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Guideline Number

MPEA, 285 of 1931, Sec.7b(5)
TPEA, 168 of 1959, Sec.7b(5)
COPEA, 282 of 1945

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DETERMINING WHETHER A PROPOSED PLAN IS "INCONSISTENT"

Background Information

The Problem: County planning commissions are required to submit a statement to the community proposing a new plan or a plan amendment that addresses whether a proposed plan of a city, village or township "is *inconsistent*" with either the county plan or with any city, village, township or regional plan of a jurisdiction which provided comments in response to the proposed plan in question. This statement can be provided to the local unit of government proposing the plan, by either the county planning commission or by the county board of commissioners. So what does "*inconsistent*" (or for that matter, "*consistent*") mean? The term is not defined in either of the planning enabling acts.

Webster's New Universal Unabridged Dictionary defines "*inconsistent*" as:

"not consistent; specifically, (a) lacking agreement in kind, nature, form, etc; not in harmony or accord; incompatible; as practice inconsistent with belief; (b) not uniform; not holding together; self-contradictory; as, an inconsistent narrative; (c) not holding to the same principles or practice; changeable; as inconsistent behavior."

In contrast, "*consistent*" is defined as:

- "1. fixed; firm; solid; holding together; as, the consistent parts of a body.*
- 2. in agreement; compatible; congruous; uniform; not contradictory or opposed; as, overeating is not consistent with good health.*
- 3. conducting oneself in harmony with one's belief or profession; as, a consistent Methodist."*

Statutory Citation: See Sections 7b(5) in both the Municipal Planning Act and the Township Planning Act. The County Planning Act provides no more detail on this matter, but does require county plans to go through a similar preparation and review process as city, village or township plans. The County Planning Act also more clearly requires cooperation and coordination with local governments in the county, with adjacent counties and with other governmental organizations as the county plan is being prepared.

History of the Requirement: The Michigan Association of Planning proposed coordinated planning legislation that was introduced by Rep. Patricia Birkholz as HB 4571 in 2001. It included a proposed requirement for counties to determine if local plans were "*inconsistent*". While that draft legislation was not enacted, the "*consistent*"/"*inconsistent*" idea now embodied in the Municipal and Township Planning Acts originated there. The



A Chapter of the American Planning Association

Legislature agreed that plans should be coordinated and consistent, but decided not to limit a determination of consistency by defining the operative term "*inconsistent*". Instead, they have left it up to each county to decide what it means.

Recommended Best Practice

This MAP Guideline encourages counties and local units of government to prepare a local policy that explains how it intends to apply the term "*inconsistent*" when reviewing plans. MAP recommends the local policy conform with the term as it is defined in **Webster's** and with the parameters suggested in HB 4571 which proposed the following standard in Section 59(2)d and then with less detail would have required "*consistency*" of CIPs with adopted plans in two other sections (Section 65(1)c and Section 71(5)):

Section 59(2)d of proposed HB 4571 said:

"(d) The proposed plan shall be consistent. A proposed plan is consistent if both of the following apply:

(i) The goals, policies, and program of implementation for each element of the plan would further, or at least not interfere with, the goals, policy, and program of implementation of other elements of the same plan.

(ii) The goals, policy, and program of implementation of the plan and each element thereof would further, or at least not interfere with, the goals, policy, and program of implementation of a plan of the reviewing entity adopted under this act or under an enabling act in effect at the time of adoption of the reviewing entity's plan. Circumstances that violate the requirements of this subparagraph include, but are not limited to, all of the following:

(A) If the jurisdictional area of the reviewing planning commission and the jurisdictional area of the proposing planning commission are contiguous, land use intensity, land use density, or capital facilities in the jurisdictional area of the proposing planning commission and near the common border are incompatible with or would conflict with land use intensity, land use density, or capital facilities in the jurisdictional area of the reviewing planning commission and near the common border.

(B) If the reviewing entity is the planning commission of a local unit or a regional planning commission, the proposed plan would create 1 or more specific, verifiable threats to the health or safety of individuals within the local unit or region.

(C) If the reviewing entity is the planning commission of a local unit or a regional planning commission, cumulative effects of the proposed plan or element are likely to reduce the existing or planned quality of life in the proposed local unit or region in reasonably identifiable and verifiable ways."

By analogy, a plan is "*inconsistent*" if it is not "*consistent*" as described above.

The APA **Growing Smart Legislative Guidebook** recommends three criteria be applied to determine the adequacy of any plan. One of these is that the "*plan must be*



A Chapter of the American Planning Association

consistent." APA says that the plan must be both internally consistent and externally consistent. The latter term applies to consistency between any relevant state, regional or county plan, as well as with plans of abutting jurisdictions.

Legal Considerations

There has been no litigation in Michigan or Attorney General Opinion to provide further parameters in the application of this standard. Counties that adopt more refined or different standards to ascertain whether one local plan is *"inconsistent"* with another, are asked to send a copy of those standards along with a background explanation of how and why they were adopted and how well they are working to MAP.

Case Example

None yet to report, although several local plans are under preparation in Monroe, and Wexford counties that could be the first to apply the *"inconsistent"* standard.

References

- See also *"New Zoning & Planning Amendments: Open Space Zoning Mandated & Coordination Requirements Added to Planning Enabling Acts," Planning & Zoning News*, February, 2002, vol. 20, no. 4.
- HB 4571 of 2001
- APA *Growing Smart Legislative Guidebook*, 2002 Edition, page 7-204.

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