

Making a Plan

IN THE LATE 1980's, the city of Portland, Oregon built a light rail system. Portland, along with two dozen other cities, is part of a three-county area that share a strong municipal planning authority in a "Metro" government. Because Metro was able to steer development to areas that would be served by the rail and away from others during the years before it opened, the rail system found lots of ready customers as soon as it was completed. The system was a great success when it opened, continues to be highly used, and is part of what keeps Portland's downtown active. Planners there have had other notable successes, such as maintaining real greenways to surround their cities, and preserving nearby farmland, preventing it from being swallowed by suburban sprawl.

In 2004, New York real estate investor and former Libertarian party member Howard Rich financed Measure 37, a successful initiative drive in Oregon that effectively destroyed the capacity of governments there to implement land-use plans. This new law demands that governments reimburse property owners for the effects of all restrictions on the use of that property — in effect paying the property owners for the mall that could have been built on their property. The law allows property owners to claim the highest possible value for their land, even

if a commercial development there could never be possible, and so gives governments a choice between fiscal solvency and zoning. They can no longer have both, since enacting any sort of plan leaves governments liable for billions of dollars in "lost" property values.¹ A referendum is supposed to be an expression of democracy, and perhaps it is, but the Measure 37 supporters were able to persuade voters that the measure was all about protecting grandmothers who wanted to build a house on their property for their children, and that it wasn't about timber barons seeking to cash in on the value of rural land by building strip malls instead of replanting the trees they cut. The measure passed with 61% of the vote. Curiously, a poll around the same time found that 70% of the Oregon public supported "public planning over private market decisions and protecting land for future needs." So apparently the ad campaign was a pretty good one.

Emboldened by his success in Oregon, Rich is spending at least \$7.3 million in support of similar ballot initiatives in ten states this year according to the *Portland Oregonian* and the *Sacramento Bee*. Money is flowing to initiatives in California, Arizona, Idaho, Missouri, Montana, and Washington among others. The money is funneled through various non-profit organizations like the "Fund for Democracy," "Montanans In Action," and "Oregonians in Action." These initiatives are all slightly different, but they would all gut the ability of governments to make plans to protect their citizens. Powered by outrage over last year's Supreme Court decision in *Kelo v. New London*, where the court upheld the right of governments to take private property by eminent domain for economic development, many will pass. The property rights movement is mostly a conservative phenomenon, but since *Kelo*, property rights initiatives have unfortunately found support across the political spectrum.²

The development in New London that gave rise to *Kelo* is a sad travesty of economic development. It is, essentially, corporate theft of private property, with the executives of Pfizer conspiring with the government of New London to steal the homes of area residents so that their offices and even their parking spaces can have a water view. But to imagine that this kind of travesty warrants doing away with eminent domain is like saying that since knives are implicated in many crimes, knives should be illegal. There is more at stake than just people's houses.

My choice of what to do with my land affects more people than just me, and as long as that is true, there will need to be some mechanism for sorting out conflicts. But according to the advocates, property rights are absolute;



Figure 1: A phenomenally deceptive ad campaign is in store for Washington voters this year. Pictured is a yard sign promoting initiative 933 (the only sign they're using). This initiative is one of the anti-"takings" referenda, that will gut land-use regulation, or bankrupt towns, like Oregon's Measure 37. What does it have to do with farming? Not a lot. It will do away with some new restrictions on land...and will make some farmers rich when they sell the north 40 for a mall. The campaign for the similar Prop. 90 in California is called "Protect Our Homes," and in Arizona it's the "Arizona Home Owner's Protection Effort." As you can see, the proponents of these initiatives aren't just interested in pushing emotional hot buttons, but are pledged to an honest debate about the merits of land-use planning.

¹ As of August 18, over \$5 billion in claims have been made against towns in Oregon under the new law.

² For more about *Kelo*, see **RIPR** issue 12, available at whatcheer.net.

if your neighbor wants to build a ten story luxury hotel next door to you, your local government has no right to say no. The capacity of nearby roads, sewers, hospitals and police departments are, according to these advocates, less important than the “right” to do as one pleases with one’s property.

Locally, the need for planning has never been more clear. North Kingstown is in financial trouble now because breakneck expansion over the farms and turf fields once in the southwest corner of town have produced neighborhoods distant from the services they depend on. The town has had to build new roads, improve old ones, add police to cover the area, and is now planning a new fire station there, along with the real expense: the additional firefighters to staff it. The new costs are not covered by the new property taxes. In addition, there are now hundreds of children who live a 50-minute bus ride away from the nearest school, producing discussions about building a new school while at the same time leaving an older school, in the old center of town, vacant. And the town councillors who presided over the expansion—the very people most enthusiastic about the town’s growth—are among the most puzzled about why taxes continue to go up. They have chosen not even to try and control the growth, and now they reap the developments that were sown on those turf farms.³ There is nothing unique about North Kingstown’s crisis. Most of Rhode Island’s suburban and rural towns are in the same situation.

In Rhode Island, even the most fervent believers in planning run up against serious obstacles. Our legal system doesn’t assign much legal weight to decisions by town and state planners, so plans are regularly overturned in court, or simply ignored by developers who know they won’t be penalized. Successive Rhode Island governors have not seen the worth of planning, and the statewide planning department no longer has the resources or prominence it once had. Many planners who used to work for that department have been eliminated or transferred to the departments with which they worked, so that transportation planners wound up at DOT, and so

³Of course spiraling health care costs and unsympathetic state pension management have contributed to the fiscal woes, but poor planning is undeniably an important part of the mix.

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Affordable Housing in the Suburbs

The town of Exeter has recently seen a couple of new affordable housing units built. Habitat for Humanity has built two new houses on ten acres it owns there. Habitat sold the houses for a reduced price, and kept the title to the land, which allows them to put limitations on the resale price of the house via a long-term lease and deed restrictions.

Unfortunately, the Exeter Tax Assessor assesses these properties at the “full” resale value—in this case about five times the purchase price—even though the houses can legally never be sold for anywhere near that amount. The residents in this case are being taxed on assets they do not own, based on a value that is only fiction. Rhode Island law does not prevent this, since it simply doesn’t address this ownership arrangement.

It’s hard not to see this as emblematic of the state’s affordable housing policy: a tiny number of units, built at someone else’s expense. The situation explains both why the state needs to coerce the towns into making sure that affordable housing is part of their plans and why it’s not really working. The Exeter Tax Assessor (who is the namesake and distant cousin of 1940 Republican presidential candidate Wendell Willkie) said to the *Providence Journal* that he understands the contribution made to the town by the town’s seniors and veterans, both of whom enjoy tax advantages, but doesn’t see why the poor merit the same treatment. So long as the state insists that the towns fund themselves, it’s hard to take serious issue with this attitude, even if it is uncharitable. —TS

on. This guarantees that they don’t hear about the concerns of other departments, except through rumor. So, for example, state affordable housing goals are that at least 10% of the housing in every town should be affordable. But as a planner at RIPTA pointed out to me, there is no provision to ensure that the residents of newly-built affordable housing are able to get to a bus stop (let alone to a job). In fact, in places like Exeter, the probability is that they can’t. Similarly, the state’s economic development plans have little to say about our social service plans, and our health care plans... well, we make no health care plans, so that isn’t a problem.

The State Guide Plan, an impressive series of regularly updated documents outlining how state and municipal governments should carry out their business, is notable mostly for its irrelevance. It is filled with recommendations—many of which are excellent ideas for conserving important state resources, not excluding money—that few state departments follow.

There are big institutional barriers to restoring sense to our state and local government plans. But at the moment there are few legal barriers. The property rights movement, epitomized by Howard Rich and his state initiatives, seeks to change that. They hope to throw up what-

ever legal barriers they can, to prevent governments from doing any better a job than they do now. But already the job is hard enough. The questionable legal status of town plans and the unwillingness of state and local governments to defend those plans, and the municipalities' need to maximize their property tax revenue are barrier enough. Few people would want a system in which property owners have no recourse to the decisions of their governments, but currently the balance of power is not on the planner's side. The property rights movement seeks to erode it even further.

Affordable housing plans should not be made in ignorance of public transit plans, and education plans should not be made in ignorance of development plans, but this is the status quo of planning in Rhode Island. Until these issues are solved — no, forget about solving them, let's just *acknowledge* them — we will have boneheaded decisions by our state and local governments that have those governments working at cross-purposes to one another. Want to cut waste in government? Let's start here. ■

Teacher Quality

In May of this year, Working Rhode Island, with the teacher unions, released a report about education, *The Shape of the Starting Line*, written by the editor of this august journal, me. In an op-ed in the Providence Journal (July 16), Valerie Forti, the director of an organization called the Education Partnership, had quite a few less-than-kind things to say about the report. She accused the report "authors" of "cherry-picking" and intellectual dishonesty for omitting some important data about teacher quality. The op-ed is available at whatcheer.net, as is a reply. But it's worth some column-inches to explore one of the topics she brought up: teacher quality. Forti took me to task for not including the findings of Linda Darling-Hammond, an education researcher at Stanford University, whose research — according to Forti — shows that:

...the percentage of well-qualified teachers in a district is typically 2.5 to 3 times more important than student poverty in its net impact on student achievement.

This is a strong claim. Unfortunately, it's not supported by other studies. In fact, it's not even supported by the study she cites.

It's impossible to be serious about educational reform without considering teacher quality. It's an undeniable fact that some teachers are better than others, and discussions of certification standards, professional development, attrition, pay scales and more are all associated with this fact. The *Starting Line* does contain a discussion of teacher quality, citing work by economists Eric Hanushek (also at Stanford), John Kain and Steven Rivkin

and the team of William Sanders and June Rivers, of the University of Tennessee.⁴

The Hanushek study was an analysis of data from the Harvard/UTD Texas Schools project. This study collected data from 3,000 schools on half a million students from grades 3-6 between 1993 and 1995, along with a great deal of data about the teachers in the system. Because the data include multiple measurements of the same children, they could identify classrooms that did a good job at raising the achievement of their students, and then look at those classrooms and see what characteristics correlated with success. What they found was that class size effects were significant for poor children, not so much for affluent ones, and one or two years of experience for the teacher makes a difference, too. But they also found that there were large disparities in performance among classrooms that could not be easily explained by obvious factors like graduate degrees or years of experience, and there is nowhere else to credit those differences except to the teacher.

The Sanders study was along similar lines, but included more detail in the data. The Tennessee data they used followed a cohort of urban students as they progressed from grades 2 to grade 5. The researchers used the data to determine which classrooms were the most effective, and then they compared the students who had had three effective classrooms in a row with the students who had had three ineffective classrooms in a row. At the end of three years, the difference between the groups was as much as 50 percentiles, even after controlling for student differences. This is a huge difference — the authors use exclamation points to describe it.

Both these studies are about improvements in achievement, not achievement levels themselves. Their findings cannot be taken to contradict other research that describes the importance of poverty in determining academic outcomes.⁵ But neither study leaves any doubt that teacher quality is very important. The beauty of the approach of these studies is that they overcome the major difficulty in assessing the effects of teacher quality: measuring it.

Measuring quality It's one thing to say that teacher quality is important. It's an entirely different thing to figure out what that really means. Many of us had good

It's one thing to say teacher quality matters. It's a different thing to say how to measure it.

⁴Citations to the Hanushek and Sanders papers can be found in the *Starting Line* report, available at whatcheer.net. The Darling-Hammond paper can be found at <http://epaa.asu.edu/epaa/v8n1/>.

⁵Even if you could wave a wand and make all Rhode Island's teachers uniformly excellent, poor kids would still start first grade behind wealthier kids in school, so the urban schools would likely still "underperform" relative to their more affluent suburban counterparts.

teachers as children. But how would you define the goodness of those teachers? A teacher who is smart, perceptive, caring, attentive, imaginative and kind is a fine thing, but how on earth do you measure that? A principal doesn't really need to measure it; you don't need to get a precise measurement to find such teachers and keep them. But educational researchers who want to know how *much* teacher quality matters need to measure it, and this is the real Achilles' heel of this kind of study. Hanushek's and Sanders's studies overcame this, but other studies do not.

The 2000 Darling-Hammond study is intended to show the value of teacher education and certification, so does not try to elide the issue. In fact, finding and describing just such correlation appears to be the defining argument of Linda Darling-Hammond's career, and her 2000 study is devoted to demonstrating that states would do well to raise education requirements for teachers.⁶

The support for the claim about poverty vs. teacher quality comes from Table 3 in the report, where Darling-Hammond lists correlation measurements for educational outcomes and different factors. There are estimates

⁶The Hanushek study looked at this, and found no correlation between teachers with an advanced degree and effectiveness, but his analysis is different than Darling-Hammond's, who looked at different kinds of degrees and certification requirements.

Confidence in Statistics

'Confidence' in statistics is another of those imposing concepts that, under the hood, turns out to be pretty obvious. Say I have ten worms to measure and I measure the first nine and get these numbers:

(4, 3, 2, 1, 5, 6, 8, 7, 9)

The average value is five inches, but I'm not really going to be very sure that number ten will be five inches long. But if my first nine measurements are these:

(5, 5, 5, 5, 5, 5, 5, 5, 5)

The average is *also* five, but more important, I'll be fairly confident that the tenth worm will measure five inches. I might be wrong, but I'll have a right to be surprised. In the first case, I have no right to be surprised. The averages are the same, but the meaning of the average isn't. Confidence intervals are just a way to get a number to stand for this additional meaning.

Responsible scientists and statisticians use confidence intervals to assess the meaning of an average or a correlation coefficient. A wide confidence interval means that the number may just be some kind of statistical fluke, and another measurement is unlikely to give the same result, so you can't base too much on it. A tight confidence interval means that the number is easily repeated and the next time you make a measurement it will be likely to come out the same.

-TS

for teacher quality, of course, and also for poverty. The teacher quality numbers are roughly three times as great as the poverty measurements, ergo three times as important. But here's the problem: this is state-level data, presented as a guide to policymakers at the state level. The data used here are statewide averages — test scores, incomes and teacher degrees. The message of this study is meant to be something like "Hey Governor, you should raise professional teaching standards in your state because it's an easy route to improving the outcomes of your state's schools." As a guide to policy, this is important news to governors. But it's not a guide to the outcomes to expect in any classroom.

The problem is in the confidence intervals (see box). The correlation for Darling-Hammond's measure of teacher quality has a very small confidence interval. This means it's a number to be trusted and would likely come out the same in another study. But the confidence interval for poverty is quite large, and in fact the numbers presented there are either not statistically significant, or just barely so. The reason for this is obvious: the income range *within* a state is as high or higher than the range *among* states. Greenwich, Connecticut is as rich a place as any in the country, and Bridgeport is as poor. But Connecticut's place in the income ranking in this study is represented by just one number.

What this means is that it is simply incorrect to think you're getting anything useful by dividing the number Darling-Hammond provides for the importance of teacher quality and the number she provides for the importance of poverty. One is a reliable number and one is not. That's why she provides the confidence intervals in the table: so you can tell the difference. Unfortunately, in the world of statistics, unreliability is contagious. The result of a calculation made with an unreliable number is unreliable, no matter what else goes into it. In a statistical sense, the "2.5 to 3" cited in Forti's article has no meaning.

Darling-Hammond says, in the same paper:

In particular, the size of relationships found between variables measured at the state level cannot be assumed to represent the effect sizes one would find in a classroom level analysis.

This is typically delphic in that academic-paper kind of way, but what she means is that the work published is meant as a broad guide to state policies, but not a precise diagnosis of what is most important for the education of an individual child. To use this data to make the kind of statement that Forti does is to completely miss the point.

Darling-Hammond's work, including her 2000 study, contains some useful guides to policy. She does point out that over the last two decades, Connecticut, Kentucky and North Carolina made impressive leaps forward in student achievement by focusing state policy on improving the quality of the teachers who teach in their schools.

She does show that these efforts are likely to bear riper fruit than reductions in class size and simple raises in teacher salaries.⁷ But she doesn't show that teacher quality is "more important" than poverty.

The humor in all this is that the studies that are cited in the *Starting Line* report make essentially the same case

The Starting Line report also says teacher quality is very important. So what's the issue?

advocates for improving teacher quality, and the Sanders and Rivers results are about as dramatic as anything can be in the world of statistical studies of education. Exclamation points don't come cheap in academia. Does this mean that poverty doesn't matter when you're talking about the education of children? Of course not.

Hanushek's and Sander's results do imply that a few successive years of good teachers is enough to overcome the deficit of starting poor, but again, this is a statistical statement about classroom-level achievement, and its relation to real possibilities is tricky. Given what I can do in a day, I could build a tremendous snow fort in a month. But it's not just up to me and my ability. The weather has something to say, too. And you could do tremendous things with great teachers, but it's not just up to them.

Children are not mere sponges that sit where you put them and soak up lessons. The world's finest teachers buy you no advantage if the kids in those classrooms have undiagnosed vision problems, if they can't stay a whole school year because their family can't find a place to live, if they are too hungry to concentrate on lessons, or if their home environment won't let them read peacefully. Findings from research about these factors are every bit as statistically solid as the findings about teacher quality.

The real lesson in Forti's op-ed is an important one about public policy debates. Many people—and she appears to be one—participate in such debates assuming that they can only be right if everyone else is wrong. But it's a complex world, and survey questions and statistical methods that condense the reality of thousands of individual teachers and children into a few numbers can only describe it through a glass darkly. Surely there are ways to design a study to say whether poverty has a bigger impact than teacher quality, but the studies discussed here aren't them. They have other useful lessons to teach us, about how to improve teaching, and we'd be fools to ignore them just to score debate points. ■

⁷Those states' reforms involved increasing salaries, but the increases tended to be targeted at cities that found it hard to compete in the job market, and also involved increases in certification requirements, re-vamping teacher education and professional development programs, and more.

Unions look to legislation to reclaim fundamental worker rights

PETER IAN ASEN

Today, workers in the United States of America do not have a fundamental right to form a union.

To disagree with that statement is to reveal that you may not understand the full extent to which the basic rights of American workers have eroded in the quarter-century since Ronald Reagan became president.

The international organization Human Rights Watch is certainly aware of the problem. In 2000, HRW issued a report called "Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards." HRW found that "freedom of association is a right under severe, often buckling pressure when workers in the United States try to exercise it."

It was a scathing indictment of a country that trumpets itself as a bright light of freedom, but where a worker is fired or discriminated against every 23 minutes for attempting to form a union, according to a review of National Labor Relations Board (NLRB) data conducted by American Rights at Work (ARAW). "Both historical experience and a review of current conditions around the world indicate that strong, independent, democratic trade unions are vital for societies where human rights are respected," Human Rights Watch wrote. "Human rights cannot flourish where workers' rights are not enforced."

Since the report, six years of employer aggression, and a Bush-appointed NLRB, have made the situation even worse. Today, although less than 13% of all workers have a union (and only 9% in the private sector), studies show that as many as 50 million workers who are not currently in a union would like to have one at their workplace. Yet aside from a few high-profile victories like SEIU's campaign to organize janitors in Houston (and, locally, the election of a union at the Providence Public Library) union organizing continues at a slow pace. Despite the expenditure of millions of dollars on organizing by major unions, especially those in the new Change to Win coalition, the overall percentage of American workers in unions continues to decline.

There are many reasons for this dynamic, but unionists have in recent years focused their ire on one in particular: the broken union representation election process. Much of the American labor movement has made reform of this process a top legislative priority, and has set their sights on a solution, The Employee Free Choice Act (EFCA).

Introduced as Senate Bill 842 by Senators Ted Kennedy

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(D-MA) and Arlen Specter (R-PA) and in the House as HR 1696 by Representatives George Miller (D-CA) and Peter King (R-NY), the major provision of the act would be to force private employers to recognize a particular union as their employees' bargaining representative if more than 50% of their employees sign cards with that union.

To anyone unfamiliar with American labor law, it sounds like a no-brainer: if a majority of the workers support joining a particular union, doesn't the employer already have to recognize it? The answer is a resounding no. The National Labor Relations Act allows an employer to force a union election, even if far more than 50%—100%, even—of the workers sign cards saying they want a union.

An election may not sound bad. After all, unions are supposed to be about workplace democracy. And elections would not be so bad, if they happened in a timely fashion and if employers followed the law.

But in fact, union elections usually take at least six weeks from the date that a union presents cards—and there are many ways for employers to delay the process even further. This gives employers sufficient time to use tactics—some of them legal, many of them not—to intimidate employees who support unionization, reward those who oppose it, and generally erode support for the union drive far below the level that initially allowed the election to proceed.

According to a study conducted by the Center for Urban Economic Development and published last year by the ARAW, these tactics are pervasive. The study of 62 organizing drives during 2002 in the relatively pro-union Chicago area found that 91% of employers force employees to attend one-on-one anti-union meetings with supervisors during union drives; 49% of employers threaten to close a worksite if a union election succeeds (though only 2% follow through on the threat); and, worst of all, 30% fire pro-union workers.

If the so-called "card-check" process proposed by the EFCA were to replace the broken elections process,

these tactics would not necessarily go away—employers would just have to use them sooner, before a union gained majority support. To confront that likelihood, the EFCA proposes significantly increasing the penalties levied on employers for violating labor law. Today, an employer must reinstate an improperly fired employee and give him or her back pay, and also put up a poster saying that they violated the law. Unfortunately, employers often delay the process for years, and calculate that paying one person's back pay is a small price for breaking the law to keep his or her workplace "union-free."

The EFCA would upset this calculation by allowing for triple back pay, and by allowing fines of up to \$20,000 per violation to employers who have willfully violated workers' rights to organize.

If a Democrat is elected in 2008, and Congressional support is sufficient for passage, there is no question that it would be a shot in the arm for union organizing in the United States. But unionists would be mistaken to think that simply changing the law can usher a major change in the organizing climate. Employer hostility to unions, as well as hostility from many politicians and much mass media, will likely continue apace until a major cultural shift occurs. Unions will still have to commit major resources over a long period of time not only to organizing new members, but fighting for good first contracts. Fighting the major wave of concessions in almost every industry—which threaten the future of the private pension and fully-paid health coverage, and which bring more and more "two-tier" contracts that hurt younger workers—is essential if unions want to convince workers that there is really a reason to take the risks that will still accompany organizing.

In the near term, of course, it seems unlikely that support for the EFCA in Congress will reach the level necessary to overcome an almost certain Bush veto. As it stands, only 43 Senators have signed on supporting the Act, and our self-styled moderate Lincoln Chafee is not among them. ■