ENVIRONMENTALISTS SUE SMALL BUSINESS ADMINISTRATION OVER URBAN SPRAWL

BY BETH BAKER

Environmental organizations are seeking to hold the federal government accountable for its role in promoting urban sprawl. In October, Friends of the Earth and the Forest Conservation Council filed a lawsuit against the US Small Business Administration (SBA) for violating the National Environmental Policy Act (NEPA) by failing to disclose and mitigate the effects of SBA’s lending programs on urban sprawl in the Washington, DC, metropolitan area.

The groups analyzed how 391 million dollars’ worth of SBA loans and loan guarantees was spent between 1997 and 2000 and found that “a significant portion of these funds was allocated to fast food restaurants, mini-marts, mall outlets, and other hallmarks of urban sprawl.” Encouraging this type of economic development, the groups charge, is a violation of NEPA, a 1969 law that requires all federal agencies to identify the harmful environmental effects of projects they undertake, fund, or approve and to try to find alternatives that will reduce or eliminate these effects.

According to Ted Wartell, SBA’s policy director, recipients of SBA-guaranteed loans must comply with all federal, state, and local environmental regulations, including the Clean Water Act and the Clean Air Act. But whether, under NEPA, SBA must also take into consideration the effects of its loans on urban sprawl is unclear, Wartell says. “We have a high-level task force of people within the agency working on the issue to try and understand that,” he says. The agency had 60 days to respond to the suit.

Nationally, the issue of urban sprawl has received renewed interest, as problems such as commuter traffic congestion, farmland loss, and urban blight persist. Beginning in 1996, the state of Maryland gained national attention with its “smart growth” initiative, which uses state funds to support infrastructure around town centers, rather than promoting development of so-called exurban areas.

This kind of land-use issue has traditionally been the province of state and local governments, but legislators and environmentalists are also concerned about how the federal government might influence sprawl, for good or ill. A 1999 report by the Government Accounting Office found that, because so many factors contribute to sprawl, it was difficult to isolate the federal government’s role. “Researchers generally have been unable to assign a cost or level of influence to individual factors, including particular federal programs or policies,” the report found.

On the positive side, the President’s Council on Sustainable Development, a broad-based advisory committee, addresses growth and development concerns, as does the Environmental Protection Agency’s Smart Growth Network. But environmentalists point to a raft of other federal programs that contribute to sprawl, from highways to home mortgage tax breaks (which go predominantly to suburban homeowners) to subsidies of home construction on floodplains. In congressional hearings in 1999, environmental leaders testified that federal sprawl-fueling programs contribute to air and water pollution, wetlands destruction, stream sedimentation, and habitat fragmentation and loss. “The federal government must stop subsidizing sprawl and start developing solutions to the environmental, health, and economic consequences of continued sprawl,” said Kathryn Hohmann, director of the Sierra Club’s Environmental Quality Program.

Using NEPA in the battle against sprawl is a new strategy, observes Elizabeth Humphrey, public information officer for the Department of Planning in Maryland. Indeed, government at all levels has customarily sought to encourage, rather than limit, business and economic development. “NEPA has never been used much to talk about sprawl,” Humphrey says. “It’s pretty revolutionary that they’re bringing this suit at all. It may be because we’ve had good economic times that you can even talk about this without being laughed off the stage.”

Brian Dunkiel, staff attorney for Friends of the Earth, says his group is not antidevelopment per se. “This lawsuit isn’t about opposing small businesses or small business loans from the federal government,” he says. “It’s about making sure that the agency responsible for administering those loans is complying with federal environmental laws.” The suit asks the court to issue an injunction against further loan activity by SBA until the agency analyzes the environmental impact of its loan decisions.

SBA spokesperson Mike Stampler questions the groups’ target. “Generally speaking, small businesses in exurban areas are not the outposts of development,” he says. “Small businesses don’t go where there are no customers.”

But, Dunkiel argues, “with the SBA processing loans and loan guarantees exceeding $10 billion per year, the agency can either promote smart growth or promote sprawl. In filing this lawsuit we seek to compel the agency to promote smart growth.” And, lest SBA feel it’s being unfairly picked on, Dunkiel adds that his group is considering going after other federal agencies for their contributions to sprawl, specifically the Army Corps of Engineers, the Department of Commerce, and the General Services Administration.

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