

AGRICULTURAL DISTRICTS: A COMPROMISE APPROACH
TO AGRICULTURAL PRESERVATION

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New York's Agricultural District Law contains a series of interrelated provisions designed to encourage the continuance of agriculture under conditions in which urban scatteration and consequent speculation would otherwise prematurely destroy it. Other states with similar rural land use problems may find New York's experience helpful.

Key words: rural land use policy; urbanization; speculation; land conversion; agricultural preservation; agricultural zoning; farm-value assessment.

LAND USE PLANNING has emerged as a prominent issue on both state and national levels. In what has been termed "the quiet revolution in land use controls," one state after another has passed legislation to regulate the use of its wetland, shoreland, farmland, waterways, and other areas considered to be critical to the environment [3]. Legislation to establish a nationwide land use planning and control process was considered by Congress in 1973 [2].

The transfer of large amounts of land from agriculture to urban uses has been an increasing concern of land use specialists in the United States since shortly after World War II [9, 19]. During the 1950's and 1960's this country experienced unprecedented growth in population numbers, per capita incomes, new household formations, and construction activity. In that period it became distinctly more urban in character. The widespread building of electric lines, improvements in cars and roads, and the more complete development of individual home sewage disposal systems contributed to vast suburban expansions and the widespread dispersal of single-family detached dwellings into rural areas beyond the suburbs [1]. Much productive farmland, particularly in areas proximate to the northeastern megalopolis, either was bought directly out of agriculture for new urban uses or was engulfed by a speculative surge that accompanied the growth and scatteration of urban populations.

Most state legislatures dealing with the problem of farmland preservation have adopted farm-value assessment laws [11, 13].¹ In Hawaii,

¹ Farm-value assessment laws have been placed in three classes by Hady [12]: preferential assessment, de-

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however, the state undertook to protect agriculture by zoning land exclusively for that purpose.² Both farm-value assessment of farmland and state zoning were considered in New York as means for sustaining a viable agriculture, but both failed to be enacted as law. A proposal for agricultural districts evolved as a compromise that proved to be politically feasible.

New York's agricultural district program provides some innovative concepts in rural land use policy. Districting starts with local initiative and involves interaction among farmers, nonfarm people, local government, and state government. Provisions of the law encourage farming and discourage other uses within the districts but do not involve direct control of land use through the police power. The goal sought is to keep good farmland in farming until it really is needed for other purposes; in other words, to block the destructive impact of speculation on farming but not to make permanent city parks out of farmland. The purpose of this paper is to sketch briefly the rural land use situation in New York and then to discuss the Agricultural District Law and the role it is intended to play in promoting continued agriculture in the state.

Extent of Agriculture in New York

Though New York has the second largest population of any state, only about 10 percent of its area is in cities or suburban concentrations with their interconnecting transport net. Only about one-fifth of the state is in full-time farming, but the value of farm products exceeds a billion dollars per year and is higher than at any point

ferred taxation, and restrictive agreement. Questions have been raised as to the effectiveness of these laws as land use control mechanisms [12, p. 32].

² Act 187, SLH 1961 (State Laws of Hawaii). Hawaii's atypical land use control program established four zoning districts—conservation, agricultural, rural, and urban. Each parcel of land in the state was placed in one of these.

in history. New York ranks nineteenth among all states in value of farm output and second in cash receipts from dairying [20].

Current Rural Land Use Picture

Urban scatteration

With a population of 18.5 million and only 10 percent of the state's land now urban, with the current slowing in population growth, and with national migration tending to move people south and west, it will be many decades before even as much as 20 percent of New York's land is urban. Urban growth for many years could find ample space by filling in blank parcels within semi-urbanized areas adjacent to present cities and closely built suburbs. Beyond that there are some 20 million acres in the state that are neither in full-time farms nor in cities. There is no imperative urban demand for good farmland.

But urban scatteration still is continuing in patterns that extend beyond the boundaries of the semi-suburbs and that often "sterilize" many times as much farmland as they actually occupy. A high degree of affluence has made it possible for people to live in the open country and commute to urban employment. And this progressively growing demand now is being augmented by a quest for recreational and retirement properties and by a strong urge to buy land as a hedge against inflation, though much of the recreational and hedging demand to date has been directed primarily toward nonfarm lands. This present interest in rural land, coming as it does on the heels of two decades of unprecedented urban growth and scatteration, is producing a sharp bulge in speculative expectations.

Speculation

Clawson and others have stressed the fact that lack of understanding and knowledge about the land conversion process have contributed to speculative anticipations in rural areas [5, p. 120-121; 8]. The tendency for that portion of an area that passes to urban uses to do so at prices far above farm value when farming is the next alternative use appears to be anomalous within economics in the Kuhnian sense [16, p. 52-66]. But whether economically anomalous or not, this phenomenon seems to play a significant role in speculation and therefore seems important in designing instruments to ameliorate speculative impacts.

Speculative conditions in which some though

not all of an area will sell at high prices and in which the high priced sales seem to occur in unpredictable patterns increase the degree of uncertainty under which the farmer must make his investment decisions. This is especially true where the type of farming involves heavy investments in real estate improvements that become rapidly obsolete, as in dairying or tree-fruit production, and that have little or no value for nonfarm purposes [8].

A sequence of nearly irreversible changes in total agricultural activity occurs in a community once speculative influences are present. Speculation not only discourages continuance of the flow of needed new investment into farming but also discourages investments in agribusinesses that are needed to service farming. Gradually confidence and interest in farming deteriorate. The encroaching scattered urban activities bring new patterns of life that further inhibit farm use even of the lands for which farming would be the only possibly feasible productive activity for years to come.

Knight points out that generally a degree of specialization emerges in speculative situations [15, p. 259]. Professional speculators enter and take over the risk and uncertainty bearing while another group conducts the physically productive activities involving the resource concerned. If the resource is land, the specialization involves purchase of the land by the speculators and its rental by farmers. This arrangement, however, is not feasible in many farm areas of New York. Since the speculative specialists wish to retain a high degree of flexibility in their dealings, they do not wish to invest in the expensive improvements needed to maintain active farming. They often will not even sign leases that are long enough to justify lime applications, drainage improvements, and other shorter term investments needed just for crop growing.

Initial Farmland Preservation Efforts

State zoning

There has been a growing concern with problems of rural land use in New York, including those related to agriculture, for many years [7]. In 1966 the state created the Office of Planning Coordination (OPC) which developed a proposal for thoroughly restructuring the planning and land use control laws of the state. Their final proposal would have shifted planning and land use control functions from lower to higher levels of government and from lay to professional

people. Although introduced as a study bill in 1970, this proposal never came to a vote.³

If passed, OPC's proposal would have provided for the zoning of "areas of critical state concern." All major farming areas of the state would have been included in these areas. The police power could have been used at the state level, if judged necessary, to prevent further encroachment of urban uses onto farmlands.

Farm-value assessment

Farm-value assessment bills were passed by the New York State legislature in 1965 and 1966. These bills were promoted by farm organizations and were patterned closely after the farmland assessment law that had been put into effect in New Jersey a few years earlier. Both of these bills were opposed by many persons in state and local government and were vetoed by the governor.

Agricultural Resources Commission

Soon after vetoing the special farm assessment bills, the governor created the Commission on the Preservation of Agricultural Land to explore a wide range of matters related to the continuance of agriculture in the state. That commission was replaced in 1968 by a permanent body, the Agricultural Resources Commission (ARC) [6].

The Agricultural Resources Commission viewed its task as one of creating proposals that would help to restore the faith of farm people in farming where speculation has eroded it, help to dull the impact of speculation-stimulated changes in levels of taxation and in local and state regulations of various types, and help in general to discourage urban scatteration in good farm areas where there is no near-term prospect for wall-to-wall urbanization. In a state where alternative employment opportunities are plentiful, ARC has emphasized that the future of agriculture is heavily dependent on the attitudes of farm people.

Five year tax exemption

In 1968 the legislature passed ARC-sponsored legislation which amended the state's real property tax law to permit farmers to obtain a five

³ This proposal, referred to as Senate Bill 9028, was inconsistent with long standing tradition and values deeply held by many people in the state. An interesting sidelight to this story is the fact that OPC had its budget cut by 60 percent and its name changed to Office of Planning Services (OPS) after it recommended this proposal.

year property tax exemption for improvements in farm real estate.⁴ This proposal was acceptable, while the farm-value assessment proposals were not, principally because it would be more difficult for speculators to use this law as a means of facilitating their speculative activities. Research on the preliminary effects of this law indicates that it has stimulated new farm investments in many areas [17].

The Agricultural Resources Commission also recommended the proposal for legislation that would permit the formation of special districts, to be known as agricultural districts, in areas well adapted to farming.⁵ This proposal was passed unanimously by the 1971 session of the legislature and became effective in September of that year [4].

Agricultural Districts

Forming a district

The process of forming an agricultural district starts with local initiative. One or more farmers usually spend a number of days contacting other farmers and nonfarm landowners, obtaining their signatures on the request for the district (not all landowners need to favor a district to be included in it, however). Preliminary maps must also be prepared at this time.

After farmers and other landowners have completed the initial steps, the district proposal is submitted to the county legislative body which in turn refers it to its planning board and its agricultural advisory committee for consideration. The agricultural advisory committee and the county planning board report their recommendations to the county legislature, one or more public hearings are held on the proposal, and the county legislature may then accept it, or a modification, for referral to the State Commissioner of Environmental Conservation.

The Commissioner of Environmental Conservation acts on the district proposal after he receives recommendations from the Agricultural Resources Commission and the Office of Planning Services. State inspectors examine each proposed district in the field and prepare reports on the nature of farming and urban influences in the area. The district must be consistent with state comprehensive plans, policies, and objectives. When the state review process is completed,

⁴ Ch. 1092, SLNY 1968 (State Laws of New York).

⁵ Ch. 479, SLNY 1971, Ch. 700 and 712, SLNY 1972, and Ch. 232 and 390, SLNY 1973.

the Commissioner may certify the proposal, or a modification, as eligible for adoption as a district.

Returning to the local level, the proposal must receive final action by the county legislature. Another public hearing may be held at this time. If the original district plan was modified by the state, this hearing is compulsory. Should the county legislature decide to take no action, the proposal automatically becomes effective as a district within a specified period.

The formation of an agricultural district is a cumbersome and time consuming process. It usually takes more than six months from the start of efforts to the final creation of a district as a legal entity. The cumbersomeness of the process, however, has provided interaction which has increased public awareness of the importance of agriculture and of the significance of agricultural districts. Legislators, planners, rural landowners, and others must get involved in forming districts at the local level. The state review process provides for involvement by several state agencies.

Beginning in 1974, the state may create agricultural districts of 2,000 acres or more to encompass "unique and irreplaceable" agricultural lands. To do so, however, requires initial steps by the Agricultural Resources Commission and action or agreement by several other state agencies. The law also states that the cooperation of local people must be elicited. This provision of the Agricultural District Law was included at the request of agricultural interests who feared that proposals for the creation of agricultural districts would not be sympathetically accepted by county legislatures. To date very few requests for districts have been turned down by county legislatures, and state action to form districts is likely to be very limited.

Summary of provisions

Whether created by a county legislature or by the state, the following provisions apply within all districts:

1. *Form Assessments*—Farmers may apply annually for an exemption from taxation on the value of their land in excess of its value for farming. To be eligible, a farmer must own 10 or more acres of land used the preceding two years for agricultural production having a gross sales value of \$10,000 or more. Farmland which has received an exemption is subject to a maximum five year rollback if converted to a

nonfarm use. This provision of the law legitimizes a long standing farm assessment practice in New York which is threatened to be lost because of the passage of a new assessment law in 1970 [18].⁶

2. *Ordinances*—Local governments may not enact ordinances that would restrict or regulate farm structures or farm practices beyond the requirements of health and safety.
3. *State Regulations*—State agencies must modify administrative regulations and procedures to encourage the maintenance of commercial agriculture to the extent compatible with health, safety, and any applicable federal regulations.
- 4a. *Eminent Domain*—The right of public agencies to acquire farmland by eminent domain is modified, though not removed. These agencies are required to give serious consideration to alternative areas before good farmland can be taken for public uses.
- 4b. *Development Funds*—The right of public agencies to advance funds for sewer, water, and other facilities that would encourage nonfarm development is modified.
5. *Special Service Assessments*—The power of special districts to impose benefit assessments or special *ad valorem* levies on farmland for sewer, water, lights, and nonfarm drainage is limited.

The Agricultural District Law also provides that each district must be re-examined by the county and state each eight years. If a portion of a district is in strong demand for nonfarm uses, the county and state may change the district boundary at the next eight year review. Boundary changes, however, can be made only at eight year intervals. The county and state have authority to continue any district indefinitely, regardless of local wishes.

Individual farmers who are not in a district are provided the opportunity to benefit from the farm assessment provision of the law. They must file an agricultural commitment and commit their land, in writing, to farming for eight years. Each year they must recommit it for the next eight years. If land in a commitment is converted to a nonfarm use while the commitment is still in effect, it is subject to a large penalty, instead of a rollback. This penalty is two times the taxes

⁶ Ch. 957, SLNY 1970.

determined for all land previously under commitment for the year following the breach and is added to the amount of taxes determined for that year. In other words, previously committed land which is converted during the period of commitment is subject to three times the amount of taxes determined for the year following the breach of commitment. Few farmers to date have asked for commitments.

Non-authoritarian approach

Exercise of the police power has been the predominate land use control mechanism used in the United States [10]. It has been used predominately by local governments to control certain land uses in urban areas. In recent years, however, there has been a growing tendency to use the police power at higher levels of government to regulate all types of land use [3].

Agricultural districting appears to be a rather "soft" non-authoritarian approach to land use control when compared to the absolutes of police power. Nonfarm houses can be built in districts, though developers are likely to go elsewhere due to problems of financing sewer and water services. Government agencies can take land in districts, though they have to explain why they cannot place their roads, dams, and buildings, on alternative sites. Serious farmers—those for whom the value of gross farm output equals or exceeds \$10,000 per year—are assured that property taxes will not preclude their operation. Local governments are enjoined from restricting farming for the purpose of encouraging other uses, and state agencies are instructed to encourage farming in districts, but these are not as forceful as the police power.

Rededication to farming

When farmers draw the boundaries for an agricultural district around their land, they are, in a sense, rededicating themselves to farming and reassuring each other that they want their community to remain in agriculture. Once this group action is taken, the agricultural district program provides a package of interrelated provisions designed to protect farmers from rising costs, governmental actions, or other concomitants resulting from urban scatteration and to divert nonfarm activities to areas not suited for farming. With the uncertainty associated with continued farming reduced, farmers are willing to make the investments necessary to keep their operations competitive. Active farming in turn

encourages agribusinessmen to maintain aggressive investment policies.

Snowball effect

The very fact that large numbers of people expect agricultural districts to be effective increases the likelihood of their effectiveness. Initial investment and location decisions and personal commitments by farm and nonfarm people alike in anticipation of district effectiveness can start processes that will tend to be reinforced by subsequent decisions, providing a snowball effect. It is possible that special life patterns will gradually emerge in districts and that people who prefer farming as a way of life will concentrate in these areas.

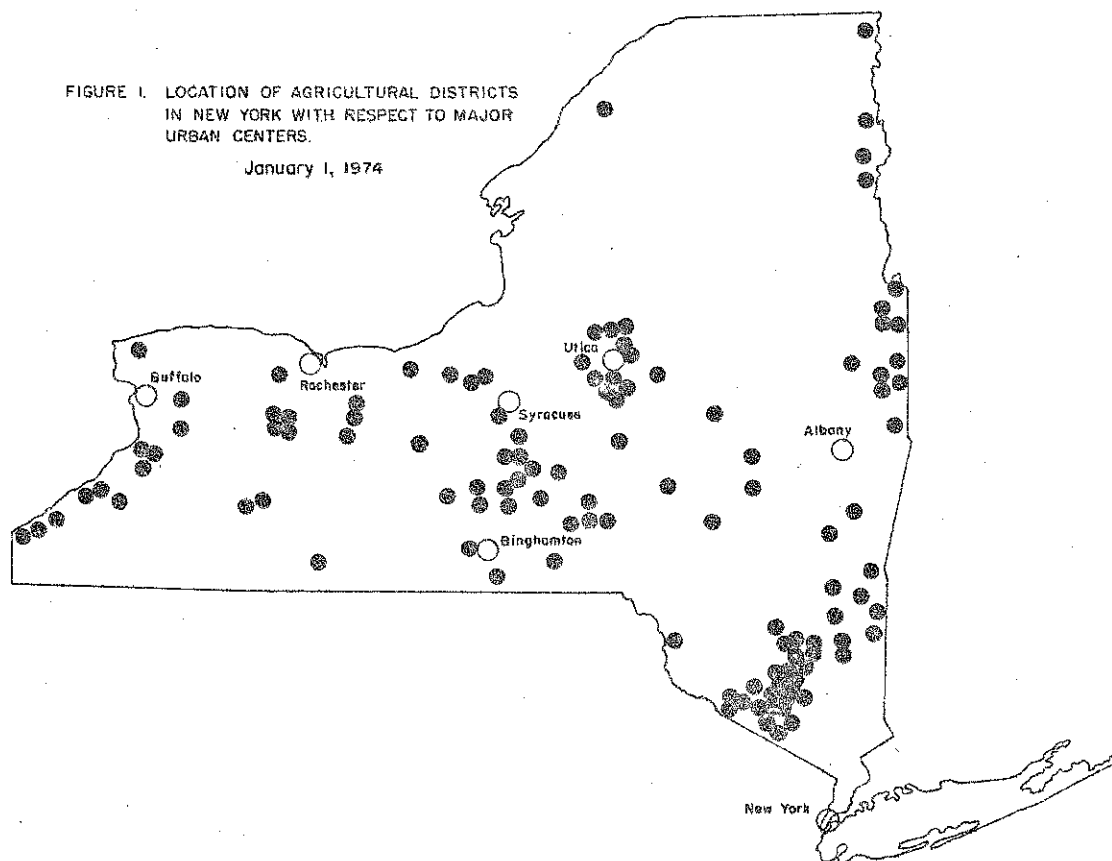
Progress to date

On January 1, 1974, slightly more than two years after the Agricultural District Law went into effect, there were 117 districts formed or in the late stages of formation. These districts total nearly one million acres, or approximately one-fifth of New York's full-time farmland, and are located in all major agricultural areas except those nearest to New York City, such as Long Island.⁷ As Figure 1 shows, several of the districts are located in areas close to major upstate cities and some are in distinctly rural areas, but a noticeable concentration exists in an area of particularly high speculative pressure about 100 miles north of New York City.

Summary

Although it may be 10 years before it can be adequately evaluated, New York's agricultural district program has been highly effective to date in involving large numbers of people in the processes it has set in motion in all major agricultural areas of the state except those nearest to New York City. It promises to spark the kind of free but concerted action that can snowball into a movement for encouraging continued agricultural production in areas where scattered nonfarm uses and speculation would otherwise result in a premature decline in farming activity.

⁷ One county on Long Island, Suffolk County, has included \$45,000,000 in its 1974-1976 budget for the preservation of farmland in the eastern part of the county. A combination of the acquisition of fee title with leaseback to farmers and the acquisition of development rights with the right to continue farming maintained by farmers will be used to set aside land for agricultural purposes [14].



In areas of imminent wall-to-wall urban development, however, it appears that some type of action other than agricultural districts will be needed if agriculture is to be preserved.

Persons in other states who seek to learn from New York's experience with agricultural districts need to recognize that there is a plentiful intermingling of farm and nonfarm lands throughout most of New York. Agricultural districts may not

be an effective mechanism for encouraging continued agricultural production in more urbanized areas where there is no nearby land available for nonfarm uses. Experience with zoning in most parts of the United States suggests, however, that a non-authoritarian approach to land use guidance is more likely to be acceptable by farm people than an exercise of police power.

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