

Unjust Enrichment in the Planning and Building Law

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ABSTRACT

This essay studies the intersection of two areas of law: planning law and unjust enrichment doctrine. Planning law seeks to promote sustainable land development by enabling construction while preserving natural resources and protecting the interests of future stakeholders. However, private actors often violate planning laws to secure short-term gains. We argue that in such cases, unjust enrichment doctrine should supplement and reinforce planning law by stripping violators of their ill-gotten profits.

This dynamic is especially relevant to the growing phenomenon of illegal and semi-legal commercial suburbanization. Owners of agricultural land in suburban areas increasingly open commercial centers on their property without the necessary permits and in clear violation of national planning policy. These forms of forced and unauthorized commercial development harm the environment and the economic stability of nearby urban centers, while generating substantial profits for developers and landowners.

We suggest that unjust enrichment law can and should be used to counter this trend. As long as violations of planning law remain profitable, the law will cease to function as an effective constraint, and land-development realities will be shaped by narrow, short-sighted commercial interests rather than by national planning priorities. Effective enforcement therefore requires disgorging the gains of actors who systematically game the system and profit from the intentional violation of planning law.

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ENGLISH ABSTRACTS

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