AICP Exam Prep

History, Law, and Theory

Sacramento Valley Section, California Chapter - APA
May and November 2020 Exams
History, Theory, and Law - 15%

- History of planning
- Planning law
- Theory of planning
- Patterns of human settlement
History, Theory, and Law

The Practice of Local Government Planning
(aka the Green Bible, 1941)

- 2nd chapter of the 2nd edition is excellent for historical background

- 3rd edition is more up to date in all other areas and a little less of a dry read

- 4th edition changed format somewhat

- Know dates, people, events, philosophies, publications, movements, acts, laws....
History, Theory, and Law

History – Know the amendments!

- **First Amendment** – Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people **peaceably to assemble**, and to petition the government for a redress of grievances.

- **Fifth Amendment** – No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, **nor be deprived of life, liberty or property, without due process of law, nor shall private property be taken for public use, without just compensation**.

- **Fourteenth Amendment** - Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; **nor shall any state deprive any person of life, liberty, or property, without due process of law**; nor deny to any person within its jurisdiction the equal protection of laws. There are four other sections of this amendment which do not immediately pertain.
History, Theory, and Law

Know the Fathers!

- Father of Regional Planning
- Father of Zoning
- Father of City Planning
- Father of Modern Ecology
- Father of Modern Housing Code
- Father of Advocacy Planning

- Patrick Geddes
- Edward Bassett
- Daniel Burnham
- Ian McHarg
- Lawrence Veiller
- Paul Davidoff
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Important people...not a complete listing

- Lawrence Veiller
- Robert Moses
- Clarence Perry
- Paul Lawrence
- Lewis Mumford
- Paul Davidoff
- Saul Alinsky
- Sherry Arnstein
- Jacob Riis
- Camillo Sittee
- Lincoln Steffens
- Robert Hunter
- Edward Bassett
- Patrick Geddes
- Joseph Hodnut
- Jane Jacobs
- Frank Lloyd Wright
- Lawrence Haworth
- T.J. Kent
- Alan Altshuler
History, Theory, and Law

More People

- Charles Lindblom
- Ian McHarg
- Mary Brooks
- Christaller
- Ernest Burgess
- Homer Hoyt
- LeCorbusier
- James Rouse
- Andres Duany
- Joel Garreau

- Robert Lang
- Frederick Law Olmstead Sr. and Jr.
- Alfred Bettman

Get to know these folks and their peers!
History, Theory, and Law
Philosophies and Movements

- Public Health Movement - Late 1800s to 1920
- Garden City Movement – Ebenezer Howard, John Ruskin
- City Beautiful Movement - Daniel Burnham, 1893 World Fair Columbian Exhibit, 1909 Plan for Chicago
- City Efficient Movement – 1920s Standardization (SSZE/SCPEA)
- City Humane Movement 1930s – New Deal
- New Towns – 1935
- City Functional Movement - 1940s
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Planning Theories....

- Synoptic Rationality
- Incremental (Lindbloom)
- Transactive
- Advocacy (Davidoff)
- Radical
- Utopianism
History, Theory, and Law
Planning Theories on City Development...

- 1893 City Beautiful - Daniel Burnham
- 1898 Garden Cities - Ebenezer Howard
- 1920s Radiant City - Le Corbusier
- 1925 Concentric Ring Theory - Ernest Burgess
- 1932 Broad Acre City - Frank Lloyd Wright
- 1933 Central Place Theory - Christaller
- 1939 Sector Theory - Homer Hoyt
- 1945 Multiple Nuclei Theory - Harris and Ullman
- 1960 Bid Rent Theory - William Alonso
- 1964 Urban Realm - Vance
- 1982 New Urbanism - Seaside, Andres Duany
- 1987 Growth Machine Theory - Harvey and Molotch
- 1991 Edge City - Joel Garreau
- 1990s Smart Growth / Sustainability
History, Theory, and Law

Patterns of Human Settlement

- Ordinance of 1785 – provided for the rectangular land survey and settlement of the Old Northwest

Know the “nuts and bolts” of 1785 Ordinance:
- township = 36 sq mile of territory, 36 sections;
- each section = 640 acres, one square mile;
- used lat/long
History, Theory, and Law
Other facts to know...

- Erie Canal was completed in 1825
- Union Pacific and Central Pacific joined at Promontory Point, Utah to form the transcontinental railroad in 1869
- 1st US city with a subway was Boston in 1897
- The 1901 Plan for Washington D.C. was part of the City Beautiful Movement
- 1st historic preservation commission was formed in Vieux Carre, New Orleans, LA in 1921
- 1st off-street parking regulations in Columbus, OH in 1923
- 1st historic preservation ordinance enacted in Charleston, SC in 1931
- 1st urban growth boundary established in the US in Lexington, KY in 1958
- 1st state to institute statewide zoning was Hawaii in 1961
- ACIP and ASPO joined to form the APA in 1978
- Largest concrete structure in the US is Grand Coulee Dam (completed 1941)
- Zip Code stands for Zone Improvement Plan Code
- 43,560 square feet in 1 acre
- 5,280 linear feet in 1 mile
- 2.47 acres in 1 hectare
- 640 acres in 1 square mile
- USGS map scale

Check the Timeline (or Pathways) of American Planning History for more items like this
Sample Question

Which of the following pieces of federal legislation focused on slum clearance?

A. 1906 Antiquities Act
B. 1934 Federal Housing Act
C. 1949 Housing Act
D. 1968 New Communities Act

Answer: C. Know this level of detail on key federal legislation.
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Cases

- 1887 – Mugler v Kansas: 14th Amend/Due Process case which ruled that KS could prohibit sale of alcohol based on PP.
- 1909 – Welch v Swasey: Boston can impose different height limits on buildings in different districts.
- 1912 – Eubank v City of Richmond: A ZO establishing building setback lines was held unconstitutional and not a valid use of the PP; violates the due process of law and is therefore unconstitutional under the 14th Amendment.
- 1915 – Hadacheck v Sebastian: SC upheld Los Angeles case prohibiting establishment of a brick kiln within a recently-annexed 3-mile area.
- 1922 – Pennsylvania Coal Company v Mahon: SC indicated for the first time that a regulation of land use might be a taking if it goes too far.
- 1926 – Village of Euclid v Ambler Realty Co.: Established zoning as a legal use of PP by local government. The main issue in this case was “nuisance”, and that a certain use near a residence could be considered “a pig in a parlor”. Argued by Alfred Bettman, future 1st president of ASPO.
- 1928 – Nectow v City of Cambridge: Court found for Nectow and against a provision in Cambridge’s ZO based on the due process clause. However, it did NOT overturn Euclid. This was the last zoning challenge to come before the SC until...
History, Theory, and Law

Cases

- **1954 – Berman v Parker**: Established aesthetics and redevelopment as valid public purposes for exercising eminent domain. Wash.DC took private property and resold to a developer to achieve objectives of an established redevelopment plan.

- **1968 – Jones v Mayer**: Ruling that discrimination in selling houses was not permitted based on the 13th Amendment and Section 1982 abolishing slavery and creating equality for all US citizens.

- **1968 – Cheney v Village 2 at New Hope**: Legitimized planning unit development (PUD) process.

- **1972 – Golden v Planning Board of the Town of Ramapo**: NY State Court of Appeals case that upheld a growth control plan based on the availability of public services. Case further emphasized the importance of the Comp Plan and set the scene for nationwide growth management plans.

- **1971 – Citizens to Preserve Overton Park v Volpe**: Established hard look doctrine for environmental impact review. Section 4(f) DOT Act of 1966 – park use ok if no “feasible and prudent” alternative and “all possible planning to minimize harm”.

- **1971 – Calvert Cliffs’ Coordinating Committee v Atomic Energy Commission**: Made National Environmental Policy Act (NEPA) requirements judicially enforceable.
History, Theory, and Law

Cases

- **1972 – Sierra Club v Morton:** Opened up environmental citizen suits to discipline the resource agencies.

- **1972 - Just v Marinette County:** Significantly integrated public trust theories into a modern regulatory scheme. Shoreland zoning ordinance along navigable streams and other water bodies upheld.

- **1973 – Fasano v Board of Commissioners of Washington Co., Oregon:** Required zoning to be consistent with comp plans, and recognized that rezonings may be judicial rather than legislative. Central issue was spot zoning, which must meet the two measures to be deemed valid: 1st, there must be a public need for the change in question; 2nd, the need must be best served by changing the zoning of the particular parcel in question as compared with other available property.

- **1974 – Village of Belle Terre v Boraas:** SC upheld the restrictive definition of a family as being no more than two unrelated people living together.

- **1975 – South Burlington County NAACP v Township of Mount Laurel I:** NJ Supreme court held that in developing municipalities in growing and expanding areas, provision must be made to accommodate a fair share of low and moderate income housing.
History, Theory, and Law

Cases

- **1975** – *Construction Industry of Sonoma County v. Petaluma*: Limited the # of residential building permits per year to 500 & placed a population cap of 55,000. The purpose was to make sure that the growth rate did not exceed the City’s ability to fund capital improvements. Court upheld.

- **1976** – *Young v. American Mini Theaters*: First sexually-oriented business case, which held that zoning for adult businesses does not automatically infringe on 1st amendment rights.

- **1976** – *Hills v Dorothy Gautreaux*: The Chicago Housing Authority and HUD had to spread out concentration of public housing (scattered site housing), including into white suburbs that were not necessarily within Chicago. Argued under the Civil Rights Act of 1964.

- **1976** – *Home Builders v. City of Livermore*: Growth policy that timed phasing of future residential growth until performance standards are met; upheld the use of a moratorium.

- **1977** – *Village of Arlington Heights v Metropolitan Housing Development*: Established that discriminatory intent is required to invalidate zoning actions with racially disproportionate impact. Court overturned denial of rezoning to allow for multi-family residences in a previously single-family zoned area.

- **1978** – *Penn Central Transportation Company v The City of New York*: Restrictions on the development of Grand Central Station did NOT amount to a taking, since Penn Central could use TDR and secure a reasonable return on the property. Validated historic preservation controls.
History, Theory, and Law

Cases

- **1978 — TVA v. Hill (Secretary of Interior):** Court forced full implementation and enforcement of the Endangered Species Act. Halted the Tellico Dam, which was almost completely built, because the endangered Snail Darter — a fish — was found.

- **1980 — Agins v. City of Tiburon:** Ruled there is a takings when 1st, deprives property of all economically viable use; and 2nd, when it fails to enhance a legitimate government interest. Court found that the Open Space ZO of Tiburon does NOT result in a taking w/o just compensation.

- **1980 — Central Hudson v Public Service Commission:** 1st Amendment case which overruled the NY State Public Service Commission’s total ban on an electric utility’s advertisements to increase electric usage.

- **1981 — Metromedia, Inc v City of San Diego:** Ordinance that substantially restricted on-site and off-site billboards was ruled unconstitutional under 1st amendment.

- **1982 — Loretto v Teleprompter Manhattan CATV Corporation:** Court held that any physical occupation is a taking, no matter how de minimus (landlords had been required under state law to allow cable company to install permanent cable TV facilities on their property).

- **1983 — South Burlington County NAACP v Township of Mount Laurel II:** This finding cured the deficiencies of Mt. Laurel I, and created the model fair housing remedy for exclusionary zoning. Municipalities must provide their fair share of low and moderate income housing in their region. A special 3-judge panel was set up to rule on exclusionary zoning cases.
History, Theory, and Law

Cases

- **1984** – Members of City Council v Taxpayers of Vincent: 1st amendment case which allowed the City Council to exert control over posting of election signs on public telephone poles.

- **1985** – City of Cleburne v Cleburne Living Center: SC decision which ruled that the City had illegally denied group homes special use permits based on neighbor’s unfounded fears.

- **1985** – Williamson County Regional Planning Commission v Hamilton Bank: Defined the ripeness doctrine for judicial review of takings claims.

- **1986** – City of Renton v Playtime Theaters: Upheld the requirement of minimum distances between SOBs.

- **1987** – First English Evangelical Church of Glendale v Co of Los Angeles: Allowed damages (as opposed to invalidation) as a remedy for regulatory taking. Just compensation clause of the 5th Amendment requires compensation for temporary takings which occur as a result of regulations that are ultimately invalidated.

- **1987** – Nollan v California Coastal Commission: Created the essential nexus takings test for conditioning development approvals on dedications & exactions. A relationship must exist between what a property owner wants (in this case, a building permit to add a second story) and what the local government wants (public access to beach). No relationship here.
History, Theory, and Law

Cases

- **1992** – *Lucas v South Carolina Coastal Council*: Defined categorical regulatory taking. Compensation must be paid when all economically beneficial uses of land are taken *unless* uses are disallowed by title or by state law principles of nuisance.

- **1994** – *Dolan v City of Tigard*: Extended Nollan’s essential nexus test to require “Rough proportionality” between development impacts and conditions on development. (bike path/store/lessening overall traffic)

- **1994** – *City of Ladue v Gilleo*: SC ruled that the display of a sign by a homeowner was protected by the 1st amendment under freedom of speech.

- **1995** – *Babbitt v Sweet Home Chap. of Communities for a Great OR*: Applied the Endangered Species Act to land development; Sec of Interior’s definition of harm is valid.

- **2002** – *Tahoe-Sierra Preservation Council v Tahoe Regional Planning Agency*: Sanctioned the use of moratoria & reaffirmed the “parcel-as-a-whole” rule for takings review. Moratoria on development not a per se taking under the 5th amendment, but should be analyzed under the multi-factor Penn Central test.

- **2005** – *Lingle v. Chevron*: Case brought by Chevron based on an Agins-type claim that one of Hawaii’s statutes did not “substantially advance legitimate state interests”. Court ruled that even though Lingle could not be upheld on that issue, it did NOT overturn the 1980 Agins case in the whole.
History, Theory, and Law
Cases

- **2005 – Kelo et al. v City of New London:** Like Berman v. Parker in 1954, involved the City taking private property by eminent domain and transferring it to a private entity for redevelopment. The Court held in a 5-4 decision that the general benefits a community enjoyed from economic growth qualified such redevelopment plans as a permissible “public use” under the takings clause of the 5th Amendment. New London was aided by existence of well-documented redevelopment plans.

- **2005 – City of Rancho Palos Verde v Abrams:** SC ruled that a licensed radio operator who was denied a CUP for a “commercial” antenna cannot seek monetary damages because it would distort the congressional intent of the Telecommunications Act of 1996.

- **2006 - Massachusetts v. EPA:** EPA must provide a reasonable justification for why they would not regulate greenhouse gases.

- **2006 - Rapanos v. United States:** The Army Corp of Engineers must determine whether there is a significant nexus between a wetland and a navigable waterway. This pulled back the ACOE’s jurisdiction regarding wetlands.

- **2006 - SD Warren v. Maine Board of Environmental Protection:** Hydroelectric dams are subject to Section 401 of the Clean Water Act.

**APA-NC has great law information:**
*Annotated Planning Law Outline*
*Planning Law Case Chart*
*Big Cases*
Sample Question

This Supreme Court decision removed the "substantially advances" test for takings cases:

A. Village of Euclid v. Ambler Realty Co. (1926)
B. Agins v. City of Tiburon (1980)
C. Lucas v. South Carolina Coastal Council (1992)
D. Lingle v. Chevron USA (2005)

Answer: D. Agins v Tiburon had created the “substantially advances” test, but Lingle v Chevron removed it. Remember the key take-aways from case law.
Sample Question

The landmark case Agins v. City of Tiburon (1980) established a test: a regulation is a taking if it can be shown that it:

I. Prompts a property owner to file a lawsuit.
II. Deprives property of all economically viable use.
III. Creates a nuisance on the affected property.
IV. Fails to advance a legitimate governmental interest.

A. I and II  
B. II and IV  
C. II and III  
D. III and IV

Answer: B. Another example of a question focused on the details of the ruling.
Sample Question

Which of the following court case(s) is/are concerned with takings:

I. Renton v. Playtime Theatres Inc.
II. Pennsylvania Coal Co. v. Mahon
III. Metromedia, Inc. v. City of San Diego
IV. Agins v. City of Tiburon

A. I only
B. II only
C. I and III
D. II and IV

Answer: D. Court case questions can be important to mark, or make notes from, since they can overlap somewhat.