

Building Land and the Urban Land Development Process: Characteristics, Rights and Markets

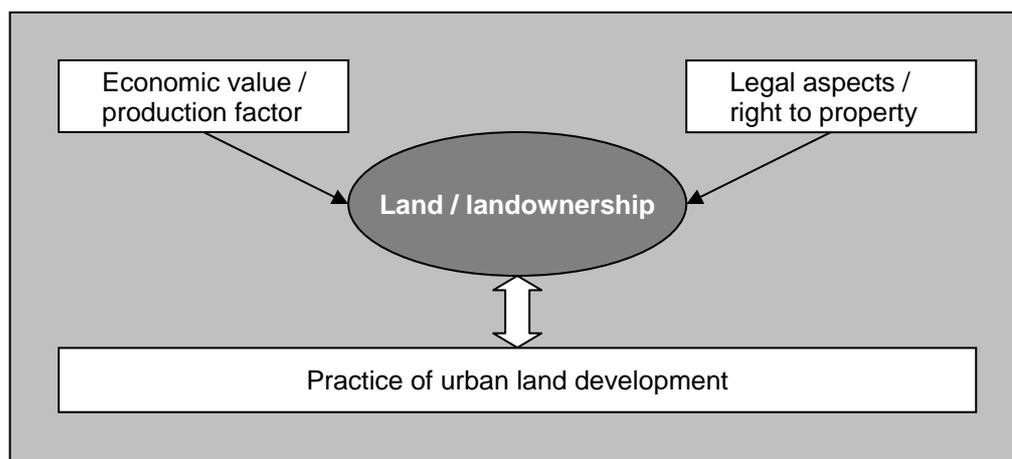
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Key words: urban land development; land acquisition; land market; land economics.

SUMMARY

Building land is a very durable product, but in The Netherlands it is also a very scarce product. The option to acquire potential building land plays a very important role in urban land development. An option can be defined as the right without obligation to obtain something of value upon the payment or giving up something else of value. Options, whose underlying assets are real assets, are referred to as Real Options. The application of real option theory specific to real estate may be termed the call option model of land value. In this model land is viewed as obtaining its value through the option it gives its owner to develop a structure on the land, or to demolish and/or redevelop existing structures. The characteristics of building land together with the right to develop structures on it see to it that land becomes a very valuable commercial product.

The urban land development process in the Netherlands was traditionally in control of local authorities, but in the past two decades the real estate market and the urban land development process have changed considerably. Important factors in those changes and in the political debate are the product 'land', the characteristics of land, and changing relations on the land market. This paper focuses on the question why these factors play such an important role in urban land development and whether this is an opportunity or a threat to land development.



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1. INTRODUCTION

Urban land development is a process that can be described from different angles. It is a multidisciplinary process, with - amongst others - legal, economic and social implications. The scope of this paper is the resource 'building land'. What happens if building land with all its characteristics is regarded as being the central issue in urban land development?

Land (building land) is a very durable product, but in The Netherlands it is also a very scarce product. Therefore land ownership and acquisition are important steps in urban land development. But even before that the option to acquire potential building land already plays a very important role. An option can be defined as the right without obligation to obtain something of value upon the payment or giving up something else of value. The option holder has the right to decide whether or not to exercise the option. Options, whose underlying assets are real assets, are referred to as Real Options. The application of real option theory specific to real estate may be termed the call option model of land value (Geltner and Miller, 2001, p. 755). In this model land is viewed as obtaining its value through the option it gives its owner to develop a structure on the land, or to demolish and/or redevelop existing structures. Geltner and Miller emphasize that this type of real option is, essentially, the land development option. The value of building land is not fixed through the actual transaction, but through the potential use and the expected 'value' of that use.

The economic value of building land is strongly connected to the legal implications of land ownership. In urban land development property rights play a very important role. Spatial changes will always have effects on property. Article 1 Protocol No. 1 of the European Convention on Human Rights guarantees the fundamental right to property, or 'possessions' as the concerning article mentions. The use of land development tools and planning tools therefore will necessarily find a boundary in the protection of the fundamental right to property.

To place the theory about the role of building land in perspective, this paper also describes the Dutch practice of land development and how the Dutch government copes with changes on the land market. The urban land development process in the Netherlands was traditionally in control of local authorities, but in the past two decades the real estate market and the urban land development process have changed considerably. An important factor in those changes and in the political debate, is the product 'land', the characteristics of land, and changing relations on the land market. The final part of this paper focuses on the question why land and landownership play such an important role in urban land development and whether this is an opportunity or a threat to urban land development in the Netherlands.

2. ECONOMIC ASPECTS - BUILDING LAND AS A PRODUCTION FACTOR

The changes in urban land policy in the Netherlands have a lot to do with changes on the land market. In a report concerning the land market - with a significant title that translates as 'the land market; a poor market and an imperfect government' (1999) - the Netherlands Bureau for Economic Policy Analysis (Centraal Planbureau) explains why the land market is a special market. Partly it has to do with the characteristics of the unique product 'land'. Land cannot be made and each bit of land has a unique position and quality (Centraal Planbureau, 1999, p. 27). Land is a very durable product (Korthals Altes, 1998, p. 11), but in the Netherlands also a scarce product (J. de Vries, 1989, p. 7; H. de Vries, 1994, p. 1; Ministry of Housing, Spatial Planning and the Environment, 2001, p. 25). The characteristics of property and land together make that potential building land can be a very valuable trade object (De Greef, 2000, p. 9).

The British economist David Ricardo's theories about rent and value are still very useful. When concerning the value of an object he states (Ricardo, 1821, p.11): "The word value has two different meanings, and sometimes expresses the utility of some particular object, and sometimes the power of purchasing other goods which the possession of that object conveys. The one may be called the value in use; the other value in exchange."

At the beginning of the nineteenth century Ricardo already came up with a theory that the value of land exists through the use of it. In a reaction to the Corn Laws he argued "the price of corn is not high because rent is paid, but the rent is paid because the price of corn is high". According to Ricardo rent plays no part in determining prices. This is the reverse of the classical cost theory of prices. In Ricardo's theory rent is not a cost but a residual.

This theory partly explains the changes on the land market in the Netherlands. In the 1990s it became clear that acquiring land on potential urban expansion areas could give a strong position to intervene in the urban development process and to make profits. The possibility of collecting the profits from land development after all is linked to the land ownership (Aalbers and Winsemius, 2002, p. 223). Since the 1980s the housing market for owner-occupied dwellings has been blooming. Increasing housing prices created a larger residue, which could be attributed to the building land. Therefore there was also an increase in land prices. "The boom on the real estate market goes hand in hand with tensions on the land market and increasing land prices" (Werkgroep IBO Grondbeleid, 2000). Because considerable differences arose between the agrarian value of land and the value of future building land, it became more interesting for market parties to acquire (agrarian) land on potential extension locations (Groetelaers, 2004). Landowners, who do not wish to participate in developing, can often sell their land for high prices to private developers or building companies. Landownership therefore is very important for the possibilities to influence urban land development.

3. LEGAL ASPECTS - THE PEACEFUL ENJOYMENT OF ONES POSSESSIONS

Besides the economic value of land and landownership there is also the legal aspect of landownership that influences urban land development. The preceding paragraphs mention

the strong position of landowners in urban land development. The main cause for this strong position is the legal implication of the concept 'property'. The right to property also implicates the right to be able to make free use of something. In the Netherlands it is very difficult to expropriate a landowner if he is willing and able to develop, because this option is incorporated in urban land development instruments.

Urban land development involves developing plans for the future physical arrangement and condition of a community. Therefore the use of land development tools will necessarily find a boundary in the protection of the fundamental right to property (Article 1 Protocol No. 1 European Convention on Human Rights). Article 1 Protocol 1 protects to right to peaceful enjoyment of ones possessions:

- Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

From 1993 until 2003 the European Court found almost 200 violations of Article 1 in European Union member states, and there are a lot more in other European countries. The first case in which the Court ruled that Article 1 had been violated was the case of *Sporrong and Lönnroth v Sweden* (23 September 1982). The case can be placed in the setting of post war urban renewal in Stockholm. Just like in many other West-European countries, the town-panning policy in Sweden after the Second World War was based on fast rebuilding and large-scale redevelopment. In the inner city of Stockholm most of the buildings were in a poor state of repair and in less than a decade the city demolished lots of complexes. Vacant land was used to improve infrastructure and to build more functional buildings. In the 1970s the approach changed considerably. The inner city should no longer be highly accessible for cars, and instead of large-scale demolition and rebuilding, urban renovation focused on gradual rebuilding and preservation and restoration of existing buildings. The *Sporrong and Lönnroth* properties should also be redeveloped for infrastructure purposes. But the plans were modified on several occasions and in the end none of the plans were actually executed. Municipalities play an important role in planning and urban development in Sweden (Blücher, 2000; Kalbro, 2000). They are responsible for the use of land resources, among other things for housing supply. They also need to provide for certain infrastructure. Municipalities can apply several planning and implementation instruments, including land acquisition instruments such as the Expropriation Act (Kalbro and Mattsson, 1995). Under the Expropriation Act the State and municipalities are empowered to acquire land by compulsory purchase for a variety of purposes, for instance for the purpose of future urban settlement.

The government can grant an expropriation permit, which means that expropriation in due time is authorised. A permit is subject to a time limit within which the expropriating authority must initiate judicial proceedings for the fixing of compensation. If the authority passes the

term, the permit will expire. It is important to notice that the time limit was only introduced by the 1972 revision of the 1917 Expropriation Act. If an expropriation permit is granted it does not automatically lead to an expropriation. The owner is still empowered to sell, let or mortgage his property.

Expropriation cannot be executed without financial compensation. The main rule is that the compensation must equal the market value of the property. However, the owner cannot claim compensation for prejudice resulting from the length of the validity of, or failure to utilise, an expropriation permit.

The Sporrong and Lönnroth properties were subject to an expropriation permit for a period of twenty-three (1956-1979) and eight years (1971-1979) respectively. They were also subject to a prohibition on construction for a period of twenty-five and twelve years respectively. Both applicants complained of the length of period during which these measures affecting their properties had been in force. In their view it was an unlawful interference with the right to the peaceful enjoyment of their possessions.

“Though not claiming that they had been formally and definitively deprived of their possessions, the Sporrong Estate and Mrs. Lönnroth alleged that the permits and prohibitions at issue subjected the enjoyment and power to dispose of their properties to limitations that were excessive and did not give rise to any compensation. Their right of property had accordingly, so they contended, been deprived of its substance whilst the measures in question were in force” (Sporrong & Lönnroth v. Sweden, §58).

Sporrong and Lönnroth argued they lost the possibility to sell their properties at normal market prices. They also claimed they would have run too great a risk if they had invested in their properties or if had improved the premises.

The European Court first had to determine whether there was an interference with the applicants right of property. Although the applicants did not lose the right to use and dispose of their possessions, their possibilities of its exercise were reduced by the measures taken. There was therefore an interference with their right of property, which means that Article 1 is applicable.

The Court then had to establish whether the interference was justified. As discussed above, in doing so the Court reads in Article 1 three rules. In this case there was no actual deprivation of possessions. The Swedish authorities did not proceed to an expropriation. The interference was considered to be a control of the use of property in accordance with the general interest. The European Court found that the two measures (the expropriation permit and a prohibition on construction) created a situation, which upset the fair balance that should be struck between the protection of the right of property and the requirements of the general interest. The conclusion was that Sporrong and Lönnroth “bore an individual and excessive burden which could have been tendered legitimate only if they had had the possibility of seeking a reduction of the time-limits or of claiming compensation.” (§73). Yet this was impossible under the applicable Swedish law.

The concept of property in the European Convention on Human Rights is a wide one. The case law of the European Court indicates that it considers economic interests more than national, dogmatic legal concepts. In general any involvement with the use of land, so any planning instrument, will constitute a 'interference' in the sense of Article 1.

Whether the interference is a violation of Article 1 is tested in five steps. In the test if interference violates the fundamental right to 'peaceful enjoyment' of ones possessions the element if the measure is proportionate (strikes a fair balance) is the most important.

Significant is the aspect of procedural safeguards. This implies that the use of spatial planning instruments must be neither arbitrary nor unforeseeable. Uncertainty (legislative, administrative or arising from practices applied by the authorities) is a factor to be taken into account in the fair balance test.

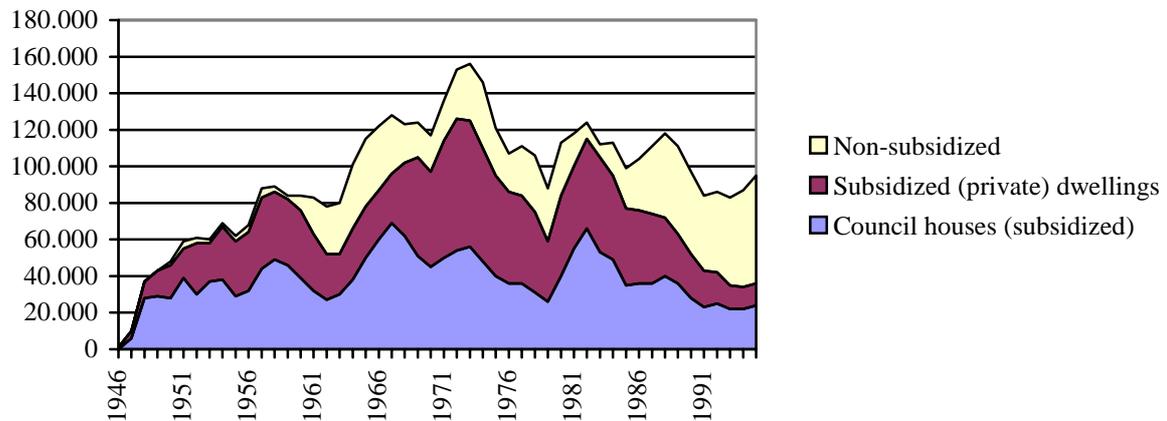
4. GOVERNMENT INTERVENTION

According to De Greef the economic value of land has played an important role in the development of economic theories, "especially as land has not just an economic but also a social function" (2001, p. 2). This is why the land market cannot be fully compared with (free) markets for commercial products like electrical equipment. National housing policy influences the housing market and therefore also the land market. Also national planning policy influences the land market. As long as we feel it is a responsibility of the government to provide housing for its civilians, the government will influence the land market. This is characteristic for the Dutch situation.

4.1 Urban land development in The Netherlands

From an international point of view the Dutch system of urban land development is special in its government influence (Lefcoe, 1979; Needham, 1995). "Urban development processes can be described as policy processes that take place in a market environment, or the other way round as market processes that are largely influenced by public policy" (Verhage, 2003). Since the Second World War national and local government are controlling the development process in the Netherlands. From the end of the Second World War until the mid-1980s, house building in the Netherlands was primarily a government responsibility (Van der Schaar, 1987; Needham, 1992; De Wolff, 2001). House building between 1945 and the end of the 1980s was largely subsidised (Priemus, 1996) (Figure 1). From 1952 to 1985, all financial plans for servicing building land were carefully checked by national officials to prevent social housing subsidies from being used to cross-subsidise more expensive, non-subsidised housing (Keers, 1989).

Figure 1 Newly built houses from the end of the Second World War until the mid -1990s (source: Statistics Netherlands (CBS))



From the end of the 1970s to the 1990s local authorities were in control of the urban land development process. Municipalities are the key players in supplying housing land, compared to for instance the UK where private developers are responsible for acquiring and providing land for house building (Golland and Boelhouwer, 2002). “Municipalities act as both planning authority and the supplier of building land at the local level” (Badcock, 1994). Dutch municipalities supplied land for urban development (Needham, 1992; Van der Krabben & Lambooy, 1993; Badcock, 1994; Van der Krabben, 1995; Needham & Verhage, 1998). Supplying land involves acquiring it, servicing it and selling it to developers. Servicing land involves draining it of water and raising it to well above the groundwater level. Decontamination activities may be needed to clean up pollution. Servicing land also involves providing infrastructure. Dutch practice followed a “golden rule” of development, that is, supplying the right amount of serviced land at the right location, at the right moment and for reasonable prices (Voß, 1997). The supply of such land has been described as “superbly efficient” (Mori, 1998; see also Groetelaers and Korthals Altes, 2004).

4.2 The Changing Role of Local Authorities

Since the 1980s the real estate market and the urban land development process in the Netherlands have changed considerably (Korthals Altes, 1998; De Wolff, 2001; Priemus en Louw, 2002; Verhage, 2002; Louw and others, 2003; Groetelaers, 2004). Local authorities are less in control of the process and instead of being the main actor, they are now facing competition from private developers and building companies.

In the early 1990s changing economic and social circumstances combined with a shift in political thinking brought about a shift towards greater involvement on the part of private market parties. There was a growing demand for owner-occupied property, the share of newly built houses in the private sector was increasing and interests on mortgages were decreasing. Because of this purchase prices of new houses increased faster than the construction costs (Figure 2). That is part of the reason why market parties set about acquiring significant areas of land in and around the potential urban expansion locations.

Another thing is that the locations for new house construction were made public in the Fourth Report Extra (also known by its Dutch acronym VINEX) (Figure 3). Therefore market parties were able to carefully select the significant areas of land.

The increasing multiple land ownership caused local authorities to change their approach to urban land development. They had to adopt an even more active role in acquiring land, or they had to accept that private market parties beat them to it. Negotiating with market parties about the development process became inevitable. Given the extent of the house-building challenge introduced by the Fourth Policy Document on Physical Planning Extra (VINEX) (Ministry of Housing, Spatial Planning and the Environment, 1990-1993), the government considered it desirable for local authorities to take greater advantage of the opportunities which cooperation with private sector actors would provide.

The changes in policy and in the land market itself had far-reaching consequences in terms of the role of local authorities in the location development process, and in the way in which land policy instruments could be applied. The increasing involvement of private market parties in the land market has resulted in diminished manageability of land policy itself. In other words, it has become more difficult for government (at various levels) to influence the conduct and actions of those parties, and to direct or supervise their activities. Throughout the 1990s and in the early years of this decade, there was a considerable emphasis on the ‘directorial’ role of the government in the land market, representing a shift from active participant to regulator and supervisor. There were also various amendments to land policy instruments in order to enhance control over both the market and the process. It must now be asked whether the revisions to policy and to the provisions have produced the desired results.

Figure 2 The increasing purchase prices of newly built houses compared to the construction costs

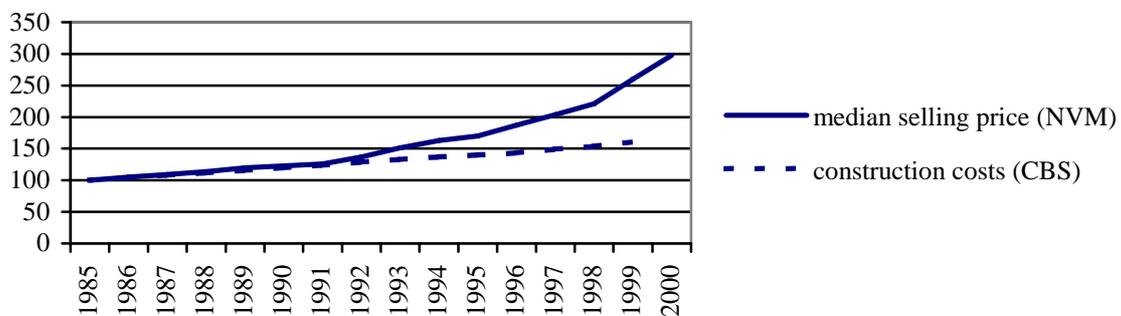
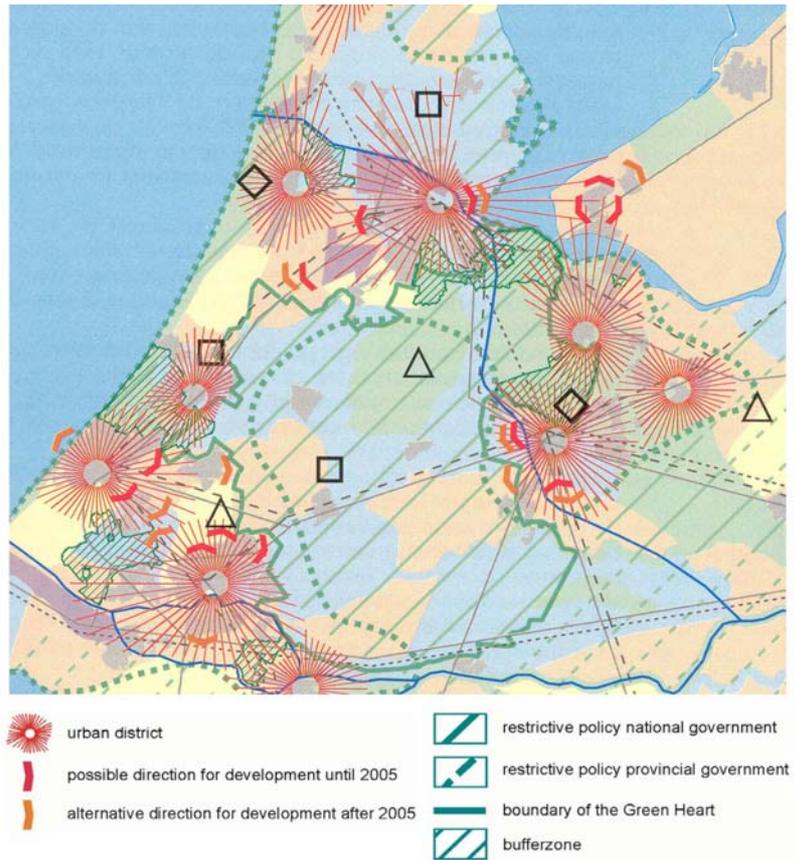


Figure 3 Locations for new house construction were made public in the Fourth Report Extra (source: Ministry of Housing, Spatial Planning and the Environment, 1990, Vierde Nota over de Ruimtelijke Ordening Extra, part 1) **NEXT PAGE**



4.3 Regulating Land Development through Legal Instruments

Changes in both the land market and in the urban land development process have prompted central government to reconsider the manner in which public sector authorities should intervene in this process. How should the government implement the stated land policy?

It seems that the Dutch government has a lot of difficulty with deciding whether they want to retain influence or should they leave urban land development to the market. In the background of this mainly economic discussion we can discern the legal implications of government intervention. How far can the government go in intervening? From a legal point of view it is no option to fully control the process. Whether government intervention is disproportionate should be taken into account. This distinction is very significant in terms of the amendments to land policy instruments proposed during the past decade, some of which have already come into effect.

The government being torn between an active role of (local) authorities and a market-oriented approach is a thread in the amendments to land policy instruments. The first amendments to the land policy instruments sought to address those local authority activities, which could no longer be conducted satisfactorily with the existing provisions. The Local Authorities Pre-emption Rights Act for instance, was introduced to improve land acquisition by local

authorities (De Wolff, 2001). However, possibilities for private development were left open, because otherwise the right to property would be too much restricted. Because an active land policy was difficult to maintain, recouping the costs of public amenity development became an issue (Priemus and Louw, 2002). Nevertheless it took a good while before suitable instruments were proposed.

4.3.1 Local Authorities Pre-emption Rights Act

When first introduced in 1985, the *Wet voorkeursrecht gemeenten* (Local Authorities Pre-emption Rights Act) applied only to designated urban renewal areas. In effect, it gave local authorities the first right of refusal on any land sale transaction. If an owner of property within the designated area wishes to sell that property, he must offer the local authority first right of refusal. But it was not until 1996 that local authorities have been entitled to designate land, which is required for urban expansion as falling under their Pre-emption Rights.

The Act incorporated a number of exemption clauses in order to avoid frustrating ongoing transactions. The exemption clauses and, more particularly, Article 26, which contains a provision whereby suspect constructions may be declared null and void, have been responsible for considerable commotion since the introduction of the Act. Market parties quickly found a way in which to avoid the pre-emption requirements, either by simply signing the sale or option contracts very quickly before the preferential rights could be established, or by entering into complicated legal ‘development constructions’. Such constructions have been tested in the courts as far as the High Council. Legal precedent establishes that there can be no objection to such cooperative constructions provided that their objective is to realize the land usage envisaged by the local authority itself. In view of this ruling a number of parliamentarians tabled a draft amendment whereby a number of provisions of the Local Authorities Pre-emption Rights Act, including Articles 10 and 26, would be modified to prevent private parties acquiring land that would otherwise become local authority property. The amendment, which gives local authorities greater control over their land acquisition, came into effect on 1 September 2002. However, contracts of sale and option agreements signed before the introduction of the proposed amendment are left out of new rules. Recent research shows there are a lot of these contracts and agreements (De Wolff and Groetelaers, 2004). Private developers have claimed the first right of refusal on land sale transactions through contracts of sale and option agreements at almost 5300 ha of possible building land (figure 4). Approximately 1,8 times the number of houses built per year in the Netherlands can be developed on this area. This means that local authorities have to deal with the fact that the Local Authorities Pre-emption Rights Act doesn’t have the optimal effect with regard to improving the land acquisition.

Figure 4 Possible years of house building on areas claimed by private developers through contracts of sale and option agreements (basic assumption = 20 houses per ha)

| | Number of newly build dwellings in 2003 | Area of options and agreements (ha) | Years of house-building |
|--|---|-------------------------------------|-------------------------|
| North (Provinces Groningen, Friesland and Drenthe) | 5.361 | 1875 ha | 7,0 |
| East (Provinces Overijssel and Gelderland) | 10.229 | 1040 ha | 2,0 |
| South (Provinces Zeeland, Noord-Brabant en Limburg) | 32.967 | 2025 ha | 1,2 |
| West (Provinces Flevoland, Utrecht, Noord-Holland, Zuid-Holland) | 11.072 | 340 ha | 0,6 |
| Total | 59.629 | 5280 ha | 1,8 |

5. CURRENT PRACTICE IN THE NETHERLANDS

What is interesting to see in the preceding paragraphs is that there is a strong connection between economic aspects and legal aspects of urban land development. And also the social or cultural context cannot be neglected. But there is theory and practice... Does every policy lead to the desired results? Is every instrument used in the prescribed way?

In order to gain an impression of the way in which local authorities in the Netherlands approach and direct developments, and the way in which they use the instruments in practice, this chapter enlightens some of the results of a research project about the practice of urban land development in the Netherlands (Groetelaers, 2004).

5.1 Government Control and Land Acquisition

Through a written survey an inventory was made of how the authority with regard to land allocation is organized in practice. The degree of control of the local government is dependent on the amount of land in full ownership and the agreements reached with regard to the land, which is not yet in full ownership. According to the respondents, local authorities had full rights of determination over slightly more than three quarters of the land required for residential development at the time of the survey.

At 47% of the locations, representing 86% of the residential development considered by the survey, the local authority is operating an active land acquisition strategy (although that does not necessarily entail that it is always successful in acquiring the land). At the remainder of the locations, land acquisition is no longer necessary, or in some cases, no longer possible. A survey of the land ownership status at the beginning of the location development reveals that other parties have also been acquiring land, with third parties owning approximately the same area as the local authorities.

Approximately half of the respondent local authorities have established pre-emption rights for one or more locations. Eleven per cent of the locations are subject to compulsory purchase orders. However, compulsory purchase has been implemented in practice at only four per cent of the locations. This confirms the impression that compulsory purchase is generally regarded as 'the big stick' and a last resort.

Local authorities have acquired land not only from the original owners, but also from market parties who have since purchased with a view to the new development, i.e. speculators. At 42% of the locations, a proportion of the land is subject to 'building claims', whereby the right to construct a set number of units is granted in exchange for the title to the land itself.

5.2 Active or Facilitatory Land Policy

In addition to looking at the degree of control, the survey also sought to identify the management approach, which local authorities intended to implement. At most locations, the land management activities would remain in the hands of the local authority. Almost 70% of the urban expansion surface will be developed through an active land policy. The survey revealed that joint land management was the second most favoured approach (by number of dwellings) and is more common at the larger locations, while private land management is more prevalent at the smaller locations. In a few cases, a combination of these models may be seen. The land ownership situation and the degree of determination appear to influence the choice of development approach. At those locations where a joint or private land management structure was adopted, local authorities generally had less right of determination at the beginning of the development process than at those locations for which municipal land management was favoured.

In order to gain an impression of the problems encountered by local authorities, respondents were asked to list (in order) the three main obstacles during the development process. More than half of respondents indicated that the problems were related to land acquisition. Problems raised by the Local Authorities Pre-Emption Rights Act were cited most frequently. The other problems related to financing and on-charging of costs, planning, and cooperation with private sector parties. It is interesting to note that, when asked whether the stated objectives had been attained, the answer was in the affirmative for 70% of the locations studied, representing almost 80% of the total planned housing volume. A small proportion of these locations have already been completed.

5.3 Transaction from National to Local Government and yet Market Prices?

In the same research project (Groetelaers, 2004) five locations were studied in further detail in order to illustrate a number of specific situations. These locations were selected on the basis of the land ownership situation and the management approach, and the problems that could be expected as a result. Some of the problems on these locations can be related to the issues mentioned above in this paper. For instance the problems on IJburg.

By virtue of its location the IJburg development site did not include any land held by private market parties. In fact there was no land at all, because the starting point was reclaiming land in the IJmeer lake. One should expect no problems concerning land acquisition, speculation and differences in value. Yet the municipality of Amsterdam misjudged the situation. The lake was owned by the national government agency Dienst Domeinen. This agency is a division of the Ministry of Finance and represents the state such as owner of buildings, land and other (movable) objects. The Dienst Domeinen has the objective to maximise the

turnovers, but must also take into account the interests and the policy of other government agencies. If another government agency is the buyer it makes the negotiations terrible complex. In order to determine an objective price for IJburg they asked experts to value the lake. Unfortunately this led to a huge difference in prices. The municipality made a reservation of 4 million guilders, but at the first valuation a value was determined of 65 million guilders for the whole plan area. The municipality found this amount much too high and believed that unacceptable assumptions were made with respect to the future value of the area. It took a while before they came to an agreement, and the actual transaction was made for a price somewhere in between.

Besides that the location was also characterized by an extremely high level of ambition on the part of the local authority, the City of Amsterdam, which has led to long delays in the planned residential development.

5.4 Risks of Land Acquisition

Wateringse Veld is often cited as the first development location at which a 'successful' partnership between public and private parties has emerged. The organization structure of the Vathorst Development Company, the public-private partnership responsible for this location near Amersfoort, appears to be very similar to that seen at Wateringse Veld. The 'success' of these two cooperative alliances has been determined in part by the market parties involved.

In the case of Wateringse Veld, there was only one large private party, which had long enjoyed excellent relations with the local authority and which had already gained ownership of parts of the land. Because the Municipality of The Hague lacked the financial resources to acquire land they early entered into an agreement with this private party that could acquire the needed land. Something similar occurred at Vathorst, where various market parties had acquired land at the specific request of the local authority. This seems to be a useful approach but there could be a problem with legislation to put up work to public tender.

At most locations studied, private parties had acquired land. In the case of Oosterheem, the local authority was successful in re-acquiring the land from the market parties at an early stage, by means of the building claim system (municipalities buy land from market parties in exchange for the right to build houses). Nevertheless, the development was subject to delays due to the Environmental Impact Report procedure. At Meerhoven, the local authority has tried to realize the location by means of a clear active land acquisition strategy, involving the use of both pre-emption rights and compulsory purchase orders. This approach has been successful in large parts of the plan area, but the local authority believes that the last remaining small areas may be crucial to the project's success.

6. ANALYSIS AND CONCLUSIONS

This paper tried to enlighten about the role of land, land ownership and acquisition in urban land development. In the Netherlands the economic and legal aspects of land and property seemed to have played an important role in the changes on the land market. However these changes cannot be separated from the social and cultural context in which they appear. The

Netherlands has a strong tradition of government intervention in housing and urban land development and therefore we have a higher level of acceptance of government intervention. Legal implications of government intervention however tell us there is a limit to it. The ECHR protect the rights of landowners, amongst others through article 1 protocol 1. Property cannot be taken if there is no compensation and if there are no procedural safeguards. The use of land development instruments is bound to this. The height of the compensation, incidentally, has caused a political fall in the Netherlands. In 1977, the Den Uyl government was actually brought down by a land policy issue, namely the basis for calculating compensation under compulsory purchase orders (De Vries, 1989). The discussion was all about whether compensation should be the value in use (mostly the agricultural value) or the value in exchange (market value). This discussion relates to discussions about the 'plus value' of land development. If we make money with urban land development, how should these profits be distributed?

One of the recurring discussion points in urban land development in the Netherlands is the degree to which local authorities can, should and wish to direct the overall process, and what form their activities should take. From the various definitions that can be applied to the word 'direction', we can deduce that the 'direction' of a land development process is a question of managing that process and enabling the stated aims to be realized. The first amendments to the land policy instruments sought to address those local authority activities, which could no longer be conducted satisfactorily with the existing provisions. Prompted by the dynamics of the land market, 'quick-fix' solutions to individual problems were sought. Acquisition and on-charging of costs are two topics which have enjoyed considerable attention since the land market changes first became apparent.

Research revealed that the ability to reclaim costs and the realization of certain qualitative standards are among local authorities' main objectives. In addition to these, opportunities to 'break even', i.e. to ensure that returns cover costs, also form a motive for implementing an active land policy, as does realization within schedule.

It is interesting to note that many policy documents cite prompt realization as one of the objectives of active land policy, and yet in practice we see that the active land policy is not always a guarantee of completion within the planned schedule. The sticking points in the location development process are not exclusively due to the involvement of private market parties, but are also often attributable to the complexity of the process and of the relevant legislation.

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