

AgPlanning Project

Agricultural Land Use Planning in Canada: A Study of Principles and Beneficial Practices for Integrating Public Priorities for Agriculture and Food across Jurisdictions

Besides being politically and technically difficult to implement, the process of formulating and implementing land related policies can be costly. However, the costs of not formulating and implementing such policies are much higher (Dowall, David & Clark Giles, 1997).

When cities do not develop according to planner's wishes, which is very frequent, the appearance of crowded, ill-ventilated, unplanned, unwieldy and unhealthy cities is the most common result; "ulcers on the very face of our beautiful island" as expressed by Howard (1902) for the situation in Britain (Howard, 1902) at the beginning of the 20th century. Howard's Garden City proposals addressed many aspects of the food system – production, distribution, collective preparation and consumption, and waste recycling – as integral to the city (Pothukuchi, and Kaufman, 2000), an idea that only now is regaining much interest again (Groppo (ed.), 1997).

Overview of the Agricultural Zoning Law in Quebec:

In 1978, and in the context of rapid economic development, speculation on land, fragmentation of the land, and non-agricultural use development, the agricultural land protection act, the second in Canada, was created in Quebec, an Act respecting the protection of agricultural land (APAL) and managed by the Commission de protection du territoire agricole du Québec (CPTAQ). The Commission is an autonomous, decision-making organization exerting a socio-economic role of regulation. By applying criteria set out in the Act, the Commission decides each application on its merits. Hence, the regime is based on the administrative discretion of the Commission (although the Province can substitute itself for the Commission at any time for the benefit of the 'greater good'). The most important criterion is found in section 3 of the Act, whose only function is to "secure the preservation of the agricultural land of Quebec". The Act has a priority over all other general or special laws. Therefore, all other criteria mentioned in the Act are always viewed by the Commission. Also and since the Supreme Court has once reminded lower court judges that the Act is also interested in the reclamation of land having agricultural potential, besides the protection of existing cultivated land, the courts cannot, without the Commission, decide that land is not suited for agriculture and so remove it from the Act when that land has been intentionally included in an agricultural zone or region. Moreover, the Act applies a brake to the wasting of agricultural lands which merely amount to 2% (an area of 63,500 square kilometers) of Quebec's territory.

It is noteworthy that the agricultural zone has remained the same since the creation of the Commission (with additions and exclusions more or less cancelling each other out).

Furthermore, considering the definition of agriculture, which includes leaving the land uncropped, the legislation considers that land is used for agricultural purposes even if it is swampy land, a mossy hill of stone or fallow land.

In 1978, the government of Quebec identified four major threats to agricultural lands, calling for legislative intervention. Those main threats are: the destruction of farms resulting from the abandonment of cultivation, urbanization, real estate speculation and the sale of agricultural lands to non-residents.

Indeed, the Act has created many problems, some of which have been present since its inception, while others have become apparent in recent years.

Centralised Policy:

As a planning policy, agricultural land protection has been kept out of the hands of regional and local planning authorities, through the Act of municipal powers, established under the Act respecting land use planning and development (LAU). In fact and since the implication of the MAPAQ in the treatment of land use planning in 1984, the LPTA is entered first by force by the legislative framework for the protection of agricultural land and then it is supplemented by provisions of the LAU. The LPTA takes precedence over the LAU. Hence, unlike the latter, which simply sets out the framework rules of the planning process while leaving the content of planning policies to locally elected officials, the LPTA creates a control regime with a single-minded objective and centralizes all powers in the Commission, which has a total control over the agricultural zone (except of course for the Province, as noted above). Moreover, what undermines the already small amount of power of regional and local planning authorities are the influence and the distrust of the farmers' unions in locally elected officials.

Furthermore, the domination of LPTA extends beyond the local and regional planning authorities to reach heritage and environmental legislation. As a result and under section 97, an authorization, be it an authorization granted by the Minister of the Environment (under section 22) or a governmental approval for undertaking an environmental impact assessment and review process (under section 31.1) under the Environment Quality Act (EQA), the effect is that replacing agriculture by another use on a lot situated in an agricultural zone cannot be granted under the EQA unless such use has been previously authorized by the Commission. In the case of the governmental approval, it signifies in practice that the Commission's decision on a proposal can be rendered before the public review phase of the assessment process is completed and thus can be binding on Cabinet.

Fortunately, a committee appointed to review Quebec's environmental impact assessment process has concluded that the present situation makes the process ineffective by giving priority to only one of the different factors that should be considered when coming to a decision. Thus, the review committee has recommended that Cabinet should seek the Commission's advice while reserving to itself the final decision. However, this recommendation has not been acted upon.

Furthermore, the agricultural zoning law has created a dilemma between land protection and land access. Today, with greater concentration of ownership and fewer people in the business of food production, the agricultural land protection law is causing problems since it acts as a barrier for entry for smaller and more value-added producers who need smaller plots. In fact, in the name of the global competitiveness policy, the agricultural land protection law is one of the laws that facilitate industrial long-distance agriculture at the expense of small-scale sustainable agriculture and short supply chains (e.g. zoning laws that favor large farms, subsidy systems that favor large retailers, funding schemes targeted at large producers, and so on). At the same time, we can see this on an international level – the pressure for city expansion, speculation and non-agricultural use is still strong.

Agricultural Zoning Law and Local Food in Quebec:

Over the past few decades, our food system has become increasingly globalized (MacLeod and Scott, 2007). With the rise of agribusiness, the ability to transport food cheaply over long distances and the development of food preservation techniques have enabled the distance between farm and market to increase dramatically.

Recently, such practices have been questioned for the damage they cause to the natural environment, their high energy consumption, and their contribution to climate change. In addition, the quality of the food available to residents is subject to increasing concern.

In fact, the trend toward increasing distances between producers and consumers has prompted many to question the environmental and social sustainability of our food choices (MacLeod and Scott, 2007). The question of how to feed the urban population, particularly during crises, is becoming more urgent every day. Concerns about health and the loss of tradition and culture began to take hold in post-modern society, and the spread of the 'food desert', especially in poor urban areas (Cummins and Macintyre, 2002), where there is no easy access to affordable food, food banks and soup kitchens, demonstrated that the urgency of access to food and food security for everyone must be confronted.

It is interesting to note that the modern movement for LFS (local food systems) as an alternative to the conventional agricultural system is not new. It started in Japan in the 1970s with the teikei, which means ‘putting the producer’s face on the product’ (MacLeod and Scott, 2007). The teikei were organized around consumer cooperatives, whose members would link up with producers and even helped with the work on the farm (Pimbert, 2008). A related model was also adopted in Québec by Équiterre in 1995 where consumers, organized into groups, pay up front at the beginning of the season and receive deliveries of food baskets each week, thereby sharing the risk inherent in agricultural production (Blouin et al., 2009).

Agriculture is a major driver of human-caused climate change, contributing an estimated 25 to 30% of global greenhouse gas emissions. However, when pursued sustainably it can be an important key to mitigating climate change (Nierenberg and Reynolds, 2012). The sustainable use of agricultural biodiversity is likely to be particularly beneficial for small-scale farmers, who need to optimize the limited resources that are available to them and for whom the access to external inputs is lacking due to financial or infrastructural constraints (FAO, 2011).

Benefits on a large-scale can also be achieved by focusing on improvements relevant to large commercial farmers and conservation agriculture has already been effective in this respect. Inevitably, there is considerable skepticism over the practicality of the widespread adoption of agricultural production practices that embody a greater use of biodiversity for food and agriculture and a greater emphasis on ecosystem functions (FAO, 2011).

Two major geopolitical realities have a constraining effect on peoples’ thinking. Firstly, modern, intensive farming in developed countries receives very large levels of financial support and all sectors of the agricultural and food industries are linked to this highly subsidized system. Secondly, there is a continuing commitment to ensuring that food prices remain low and that basic foodstuffs are affordable by all sectors of society including the poorest. These both tend to lead to a disinterest in the nature of agricultural production systems and present a very real barrier to the development of new approaches to production (FAO, 2011). However, it is increasingly recognized that an appropriate policy framework can largely overcome these constraints and, indeed, must be developed.

In the last few years, more localized food supply chains have been proposed as a vehicle for sustainable development (Desmarais, 2007; Halweil and the Worldwatch Institute, 2002; Lyson, 2004; Rosset and the Land Research Action Network, 2006; and Via Campesina, 2009). We can note here that the term ‘local’ is still contested and its definition varies from one local market development organization to another. Literally, the term ‘local’ indicates a relationship to a particular place, a geographic entity.

However, most organizations have a more elaborate definition of what is local, often incorporating specific goals and objectives that an LFS ought to deliver into the definition itself. There are three aspects of LFS, which are proximity (geographic distance, temporal distance, political and administrative boundaries, bio-regions, and social distance), objectives of local food systems (economic, environmental and social objectives), and distribution mechanisms in local food systems (farm shops, farmers' markets, box schemes, community-supported agriculture, institutional procurement policy, and urban agriculture).

Besides the non-governmental organizations (NGOs), there is a growing interest by the public sector for local food, which is mainly linked to the idea of food sovereignty – a global movement that aims to transform food systems into engines of sustainable development and social justice. Of note here is La Via Campesina (Via Campesina, 2009), which was the first organization to develop the concept of food sovereignty in 1993 in Belgium (Pimbert, 2008).

Thus, the pursuit of food sovereignty implies that work should be done in international treaty negotiations and human rights conventions in order to allow state sovereignty over food policy—that is, to prevent interference from foreign powers in the policy-making process, lift restrictions placed by international trade agreements, and eliminate dumping practices (Blouin et al., 2009).

In 2007 in Montreal, a definition of food sovereignty was developed by a Québec-based coalition for food sovereignty that included producer organizations, civil society groups, food distributors, and development organizations. The definition states that “food sovereignty means the right of people to develop their own food and agricultural policy, to protect and regulate national food production and trade in order to attain sustainable development goals, to determine their degree of food autonomy, and to eliminate dumping on their markets”. Food sovereignty does not contradict trade in the sense that it is subordinated to the “right of people to local food production, healthy and ecological, realized in equitable conditions that respect the right of every partner to decent working conditions and incomes” (Blouin et al., 2009). However, this definition does not specify whether local food should be grown in nearby rural counties or urban counties.

Over the last 60 years, Canada's overall food system has become more geared to large-scale systems of production, distribution and retail. In Quebec, the agricultural, food processing, and retail sectors account for 6.8% of GDP and 12.5% of all jobs. The province produces fresh and processed food worth \$19.2 billion, while only consuming \$15.4 billion (a 25% surplus), and retailers imported \$6.9 billion worth of fresh and processed foods last year. About 44% of Quebec's raw and processed food production

finds its way into Quebeckers' plates, the rest being exported to other Canadian provinces (30%) and overseas (24,5%) (MAPAQ, 2009).

We can note here that since 1941, the evolution of Quebec's agricultural landscape is characterized by a decrease in the number of farms and a market concentration dominated by fewer and fewer producers. And this is very similar to what we see in other Canadian provinces and other industrialized countries (Lemay, 2009).

As already mentioned above, local food systems are proliferating in Quebec (Lemay, 2009). There is now a growing interest in the production, processing, and buying of local food. New "local food systems" are being set up to organize the various components that will meet the needs of all the stakeholders in the community or region (Irshard, 2009).

The initiatives that are helping in this process in Quebec are: organic and other specialized agriculture ((316 certified organic livestock production units, 341 organic maple syrup producers, and 585 certified farms (CARTV, 2009)), farmer's markets (a network of 82 open markets, seasonal or permanent, daily or occasional), Community Supported Agriculture (CSA) and solidarity markets (a new phenomenon, solidarity markets allow consumers to order through a web portal) (Lemay, 2009).

Despite the growth of these initiatives, there remain several obstacles inhibiting their expansion. The three main obstacles are: lack of financing (for example, banks are not willing to issue micro-loans at competitive rates), economic power (in fact, the food retail sector is marked by high rates of market concentration; supermarkets have been able to achieve economies of scale because they do not have to pay for the social and environmental costs of their business practices or of their suppliers), and knowledge (the lack of demand for local food attributed to a lack of information about where to procure it, and a lack of information about prices).

Below the provincial level, municipalities have authority over certain zoning laws and by-laws that can facilitate or inhibit the development of LFS, particularly regulations concerning the use of agricultural zones for commercial purposes (Blouin et al., 2009). Though aimed at protecting agricultural zones from industrial development and other forms of encroachment, such by-laws effectively prevent on-farm direct sales or the use of farmland for farmers' markets or farm shops (Wormsbecker, 2007) and organizers of such initiatives typically have to negotiate with municipal authorities for special permits or designated spaces (Connell et al., 2007).

However, as mentioned earlier in this report, agricultural zoning per se (designations for tax purposes) falls within provincial government jurisdiction or a land management agency, such as the Commission pour la protection des terres agricoles du Québec

(Blouin et al., 2009). For example, in one case, the CPTAQ agreed to allow municipal authorities in Ste-Camille to take over management of a large farm that was for sale in order to help new young families establish small farms. In order to do this, the CPTAQ de-zoned the land, thus technically empowering municipal authorities to develop it however they chose; however, there was an understanding that the municipality would keep the land for agricultural use. If this case is inspiring, there should be a formal way to make such arrangements without necessarily de-zoning the land and placing it at risk. The SAFER (Les Sociétés d'aménagement foncier et d'établissement rural) in France (from 1961 onwards) have some of these powers. The main and remaining question is how to allow the creation of small farms without endangering land protection for the future of agriculture in Quebec, especially in the context of rising non-agricultural activities in farming areas (e.g. shale gas exploitation even though there is currently a moratorium on this in Quebec) (Lemay, 2009).

Even though there is no national policy to promote LFS, provincial governments have been active with various programs in this area. In Quebec, Équiterre's CSA went from 1 to 102 farms between 1995 and 2006. It contributes to 73% of the average turnover of the farms, and yields an average annual profit of \$3,582 annually when conventional agriculture produces an average annual loss of \$6,255 (Lemay, 2009). In addition, regarding the land protection law, there are some good possibilities. In fact, within the existing law, new initiatives are emerging and new possibilities can be developed in other provinces. These include cooperative land trusts and the collective buying of land and green belts.

There is much variation from one province to another, but the existing programs tend to cluster on the demand side, focusing on consumer education and marketing projects, even running some themselves (the origin of labeling and promotion programs). To a lesser extent, there are some programs to support organic farming (transition programs) but very few focusing on processing and distribution. Moreover, it is important to provide knowledge for policy action on food sovereignty given the gap which exists in understanding the impact of existing public policy initiatives (Blouin et al., 2009). Fortunately and more recently, in July 2013 in Montreal, J.A.M. (Justice Alimentaire pour Montreal) and CUTV (Community University Television) began collaborating together on an awesome project about food justice and alternative local media to inspire change in the current food system towards more equitable and resilient alternatives (JAM, 2013). And under the theme of food sovereignty in August 27, 2013, the government of Quebec, specifically MAPAQ, has launched a public information campaign with the vision of encouraging the implementation of the policy of food sovereignty in the province or country.

LPTA and the Hinterland:

Through its long-term policies and practices, agricultural land protection can obstruct the implementation of socio-economic solutions to the demographic decline, especially of the young generation ranging from 10 to 24 years old, in some rural areas of Quebec. One of the indirect causes of decline of the population in these rural hinterlands is the criterion of homogeneity of the farming community and farming operations, which is listed under section 62 of LPTA. As a result, the preservation of farming communities and farming practices, even if biophysical and economic conditions do not allow the survival of a stringent agricultural community near large urban centers, is included in LPTA. Also, under section 62, it is stated that the Commission “may” take into consideration “the socio-economic conditions necessary for the viability of a rural community where the low density of occupancy of the territory and the isolation of the community within a region justify it”. However, this second criterion under section 62 has been considered as minor by the Commission and the appeal tribunal; hence, its impact has been limited.

The 1989 Amendments:

The Act respecting LPTA was amended by the Commission in 1989 to allow on the agricultural zone (reserve) plan for the identification of an exclusive sector, having the highest potential of soils, to be removed from such a reserve having an agricultural potential, as inventoried in the Canada Land Inventory. As a result, under section 69.08, in an exclusive sector identified within the agricultural zone, the Commission could not grant an authorization for a proposal subject to its approval unless it were proven “that there is no appropriate area available elsewhere in the territory of the municipality for the purposes contemplated by the application and that application is compatible with agriculture or will have no effect on the preservation of agricultural lands”, following some of the criteria referred to in section 62. This issue has been compounded by recent legislative amendments. Actually, transitional provisions of the amending statute determined that an exclusive sector could not be defined on the agricultural zone plan unless the agricultural zone plan has itself been subject to a review. Meanwhile, a provisional control regime was established by the farmers’ union to protect those lands that could eventually be retained for the identification of an exclusive sector on the agricultural zone plan. Thus, under section 35 of the amending Act, each lot holding the requisite classification is to be considered as if it were included in an exclusive sector.

Environmental Concerns:

The APAL has only and primarily been concerned with the protection of agricultural lands from the encroachment of any non-agricultural uses. However, the preservation of agricultural soils from physical degradation, and the development of farming practices less likely to destroy soil's potential and to contaminate the environment have never been part of the discussion of the legislative scheme of the APAL. Central to this issue has been a concern for maintaining the homogeneity of the farming communities and farming operations. Even though agricultural activities have enjoyed a relative immunity from environmental regulations in the past in Quebec, environmental problems including: soil compaction; wind and water erosion; degradation of peat bogs and drainage of wetlands; diffuse pollution coming from the intensive use of fertilizers and pesticides; and watercourse pollution coming from animal breeding activities in areas that are not adequate for the disposal of animal waste (including organic matter, nutrients and pathogenic micro-organisms) have been identified and documented as significant adverse environmental effects from agricultural operations in Quebec.

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