the opposite.

Municipal authorities, who are perpetually in need of money, compound the difficulty by loading more and more taxes onto improvements. And the buildings which are a credit to the city are taxed far out of proportion to its disreputable slums. This policy sometimes reaches insanity, as in the famous case of New York's Seagram Building, whose builders were taxed at an outrageous rate precisely because they had put up such a brilliant piece of architecture. Therefore it not only pays off immediately to cut corners in the design and construction of new buildings, it continues to pay off in favorable carrying charges. Making it advantageous to put up inferior structures is not exactly sound social policy for American cities.

A recent study in Montreal came to the conclusion that if local landowners were required to pay the city 5 per cent interest on its investment in the improvements which increased the value of their land. Montreal would be able to run its government without collecting any taxes at all.

In the matter of such improvements as the Verrazano-Narrows Bridge, the Tappan Zee Bridge, the Long Island Expressway, and the New York Thruway, the entire taxpaying public subsidized the cost, with local individuals and speculators reaping great profits. If the system were changed so that those who particularly benefit from the improvement were to bear some part of the cost, the beneficiaries would still come out ahead with profits and the tax burden would be reduced for the rest of the community.

As to the problem of assessing land on the basis of use, there have been several intelligent attempts to deal with it, mostly in the more advanced Anglo-Saxon countries. Australia has gone furthest. In Sydney, for example, land is taxed as though fully improved in accordance with the district zoning. This drives out both land speculators and slum owners, neither of whom can afford to pay the full-use tax.

Indeed, from an historical view it can be said that it was the narrow feudal policy of East European capitalists-holding land and refusing to permit its development-that helped to create an environment hospitable to the Communist take-over. This is even more true in Latin America today.

Any study of land value must ultimately deal with the question of what is our economic future. In a slump, everybody loses-the speculator as well as the careful investor, the corporation that behaves rapaciously as well as that which behaves prudently, and of course the municipal authority which suffers a decline in tax revenue.

Nor is the question of the future one that can be answered with total confidence, for capitalism has not yet invented techniques to ward off depressions. We know that wise policies do serve to level off the usual cycles of boom and bust: for instance, those devices that go by the name of Keynesian economics which enable the government-through interest control, public works, and tax inhibition or relaxation-to influence the course of events. Unfortunately there is almost no such policy of control with respect to land prices. One purpose of this article is to suggest that creating an equitable land-tax program will encourage more stable growth.

END

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The Wall Street Jungle

(Excerpts from a book Wall Street Jungle published in May by Grove Press. Mr. Ney is a Beverly Hills Investment Counselor)

by Richard Ney and Ricardo

In 1949 the Federal Reserve Bank, headed by William McChesney Martin, a former President of the New York Stock Exchange, granted members of the Stock Exchange the right to trade in stocks without a margin. The ruling was:

"Every broker or dealer shall have the net capital necessary to comply with the following conditions: His aggregate indebtedness to all other persons shall not exceed 2000 percentum of his net capital and he shall have and maintain net capital of not less than \$5000 except that the minimum net capital to be maintained by a broker or dealer meeting all of the following conditions shall be \$2500. . ."

This means the broker on the floor can buy and sell stocks at will without putting up any money of their own. It's one thing to give a barbarian a license to steal, if you then give him unlimited credit he will proceed to turn you into a barbarian as well. Thus, beginning in 1949 the longest and biggest bull raid in stock market history was begun, it lasted 12 years.

The manifold implications of these exemptions tell us more about those who granted them than they do about those who use them. With \$8,000 you can buy \$10,000 worth of stock. (We poor private citizens are forced to put up 80 percent of the money if we want to gamble on the stock exchange.) A stock exchange member can buy \$160,000 worth of stock for \$8,000, which explains why the stock market is a gambler's nightmare.

The Stock Exchange then voted itself further latitude: "The Commission may upon

written application be exempt from the provisions of this rule . . . any broker or dealer who satisfies the Commission . . . it is not necessary in the public interest or for the protection of investors to subject the particular broker or dealer to the provisions of this rule."

By granting Exchange members these credit exemptions, the Federal Reserve Bank and the Securities and Exchange commission had given them a license to steal at wholesale prices millions of dollars worth of stock daily for their own accounts.

Of this the S.E.C said in 1963, "It seems clear that this is a practice which should be prohibited", but nothing was done. As S.E.C. commissioners leave the Commission to become Presidents of the Stock Exchanges you wonder if this is the reason.

The Chairman of the Federal Reserve Bank has frequently made public statements criticising consumer spending habits and public debt as a major cause of inflation. He has never drawn attention to the permissive credit exemptions which allow specialists and other members of the Exchange to employ billions of dollars of credit to finance the accumulation of their own investment portfolios and secret so called "omnibus accounts". The "tight money" and restriction of credit to all others makes an even greater supply of credit available to the financial gamblers. Stock Exchange members and the New York banks and the Federal Reserve Bank are employing their partnership to acquire billions of dollars in stock preliminary to another bull raid on the market - - - following which there will be another contrived crash in 1970. End

BOOKS

THE LAST LANDSCAPE

by William H. Whyte Doubleday and Co.

Particularly appropriate to an issue devoted to the homeowners fights against development is this book, an outgrowth of a Presidential task-force report made by the author, who also wrote "Organization Man."

There have been a couple dozen Presidential task forces, Congressional Committees, seminars and college study projects on these same problems. Into the fray have come the conservation groups, the large land owners, the "View With Alarm" groups and associations of local governments such as ABAG and SCAG and others.

One problem, according to Whyte, is the billion dollars annually which is poured into the highway program. This buys up land and provides access to it for developers and hastens the urbanization process which is gobbling up about 3,000 acres per day. Whyte lists several ways for local groups to salvage open spaces and says if a crusade is to succeed it must have good lawyers and money to obstruct speculator's plans."

The current 90 per cent Federal grants for highways and condemnation rights could be used for acquiring land for parks, green belts, future housing, etc. (L.A. Airport Commissioners wanted to work with the Dept. of highways to condemn the homes under their runway and use it for a freeway but the highway Dept. preferred to put the freeway a couple miles over. A pity because freeways are a compatible use for this under the runway.) It is unfortunate that all the plans for saving "The Last Landscape" aren't centralized, managed by one small division of government, and coordinated so that the oversing of bureaucracies would be eliminated.

We might even be able to buy up some "rural lands" and "green belts" with all the money that would be saved.



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