

Does the Chain “Subdivision – Purchase - Building Permit” Work Properly in Sweden?

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Key words: subdivision, purchase, building permit, building notification, process modeling, municipality, activity diagram.

SUMMARY

In Sweden as in other countries worldwide people are constantly looking for place for living and housing demand is very keen. The Government seeks to solve this problem in the most efficient way, i. e. to build more houses for lesser resources with the highest possible involvement of private entrepreneurs into the processes. The Government is eager to provide citizens with knowledge and tools allowing them to accomplish this task with minor assistance from the state. It is to ask which steps ought to be undertaken by people in order to get own place for living? Are those steps in Sweden complicated or customer-friendly? Which additional mechanisms shall be developed to reduce transaction costs?

This paper presents some results of the Swedish national on-going project “Home Building Guide” (*Bygga Villa*¹ in Swedish) aimed at creating E-government services in the processes of purchasing, planning, building, and living in home. This project has merged several national governmental authorities, business companies and universities into a consortium with aim to develop one e-entrance to all information and other e-services related to those processes.

The aim of this paper is to elucidate three specific property related processes that are now in operation in Sweden, namely property subdivision, property purchase and getting a building permit. The paper describes each of three processes separately and identifies their main activities and stakeholders involved as a background for research questions stated in the final part of this paper. Descriptions are followed by evaluation and concluding remarks outlining research questions. The processes are graphically represented on activity diagrams.

¹ www.byggavilla.org (in Swedish)

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1. INTRODUCTION

More and more people worldwide are being involved in the real property market not only through various property transactions but also through building of their own houses using available mortgage mechanisms. However, these processes vary from country to country and are often complicated and therefore costly due to intricate regulations as well as involvement of many stakeholders. Indeed, it is hard to find two countries where a property transaction is fully identical. Even such historically close countries as Sweden and Finland have minor differences in handling of both subdivision and purchase processes (Mattsson, 2006).

De Soto (2000) has exemplarily proven that intricate regulations on property market as well as weak property rights increase transaction costs and thereby hamper development of the society. However, it is not the only reason for high transaction costs. Not to lesser degree it is influenced by:

- existence of several business systems not able to communicate with each other;
- iterative transfers of information (i.e. documents) from one authority to another, from one expert to another;
- not customer-friendly property related systems aimed at supporting an authority or municipality.

Thus, nowadays EU countries entirely recognise an urgent need for simplifying their property related processes. Indeed, the simpler a process is organised, the lesser costs it generates and therefore the more efficient national economy might function. The security in the process can also be increased as the time under which something undesirable can happen is shortened.

According to Doing Business in 2005², Sweden is among the world leaders having the most efficient property registration (i.e. purchase), namely in Sweden it takes only in average two days to transfer a commercial property from seller to buyer while in Slovenia it requires about 390 days. However, practice as a rule differs from theory and includes often more activities than prescribed by law. For example, purchase looking simple as a legal description becomes very complicated in reality due to, among others, a conditional purchase contract, complicated inspection of a house, involvement of real estate agent along with several financial institutions.

Sweden with approx. 9 mln inhabitants has 3,3 mln real properties³ (2006) and the Swedish property market is characterized by a sufficient annual number of property transactions. For

² www.doingbusiness.org

³ www.lm.se

example, in 2006 the total number of subdivision, partition, and amalgamation processes was about 19 000³. Over 111 000 cases⁴ of normal purchase for all types of real property were registered in 2005. Moreover, around 100 000 building permits are being issued annually in Sweden, 90% of them are in private construction.

This paper presents some results of the Swedish national on-going project “Home Building Guide” (*Bygga Villa*⁵ in Swedish) aimed at creating E-government services in the processes of purchase, planning, building, and living in home. This project has merged several national governmental authorities, business companies and universities into a consortium with aim to develop one e-entrance to all information and other e-services related to those processes.

The aim of this paper is to elucidate three specific property related processes that are now in operation in Sweden, namely property subdivision, property purchase and getting a building permit. Specifically, the goal is to look at a chain of the processes from the wholeness point of view (Zevenbergen, 2002).

One may ask why these processes have been chosen for consideration. The reason is that in Sweden as in other countries people are constantly looking for place for living and housing demand is very keen. The Government seeks to solve this problem in the most efficient way, i. e. to build more houses for lesser resources with the highest possible involvement of private entrepreneurs into the processes. The Government is eager to provide citizens with knowledge and tools allowing them to accomplish this task with minor assistance from the state. In other words, which steps ought to be undertaken by people in order to get own place for living? Are those steps in Sweden complicated or customer-friendly? Is it possible to make them more efficient (simpler), i.e. whether all activities are sound and performed by an appropriate authority/ expert? Which additional mechanisms shall be developed to reduce transaction costs? Can everything be handled over the internet?

The paper describes each of three processes separately and identifies their main activities and stakeholders involved as a background for research questions stated in the final part of this paper. Descriptions are followed by evaluation and concluding remarks outlining research questions. The processes are graphically represented on activity diagrams.

2. SUBDIVISION

Since land is considered in Sweden as real property (Land Code, 1998), its subdivision means a process of forming new property units clearly marked on the ground and having unique property identifiers. Specifically, a property owner can wish to create a new property unit by subdividing a certain area of his property from existing one. A typical Swedish subdivision process (within a detailed development plan) is presented on Figure 1 (based on Julstad, 2006 and Mattsson, 2006).

⁴ www.scb.se

⁵ www.byggavilla.org (in Swedish)

In short the whole process could be described as follows: it starts when owner hands out an application for subdivision to a local cadastral authority (of county or municipality). As soon as application is registered, a public surveyor examines formal prerequisites of a particular case and consults when appropriate with municipality and/or other authorities. If needed, a meeting with owner may also be held to clarify some details before subdividing property. Next step is field work of surveyor including delimitation of property on the ground and formation of servitude (if needed). At this stage surveyor can also decide about mortgage, namely whether mortgage is to belong to residual (i.e. subdivided) property or to both properties. In order to proceed with registration (that is also responsibility of surveyor), surveyor takes a formal decision and informs owner and other stakeholders (if appropriate) about that. All of them have the right to appeal against the decision. When an appeal period (three week) is over, surveyor registers the new property in the Property register. It is followed by registration of rights in the Land registry automatically performed by the land registration authority (*inskrivningsmyndigheten*). Tax authority (*Skattemyndighet*) is to be informed about subdivision since a new real property has appeared and needs to be assessed.

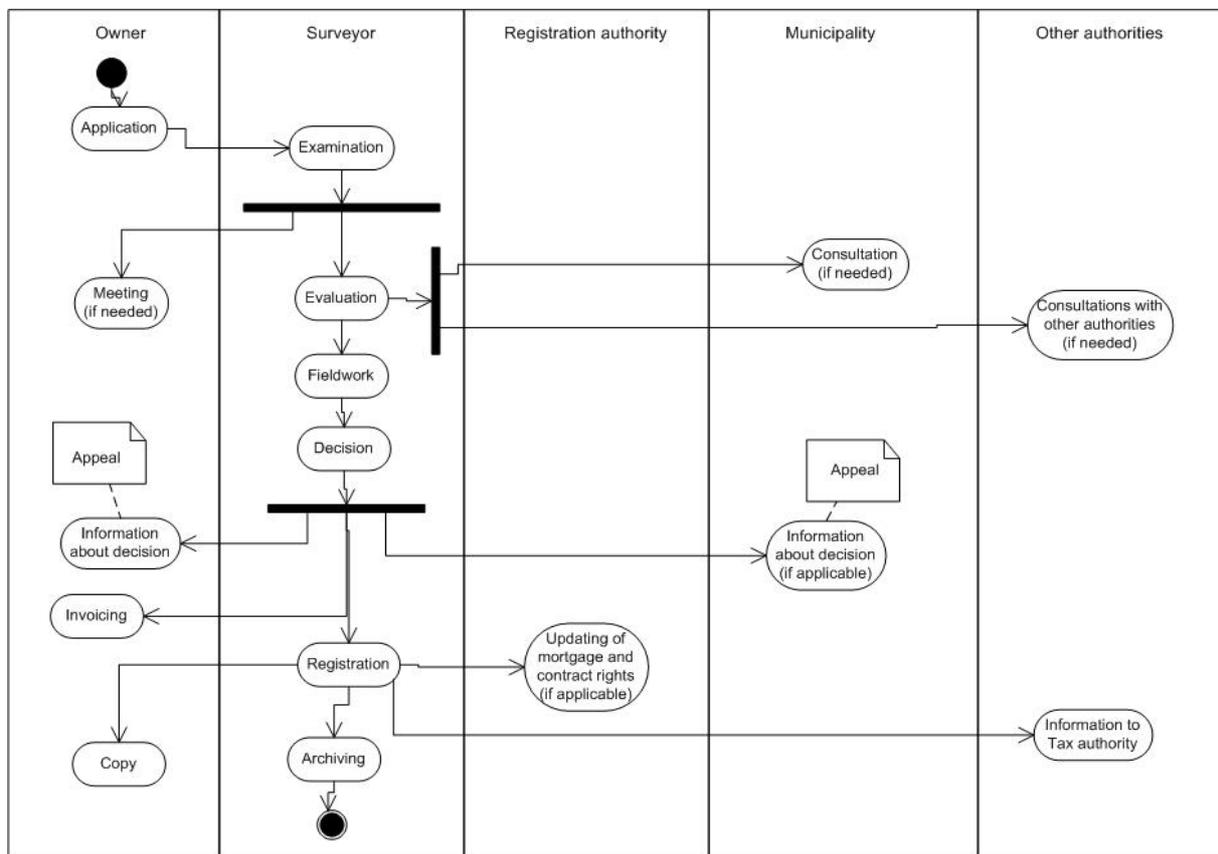


Figure 1 Subdivision process within a detailed development plan

It has to be noted that almost the whole process in Sweden is handled by a public surveyor who is responsible not only for measuring and demarcating of a property unit on the ground

(as in many other countries worldwide) but also for handling of existing and new property rights including mortgage. As it is stated by Mattsson (2006), the Swedish subdivision is characterized by a high responsibility of public surveyor in decision making. This significantly distinguishes Sweden from other EU countries.

It has recently been decided by the Swedish Parliament that the National Land Survey (*Lantmäteriet*) and the land registration authority responsible now for operation of the Property and Land registers (correspondingly) are going to be merged in one governmental agency in 2008. For sure, this integration will lead to some changes of the current situation. It lies ahead.

3. PURCHASE

This part deals with property purchase in Sweden (i.e. purchase of a single-family house with land). Selling/purchase of real property is the most typical property transfer on the property market. It occurs as a rule with assistance of a real estate agent and involvement of financial institutions (i.e. banks of seller and buyer). The paper considers a normal case while in reality it might be simpler or more complicated depending on stakeholders involved.

The whole process is presented on Figure 2 and its description is based on Julstad (2006) and Mattsson (2006). The process usually starts when a seller and a real estate agent make a contract becoming a legal basis for an agent to act. The latter advertises a property in order to reach as many potential buyers as possible. A potential buyer triggers the process by initiating contact with a bank for investigation of possibility to get a loan. When bank confirms a loan guarantee, seller and buyer (through real estate agent) negotiate a purchase price and it might take a time. As soon as negotiation is completed, buyer has an obligation to perform physical inspection of real property (i.e. to check technical characteristics of a house, e.g. mould, etc.). Since this inspection indicates future possible costs, it is normally performed by a professional. It can be done before or after signing a preliminary contract (*köpekontrakt*) and payment of deposit. Signing of preliminary and final contracts are separated in time as inspection of property does usually take a time. The purchase sum is transferred at the same time as the final contract (*köpebrev*) is signed by seller and buyer. Loan contract between buyer and a bank is signed simultaneously. After signing of final contract and transferring purchase sum, ownership right over property is transferred in spite of registration is to be done later. Purchase and mortgage registration is normally handled by a bank (formally by a seller or buyer). It means that bank electronically applies for registration to the land registration authority that in turn has responsibility to inform other related governmental authorities on changes occurred. As a rule, these are Tax authority and the National Land Survey. The latter invoices a buyer as well as sends registration certificate.

A distinguished feature of the Swedish process is that a signed contract and not title registration serves as a legal basis for transfer of ownership right over the purchased property. In other words, a buyer is becoming a rightful owner of the property regardless of registration is complete or not while in some other countries it happens at the moment of property

registration. According to the Land Code (SFS 1970:994), registration of ownership shall be applied within three months after the purchase contract was drawn up.

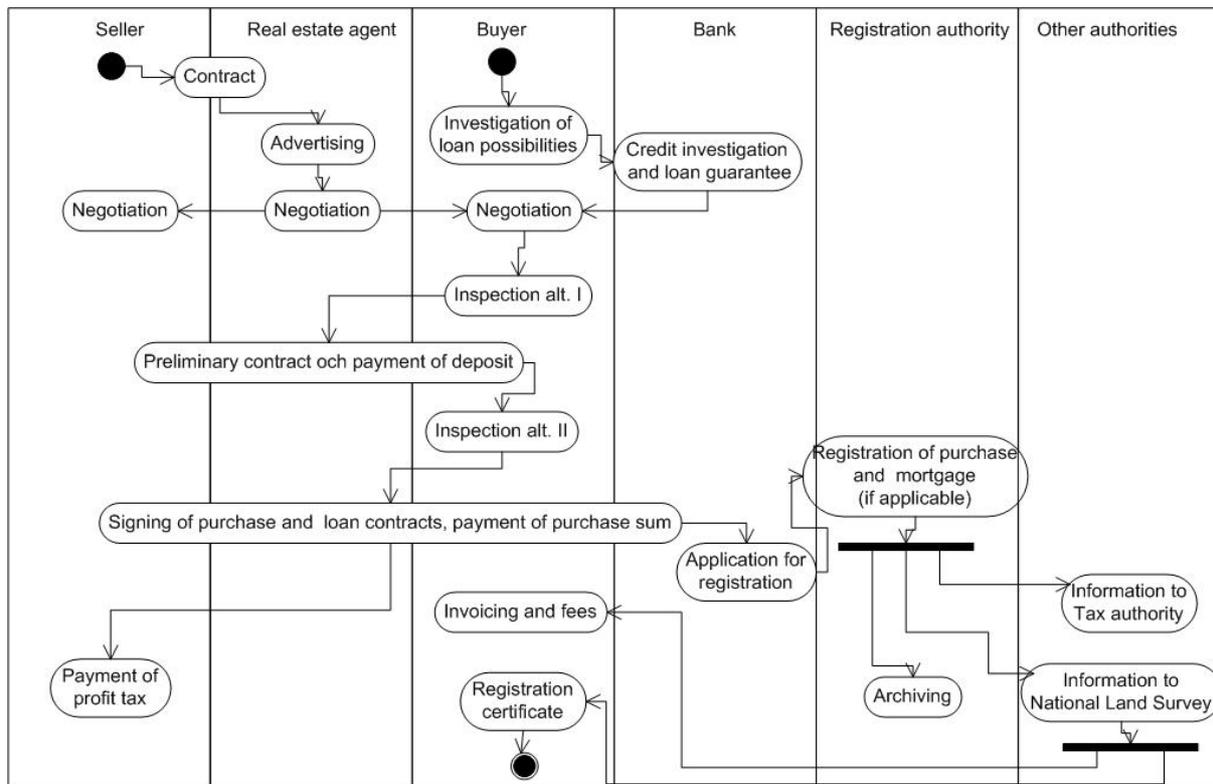


Figure 2 Purchase of a single-family house with land in Sweden involving real estate agent and financial institution

Some additional peculiarities of the Swedish process can further be pointed out. Firstly, it is the role of real estate agent who is obliged to protect interests of both parties on the market in comparison with a Danish agent who represents only a seller. Another peculiarity is separate handling of mortgage security documents (*pantbrev*) and loan documents (*lånehandlingar*). Property inspection is also worthy to emphasise since it differs from other Nordic countries in a way that seller is only responsible for hidden faults which buyer is not able to discover at moment of inspection (Mattsson, 2006).

Some inconveniences of the Swedish purchase process can also be found. One of them is additional transaction costs generated when buyer under physical inspection of a property finds any defects leading to his/her withdrawal from purchase. In such a case, buyer and seller bear higher transaction costs. This situation might be avoided if inspection would be performed before signing a preliminary contract, i.e. before both parties undertake obligations.

To better understand a purchase process, an analytical tool developed by Ferlan, Mattsson & Sumrada (in print) might be applied. In particular, they consider purchase of a detached house

with land and divide it into five basic components. Those are land policy control, marketing activities, pre-contracting, contracting and registration. Through mechanism of land policy control, the state can firstly form behavior of property market in advantageous for the society manner (e.g., a pre-emption right of municipality) and secondly can support a certain group of citizens (e.g. a right of first refusal). Marketing activities aim to connect on the market all the interested parties, in the first place seller, buyer and real estate agent as well as buyer and a bank. Moreover, examination of possibilities to finance purchase is also counted as marketing activity. Preliminary contracting and deposit payment act as a guarantee for future continuation of the purchase in a case if one of the parties decides to withdraw from the process. The contracting phase is mainly about signing a final contract and transfer of ownership right to a buyer. Mortgage contracting and payment of purchase sum are also integral parts of this component. Registration component is necessary for making real properties transparent on the market and thereby to use them as collateral for obtaining loans. Moreover, registration in many countries (e.g., in Sweden) protects an owner against the third party.

One might note that the Swedish purchase process suits into the framework of a general purchase process described above since all five components can be found in the Swedish model.

4. BUILDING PERMIT

None of the main construction activities such as, for example, erection of a new building, extension of existing building, or adaptation of a building to a new purpose can be performed without governmental control. In some countries this control is stricter than in others. In Sweden construction process is controlled through different stages, among others, through building permit and building notification. These both serve as tools for public control over on-going development of territory to promote good and equal living conditions as well as to guarantee a good environment for today's and future generations. Specifically, building permit is an impersonal and time limited permission meeting the requirements on suitability of a new building for a specific purpose, localization and exterior of a building. Through building notification the society holds control over internal design and technical characteristics of a new building.

In particular, the paper considers a case of getting permit for building a new single-family house as well as respective building notification on the territory covered by a detailed development plan in Sweden. The description graphically presented on Figure 3 is based on the Planning and Building Act (1987) and Boverket (2004).

In order to apply for building permit, an applicant shall collect information related to property in question, namely the drawings, specifications, etc. In the first place, it is a basic map with contour lines and property boundaries, with a clearly depicted location of a prospective building as well as that of municipal water and sewerage systems, etc. Having collected the information, an applicant makes application to municipality (i.e. the Building Committee). Municipality examines application and notifies neighbours or other known affected parties. At

once municipality informs applicant about permissions of other authorities that might be needed for examination. Then municipality also asks for expert statements from other municipal offices (e.g., environment) and/or other stakeholders from outside municipality (e.g., Stockholm Vatten). Having thoroughly investigated the case, municipality takes decision that can be appealed by those who were directly involved in the case (e.g. neighbours negatively inclined to new construction). The appeal period is three weeks from the moment building permit was issued. Building permit is valid if building work has started within two years and completed within five years from the date of granting the permit.

Simultaneously with application for building permit, building notification can also be sought by a developer (*byggherre*), i.e. a person who on own account accomplishes or commissions someone to accomplish construction. This notification of municipality is required to ensure that construction is going on in accordance with the stated requirements and that sufficient control and tests are fulfilled. The process of building notification starts with consultation meeting (*byggsamråd*) where developer, a representative of municipality and an expert appointed by a developer and responsible for quality matters (*kvalitetsansvarig*) are present. During the meeting, the following issues are normally addressed: planning of the construction work, the measures for inspection, supervision and other control measures as well as the required co-ordination to assure that construction work will meet the demand. Noteworthy that decision on a control plan of the works has to be taken during the meeting. The control plan shall indicate the control to be performed, the certificates and other documents to be produced during the construction process. This decision on control plan can be appealed by all affected parties.

According to the changes introduced in Sweden in 1995, the quality control of construction works is to be performed through documented self-control (by a developer) and through independent experts. The control function is handed over from public (i.e. municipality) to private sector (i.e. to developers). Thus, at present municipality performs inspection of construction along with monitoring of the control plan implementation, while applicant performs self-control of quality together with expert control. As soon as developer has successfully fulfilled the obligations in the control plan, municipality issues a final certificate (*slutbevis*) verifying these facts. It shall be noted that the final certificate does not attest that construction rules were followed: it is fully under responsibility of developer. Building notification is valid within a two year period from the issuing date.

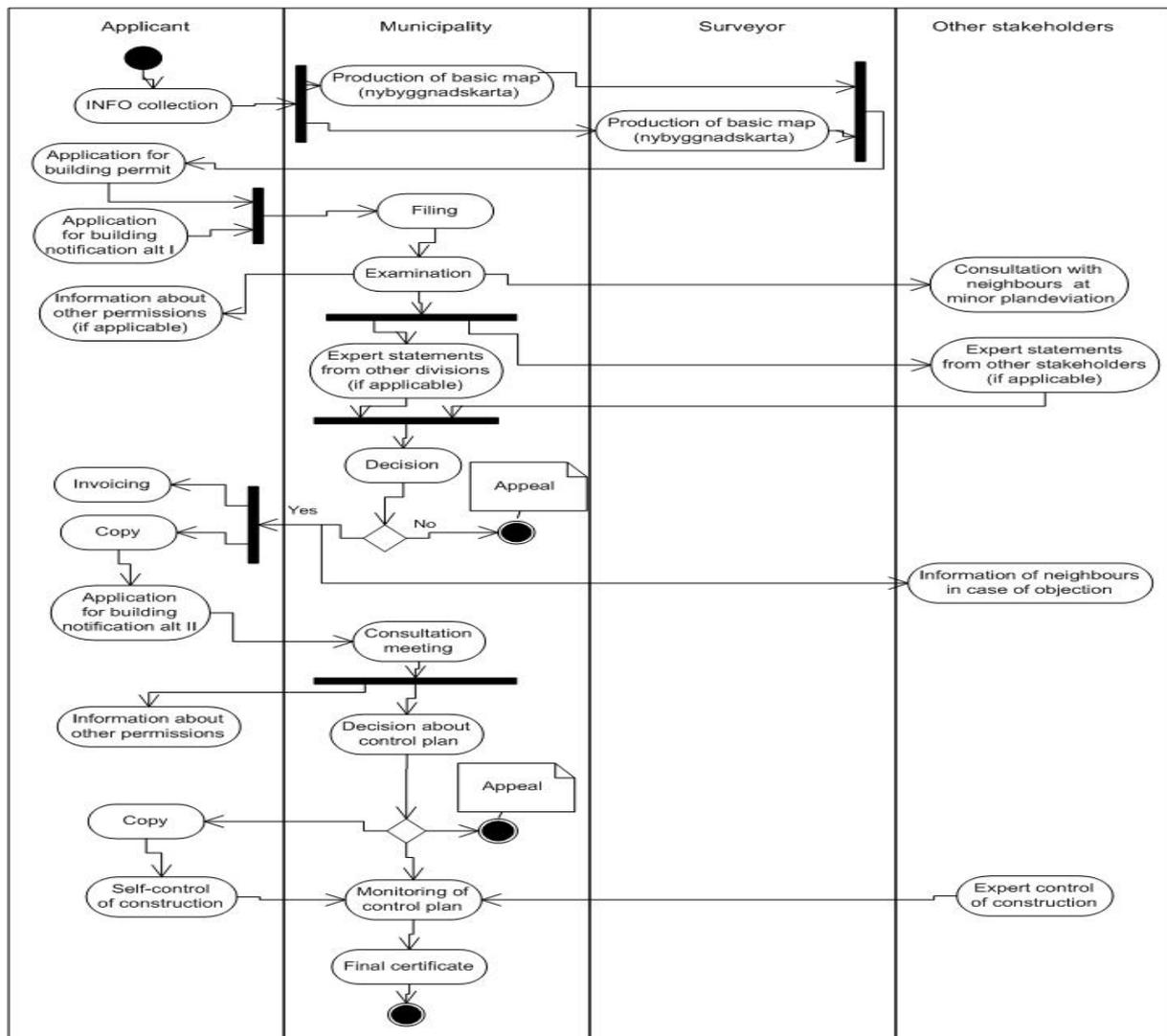


Figure 3 Building permit and building notification

Having analysed the described process, two uncertainty moments can be identified. The first one concerns an uncertainty for a developer during the appeal period for building permit. This uncertainty emerges in a case when neighbours object to new construction. Having got the building permit, developer starts construction by being uncertain if any of affected parties is going to appeal against that. This uncertainty increases transaction costs for developer.

Another uncertainty is related to control of the construction works. At present control is spread among three parties, namely developer, experts and municipality. Co-operation of these three parties may to some degree create uncertainty. Municipality in turn has nothing to do with quality control. In reality it only gathers information without checking it. One may notice that such spreading of responsibilities may increase risk for reduction of quality of construction works and thereby increase transaction costs.

5. EVALUATION

The paper has described three interrelated processes. Each of them covers separate issue, but together they act as mechanisms for reduction of housing demand in Sweden. Moreover, their durations and costs influence on efficiency of the national property market and the whole economy.

One of the advantages of the Swedish subdivision process is that almost the whole process is handled by one professional (a public surveyor) who is obliged to take a formal decision on behalf of the society and thereby to ensure a good and sustainable environment for living and future generations. Such a high responsibility of a surveyor reduces transaction costs due to absence of iterative transfers of information among the authorities. Another advantage to be mentioned here is that invoicing occurs after a formal decision that also reduces transaction costs for the parties. Belarus could be mentioned as an opposite example where invoicing occurs before decision is taken and field work is done.

As aforesaid, Sweden is a country having one of the quickest property transfers in the world. Obviously there are not many activities that might be improved in the Swedish model of property purchase. It is to admit that smooth transfer of purchase sum between buyer and seller reduces transaction costs. On the contrary, preparation and signing of two contracts (instead of one) increase transaction costs. However, the parties accept such costs due to reduced risks of withdrawal of one of the parties. Moreover, municipalities are directly involved into the purchase process in some countries (e.g. Denmark) as noted by Mattsson (2006). This lengthens the whole process and thereby increases transaction costs.

It is widely acknowledged that the most efficient way of handling property information is handling it by one agency while involvement of two authorities increases transaction costs. Nowadays Sweden is on the way of emerging two governmental agencies into one. Compulsory registration of property transactions is the requirement to be introduced by more and more countries since it makes real properties transparent for the market and involves them into turnover of the capital.

6. CONCLUDING REMARKS

Advantages and peculiarities of each described process have just been discussed. It is used as a background for the following research questions.

From the wholeness point of view, it would be interesting to know how the described processes could be combined with each other in order to reach the best possible results. In reality, a citizen carries for the total costs borne while buying or building a property. All affected parties are probably interested in making these processes as simple, cheap and less time-consuming as possible.

Thus, one of future research questions could be: how are these processes to be arranged? Shall they follow one after the other or be arranged in a way to be carried out in parallel and

simultaneously implemented? How are these processes implemented in other developed and developing countries? Are we able to find applicable ideas from international comparisons? If positive, which countries shall be analysed in the first place?

The other issue that might closer be discussed in the future is changing relations in public-private partnership (PPP) within property sector. To which degree and how soon will public services be shifted off to the private entrepreneurs or the other way around? For example, the author sees PPP within the process of getting a building permit in Sweden as still having many uncertainties and, as consequence, leading to increased transaction costs.

Development of e-services within public domains is one of the most pressing topics on the agenda in Europe. The Swedish experts are seeking to introduce e-services within property sector. Is it feasible to develop a complete e-service for carrying out the main property transactions over the internet? In particular, is it feasible to make, e.g., applications and documents submissions over the internet while subdividing, buying, selling or building property? A first step in this direction has already been done in Sweden by the Bygga Villa project that recently launched a test portal at www.mittbygge.se where, among others, application for building permit can be made on-line. Can a common e-portal take care of other main property transactions at the same time?

Another block of questions can even concern possibilities of standardisation of property related processes within the EU. If we are looking for simplification and standardization, to which degree can we simplify the processes in order not to increase (or even reduce) risk for the parties? Can a standardized model of each process be developed within the EU? Can the minimum number of components be identified for each of them in order to satisfy the modern requirements of the society?

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BIOGRAPHICAL NOTES

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