

**SMART GROWTH: WHAT IS IT AND HOW WILL IT IMPACT  
TEXAS REAL ESTATE?**

**A Panel Discussion**

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## **SMART GROWTH: WHAT IS IT AND HOW WILL IT IMPACT TEXAS REAL ESTATE?**

- I. WHAT IS SMART GROWTH (AND WHAT IT ISN'T).
- II. LEGAL BASIS FOR SMART GROWTH.
- III. HOW IS SMART GROWTH IMPLEMENTED?
- IV. QUESTIONS - SUBMIT AND ENCOURAGE
- V. MATERIALS

**MATERIALS ON SMART GROWTH**

## I. WEBSITES

[www.smartgrowth.org](http://www.smartgrowth.org) - the Smart Growth network

[www.ci.austin.tx.us/smartgrowth](http://www.ci.austin.tx.us/smartgrowth) - City of Austin Smart Growth initiative website

[www.nga.org/CBP/Activities/SmartGrowth.asp](http://www.nga.org/CBP/Activities/SmartGrowth.asp) - National Governor's Association Center for Best Practices

[www.lavin.senate.gov/smartgrw.htm](http://www.lavin.senate.gov/smartgrw.htm) - US Senate Smart Growth Task Force established January 1999

[www.nahb.com/smartpolicy.html](http://www.nahb.com/smartpolicy.html) - National Home Builders' Association's policy on sprawl

## II. RECENT BOOKS

"FROM SPRAWL TO SMART GROWTH: SUCCESSFUL LEGAL, PLANNING AND ENVIRONMENTAL SYSTEMS"

ROBERT H. FREILICH, SECTION OF STATE AND LOCAL GOVERNMENT LAW - AMERICAN BAR ASSOCIATION, 1999

"SUBURBAN NATION: THE RISE OF SPRAWL AND THE DECLINE OF THE AMERICAN DREAM"  
ANDRES DUANY, ELIZABETH PLATER-ZYBERK, AND JEFF SPECK, FARRAR, STRAUS AND GIROUX, 2000

**SIERRA CLUB LISTING OF MOST SPRAWL THREATENED CITIES**

LARGE CITIES:

- #15 DALLAS
- #19 SAN ANTONIO

MEDIUM CITIES:

- #2 AUSTIN

SMALL CITIES:

- #1 MCALLEN

**WHAT IS "SMART GROWTH?" (AND WHAT IT ISN'T)**

NO SINGLE DEFINITION..

ELEMENTS :

- REDUCE SPRAWL.
- \$ GREATER DENSITY
- \$ MIXED USES / HOUSING TYPES
- \$ DEVELOPMENT FOLLOWS EXISTING INFRASTRUCTURE
- \$ PRESERVATION OF OPEN SPACE
- \$ PROMOTES "BROWNFIELD" REDEVELOPMENT

WHAT SMART GROWTH ISN'T:

- SUPPORTED ONLY FOR ENVIRONMENTALISTS
- ANTI-GROWTH
- ZONING BASED
- ILLEGAL
- TRADITIONAL

## ULI DESCRIPTION OF SMART GROWTH

“WHAT IS SMART GROWTH?”

SINCE SMART GROWTH IS BEST DEFINED AT THE LOCAL AND REGIONAL LEVELS, THE URBAN LAND INSTITUTE DOES NOT ESPOUSE A UNIVERSAL DEFINITION. HOWEVER, A NUMBER OF SMART GROWTH FEATURES CAN BE BROADLY CHARACTERIZED. THE FOLLOWING IS A **LIST OF COMMON CHARACTERISTICS OF SMART GROWTH**:

- DEVELOPMENT IS ECONOMICALLY VIABLE AND PRESERVES OPEN SPACE AND NATURAL RESOURCES.
- LAND USE PLANNING IS COMPREHENSIVE, INTEGRATED AND REGIONAL.
- PUBLIC, PRIVATE, AND NONPROFIT SECTORS COLLABORATE ON GROWTH AND DEVELOPMENT ISSUES TO ACHIEVE MUTUALLY BENEFICIAL OUTCOMES.
- CERTAINTY AND PREDICTABILITY ARE INHERENT TO THE DEVELOPMENT PROCESS.
- INFRASTRUCTURE IS MAINTAINED AND ENHANCED TO SERVE EXISTING AND NEW RESIDENTS.
- REDEVELOPMENT OF INFILL HOUSING, BROWNFIELD SITES, AND OBSOLETE BUILDINGS IS ACTIVELY PURSUED.
- URBAN CENTERS AND NEIGHBORHOODS ARE INTEGRAL COMPONENTS OF A HEALTHY REGIONAL ECONOMY.
- COMPACT SUBURBAN DEVELOPMENT IS INTEGRATED INTO EXISTING COMMERCIAL AREAS, NEW TOWN CENTERS, AND/OR NEAR EXISTING OR PLANNED TRANSPORTATION FACILITIES.
- DEVELOPMENT ON THE URBAN FRINGE INTEGRATES A MIX OF LAND USES, PRESERVES OPEN SPACE, IS FISCALLY RESPONSIBLE, AND PROVIDES TRANSPORTATION OPTIONS.

THE RAPID ASCENT OF THE SMART GROWTH MOVEMENT IS MATCHED BY THE SURPRISING DIVERSITY OF ITS SUPPORTERS, WHO INCLUDE POLITICIANS, HOMEBUILDERS, AND ENVIRONMENTALISTS. AS A RESULT OF ITS EARLY ACCEPTANCE ON THE LOCAL, REGIONAL, STATE, AND NATIONAL LEVELS AND THE RANGE OF STAKEHOLDERS WHO PUBLICLY SUPPORT IT, THE SMART GROWTH MOVEMENT HAS GENERATED NUMEROUS - AND SOMETIMES AMBIVALENT - VIEWPOINTS.”

***Smart Growth: Myth and Fact - ULI, the Urban Land Institute, 1999.***

### **QUOTES AND HEADLINES ON SMART GROWTH**

**"Texas is giving up more vacant land to developers every year than any other contiguous state,** according to a study by the National Resources Conservation Services . . . 'It is definitely a source of concern,' said Brian Syberk, National Resources Director of the Sierra Club of Texas, which has formed anti-urban sprawl campaigns in Austin and Houston. 'Texas' natural and cultural resources are being lost.' . . . **The new report is expected to fuel the debate over urban sprawl, which Vice President Al Gore has made part of his presidential campaign."**

*Dallas Morning News - 12/8/99*

**"Georgia Setting Up Tough Anti-Sprawl Agency . . .** In January, it seemed a radical proposal for a conservative state: a transportation superagency with broad powers to impose transit systems and highways on local governments, restrict development, and even put pressure on cities and counties to raise taxes . . . But it is a measure of the seriousness of Atlanta's struggles with traffic and sprawl that both houses of the Legislature passed the proposal on Tuesday with only a few mutterings of dissent, and only one change of any significance. When Governor Barnes signs the bill early next month, **Georgia will assume a leading role in the growing national effort to limit the urban sprawl that is choking so many cities in air pollution and traffic congestion."**

*New York Times 3/25/99*

**"The Beginning of the End of Sprawl . . .** In most metropolitan areas, **the local news media have focused on sprawl, generally painting it as a great social and environmental evil . . . even major charitable foundations are now interested in combating sprawl,** this past January, most of the country's largest foundations including Packard, Hewlett and MacArthur, among others, came together to discuss how they could use their formidable resources to fight sprawl . . . **Even more surprising has been the emergence of the sprawl issue on the national political agenda.** Brought to the fore by Vice President Al Gore, sprawl has taken on the mantle of the secondary presidential issue in the 2000 election campaign. **Nearly every major news weekly and opinion magazine has or will soon run a major story about sprawl."**

*Urban Land January 2000*

"The fact is, **one person's sprawl is another person's Great American Dream.**" Jim Kollaer, President of the Greater Houston Partnership, wrote last May in the organization's newsletter.

*Houston Chronicle 3/19/00*

**"One thing is clear: smart growth will remain a hot issue in the coming years."**  
*Tierra Grande - Journal of the Real Estate Center at Texas A&M University, April 2000*

**"Development Spawns Hot New Legal Specialty: Sprawl . . . Law Students fill classes on intricacies of land use."**

*USA Today 2/29/00*

## LEGAL BASIS FOR SMART GROWTH

### ATTORNEY GENERAL OPINION JC-0142 11/10/99

- A HOME RULE MUNICIPALITY  
MAY IMPLEMENT A GROWTH MANAGEMENT PLAN THAT LIMITS BUILDING PERMITS,  
EVEN WITHOUT AN EMERGENCY,  
SUBJECT TO PROVIDING SUBSTANTIVE AND PROCEDURAL DUE PROCESS,  
BUT MAY NOT APPLY TO LIMITATION TO PENDING PERMIT APPLICATIONS.
- A HOME RULE MUNICIPALITY  
MAY ADOPT A GROWTH MANAGEMENT PLAN THAT LIMITS RESIDENTIAL BUILDING PERMITS  
BUT NOT NON-RESIDENTIAL BUILDING PERMITS,  
SUBJECT TO EQUAL PROTECTION CONSIDERATIONS.

### LEGAL ISSUES

- HOME RULE/GENERAL LAW AUTHORITY
- COMPREHENSIVE PLANNING AUTHORITY
- ZONING
- SUBDIVISION
- MORATORIUM



## **HOW SMART GROWTH IS IMPLEMENTED**

HOW TO MONITOR, PARTICIPATE AND INFLUENCE A CITY IMPLEMENTING A SMART GROWTH STRATEGY.

TO WHAT EXTENT MAY A CITY PLACE A MORATORIUM ON ALL OR SELECTED DEVELOPMENT.

IMPLEMENTATION PHASES:

- CONCEPTUAL DEVELOPMENT
- MORATORIUM
- PUBLIC OUTREACH
- COMPREHENSIVE PLANNING
- AMENDMENTS TO ZONING/SUBDIVISION/CITY LAND USE REGULATIONS
- TRANSITION/GRANDFATHERING/VESTED RIGHTS

**SMART GROWTH:**

**A SUBJECT WHICH WILL BE WITH US FOR MANY YEARS.**