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Rodolfo Pedro Gasso

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Developing a Legal and Administrative Framework for Land Use Planning and Environmental Protection

ARQ. RODOLFO PEDRO GASSÓ

Arq. Gassó is the President of the Professional Council of Architecture and Urbanism.

In Argentina, provincial and municipal governments have great autonomy, property rights are respected, and federal authority is relatively limited with respect to the conservation of natural resources, control of land use and protection of the environment. In this decentralized system, there has emerged little comprehensive land use planning at the national, provincial, or local level. Regulatory systems that are adopted at the national, provincial, and local level are seldom coordinated and, as a result, are often overlapping, contradictory and inefficient.

The Professional Council of Architecture and Urbanism, which was established to regulate the professional practice of architecture and urbanism, initiated a basic project to help provide an appropriate legal and administrative framework for land use planning and environmental protection. The Council is convinced of the need to promote the creation of a legal and administrative structure to insure comprehensive and effective land use and environmental planning in Argentina.

Under the amended National Constitution, the Council assumes that all matters relevant to the use of natural resources and the occupancy of land are in the hands of the provinces. They are empowered to legislate according to Article 121¹ of the Constitution. This conforms to historical prac-

1. CONST. ARG., art. 121.

tice among the provinces and to the thrust of national legislation on the subject to date.

Nevertheless, an amendment to Article 75, section 19² of the Constitution, authorizes the National Congress "to provide for the national harmonious growth and territorial settlement and to promote policies to balance the relatively unequal development of the Provinces and Regions."³ This provision can be seen as a basis for national legislation regarding settlement, growth and development similar to the Spanish system. In Spain, where seventeen provinces enjoy great legal autonomy, the national government retains important planning powers, particularly regarding strategic economic planning, fiscal decisions, property legislation and national infrastructure.

Based on this constitutional language and the Spanish model, it is possible for the National Congress, in Argentina, to adopt a General Territorial Planning Act setting forth national policies of settlement, growth, land development, resource conservation and environmental protection. This Act could also define critical land areas and jurisdictions at the national and provincial level and set forth procedures for comprehensive planning and administration to ensure their effective development and protection.

The Council's initial objectives for such national legislation include:

1. That it be mandatory at the national level with respect to federal action and agencies, but advisory at the provincial and municipal level;
2. That the national government offer provinces and municipalities technical and financial support to encourage and support local, provincial and private sector initiatives consistent with the objectives of the General Territorial Planning Act;
3. That the emphasis in implementation of this Act be at the municipal level, with municipal participation supported by the province;

2. CONST. ARG., art. 75, § 19.

3. *Id.*

4. That there exist an Operations Authority with a Board that includes appointees from the national, provincial and local level whose function is to approve municipal and provincial plans that are consistent with the National Act;
5. That municipal and provincial governments be encouraged to develop land use plans and regulations that achieve harmonious growth and settlement patterns and promote policies aimed at balancing the relatively unequal development of the provinces and regions;
6. That the provinces be empowered and encouraged to negotiate and approve interjurisdictional plans at the regional level with the full financial, technical and resource support of the federal government, particularly with respect to the provision of infrastructure;
7. That the Operations Authority be empowered to assist with or undertake specific projects designed to accomplish particular objectives, such as forest preservation and natural resource conservation;
8. That procedures be developed for interjurisdictional planning and regulation similar to those employed successfully in other countries and regions; and
9. That these provincial, regional and municipal initiatives be supported by all available financial sources, not limited to the national budget.

The Council believes strongly that in the design and elaboration of these plans there be full participation of all involved and affected stakeholders, neighborhood associations, non-governmental organizations and trade, labor, business and professional groups. Project and program approval, under this regime, should follow clear and direct opportunities for such groups to be involved and affect the outcome.

This structure for a General Territorial Planning Act respects the fact that Argentina's planning systems, like its political structure, are in a process of transition and maturation. It is based on the reality that the country has relatively little positive experience in territorial planning, particularly at the critical interjurisdictional level. It emphasizes action and implementation at the grass-roots, or municipal level, and uses federal assistance to create a structure in which municipal and provincial action can be effective, informed and consistent with the action of neighboring jurisdictions.