

Session 6: How COVID-19 Mitigation Efforts May Impact the Built Environment

Summary of Proceeding by Jenny Wu

Featured Speakers:

Marc Palatucci, Associate, The Future Today Institute, New York, NY

Richard Lyall, Real Estate Strategist, President, RESCON, Ontario, Canada

Steven Bender, Associate Dean for Planning and Strategic Initiatives & Professor, Seattle University School of Law

Peter Smirniotopoulos, Adjunct Professor & Symposium Organizer, Seattle University School of Law

Ryan Mathisen, Judicial Law Clerk, WA Supreme Court; Seattle University School of Law, Class of '19, summa cum laude

Moderator: *Timothy Harris; Assistant City Attorney, Adjunct Professor of Law, Seattle University School of Law*

Abstract: *Innovating the Built Environment for a Post-COVID-19 World* It would seem an act of academic malpractice to teach a course titled *Innovating the Built Environment: How the Law Responds to Disruptive Change*, and host an all-day symposium as an integral part of that course, and **not** endeavor to address the most-disruptive thing to happen to the built environment in more than 100 years: The coronavirus pandemic. This "disruption" to real estate is the proverbial elephant in the room. Hopefully, it will maintain a minimum six-foot distance from others as we address how it impacts the four Special Topics addressed above. What should/will our built environment look like in a post-COVID-19 world? This Session 6 discussion begins with two special guests as Featured Speakers, and then brings back a few of the panelists from earlier sessions, to discuss how today's Special Topics may be fundamentally altered to prepare for a post-COVID-19 world.

I. Marc Palatucci: Associate, The Future Today Institute, New York, NY

The Future Today Institute (FTI) is a strategy consultancy that monitors trends and major shifts in the trajectory of different technologies and societal domains. Futurist Marc Palatucci explained the relationship between contraction, expansion, and adapting to built spaces in the future based on this relationship. There has been both extreme and sudden contractions due to COVID-19 such as populations rapidly withdrawing into their respective, personal spaces and expansion back into the Public Realm as a consequence of the Black Lives Matter protests, with populations quickly filling empty space. In his analysis, he explains as a futurist, his job is not to predict the future but instead take current data and speculate on potential futures, assign probabilities, and identify important trends to build and adapt to new space in the future.

Some trends caused by COVID-19 include using devices to track human behaviors. Examples of these devices include GPS/location services as well as similar secondary and tertiary

layers of tracking systems. Mr. Palatucci noted the potential use of tracking in contact tracing to mitigate the spread of COVID-19 with personal devices linked with others' devices, as this gives immediate notification of risk factors to the device holder in order to take greater precautions to prevent further spread. Another trend is biometric scanners being used when reopening public spaces. These scanners capture and share biometric data including pulse, temperature, COVID-19 risk factors, and symptoms. Smart home devices can also be used to trace COVID-19. As an example of this application, home appliances can trace COVID-19 in septic systems. Smart devices can also be used to better help track health fluctuations and use the biometrics to help mitigate risk of spreading disease by getting and acting on data sooner.

Another identified trend is wearing smart eyewear with voice-controlled hands-free capabilities in eye or frame to provide contactless devices, potentially supplanting smartphones as one's primary personal device. This is beneficial as hand-held phones can serve as a high-risk static vector of disease. This smart eyewear can also be used for crowd avoidance by identifying the user to crowds, directing them to less-populated routes and areas; or taking the temperature of oncoming pedestrians so the user can avoid contact. Relatedly, simulations like VR devices can help a person "get out of the house" without actually getting out of the house, as well as providing enhanced personal human interactions. Simulations can also provide therapeutic usage for hospital patients, particularly those who are in end-of-life care.

Another issue to consider is re-envisioning the future of workplaces in order to avoid automating jobs away. Mr. Palatucci said we need to think about creating more expanded, less clustered, and less-densely occupied offices or factory floors by identifying low risk employees who can or need to physically be at their place of work. Providing virtual or augmented reality for higher risk employees who must stay at home may provide these employees with a more-robust work experience.

Mr. Palatucci concluded by saying we can make incremental decisions today that lead to a new future. Future Today Institute provides a tech trends report on its website: www.futuretodayinstitute.com/trends.

II. Richard Lyall: Real Estate Strategist, President, RESCON, Ontario, Canada

Richard Lyall said the majority of the COVID-19 pandemic's impact on the built environment has been mostly masked so far by government interventions such as stimulus spending; however, the real impact will occur in the fall of this year, particularly on real estate and development construction. But the real impact is difficult to predict because available bank models are unable to incorporate the new factors driven by COVID-19 into its current data to forecast where things are going to go. The new numbers and statistics that the data scientists will receive further into the year along with new scientific information about COVID-19 and its vaccine may change predictions on the impact of COVID-19 on the built environment.

Mr. Lyall believes a shift in the housing market will occur. Interest rates were low before the pandemic and will remain low for the next few years. The extent of inflation remains to be seen. Mr. Lyall thinks about serious planning changes similar to Tokyo's architectural business with respect to market equilibrium and efficient housing management. He believes there will mostly be reforms in high density mass transit centers.

For example, in the Greater Toronto Area, there are still development, productivity improvements, and trainings occurring such as changing to environmentally friendly building codes. Mr. Lyall also noticed a drop in lost time injuries and on-the-job accidents in construction, thanks to productivity improvement. One of the bigger impacts COVID-19 will have is giving a new lease on life to public spaces such as outdoor communities and cycling trails similar to the Beltline in Atlanta, Georgia, since more people are working from home. Mr. Lyall also predicts already occurring virtual, paperless tools and methods will continue to be utilized at a greater volume such as paperless e-permitting in Finland and Singapore or using virtual reality and drones to fly through buildings to map the designs of buildings (which is already occurring for construction inspections and to create as-built drawings) – most of these methods will use artificial intelligence (AI) to speed up work. There will be an impact on housing designs regarding natural light, ventilation systems, shifting preference for functional windows, and other features. Architects, developers, and homeowners will need to think about how to design houses with new home features, such as enhanced home offices to accommodate new work-from-home (WFH) workforce requirements and protocols (for example, rooms conducive to holding meetings), which will present new marketing opportunities.

As more people and their children work or learn from home, Mr. Lyall sees a trend toward an Active House design, which is similar to a Passive House concept but takes into consideration occupancy. When creating a new home, architects, designers, and builders will need to think about how conducive their living environment is to working or learning from home. For example, is an open-concept design desirable when everyone is using the space differently and often in conflict with each other? Homeowners, architects, and real estate professionals will need to re-think the value of private and enclosed spaces. Mr. Lyall referenced the Hong Kong Housing Authority as a model for housing design that focuses on using wind conditions, including capturing natural wind, air, and breezes, to naturally cool and ventilate units. He said this could be a model for housing designed to mitigate viruses. Prof. Smirniotopoulos noted the many international examples from different countries and perspectives that the U.S. could look at for its solutions.

III. Panel Moderator Timothy Harris: Assistant City Attorney, Adjunct Professor of Law, Seattle University School of Law

Prof. Harris discussed real estate and land use trends during COVID-19. Today, urban residential housing sales are generally down because people are waiting to see what will happen in the future. By contrast however, housing sales are skyrocketing in rural areas, particularly in the Bay Area. He concluded this trend is due to homeowners looking for more space as they are forced to work from home as well as their desire to have greater physical distances between houses. While, the national trend for the past two decades has been for Baby Boomers to move from the suburbs to more compact communities closer to and in urban areas, the move towards rural homes and resort areas is nothing new, especially in expensive markets like the Bay Area. However, COVID-19 is expanding and accelerating what was already occurring when more people are gradually working from home. One immediate change on real estate from COVID-19 is seen in the process of looking for a house in a socially distant and economic manner, which impacts housing sales.

Both Prof. Harris and Prof. Smirniotopoulos commented that no one knows what will happen with commercial leasing, particularly in urban cores, because people are working from homes rather than their offices. However, COVID-19 will have an impact on the expansion of the

Washington Convention Center, not just because of the physical interactive use, but also due to the expansions funded by bonds that are being repaid through a hotel tax given that no one is staying at hotels anymore. Commercial design changes may include creating spaces with less density (thereby creating greater sprawl) and fewer areas where people tend to gather, like elevators or shared doors.

COVID-19 is also bringing new thought into how the built environment expands and interfaces with the wilderness, particularly when looking at development expansion into where animal-borne diseases are located. Other land use-related issues include evictions and permits being placed on hold and residents suing over government stay-at-home orders alleging violations of Fifth Amendment rights (taking property without just compensation). These lawsuits are not likely to succeed since there is an exception to takings when the government is engaging in health and safety regulation. It is difficult to predict what will happen because no one knows what will happen with COVID-19.

IV. Steven Bender: Seattle University Law, Associate Dean for Planning and Strategic Initiatives & Professor

Prof. Bender added onto the previous discussion on the impact on home designs and building structure. Regarding real estate, there may be an increase in the value of home office space, outdoor space, storage and pantry space, mud rooms with sanitation capability, and an impact on undefined open-concept rooms. He talked about Zillow's currently suspended iBuyer Offers Program that allows individuals to buy property on no-fuss, quick sale basis (avoiding the necessity of undertaking pre-sale improvements normally required or recommended before putting a home on the market) and how such programs that technologically facilitate the sale of property are becoming more valuable by creating social distancing open houses. Some impacts on the community he foresees include the need for more trails and similar socially distanced exercising. Currently, there are fewer cars on the road but the fear of public transportation might inadvertently put more private cars on the road.

Other future real estate impacts from COVID-19 may include the following: a diminution in the appeal of co-living projects where building amenities are shared for the purpose of fostering community engagement and interaction, including bathrooms, kitchens, roof decks, laundry rooms, and gyms; how people pay for apartment living and property occupancy (per hour instead of per month, etc.); law firms potentially relocating to suburbs for cheaper real estate and to be closer to where people live; and a shift in how we view the Airbnb and hotel models, including hotels built around safety protocols, and changing bookings for extended stays rather than day-to-day.

V. Ryan Mathisen: Judicial Law Clerk at Washington Supreme Court, , Seattle University School of Law, Class of '19, summa cum laude

Ryan Mathisen stated that COVID-19 could bring increased value to mixed-use commercial spaces (storefronts at the bottom of apartment buildings). He added to the discussion on the decreasing interest in urban and other downtown commercial spaces and how its downstream effect includes detrimental impacts on businesses in commercial areas that depend on foot traffic like restaurants, coffeeshops, retail stores, shoe repair services, and more. These service

businesses would need to change their business models as service workers are currently and will continue to be hit the hardest by COVID-19. There is also a renewed interest in updating internet infrastructure in public spaces. Internet availability may become a driver for real estate location decisions. COVID-19 will also create planning reforms as building permits decrease in urban areas and increase in rural areas and risk evaluation and investments will increase in transparency.

VI. Group Discussion

Prof. Smirniotopoulos asked Mr. Lyall what he is seeing in the Greater Toronto Area with respect to the rural-urban real estate divide in response to COVID-19. Mr. Lyall responded that the cottage areas and nodal towns are getting high activities, with building permits rising in these areas as opposed to within the Greater Toronto Area, where building permits are going down. Mr. Lyall believes if there are enough planning reforms to increase transparency and accountability with respect to risk evaluation and investment, there could be more opportunities for midrise buildings in high-density corridors, but it is all market specific. In fact, Mr. Lyall says he has not been seeing much midrise and low-rise work. Prior to the pandemic, the Greater Toronto Area was already experiencing an acute shortage of housing, resulting in one of the world's most expensive housing markets. Mr. Lyall has not seen any major changes and believes the market is holding up well in spite of the pandemic. He believes in the fall, those who will be detrimentally impacted on the mortgage-side of things are service workers who were already vulnerable prior to the pandemic. He also believes that depending on the circumstances prior to the pandemic, some cities are going to get hit harder. However, at the end of the day, there are still a lot of unknown factors with COVID-19, and that there is still a lot to be learned during the reopening phase. Both Mr. Lyall and Prof. Harris talked about the impact of COVID-19 on the travel industry, including air and public transportation, and how the lack of transport could make high rises in urban corridors less desirable.

Prof. Smirniotopoulos, as a devoted urbanist, believes in the theory posited by Jane Jacobs, that people will continue to move from the suburbs to the urban core because people beget people. He is cautious in moving too fast on making dramatic changes because nobody knows what is going to happen with COVID-19 and that people are going to do what they are comfortable with in moving forward. For example, even when airlines reopen for commercial flights, very few will be willing to fly due to infection concerns. Prof. Smirniotopoulos also questioned how open floor plans will impact home offices, since more people are working from home. Prof. Harris agreed, saying people are still social creatures and that the big takeaway is we need to wait and see what happens. He said there are some things that were already happening that the pandemic has accelerated but not much has changed as interest rates are still down, mortgage applications are still up, and housing prices are not going down much. Mr. Lyall mentioned he is exploring agent based modeling and behavioral economics to look at particularly the actions of young people living in downtown Toronto and their response to businesses re-opening.