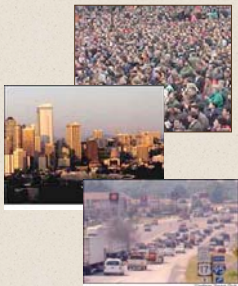


ENVIR 202: Lesson No. 18



Land Use & Population Health

February 15, 2006

Gail Sandlin  
University of Washington  
Program on the Environment

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Environmental Burdens

- ❖ Land use controls
- ❖ Environmental Justice
  - Covenants
  - Early FHA guidelines
  - Exclusionary zoning
  - Civil Rights
  - Grassroots activism

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Euclidean Zoning

- ❖ The division of land into districts having different regulations
- ❖ Upheld by the Supreme Court in 1926: *Village of Euclid v Ambler Realty*
  - The creation of *residential districts* from which *businesses, hotels and apartments* are *excluded*

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## Euclidean Zoning

- ❖ Directly related to the health and safety of the community; especially children
- ❖ **Apartment** houses, which in a different environment would be not only entirely unobjectionable but highly desirable, come very near to being **nuisances**.
- ❖ A nuisance may be merely a right thing in the wrong place -- like a pig in the parlor instead of the barnyard."

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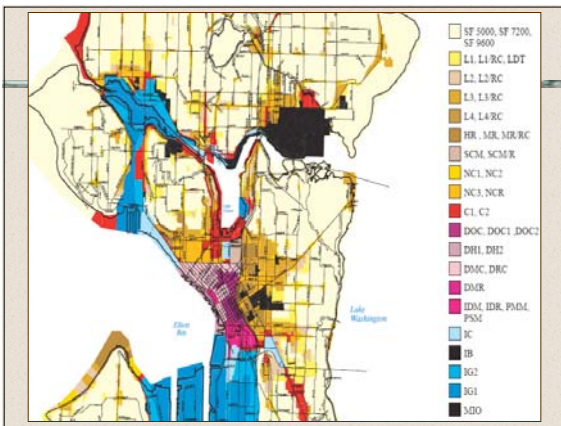
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## Public Nuisance

- ❖ Affects the public at large, not necessarily connected to land and usually enforced by public officials
- ❖ Dangerous to public health
  - Any condition or place in populous areas which constitutes a breeding place for flies, rodents, mosquitoes and other insects which are capable of carrying and transmitting disease-causing organisms to any person or persons.

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### Private Nuisance

- ❖ individual or small group
  - Affects the use and enjoyment of land
  - Plaintiffs must show intentional conduct and substantial harm such as reduced property value

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### *Bove v Donner-Hanna Coke Corp. (1957)*

- ❖ In 1910, plaintive purchases land, two years later she builds a house on the land where there are at least 8 industrial plants within a mile radius from plaintiff's house
- ❖ Defendant operates a coke oven on the other side of the street. Plant operates 24 hours a day out of necessity per the coke oven requirements
- ❖ Dirt and dust from plant land on/in the plaintiff's property
- ❖ In 1925, Buffalo passed an zoning ordinance putting the area in a district which permitted coke ovens, stockyards, steel furnaces, etc.

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### *Bove v Donner-Hanna Coke Corp. (1957)*

- ❖ Ruling:
  - The defendant's plant is not a nuisance *per se*
  - Any annoyance to plaintiff is due to the nature of the business, which the defendant conducts, and not to any defect in the mill, machinery or apparatus. No reasonable change or improvement in the property can be made which will eliminate any of the things complained of.
  - The City of Buffalo had a right, and rightfully did, zone the area for industrial use. The business is being conducted in an approved and expert manner, at the very spot where the council said that it might be located.

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### Covenants

- ❖ Restrictions on the use of properties
- ❖ Racially restrictive covenants: overruled by Supreme Court in 1948
- ❖ *Viking Properties v Holm* -
  - (WA State, 2005)

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### Exclusionary Zoning

- ❖ Large lot zoning
- ❖ Minimum floor space requirements
- ❖ Significant set backs
- ❖ Low density zoning
- ❖ Restrictions on multi-family housing

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### FHA

- ❖ HOLC & residential security maps
- ❖ Redlining
- ❖ Racial and economic assumptions regarding neighborhood quality

6. BUILDINGS:  
a. Type or types one family shacks; b. Type of construction frame ;  
c. Average age 80 years ; d. Repair Very poor  
TEND OF DESIRABILITY NEXT 10-15 YEARS Downward  
CLARIFYING REMARKS: Considered the worst section in Philadelphia  
During 1985 - 1986 rentals were not collected in lieu of upkeep of property in some cases tenants were paid to stay. Speculators are not operating in this area.

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### Environmental Justice

- ❖ The debate:
  - market dynamics or intentional siting

<http://www.nyu.edu/pages/elc/ej/BEEN/EcologyTOC.html>
- ❖ LULU's and NIMBYism
- ❖ Grassroots and the Local

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### Love Canal -1927



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### Love Canal - 1980



LaSalle Housing Development

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## Love Canal - 1978

Original aerial photos of Love Canal area taken in Spring 1978, showing 8000 ft. earthen embankment in center. Area north of embankment for the Love Canal and public housing development in lower right. White markings indicate the location of the Love Canal. White markings also indicate the location of the Love Canal. White markings also indicate the location of the Love Canal.



Elementary School

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## Delaware County: Chester City, PA

**Data Classes**

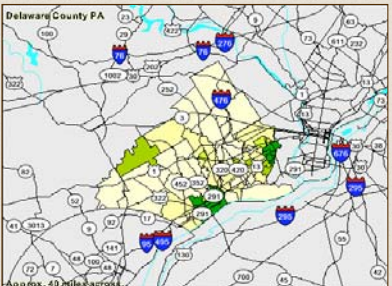
Percent

- 0.4 - 3.1
- 3.9 - 11.3
- 14.2 - 20.5
- 24.5 - 36.4
- 39.1 - 49.4

**Features**

- Major Road
- Stream
- Stream/Waterbody
- Stream/Waterbody

Items in gray text are not visible at this zoom level



US Census 2000, African American demographics

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## Chester EJ Data

- ❖ 90% of all toxic chemical and criteria air pollutants released in Delaware County are from Chester area sources
- ❖ 100% of all municipal solid waste in Delaware County is burned at the Westinghouse incinerator in Chester
- ❖ 90% of all sewage in Delaware County is treated at the Delcora sewage plant in Chester (as well as wastewater from industries)
- ❖ Sewage sludge from Delcora and three other County sewage plants is burned at the Delcora incinerator in Chester
- ❖ Medical waste from several states is treated at the Thermal Pure autoclave facility in Chester

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### Public Health

- ❖ Chester has the highest infant mortality rate in the state, more than double the rate for Delaware County
- ❖ Chester has the highest percentage of low-weight births in the state, nearly double the percentage for Delaware County
- ❖ Chester has a mortality rate and a lung cancer mortality rate about 60% higher than the rates for Delaware County

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### Population Demographics

- ❖ The population of Chester is 65% African-American, the highest percentage in the state and ten times higher than in Delaware County
- ❖ Median family income in Chester is 45% lower than in Delaware County
- ❖ The poverty rate in Chester is 25%, more than 3 times the rate in Delaware County

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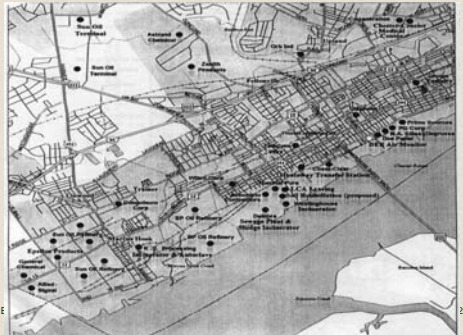
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### Chester Residents Concerned for Quality Living



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### CRCQL

- ❖ 1996- Under Section 602 of Title VI, private citizens brought forward a law suit based on the discriminatory effects of environmental permitting
  - Alleged that the Pennsylvania Department of Environmental Protection in issuing seven permits for waste disposal in Delaware, County; 5 of which were located in Chester, had the effect of discriminating against the African American community

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### CRCQL

- ❖ First environmental justice case filed,
  - Accused State Department of Environment Protection of discrimination
- ❖ Scheduled to be heard by U.S. Supreme Court
- ❖ 1998, Declared moot since permit denied

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### Gulf Coast – Cancer Alley

GREENPEACE

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### Title VI – Civil Rights

- ❖ Civil Rights Act of 1964
- ❖ Section 601- Prohibits intentional discrimination on the basis of race, color or national origin in all programs receiving federal financial assistance (proof of discriminatory intent)
- ❖ Section 602- Federal agencies adopt implementing regulations that prohibits not only intentional discrimination but also discriminatory effects
  - (disparate impact- discriminatory effects, not intent)

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### Courts vs. Administrative Complaints

- ❖ Administrative Complaints
  - Methodology for assessing disparate impact controversial and complex
  - Slow resolution if any
- ❖ Courts
  - Allowed private right of action i.e. citizens to bring forward suit based on discriminatory effect (disparate impact)
  - However, summer 2001 - Supreme Court ruled in the *Alexander v. Sandoval* case

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### Supreme Court: April 24, 2001

- ❖ *Alexander v. Sandoval*
  - Held there is no private right of action to enforce disparate-impact regulations promulgated under Title VI
  - Can sue under Section 601 (intentional discrimination)
  - Section 602 does not create NEW rights already created by Section 601
  - Severely limits access to federal courts for plaintiffs asserting a violation of Title VI

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## Community Asset Building

- ❖ Asset-based community development
  - What is present in the community, the capacities of its residents and workers; institutional base of the area
- ❖ A focus on a community's capacities and assets rather than its needs, deficiencies and problems
  - Primacy of local definition, investment, creativity, hope and control
- ❖ Community empowerment - environmental laws and regulations
  - Local residents, associations and institutions

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## 5 Steps of Community Asset Building

1. Mapping the capacities and assets
2. Building relationships
3. Mobilizing community assets for economic development
4. Develop community vision and plan with broad based community coalition
5. Leveraging external resources to support locally defined development

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## Neighborhood Needs

**NEIGHBORHOOD NEEDS MAP**

The diagram is a square with three nested levels. The outermost level is labeled 'NEIGHBORHOOD NEEDS MAP' and contains four categories: Employment, Housing, Transportation, and Waste management. The middle level contains four categories: Broken Families, Substance Abuse, Elder Care, and Mental Health. The innermost level contains three categories: Child Abuse, Crime, and Domestic Violence. Dashed lines connect the categories between levels, showing their relationships.

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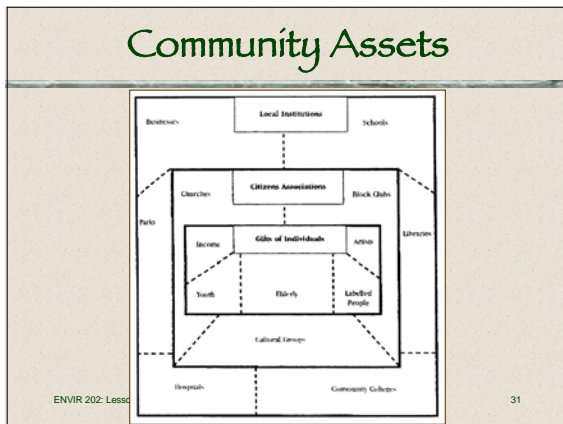
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### Emerging Theories

- ❖ *Ethics of Care*
  - More Universalizable
  - Merges justice and care
  - A feminist theory

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### Questions

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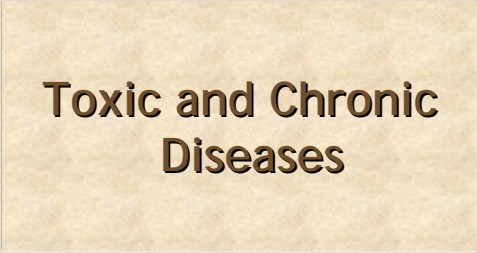
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Next Lesson

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**Toxic and Chronic Diseases**

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