

April 10, 1975

SENATOR SCHMIT: Then in regard to . . . and you commented on Section 6. The comment was made that the losses would start . . . is there any danger that we could expect problems from the citizens in the communities such as are presently being felt in regard to the construction of the Gentlemen's station at North Platte, by virtue of extreme legal cost? Could that occur under this bill? Or do you anticipate that?

SENATOR BEREUTER: No I don't Senator Schmit because any kind of political subdivision, including the NPPD or local utility district, is not affected by land use regulations. They can ignore them at will, and do so. There's a book of case law to support that view. Secondly, I think that the municipalities and county officials want to conform to current state law, if they know how. Therefore, the confidential report which goes to them will tell them where the deficiencies are. They'll have four months then to correct them before anything is ever printed in the paper. If they would correct the procedures by, for instance, beginning to hold public hearings at the right time on local subdivision plat hearings, then it never will get in the paper.

SENATOR SCHMIT: Well I really hadn't concerned myself with the utility districts in regard to this bill. But you do not believe then that there would be a problem that would involve the citizens filing a complaint against the municipality that would require the municipality to defend itself in court? Or could that occur?

SENATOR BEREUTER: That could occur, because a property owner's rights are being abused now by cities not following existing state law in certain cases. A property owner may wake up and find that, without public hearing, industrial use has been permitted to come in right next to him despite the fact that the area was zoned residential. That happens today. I think that property owner deserves recourse.

SENATOR SCHMIT: I have an instance that has been called to my attention where a development was taking place in a community which the local citizens didn't approve of and which they find now to their dismay that they are apparently powerless to stop. Under this bill the citizens would have adequate recourse to protect themselves in that area?

SENATOR BEREUTER: I would have to add this cautionary note, Senator Schmit, that land use regulation is prospective and not retroactive. So if, in fact, . . .

SENATOR SCHMIT: Yes I realize that. It would not provide recourse in this instance, but it would in the future?

SENATOR BEREUTER: Right.

SENATOR SCHMIT: But you do not feel that those costs then would be excessive. You feel that if the counties and cities know of their deficiencies they will be willing to comply and therefore give that citizen the protection that he desires?