

Tennessee pioneers ADR in growth planning

BY ALBERT HARBERTSON

Tennessee's political furor over city annexation powers a few years ago produced a promising approach to head off future local intergovernmental disputes. To control growth and reduce conflicts, the General Assembly required local governments to communicate and cooperate on long-term planning.

In doing so, the General Assembly courageously addressed an issue that haunts many policy-makers: the specter — and all too often the reality — of explosive growth and uncontrolled urban sprawl. In Tennessee, the problem had become particularly acute as a result of a system that allowed cities to annex portions of their own counties by merely passing a single ordinance.

Cities had a tremendous financial incentive prior to 1998 to grab whatever territory they could, since they immediately gained tax revenues from annexed areas. This made comprehensive countywide growth planning nearly impossible. The system promoted confrontation between county governments and the cities within those counties.

The General Assembly in its 1998 session passed a law that requires each city to assess its need for additional territory and to identify areas for future annexation in conjunction with the county. These areas, along with rural areas and potential development

sites, are delineated with boundary lines and combined to form a 20-year comprehensive growth plan for the county.

After the governments involved agree upon the growth plan, the city may annex additional territory by ordinance only within those identified areas and may take in territory outside the boundary only through referendum. The law contains restrictions on corridor annexations and annexation across county lines. It also allows the county to keep more of the tax revenue for 15 years from territory that is annexed. For the first time, the county plays an active part in determining the future of its land areas.

The preamble to Public Chapter 1101, signed into law by Gov. Don Sundquist on May 19, 1998, reads:

"It is the intent of the General Assembly that local governments engage in long-term planning, and that such planning be accomplished through regular communication and cooperation among local governments, the agencies attached to them and the agencies that serve them. It is also the intent of the General Assembly that the growth plans required by this bill shall result from communication and cooperation among local governments."

Perhaps the most important part of the new law isn't what it requires, but what it encourages. Legislators knew full well that after decades of land feuds, some cities and counties might have difficulty working cooperatively to develop a comprehensive growth plan, particularly one that spans 20 years. So, Tennessee legislators not only addressed this issue in the pre-

amble, they crafted into the law provisions that pioneer the use of alternative dispute resolution or ADR in countywide planning.

When cities and counties cannot agree on a plan, they are required to meet with a mediator to reach a mutually agreeable solution. The goal is to resolve the immediate dispute and to foster a new era of cooperation.

Developing this new mediation initiative is the responsibility of the Administrative Procedures Division in the Office of the Secretary of State. "The Legislature and the governor have made clear that they want these matters resolved by mutual agreement, if possible, and we're going to do everything we can to make certain that happens," said Charles Sullivan, director of APD.

Sullivan and the administrative law judges, who are trained mediators, recently have worked closely with the National Institute for State Conflict Management at The Council of State Governments to develop an effective mediation program. Tennessee expects to mediate a number of these matters in the next few months.

The National Institute for State Conflict Management, part of CSG's Center for Leadership, Innovation and Policy, works with states and territories to provide a variety of services to assist ADR initiatives. The institute will host the Summit of the States on Conflict Management and Dispute Resolution June 8-10, 2000, in Lexington, Ky. Additional information is available at www.csg.org or by contacting Albert Harbertson at (859) 244-8228 or bharbertson@csg.org. ★

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