

## OPEN - SPACE LIVING: ITS HISTORY AND DEVELOPMENT

*( Excerpts from an address by William F. LeMond, specialist in real estate law in Indiana )*

A dramatic change on the American landscape is emerging today in what is cryptically called "Open-Space Living", and it embraces the entire spectrum of what city planners call "shelter", including free-standing residences, town-houses, apartments, and the ancillary developments incident thereto, such as convenience shopping areas, private club houses and swimming pools, schools, churches and parks, North Willow Farms, although exclusively identified with single family residences, incorporated most of the amenities associated with this newest suburban residential land use.

The most dramatically apparent change in this new concept of land development is the "pooling" of the extravagantly wasteful "wind-tunnel" rear yard areas associated with the development of suburbia in the '40's and '50's, into carefully landscaped private parks and recreation areas which are interwoven throughout the housing development to add interest and variety and give each homeowner or group of homeowners their own private park-like atmosphere.

Other revolutionary innovations include specialized local street patterns to restrict vehicular traffic near homes for privacy and safety, pedestrian traffic entirely divorced from vehicular traffic by walkways located away from the streets, stringent standards of exterior building maintenance and, above all, individuality expressed in each living unit as it is oriented to the natural surroundings and the exceptional facilities afforded.

Obviously, someone must "pay the piper" for these amenities of modern living, but surprisingly, the cost is modest when pooled as a total neighborhood - community effort.

Here's how it works: The house and lot are conveyed to the new homeowner in the traditional method of conveyance of ownership, but in addition, the buyer receives an added bonus in the form of a Class A Membership Certificate in a property-owners association legally formulated as a non-profit corporation under Indiana law. This certificate creates a vested interest in the club house, swimming pool, cycle paths, walkways and other recreation areas throughout the entire planned community development.

The cost for these exceptional facilities is equally borne by all lot owners in monthly dues which are frequently included with the mortgage payment on the home, and this cost compares favorably with the expense of seeking the same facilities in a private club plus the homeowner has the benefit of having the facilities in the immediate neighborhood available for constant use (mitigating, at least, the suburban housewife's national dilemma of operating the "kiddie chauffeuring service").

Historically, this type of development measures up considerably better than par in comparison to normal subdivision development standards. Louisburg Square in Boston, the original Georgetown development near the nation's capitol, Gramercy Park in New York City, are outstanding nineteenth century examples of longevity, for these developments have outlived the conventional residential developments built alongside them during the same era, and they still command fancy prices and denote quality living standards.

More recently, Virginia, Maryland and California have produced highly successful developments with the common property ownership concept.

Of recent, this form of development has taken on such national significance that the Federal Housing Administration commissioned the Urban Land Institute, an internationally recognized authority on urban land development to make a study of over three-hundred privately owned property-owners associations, and the results of this study were sufficiently impressive to cause this federal agency to insure loans up to thirty-five years under a permanent homeowner's mortgage loan program designated FHA 203(b) to encourage this type of home development.

Results of this study revealed there are six common denominators of all successful home-owner associations:

- (1) The home-owners association (non-profit corporation) must be set up before the homes are sold.
- (2) Membership in the home-owners association must be mandatory for all home-owners.
- (3) Open space restrictions must be permanent, not just for a given period of years.
- (4) The home-owners association must be responsible for liability insurance, local taxes and maintenance of the recreation areas, private driving and parking areas and other amenities.
- (5) Home-owners must pay their pro rata share of the cost of the assessment levied by the association, which charge, if un-paid shall become a lien upon the individual properties
- (6) The association (controlled by the home-owners) must be able to adjust the assessment to meet changing needs.

Builders concede that the greatest detriment to this new innovation in home development is the spectre of continuing liability for maintenance of common properties. However, there is, practically speaking, substantially no greater burden on the homeowner in Open Space Living than the traditional tract house of suburbia for these amenities of modern living such as swimming pool, club house, and recreation areas are considered a "must" by most suburbanites today, and the most frequently have to be sought out by private transportation at locations a substantial distance from the home.

In actuality, the benefits of controlled and maintained open areas together with the economies realized in consolidated landscaping, green areas, drives and parking areas, recreation facilities and the other amenities of Open Space Living, far outweigh the speculative misgivings occasioned by a change from tradition.

Respectfully submitted,

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