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Frank E. Horack Jr.

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FRANK E. HORACK JR.

Planning on the part of cities, towns and counties is a growing and ever increasingly important phase of community life throughout Indiana, and the nation, because of Frank E. Horack Jr. The best efforts in that direction on the part of administrative officials and planners would have been of little avail without the thoroughly sound legislative acts prepared by him. But of greater significance than preparing adequate legislation was his unique ability to incorporate into legislative acts the highest ideals and objectives of community planning into clear, understandable and direct language for the guidance of the public officials and planners, as well as citizen groups, the legal profession and the courts.

One of the happy circumstances of life is that when the need arises for a particularly effective individual to accomplish an especially difficult task, such an individual appears on the scene. This was the case in 1946, when a statewide committee formed by the Indiana Economic Council was looking for assistance in the preparation of a new planning and zoning enabling act for the State of Indiana to replace a crazy-quilt patchwork of previous acts, some of dubious value and certainly confusing in effect. The usual sources of assistance in such matters, the Legislative Bureau and the Attorney General's Office, were not available because of other pressing duties and obligations. An inquiry to the Dean of Indiana University Law School as to the availability of a staff member having an interest in such matters, who might assist the Committee, brought the reply that Frank Horack might be persuaded to undertake it. Arrangements were readily reached with Frank to take the assignment and the forces of nature contrived once again to put the right man in the right spot at the right time. This occasion, which produced the Indiana Planning and Zoning Act of 1947, proved for me to be the start of an association extending over a period of more than 12 years, during which time I was to know him as a hard-working associate, transforming ideas into legislative acts; as the President of a City Plan Commission for whom it was my privilege to serve as Consultant, and as a friend and adviser with whom conversations and discussions of mutual concern (mostly planning and zoning techniques, or bass fishing or duck hunting) carried on over an extended period, could be resumed immediately upon our getting together regardless of the length of time which may have elapsed since our last meeting. In a sense it might be said that our association was something in the nature of a "collaboration," if collabora-

tors can be said to consist of one party (me) who asks questions and another party (Frank) who answers them.

Among Frank's many contributions to the profession in which I have primary concern, was his ability to instinctively raise the provocative questions, which we planners should have raised ourselves, but didn't, as to practices and procedures concerning the administration of community plans and the content of ordinances designed to make those plans become realities. It was this quality which led to his being much sought after in this state and nationally in the field of drafting planning laws, and in challenging the planning profession, and I presume the legal profession, to move on to new devices and techniques for achieving the always hoped for results within constitutional limits. His interest in that field caused him to be called upon to draft the 1955 Act establishing the Metropolitan Planning Department for Marion County, the Area Planning Act of 1957 for Indiana, and similar acts for other states.

On at least two occasions he addressed the Annual National Planning Conference, in Boston in 1952 and in Philadelphia in 1954, expressing ideas for the improvement of planning standards and proposing solutions that will prove to set pattern in meeting some of the most vexing problems in planning administration. For example, Frank, together with many others interested in the equitable and effective enforcement of zoning, was very much concerned about the commonly accepted practice which places the responsibility for conformance to the ordinance upon the property owner,

“. . . who legally may be presumed to 'know the law' but who in fact does not. Enforcement is then in the unhappy position of prosecuting decent citizens under circumstances which appeal to the community as bureaucratic entrapment.

“In other words, the licensing device is good but the obligation is placed upon the wrong persons. The Contractor who holds himself out as a specialist, should be directly responsible for proper construction. The Contractor should be licensed with bonds conditioned upon proper compliance with zoning and building ordinances.”

In 1952 this was an entirely new concept in the field of planning administration. Later, such a provision in his Metropolitan Planning Act for Marion County, along with the remainder of that act, was adjudged by the Indiana Supreme Court to be constitutional.

At the Philadelphia meeting in 1954 Frank reiterated his confidence in the planning process when he stated,

"I do not wish to leave the impression that it is the responsibility of planning and zoning to cure all the ills of society, but conversely this fact should not be an excuse for reducing the standards of population density, ignoring building codes, or disregarding health and sanitary standards."

However, in pointing out some of the "failures" that have been experienced over the years since the institution of zoning in the United States, he fairly stated his philosophy when he said,

"If what I have said sounds hypercritical, remember that in spite of many obvious failures of zoning, it has kept pace with the revolution in urban transportation, with an unprecedented expansion in dwelling units, and with a growth in municipal services that could not have been foreseen 40 years ago. Thus, in spite of its shortcomings, the planning and zoning process must have been measurably successful or it would have been discarded years ago."

Frank's influence as a teacher, in and out of the Law School, will forever be acknowledged as his most profound contribution to the planning profession. He never hesitated in meetings with lawyers to direct their attention to the field of planning and zoning as a type of practice to be approached with appropriate equipment. I especially recall his address before the Indianapolis Bar Association several years ago when he pointed out that attorneys appearing before City Plan Commissions and Boards of Zoning Appeals should be prepared to present all of the basic facts directly related to a case before such bodies, in order that proper decisions, in light of the standards established by the Planning Act and local ordinances, will result. As a member of the Bloomington Plan Commission and Board of Zoning Appeals, Frank was very conscious of inadequate preparation of cases before them and of the deteriorating effect of such practice upon the structure and effectiveness of planning and zoning as instruments of community well-being. He carried this attitude into the classroom, and his students are well aware of his techniques in emphasizing the importance and necessity of carefully investigating all the facets of a case dealing with the use of property and the effect of *facts* as determinants upon which to make decisions affecting the land use plan for the community as a whole. But his teaching, certainly as far as planners are concerned, was not confined to meetings with lawyers or the classroom as is illustrated by his fine case book, prepared in collaboration with Val Nolan, *Land Use Controls*, deal-

ing with the statutory laws of land use. Prepared primarily for law students, it is rapidly being acknowledged by planners as a standard work for all professional people concerned with the subject.

We would like to have had a very much longer experience of learning what Frank had to give us, but we shall be forever grateful for the privilege of knowing him, learning from him and enjoying life with him in the short time allotted to us.

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