

Why Zoning Will Not Work...

by

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It has been stated over and over again to The People of Cherry (Nebraska) and neighboring counties that zoning (as is being presented) is unconstitutional and therefore unenforceable. Let it be said once again:

Zoning (or any other kind of equity/statutory proceedings) will not protect this county, the Niobrara River and its tributaries or its people from the Federal or state government's insatiable desire for your land, your rights, your money and your property. Nor will it stop development or use of another person's property by themselves as they see fit.

You will also want to consider these case cites:

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." *Miranda v. Arizona*, 384 U.S. 436, 491. Also see *Marbury v. Madison*, 1801.

"A county may not impose a charge for the enjoyment of a right granted by the Federal Constitution." *McGoldrick v. Bewind-White Co.*, 309 U.S. 33, 56-58.

The following quote from the most basic and authoritative source for legal matters shows the beginning and end of it. From the *American Jurisprudence* which is *the authoritative encyclopedia of real law*: 16 American Jurisprudence Section 256, 177, 2nd ed.:

"The general rule is that an unconstitutional statute. . . though having the form and name of law, is in reality **no law**, but is wholly void, and ineffective for any purpose, since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it. In legal contemplation, it is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be, had the statute not been enacted.

"Such an unconstitutional law is void, the general principles follow that it imposes no duties, confers no rights, creates no offices, bestows no power or authority on anyone, **affords no protection** and justifies no acts performed under it. . . A void act cannot be legally consistent with a valid one. An unconstitutional law cannot operate to supersede any existing valid law, indeed, insofar as a statute runs counter to the fundamental law of the land, it is superseded thereby.

"No one is bound to obey an unconstitutional law and no courts are bound to enforce it."

The reason zoning statutes are unconstitutional can be seen from the following material. Zoning statutes violate your Constitutional rights to your property and the unrestricted use thereof. You can, of course, voluntarily give your rights to your property away either knowingly or unknowingly or by *not reserving your rights via the Uniform Commercial Code 1-207 before zoning goes into effect*. To use zoning you will be required to pay for permits or permissions to do what you now do Constitutionally.

Therefore, the nature of zoning and the kind of compliance sought is compelling in nature and not an action under the common law. Under the common law a person cannot be compelled "**to purchase, through a license fee or a license tax, the privilege freely granted by the Constitution**" *Blue Island v. Kozul*, 41 N.E. 2d. 515 (As quoted in *Murdock v. Pennsylvania (City of Jeanette)* 319 U.S. 105, 114.

At issue here is that of Individual Common Law Rights of We the People of the United States of America. This directly concerns the limits of authority of all branches of government over each

of us as individuals: the Authority of the Executive, Legislative and Judicial Branches of Government.

As stated in the Declaration of Independence, we are endowed by our Creator with certain Unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness.

Thomas Jefferson placed great emphasis on the concept of Rights. He said we did not bring the English Common Law, as such, to this continent we brought the Rights of Man. The reason why he said that is that it is from the Common Law controversies, all of which involved property, that all of our Rights have come to be recognized in the Law.

In a lawful sense, Property is a bundle of Rights, a bundle of Powers, wherein one claimant to these Rights possesses these Rights to the exclusion of all other claimants to these Rights, as these Rights pertain to the possession, occupancy and use of a specific piece of property (your ranch maybe?).

So, at Common Law, Rights is the name of the game.

The Bill of Rights was added to the Constitution of the United States of America because the Founding Fathers believed these Amendments should be added to avoid misconstruction of the provisions of the Constitution of the United States of America by Judges or bureaucrats and to avoid any abuse of powers by Judges of the sort that had already, at that time, taken place in England and from which abuse of powers we had just fought, and won, a revolution to be free. (See the Preamble to the Bill of Rights. The original Constitution has it, and in some sources which print the Constitution this Preamble is included.) This abuse had been committed by Judges and bureaucrats who were not tied down by any written Constitution in England, and who had started to whittle away at the Common Law Rights in England and the Colonies, by their decisions, with the cooperation of the statutes passed by the Parliament (Congress) and enforced by the Crown (Executive Branch - Police). This is precisely the combination of Executive and Legislative Equity (otherwise known as Roman Civil or Chancery Law) from which our Bill of Rights prevents and protects us from.

As example, the Constitution of the Iowa has its Bill of Rights, comprising Article I. The first two sections deserve special emphasis:

Section 1. All men are, by nature, free and equal, and have certain inalienable rights - among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

Section 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same, whenever the public good may require it.

The Iowa State Constitution expressly includes, as *inalienable*, the Right of acquiring, possessing and protecting Property, all of which are high on the Priority List of Common Law Rights. This is one example of a State Constitution securing Rights which come from the Common Law. Other examples are given at the end of this page.

Back in 1921 someone wrote:

“It is not the Right of property which is protected, but the Right to property. Property, as such, has no rights but the individual -the man -- has three great Rights, equally sacred from interference: the Right to his LIFE the Right to his LIBERTY the Right to his PROPERTY....”

The three Rights are so bound together as to be essentially one Right. To give a man his life but deny him his liberty, is to take from him all that makes life worth living. To give him his liberty but take from him the property which is the fruit and badge of his liberty, is to still leave him a slave."

Thomas Jefferson said:

“Our rulers can have no authority over [our] natural rights, only as we have submitted to them.

The rights of conscience we never submitted. We are answerable for them to our God. The legitimate powers of government extend to such acts only as are injurious to others. "

This points up the significance of the requirement of the procedures of the Common Law that there be an injured party, that the injured party make a sworn complaint as to the injury that has been done to him by the alleged injured party. *That unless this is done, the Courts, county or city governments, do not have jurisdiction over the People.*

Only in communist/fascist countries does “the state” bring suits against the people. In America, “the state” serves and is subservient to The People. We have been told, from childhood, that we have unalienable Rights, and we do!

Unalienable means un - lien - able.

Unalienable means that they cannot be taken from us, and that we cannot be forced to give them up. There are those who point out that, strictly speaking, we cannot even give them up voluntarily. However, if we submit to those who would rule over us, it is true that our Rights were not taken from us -- as Thomas Jefferson said, -- we have submitted to their rule - *voluntarily*. We have allowed ourselves to become their peons. There is one important fact concerning slavery, of any sort, the institution of slavery or peonage depends upon the *cooperation* of the slaves! Without the cooperation of those controlled, there can be no blind compliance to a rule book instead of Law.

In Common Law Courts our Rights are protected. The Rules and Procedures of the Common Law Courts were established to protect our Property Rights -- to make it difficult for Property to be taken from someone without Due Process of Law. The Right to require that an injured party swear under oath as to damage or injury that he claims that you caused to him, the Right to a *Corpus Delicti*: The body of the offense: "the essence of the crime".

Under the Common Law, the Courts and bureaucrats do not have an automatic jurisdiction.

The Common Law Rules and Procedures specify certain steps, or procedures, which must be done and certain things which must not be done -- all as a protection to the Rights of an Accused. And, as we have pointed out previously, Rights are inherent in Property, and Property is inherent in Rights. We The People have the Right to have our controversy, once the Common Law Court has acquired jurisdiction, tried before a Common Law Jury of our Peers, wherein the Jury has the authority to hear and decide questions of both Law and Fact. There is no monkey do of pretending that arguments involving the Law must be held outside of the hearing of the Jury and that their supposed only function is to hear and decide questions of Fact presented in evidence and

that the Judge will tell them what he thinks the Law is or ought be!

The Founding Fathers operated under the Common Law, in addition to the wording of the Constitution of the United States of America, in Article VII of our Bill of Rights:

“In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of common law.”

The following was included in the instructions to the Jury in the first case ever tried before the United States Supreme Court, as a court of original jurisdiction, which means that a Trial by Jury was held in front of the Supreme Court, with Chief Justice John Jay presiding:

“It is presumed, that juries are the best judges of facts it is, on the other hand, presumably, that the courts are the best judges of law. But still both objects are within your power of decision. You have a right to take upon yourselves to judge both, and to determine the law as well as the fact in controversy. ” STATE OF GEORGIA vs. BRAILSELD, 3 Dall 1 (1794)

Our Property Rights are inseparable from our individual Rights and our individual Rights are inseparable from our Property Rights. Because of this inseparability both types of Rights are protected in the Procedures and Due Process of the Courts of Common Law.

The Bill of Rights in both Constitutions have to do with matters that the governments, both of the United States and of the State, and their agents and agencies,

have no authority at all to enact statutes, or to issue rules and regulations, binding on the individual, dealing with such Rights as are included in the Bill of Rights.

It should be emphasized that the Ninth Amendment includes all of the Common Law Rights which are not listed, or enumerated specifically, anywhere else. In other words, the

Bill of Rights are prohibitions against government at any level over the individual, his rights or his property or his use thereof.

The Constitution authorizes Courts of Law and Courts of Equity. When the Constitution says Law, it means Common Law, because that's what the Founding Fathers meant when they said Law. In Courts of Law your Rights are protected by the Constitution and the Rules and Procedures of the Common Law, known as Due Process of Law. The Bill of Rights was adopted to avoid misconstruction and abuse of powers, by the Judges or government agencies and their bureaucrats but you must know that

**in Courts of Equity,
by the nature of Equity jurisdiction,
you do not have any Natural or
Constitutional Rights.**

Within the existing Equity/Civil/Contract Courts the only rights you *might* acquire for yourself are the terrible so-called Civil Rights or the rights under the Uniform Commercial Code. These are much lesser rights than those of the Constitution because these latter are Natural God given rights whereas the former are granted privileges from an artificial government of bureaucrats.

Zoning is abusive Equity in action. It should be pointed out here that the so-called Driver's License is a contract with the state and subjects the user to contracted particulars he/she has never been informed of. Did you know you signed a contract with your state when you signed that document? If you were not given full disclosure (which you weren't) before signing it the act is considered a felony referred to as fraud. Think not? Look it up...

Equity recognizes Common Law...

The Nebraska Constitution says under Article V, Section 9: **“The district courts shall have both chancery [equity] and common law jurisdiction...”**

“The Common Law is absolutely distinguished from the Roman or Civil Law systems.” People v Ballard, 155 NYS 2d 59.

The following quote is from *Anderson's Uniform Commercial Code* which is used by every legal beagle in the country.

§1-103:6. Common Law. “The Code is “complementary” to the common law which remains in force except where displaced by the Code... courts have adopted the principle of statutory construction that a statute will not be construed so as to overrule a principle of established common law... A statute should be construed in harmony with the common law The Code cannot be read to preclude a common law action.”

The Iowa Constitution, Article V, Section 6, says: **“The District Court shall be a court of law and equity, which shall be distinct and separate jurisdictions...”**

A Colorado statute (13-25-106) says: **“Every court of this state shall take notice of the common law...”**

The Common Law, the law of your Rights, is for real.

For any Judge, bureaucrat, lawyer or attorney to deny the validity of the Common Law he must deny his own equity/admiralty/contract/chancery/civil law - the thing he holds most sacred and from which he “earns” his bread.

Instead of Zoning...

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From the preceding one can see the impossibility of placing equity based zoning upon a society founded on the concepts of individual rights and private property. If forced zoning is not a viable and legitimate course of action what is?

You can do one of three things:

- 1) You can participate in using force and coercion against your neighbors to comply with someone else's ever growing rule book. In which case they will do the same to you.
- 2) You can positively induce your neighbors to comply with what all of you consider proper.

3) Or you can do nothing and remain a victim of either one of the above.

As has been pointed out elsewhere the difficulty in this issue is one of fundamental philosophical thought and how we would all like to live our lives. There is the first camp of believers that maintain it is necessary to force and coerce others to do what a rule-book says is right and proper. They have the crippled idea that men and women are not able to determine the best course for their own lives and must be guided every step of the way so they do not hurt themselves or their neighbors. This idea is usually coupled with the arrogant stance of control, dictatorial posturing and greed which is answered through the taking of the controlled persons' property generally by subterfuge and fraud.

However, luckily for the rest of us, there is another group of people who believe people are inherently stable, kind, generous, thinking and able to lead their own lives without all the coercion, force or abuse.

The former create false scenarios that prey upon people's fears thus manipulating the fearful to do as they are being led to believe. This is a 'con' job. This is deception and fraud. This is misleading the victims for further plundering of their rights, lives, freedoms and property at a later date. After all (they knife) if you allow yourself to be deceived now you will allow yourself to be taken again later. This is how thieves take your property by getting you to fear more and more that not following them and their lies you would be worse off than if you give these liars all they ask for now. This is called appeasement of the enemy or in real terms - you buy back your own protection from the thieves. It is thought that if we are nice and polite and give up a little of our rights, lives, property to the thieves now they will leave us alone. What really happens is they have now tasted blood (yours) and will come back time after time again always taking bigger and bigger bites until you have been drained of your very life's blood.

The law of the land says there is only recourse if there has been damage. It is not possible to have laws against things of the imagination like the fabled "pig farmer" or the "big, bad out-of-town developer" moving in next door who is really a figment of someone's fear-filled mind. If such a person did move in next door you would have a basis of a law suit *at Law* or in the Common Law Courts because you and your property have been damaged. You would have "noticed him up" to the fact that you would sue if damaged by his actions or negligence. This issue would be heard and judged not by a Judge indoctrinated in and sworn to uphold equity law but by 12 of your neighbors who know you and your property before it was damaged. These Jurists are knowledgeable trustees of the Common Law. This Jury could not force the pig farmer from raising all the pigs he wants on his own property but they could force him to pay for the surrounding property he has damaged in his negligent methods of pig production. Put through a couple of law suits like this one and no pig farmers or developers would look twice at Cherry County because The People of Cherry County *bite hard*.

Process these offensive people with zoning violations in an equity court and they'd get a fine - maybe. Guess who gets to keep the fine or penalty money? Not you, the damaged party, because equity zoning is primarily designed to increase revenues and power for the county, its parasitic bureaucrats and hanger on leeches - not you. You are regarded as a source of revenue - something to prey upon - and nothing else.

You would, in a general sense, have almost zero recourse in equity court because in equity court you have no recognized *real property* rights that could have been damaged. Equity zoning, courts and bureaucracies are concerned with the breaking of their rules, regulations, statutes and dictates.

You *might* be in a position to seek damages to your so-called Civil Rights. These are nothing

more than privileges granted to the population at large by the bureaucracy. Privileges can be rescinded at a Judges's or bureaucrats' whim but Common Law or Constitutional Rights cannot be taken without real damages occurring. Which is why the existing power structure hates the Common Law because it puts an end to their lies, deceptions and theft of your property, your money, your rights and your freedoms.

It is an oxymoron that if they were protecting you and your rights why is it they are taking your rights to your own property to do it? Here, in effect, is what is being said to you:

“We are going to implement zoning whether you like it or not and with our usurped power you will stand aside as we take your property, your money, your property rights, and your freedoms that you now use as you please and then, when we get around to it, at our convenience and discretion, we will decide how we will allow you to use any of what was once yours and how much we will charge you for any privilege we might grant you.”

Is this right, correct or proper? Is this the way you want your children to live? Begging for their rights? Do you really think giving up your God-given rights in exchange for bureaucrat granted privileges is a good idea?

Finding the Solution...

There are two ways to seek cooperative effort with your neighbors: 1) by threats, duress and coercion (stick method) 2) by positive motivation and inducements offered by rewards (carrot method). We have seen the evilness of the first method which is used all over America and the world. People hate being forced to do anything and are now beginning to rebel against this mindless force. The second method has not been tried in any governmental organization. However, if you but look, businesses all over the world have been long recognizing this method as the far superior and most easily worked and afforded. It goes something like this example:

If there are construction standards, for instance, that The People of this county feel would benefit them The People can offer an inducement to themselves to adopt these standards *voluntarily*. An example of this would be to offer a reduction in taxes if these construction methods are used. The logic is that a better wired house is less apt to catch fire and would require less fire protection. A better built house suffers less damage by wind or rain. If the reduction in taxes coincides with the cost of these standards people would be moving heaven and earth to comply. No enforcement problem here is there? There is no fear or force or threat or negative emotions raised. There are only positive aspirations to make things better for one's self - which is the community.

The most heard objection to positive motivational techniques is to the effect that “*we need all the government we can get and the government we now have needs more of your money, your rights and your property*” in order to better do *their* job. Nothing could be further from the truth. It is an established fact that not one person knows the real facts about their own government and its finances. The above illusion is based on hearsay, indoctrination, regimentation and fear which are all engendered by lack of knowledge as to the real facts.

• You MUST Get Knowledge...

So the other side of the positive motivational method is KNOWLEDGE. Each and every person who professes to have rights, property and freedom must educate themselves and see that their neighbors are likewise enlightened as to your rights and the Law. It is well recognized that

if you do not know and protect your rights you do not have any.

If your neighbor does not have any rights neither do you. It is through knowledge such as is given here that you will become aware you are more than a peon of the bureaucrats and their rule books and deserve better treatment, respect and consideration. The People, in fact, are the principals of government. The bureaucrats are only servants to The People. Agents can be fired by principals. When the people lead the so-called leaders will follow - or get voted out.

- **You MUST Take an Interest...**

Here are some reasonable and pointed questions The People of this or any other county need to ask of your employees, the people you put in office to mind your business for you:

- 1) How much money leaves this county in the form of gasoline taxes? Where does it go? Does the same amount come back for your own county road maintenance? If not why not?
- 2) Have you reviewed your elected employees to see you are getting your money's worth? If not why haven't you?
- 3) Where is all the property tax money going? If rural property is paying one dollar an acre how much is that for your county and where does all this money go? Why?
- 4) Who sets policy? According to who's wishes?
- 5) What is voted on? What is not voted on and why?

All this tax money is really your money to be spent as you see fit - not the way the bureaucrats want to spend it. When you see how much money is really involved and where it goes and where it doesn't go you will be dumbfounded.

- **You MUST Assume Responsibility...**

Another thing you can do is to serve lawful notice on your neighbors (which includes your government (elected) and its appointees (unelected)) that if they pursue any enterprise that results in damages to your person, your property, your rights or your freedoms you will take them to the nearest Common Law Court to be judged by 12 of your neighbors (peers) for damage assessment. Zoning violators are usually assessed "fines" which the government pockets even if you were the one damaged - you, the victim, may get nothing.

These damage awards to you would far exceed any fines to your government.

When one handles their own common law suit not only are the awards greater but they get to keep what is rightfully theirs instead of buying expensive new cars, houses and fancy suits for "hired attorneys".

- **You MUST Demand Respect...**

Wack a few trespassers with a few common law suits and the others will become respectful and considerate of your rights and property very quickly.

- **Establish a County Council...**

All across America citizens are forming County Councils composed of five elected persons and a secretary chosen by popular choice of the county's people. The Council's function is to watch those in power to assure compliance with the wishes of The People and also to:

- 1) Set salaries for all elected officials.
- 2) Fill vacancies of County Commissioners.

- 3) Suspend public officials when required.
 - 4) Review all county offices.
- Why doesn't Cherry County have one?

• **Establish a Common Law Court...**

In equity Court you have only *privileges* granted by the government - the rulers (as in King). Under Common Law you have fundamental Rights to property. If there is no place to get Common Law justice there are no Common Law rights being protected. Why doesn't Cherry County have one?

• **Establish Common Law Study Groups...**

You need more and better information concerning your rights. The schools are forbidden from teaching it, the established legal system will fight it, the libraries have been 'dumbed down' and have not this knowledge. The only place you can get educated is with home schooling and this is best done with others also pursuing greater understandings and protections. Get together with your neighbors on a weekly basis in small groups and study these matters until you know who and what you are legally, socially, politically and what it means to be a responsible human being as an integral part of your local, state and national communities.

• **Get a Land Patent on your Property...**

There is a vast difference between classes of land ownership. Right now you have a type of lease/rent/possession ownership. Unless you have a Land Patent you do not have DOMINION ownership. The government has tried to reserve the so-called rights of eminent domain which means you do not have dominion only possession and pay a yearly rent in the form of land or property taxes. Think this is a joke? Try not paying this rent (taxes) for three years and you will be dispossessed of the *right of use* which *right of use* is then sold (how can someone sell something that is not theirs?) to someone else for the delinquent rent. If you owned it out right how could anyone take it from you especially the government when they are specifically prohibited from depriving We The People of our property? Learn the difference and then get it straightened out.

• **Establish Private Covenant Agreements...**

Many people across this great nation are realizing the shortcomings associated with zoning and the subsequent government abuses that go along with it. Instead they are grouping together and determining *among themselves* what they want done with their neighborhoods and they are forming private contracts or agreements binding themselves to mutually support each other and their respective ideals or goals. These may be building restrictions, use restrictions and any number of detailed items. These agreements are a form of contract, willingly entered into by all parties to the agreement. These are sometimes called covenant agreements.

• **Establish Common Law Trusts...**

People are finding out that a Common Law Trust is better than corporations, partnerships or even contracts for administering to certain situations. Some are placing their properties into trusts to be taken care of by their trustees for their benefit. The trustees have to behave and act in specific ways and for specific purposes. Why not cancel the city and county corporate charters and place the community properties into trusts to be administered for the benefit of The People? This would at one stroke take government out of the equity and place them into the Common Law where they belong - with the rest of us.

Attorney's Oath... An attorney is an *agent of the court* and has sworn an oath to represent 1) the Bar Association (a private organization) *primarily* 2) the court 3) the government and lastly 4) you, the paying client. If he represents you *primarily* he will be dis-barred from his private club. Where does this put him when he is elected to public office to represent you *primarily*? What happens when an attorney swears to uphold equity law then takes an oath to uphold and defend Constitutional Law which is to say Common Law? (*Corpus Jurus Secundum*).

Common Law Lawyers... An interesting thing is when a lawyer takes an interest in the Common Law which is to say your Rights. He gets extremely busy with new business because he starts winning all of his cases against purely equity practicing opponents. When the *real* Law is being used properly the pseudo-color-of-law (equity) takes a hike.

Houston does not have zoning - There can be life without zoning. Houston, Texas has no zoning and is three times larger than Omaha. This leading edge business environment is prospering and progressing without all the false predictions of doom and anarchy.

Are the Feds back at it and in back of it? Not succeeding as they had hoped with the Scenic River fiasco - the Feds are now apparently using your own zoning effort to sneak in the rest of their hidden (occult) agenda.

Proposition 3 of the current zoning plan handed out on December 12th contains the details for fencing your river and creek banks. Does this include the Minnechaduza?

You thought this threat to your life style was gone. You were even told this zoning was to protect you from these illegal thefts of your property. You were told by those promoting this zoning that it would protect you from this outrage. But guess what? Now it appears it is they and their hired agents who are after your property and your life style as a front for the 'bad guys'. *Constant vigilance is the price of freedom.*

**Now do you see why you have to
get involved, get interested and
get it straightened out?**

Because unless you do it - no one else will.