NORMAN WILLIAMS, JR. AND LEGAL REALISM

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When all this O.J. Simpson business started a year or so ago my barber said, "Well, Dwight, what's your opinion?"

I said, "My opinion on what?"

"On the O.J. Simpson case," he answered.

"But why are you asking me?" I inquired.

My barber explained: "Because you're a lawyer."

"Oh, I see," I said as I looked around the barbershop and motioned my barber to come closer so that others would not hear us. "Joe, here's the way I see it. I think I could get a three lot subdivision on the parcel where his house is located and, if I pushed really hard, I might be able to get a variance to park the Bronco on the street." Joe looked at me in bewilderment and I went on to say, "Look, Joe, I'm a land use lawyer and that's the only opinion I have on the O.J. Simpson case." He never bothered to talk to me about the case again.

Part of the lesson here is that we have to be disciplined to keep our focus on matters within our true expertise and not to wander elsewhere. I will try to do that here.

Is it really important, this label of "legal realism"? People have said that Norman Williams speaks in prose, and Norman has denied that he ever viewed himself as a legal realist. Whether we believe him or not, it is simply not important. Most of us do things in our lives that we do not recognize for what they are until long after they are past, for better or for worse. What we are doing here is taking a look at Norman Williams and his generation, and perhaps the generation before his, and the influence on them from the events of the greater world and, in Norman's case, the influence on him from his own parentage, upbringing, education, and experiences. If all this happens to fit within the label of legal realism, so be it. But the important point is to understand his life and times and principally his contributions, not only to appreciate how they have shaped the development of land use law but what we might learn from them for the future.

I learned a lot from Joan Williams' comments. She has given all of us a greater, personal perspective on the life and times of Norman Williams. And I feel that some of my own thoughts are reinforced by Joan's comments, particularly as they address the power of personality and the power of individuals in the profession.

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John Payne's observations are of special interest to me because of my own work in inclusionary zoning and affordable housing, much of it stimulated by reading Norman's writings long before I met him. John was the perfect person to pick for the task of showing how we need to understand in the most objective terms the effects of our work. Now, we cannot always measure those effects through other than surrogate impacts, but John has come as close as anyone can to knowing what the actual and objective impacts are. We need to think how to extend his work to other areas of land use law. Could we do this with First Amendment issues as they affect signs and the blighting influences of adult entertainment uses? Can we do the same when we try to preserve rural landscapes and scenic vistas or in one of Norman's most important works, the Vermont villages? How do we measure the impact of aesthetics on people and human activity patterns?

In short, how can we extend Norman's work and John Payne's analysis to bring us closer to truly understanding objectively what the impacts are of our land use planning and regulation?

My great friend, Dan Mandelker, finds legal realism in the process. His comments on process opened new vistas to me, because I had never thought about the relationship of our land use planning and regulatory process with legal realism. He is right. It is not just substance or maybe not even principally the substance of land use planning and regulation where issues of legal realism are played out, but it is to be found in the process of getting plans adopted and getting regulations on the books and applying those regulations.

What Dick Brooks has done for us is to take a real program with known impacts and a considerable history, and then address the issue of harmony. In doing so he has addressed the cultural norm quite inconsistent with, or at least separate and apart from, our own rights orientation in western law. Harmony is more an Asian concept. I remember that my family once served as host for a Chinese student at Yale, who was injured in a serious automobile accident. His car was wrecked. It took me weeks to convince him that the right thing to do was to sue and to get compensation for his injuries and for the loss of his property. It was hard for him to bring himself to do that because of the shame that comes with violating the cultural norm of harmony, as compared to the shame in western culture that comes from not exercising your rights. Harmony is difficult to achieve in a rights-oriented society, and we must expect that our planning and regulatory programs will create conflict and the staking out of positions, rather than creating a harmony of interests.

It is indeed both a great honor and my special privilege to be asked to comment on Norman Williams' extraordinary career. I find myself somewhat uncomfortable in that role. When I try to discuss the source of the discomfort and certain anxiety that I feel, it is not so simple as wondering whether I am up to the task. It is more than that. Norman Williams was my mentor, one of only three in my career as a land use lawyer. He was my mentor long before I met him because I sought his teaching and his guidance in his writings. I am still awestruck by what Norman Williams has accomplished and continues to do.

Part of what concerns me in this role is that I am feeling some of the natural anxiety that comes at mid-career. I am disquieted by my inability to fully comprehend what this much of my career means to me and to others, particularly in the context of Norman's great achievements, and what the future will bring for me as an individual and, more importantly, for others who share the profession of land use lawyer.

Part of my concern is also the transition that I, and many of us, have experienced with our parents and other elders to whom we have looked for guidance and inspiration. As our lives move along, we are at first children and students, then we move into that period in which we are seen by others as peers and equals—a status that we find difficult to fully accept. It is that uneasy time when we return home 10 years out of college and cannot bring ourselves to call the neighbors by their first names or call out across campus—"Hey, Norm, how goes it?!" As Chairman of the American Planning Association's Amicus Curiae Committee, I must say that I have sometimes found it difficult to repress the irrepressible Norman Williams—no doubt partly because of the force of his personality, but also partly because of this "becoming a peer" dynamic. Finally, children ultimately become in certain ways the parents to their own parents, and the students become the teachers in some ways to their teachers.

This has been my relationship with Norman. As a planning student in the late 1960s and on into the 1970s, and as a law student starting in 1975, I read his writings with great interest. I read the five volume, later eight volume, *American Land Planning Law*,[1] but not as someone would use the typical treatise. When I went to look for something in his works, I would often find myself reading on and on and on. He was, through that great work, and is today, a legal realist. That is what I found so compelling about *American Land Planning Law* and what set it apart from the many other good treatises available to us as planners and as lawyers.

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1. NORMAN WILLIAMS, AMERICAN LAND PLANNING LAW (1974 & Supp. 1988).

Some works are too much like op-ed pieces, too polemical to be trusted. Other treatises and collected writings on land use law read more like string citations of head notes and, though useful for research purposes, remain unsatisfying for those of us trying to discover what common threads might tie this loosely regulated process into a coherent whole.

Norman Williams' work has found a middle ground that no one then or now has ever championed as he has. He is indeed a man with opinions. He writes and speaks with scholarly restraint, but he is not reluctant to tell us what the law means or should mean.

I suppose we might find the source of this special gift, which he has given to us all, in his academic education at Yale. But that would be too easy. Yale Law School is indeed justifiably known for being the hotbed of legal realism in this century and the school's newest Dean, Tony Kronman, is a product of that culture.

But Norman's approach to land use law transcends his academic training. He is one of only a few land use law academics who has extensive practical experience as a land use lawyer and planner. Many academics write about planning law, but some of them have had embarrassingly little practical experience. Look at Norman's history. He was born in 1915, the day after Christmas. He received his B.A. from Yale, and undertook graduate studies at Corpus Christi College at Cambridge and Yale University before beginning his law degree at Yale. He practiced in New York City from 1943 to 1948, and was a senior analyst for The Plan for Zoning New York City from 1948 to 1950, and then moved from acting director to director of the Division of Planning, and acting chief to the chief of the Office of Master Planning of the New York City Department of Planning during the period 1950 to 1960.

His service to the planning profession then included work with the Outdoor Recreation Resources Review Commission in 1961, and later he served as director of the Guyana Project at the Joint Center for Urban Studies in Caracas, Venezuela in 1961 and 1962. From there he became to be executive director of the Governor's Advisory Commission on Transportation for the State of New Jersey in 1964 and 1965. From 1965 to 1975, he served as member and vice chairman of Princeton, New Jersey's planning board and also served on the Princeton Regional Planning Board. He became a professor at Vermont Law School in 1976, and with one of the most enviable teaching deals ever struck, he began teaching at the University of Arizona in 1978, where he continued to teach until 1986, with an annual migration somehow keyed to the angle of the sun.

Step back for a moment with me, and look at this record. This is not the record of any pointy-headed academic who claims to know something

about legal realism. This is the record of someone who is first and foremost a land use practitioner with great academic credentials who happens to love teaching and who has been able to bring his practical experiences successfully into the classroom.

Part of his perspective comes from the day-to-day battles we all wage in turning the law into a practical instrumentality for social good. But I do not find Norman's extraordinary perspective to be one rooted merely in the combined culture of his education and his practical experience. It goes far beyond that.

When I first met Norman in the late 1970s, I was with a friend, David Brower, a planner-lawyer who teaches at the University of North Carolina. I am not sure how I recognized Norman. I guess I figured out who he was from the program and I saw him going into a meeting room at an APA conference and I asked Dave Brower if it was true what I had heard about this man, already a legend, that he read virtually every land use case decided as he pulled them off from the published advance sheets. Dave confirmed that it was indeed supposed to be the truth and I marveled then at how hard someone must work to try to keep up with the cases. We all know that Norman has been a prodigious worker throughout his life and I expect that part of the legend is true; the part about reading all these advance sheets, because it is indeed reflected in his scholarship. No one, not anyone else in our profession, has ever demonstrated such a synoptic command of this body of law. And I am sure the only way that he could do it is not only to have had a great education and vast experience in the practical world of land use law, but an encyclopedic knowledge of the case law and literature. Who needs LEXIS and Westlaw—we have Norman!

What do we mean when we talk about legal realism, at least as it applies to land use law? I could take the easy way out and try to cast it in terms of how we take arcane and difficult concepts with inconsistent interpretations and convert them into rules of conduct and application that permit us to make decisions about land development that form a consistent and defensible body of law and practice. But that is not legal realism, that is legal pragmatism. Norman's approach to land use law is not fundamentally pragmatic, but one that is directed toward social policy and socio-legal objectives that are more enduring than mere pragmatism.

While I have traced Norman's exemplary scholarship to his education, experiences, hard work, and comprehensive thinking, I believe that the fundamental origins of Norman's special appreciation of legal realism lie in the power of personality. Land use law, I have found from my own experience as a student, as a teacher, and as a day-to-day practitioner, is fundamentally shaped by personality. In an experiment over the last year or so, my partners and I, more than fifty in number, have subjected

ourselves to a facilitated self-study of our fundamental personalities to learn how we might work together to better serve our present clients and to attract and serve new clients. As part of this effort we spent several days in team training and individual self-testing to determine our own personality orientations toward our clients and others with whom we must interact. In a variation of the Myers-Briggs personality test, each of us identified which of four different personality types we were.

The technical nomenclature is not as important as the general orientation. The predominant personality types that we found were people who were extraordinarily "bottom line" oriented, who sought end results quickly and passed by the details with little or no attention to them. This type set a fast pace and make definite decisions. Another significant personality type that emerged was highly focused on details and took special care to build piece-by-piece to an end result. They were thinkers who acted deliberately and who valued preparation.

These two orientations, and two other less predominate types, resulted in some remarkable teams of partners working together on projects prepared as part of this training. I found that I am one of these bottom line oriented types who sought the quick result—something that may work in some types of land use hearings, but might not work well in other contexts. Some of my partners, particularly the trial lawyers, are much better than I will ever be at focusing on the details. Together, with the right team approach, we were able to integrate these personality types in a way that would bring the best results for our clients. What I learned about Norman Williams from this training is that he is one of those unique individuals who has managed to combine two powerful personality orientations not often found in a single individual. *American Land Planning Law* reflects his zealous drive for detail and his unparalleled command of the common law of land use, particularly in the state courts, and merges them with a policy and results orientation that is not found in other works.

In essence he has orchestrated, as an analyst and theoretician, two typically disparate, even inconsistent, orientations. He indeed is someone who has not only shown us all of the trees in the forest, but has shown us something about the forest that none of us could otherwise perceive.

That is the challenge of legal realism in land use today. Each of us is given the task of internalizing an enormous and ever expanding body of law, something at which we inevitably must fail, simply because it is more than we can ever learn and fully know. At the same time, from all the minutiae to which we must attend, each new decision at the state and federal level, each new statutory initiative, from the local regulation to the

state statute to the looming initiative of federal takings law, we must distill a cogent guide for our own work.

Land use practitioners are ultimately builders of bridges between academia and the practical demands of the development process. The bridges we build are bridges of legal realism. If you poke around in Norman's work, you can find him being rather direct about this subject, but you have to look in the right places. I call your attention to the introduction of volume one of *American Land Planning Law: Cases and Materials*.[2] In that introduction he talks about how he has been vindicated in two of his hypotheses by reviewing the thousands of land use cases, particularly those decided at the state level.

The first hypothesis involves what he describes as a basic tenet of legal realism—"that the courts play a major role in policy formation, particularly in those fields of public law involving the clash of major social interests."[3] To that I would add that Planning Boards and Zoning Commissions play a similar major role.

The second hypothesis which he found vindicated is "(a) that the major substantive planning problems arise from (and are best understood in the context of) these different land use conflicts, and further, (b) that the courts have adopted distinctive policies (varying of course as between the states) on many of these conflicts."[4] In short, he found that each state has "familiar judicial policies, distinctive to that state."[5] He also found that the distinctive orientation of individual states reflects underlying definite policies. You can be sure that Norman was ready to be clear in exactly what he meant. For example, in talking about Illinois he says that the case law was "probably understandable" as a policy for "protecting homogeneous (i.e., expensive, lily-white) single-family neighborhoods . . . ."[6]

What does legal realism mean for the day-to-day practitioner? The practice of law has changed remarkably in just the last few years. Consider the tools of my trade. The dictating machine. A hand held cellular phone with storage for 100 numbers. The notebook computer that I now take everywhere with me. It connects me electronically to all four of our offices, to the Internet and vast sources of data and information. It also includes a fax machine. And finally my pager, which stays with me and is on twenty-four hours a day so that clients who get into

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2. NORMAN WILLIAMS, JR., AMERICAN LAND PLANNING LAW: CASES AND MATERIALS (1978).
3. *Id.* at i.
4. *Id.* at ii.
5. *Id.*
6. *Id.*

difficulties can get their lawyer. These tools have become particularly important for those lawyers who work on emergency cases, such as spills of toxic and hazardous chemicals.

Our law firm, typical of most large law firms today, has a night shift of secretaries who come on at 5:00 p.m. and work till midnight, and we have a weekend shift of secretaries so that the lawyers can keep on working. The practice of law has become in many ways a twenty-four hour a day, fast paced, high pressure, big stakes, enormous money business. I would be embarrassed to tell you how much money our clients spend on getting projects approved and how much money they eventually make (or, regrettably, sometimes lose). Legal realism in the land use business is seen in the magnification of the agendas of people involved in the land development process. The stakes are very high for the developers. And those who oppose development often leverage other parts of their personal agendas to stop projects.

I would disagree to some extent with Dan Mandelker on the notion that the playing field may become more nearly level through the use of coalitions and the like. If anything, I see a shift away from the ideal of a level playing field to even more distortion in the process. Those with more money, more power, and more communication in the process are simply more likely to succeed. They can marshal information and resources that others cannot. I do not have a normative position on this. I simply observe that the process is typified by imbalance and is probably becoming more out of balance.

In addition to this phenomenon of increasing technology and greater power to those who control the technology and the communication, I note the recent rapid expansion in the use of grass roots organizing by developers. Developers have learned from the opposition groups that there is power in numbers.

We have a substantial, full-time, in-house grass roots organizing staff for all types of clients and we use them in land development projects. In one project for which we ultimately received approval, we paid a phone banking operation in Iowa to make 15,000 calls at 65¢ a call to find out where there might be support for the project and generally what interest the community had in development. Information on the completed calls was flown by overnight courier to an operation in Virginia where four different letters with the facsimile signature of a senior executive of the company were produced, depending upon the type of response we received in the telephone call. The tapes were then flown again to Honolulu where they were processed by a company which analyzed the demographics of support and opposition to the project. Finally, we hired temporary staff

to contact the supporters for the project individually and assist them in a letter writing campaign and to get them to come out to the hearings.

Now I must say that when we started this process I was squirming a little. It bothered me some. Was I doing something unethical? It was certainly a departure from what I had done previously with developers. I had never contacted any of the final decision-makers prior to a hearing or before a decision, and I certainly did not do any neighborhood organizing, other than when I worked for neighborhood opposition groups.

But what we found from this and other similar efforts is that there often is a great deal of support for development projects, even in the immediate neighborhood. People, however, will not express their support because of fear of criticism from their neighbors or because they are not encouraged to express their support. I like to think of this type of grass roots organizing as a way to empower those who would otherwise not participate. Decision-makers are quite impressed by even a modest turnout. In this case we managed to get about a hundred people in support of the project to write letters and a few to show up at the hearings, and that support had a profound impact on the decision-makers who had previously denied the project.

Legal realism, in the sense of a powerful bottom line orientation for land use campaigns, has also led us to do "grasstops" organizing. We identify community leaders and get their support either individually or through focus groups, steering committees, and other group efforts.

In addition, legal realism is an issue in understanding what happens in the leading cases *after* they have been decided by the United States Supreme Court. Many of the leading land use cases have had profound impacts on federal, state, and local decision-making, not because of what they decided and not because of what happened ultimately following a remand of these cases, but because of the gross misunderstandings that occurred when the media hastily reported on them, and because people failed to follow up and understand how the cases were resolved and how the courts ultimately interpreted them in later decisions.

For example, in *First English Evangelical Lutheran Church of Glendale*,[7] one of the 1987 trilogy, the United States Supreme Court held that a property owner whose property was taken, even temporarily, had the right to just compensation. That was not new law in most states, but it was in California and in a few other states which had refused to pay money damages for takings and had only allowed invalidation.

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7. First English Evangelical Lutheran Church v. County of Los Angeles, 482 U.S. 304 (1987).

But what happened on remand? The middle level appellate court in California found that there was no taking because there was some use remaining at the church camp during the two year moratorium before it could be rebuilt.[8] The church never got a dime, but very few people know that.

Not only did people fail to follow up on the *First English* case, but the day it was decided and for a few days thereafter there was much misinformation in the media, both print and electronic. At about 11:00 in the morning on the day when the decision was handed down, while I waited for a copy to be faxed, I got a call from a reporter for one of the country's largest newspapers. She asked me what I thought of the decision and I told her I had not read it, so I really could not comment on it. I asked her if she had talked with anyone else, and she said she had talked with several land use lawyers and they had expressed certain opinions about it. I asked her if those people expressing opinions had read the decision, and she said they had not. I asked her if she had a copy of the decision and she said she did not.

She went ahead and wrote her story anyway. It appeared, I remember exactly, in column one, below the fold on the front page. Part of the article was correct. But part of it was quite incorrect at the time, and even more incorrect as history would have it.

The irresponsible reporting by the newspaper was perpetuated by an op-ed piece in the same paper the next day which was alarmist in its tone. The plain fact is that there should not have been any alarm over the *First English* decision. All it did was get California in line with most of the rest of the states and, as I said, ultimately the defendant county never had to pay anything. But the impression left with everybody then and forever was that *First English* had changed the rules dramatically and that there was going to be increased liability on a grand scale.

The decision in *Lucas v. South Carolina*[9] was also mishandled by the media, and very little follow-up was done. David Lucas was the hapless purchaser of two waterfront lots, separated by a developed lot, along the substantially developed shore front of Isle of Palms, South Carolina, just north of Charleston. Actually, he was one of the developers and may have been cashing out his position with the purchase. He bought in 1986. The South Carolina legislature adopted a long-considered law in 1988 prohibiting development in areas where there had historically been erosion, and Lucas was left without the ability to build anything. In 1990, the

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8. First English Evangelical Lutheran Church v. County of Los Angeles, 258 Ca. Rptr. 893 (1989).

9. Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992).

South Carolina legislature adopted an "escape hatch" in the statute, but the litigation was too far along.

Although David Lucas lost at the state level, he won in the United States Supreme Court, which held that a property owner whose property was rendered "valueless" (whatever that is) by regulation had a right to money damages for a new type of "categorical" taking—a type of regulatory taking that would be treated by the courts as if it were a physical invasion taking, such as Mrs. Loretto had when a shoebox-sized cable TV junction box was placed on the top of her apartment building without her permission (she eventually won one dollar in damages).[10] There was quite a bit of hullabaloo with the *Lucas* decision, but my review of the cases over the three years since shows that there have been very few decisions influenced directly by it. There may be more as the courts work their way through the whole parcel rule. In *Loveladies Harbor*,[11] for example, the developers developed most of the site and made a profit, but a portion of the site standing alone was undevelopable, and ultimately the United States Government acquiesced in a large award of damages to the property owner.

What is really great about the *Lucas* case is not the troubling facts or the Supreme Court's coining of a new type of taking, but what happened afterwards. In its decision, the United States Supreme Court said that there might not be a categorical taking when a property is rendered valueless if there was some historical reason why, as a matter of state law, the property would never be considered legally developable to begin with. The clearest example of this is probably the public trust doctrine, which prohibits private property owners from building on land below the mean high tide line, which in most states has to be kept open for the public to pass and repass, to fish and fowl, and to be involved in other activities.

The South Carolina Supreme Court could not find anything that fit the United States Supreme Court's description of the historical restrictions on the use of the property, so the South Carolina Court remanded it back to the intermediate appellate court for a hearing on damages.

The case settled. The State of South Carolina decided to pay David Lucas $1.55 million, which would pay him for the lots at $425,000 each, reimburse him for the mortgage interest he paid, and cover his legal fees of about $400,000 (eminently reasonable, we think). By some accounting, Lucas was left with $100,000 to walk around with, after being made whole.

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10. Loretto v. Teleprompter Manhattan CATC Corp., 458 U.S. 419 (1982).

11. Loveladies Harbor, Inc. v. United States, 28 F.3d 1171 (1994).

So, one might say, what a good end to the story. The private property owner who happens to buy for too much money at the wrong time is finally vindicated, both legally and economically. The state gets to preserve these two important waterfront lots from development, thereby protecting surrounding property from damage and destruction in the event of a storm and further erosion. Right? Wrong.

Whether land use lawyers believe it or not, the State of South Carolina offered the lots for sale at $450,000 each. Ultimately, they found a buyer in Columbia, South Carolina who planned to do exactly what David Lucas wanted to do—build a spec house on one lot and build a house on the other lot for his own use.

To make the story even more interesting, before the successful bidder came along one of the abutters to the two lots offered to purchase one of the lots for $315,000. He was willing to place a restriction on the use of the lot so that it would never be developed. What a good end to the story this could have been, because the State of South Carolina could have realized at least some of its objective in preserving the lots and still get back a portion of the money. Right? Wrong. The State of South Carolina ended up selling the two lots to the developer for $392,500 each because it wanted to get the full price for them. For $77,500 (the difference between $392,500 and $315,000) the state gave up the chance to save the lots from development. This is a head shaker if there ever was one, an astounding ending to a case that never should have been litigated and never should have been settled with the result that ultimately occurred.

Consider the case of Florence Dolan, decided by the United States Supreme Court last June.[12] There is an example of a case that most people think is over, but actually is not close to being over. As this is written plans are being made for a hearing in June on whether Mrs. Dolan can ever get her permit to do her expanded plumbing and hardware supply business, subject to the exactions which were the subject matter of the appeal that ultimately made its way to the United States Supreme Court. There will be new hearings, and if the case is not settled there will be a new litigation and it will work its way back up through the courts. The *Dolan* case is not over, and most land use cases are not over even when we read the reported decisions.

Even when the case itself is over, the interpretation of the case and its applicability remain to be determined by the courts. If you take another

12. Dolan v. City of Tigard, 114 S. Ct. 2309 (1994).

decision from the 1987 trilogy, the *Nollan* case,[13] regarding exactions for a beachfront access in California, you will find that the decision has had almost no discernable impact on the case law in the eight years since. Essentially, the courts have not found that *Nollan* created any new standard, although much of the commentary immediately after the decision was to the effect that there was some new type of substantive due process standard.

What can we learn here, especially as it applies to legal realism? We have an obligation to make sure that land use decisions are accurately reported in the media, and that everyone involved in the land use planning, regulation, and decision-making process understands what those decisions mean. We have a further obligation to follow up on these decisions and to follow up on the implementation of our plans and regulations to understand what they mean over time. Land use planning and regulation, and land use law, are iterative and interactive. Planning, regulation, and land use law are iterative because they build on past experiences and evolve from the past. They are interactive because what happens in one part of the community or what happens in one case is reflected in the plans and the regulations and the decisions in other parts of the community and in the decisions of later courts, even courts deciding other issues. We tend to study plans, to develop regulations, and to attempt to understand the law from a static, snapshot perspective when they are dynamic systems. What makes Norman Williams great is that he has understood all this, though he may never have commented on it in the same way, and he has made it his job to explain what these decisions mean, how they actually affect what we do, and most importantly, how they should be interpreted and applied over time.

Norman has taught us what legal realism is, and how we can use it to the betterment of the present generation and generations to come. Our job as land use practitioners is a special one, one that attempts to look over a distant time horizon, far beyond the immediacy of most other areas of law practice. We are the stewards of a changing landscape that belongs to generations not yet born. Our legal realism forces us to have such a future orientation that we are often misunderstood and criticized for our lack of realism. This is especially ironic because the true legal realists in the land use profession today are those who understand what the future can bring for those who follow us on this earth.

Norman's writings of a quarter of a century ago directed us toward a world that a generation later we are only beginning to achieve. His

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13. Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987).

writings and his teachings today portend both the potential for a great future in American land planning law and a troubling movement by the United States Supreme Court to fetter the police power with the takings issue.

Let me end with the words of my teacher. As Norman said at the end of his casebook introduction:

> Finally, a word to the wise. If experience in this field teaches anything, it suggests that not all wisdom is derived from reported appellate opinions. Life in the real world is quite different, and those facets which are really important in understanding the actual problem often do not filter through the legal process. In a word, read, mark, and inwardly ponder those materials—but don't believe a word of it.[14]

14. WILLIAMS, *supra* note 2, at iv.