

Comments by
The Delaware Housing Coalition
on the
Proposed Kent County Moratorium

Background

In the early days of our nation, land use and private property rights decisions were informed by two guiding principles and executed by the new legal powers held by the people collectively.

- *Sic utero tuo ut alienum non laedas* or “use your own so as not to injure others” and,
- *Salus populi suprema lex est* or the good of the people is the supreme law ¹

Current Status

Infrastructure

The escalation in recent years of development in the unincorporated areas of Kent County without satisfactory roads, schools, police/fire/ambulance, water and sewer infrastructure to meet the needs either of the residents of the new housing or, in some cases, the current residents, is cause for serious concern.

Affordable Housing

Of further concern is the existing lack of adequate housing for low and moderate income residents of Kent County and the lack of an affirmative policy to ensure that adequate affordable housing is encouraged.

Cost of Development

It is unclear whether or not the true cost of development in Kent County has been determined. It is crucial for Kent County to have good estimates on future undertakings. There are two important research reports² which should be studied. Each determines that the cost of suburban sprawl as compared to more compact development exceeds revenue derived from it.

Kent County is concerned with “Ensuring harmonious development of the unincorporated areas, and with preserving, protecting and enhancing the present and future health, safety, order, convenience, prosperity, and general welfare of the citizens of Kent County”; and with “.. adopting minimum standards for the design and construction of improvements which aid in the use and enjoyment for land...which collectively are intended to prevent adverse environment effects....and to ensure that adequate public facilities are secured though the land development process.”

¹ *The Land We Share Private Property and the Common Good*, Freyfogle, Eric T. 2003 pp 5,6

² Real Estate Research Corporation, *The Cost of Sprawl* prepared for the Council on Environmental Quality, U.S. Government Printing Office, April 1974 and *Density-related Public Costs*, American Farmland Trust, 1986

The current Kent County Comprehensive plan recommends an “Ordinance to ensure these services are in place before approving new developments.”

The County is in the process of updating the Comprehensive Plan according to state law. It makes sense to utilize this opportunity to consult with residents of Kent County and to revisit priorities and methodologies.

Moratoria are used throughout the country when there is inadequate capacity in one or more basic public facilities such as sewage treatment or road capacity according to Fodor³. He states that moratoria may stay in place until the particular problem is resolved and that “Courts support temporary moratoria as long as the local government is seeking solutions to the problems that caused it to be.”

DHC Recommendations

We believe that it is the responsibility of the Kent County Levy Court to take actions to ensure that landowners use their land so as not to harm others *and* to support the long-term good of all Kent Countians.

The following recommendation is made in consideration of the hectic development which has been taking place in recent years and the opportunities presented through the updated comprehensive plan process and current Levy Court consideration of Adequate Public Facilities Ordinances.

We believe it makes sense to apply a finite (no more than nine (9) months) brake on new major subdivisions in the County while new plans and ordinances are carefully considered and debated. The moratorium will not effect the thousands of residential units currently in the Kent County planning pipeline. This will engender a more proactive policy which not only expresses the goals of the people but articulates clear guidelines on how to reach them.

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January 16, 2007

³ *Better Not Bigger, Fodor, Eben* New Society Publishers 2001 p. 131