University of ULSTER

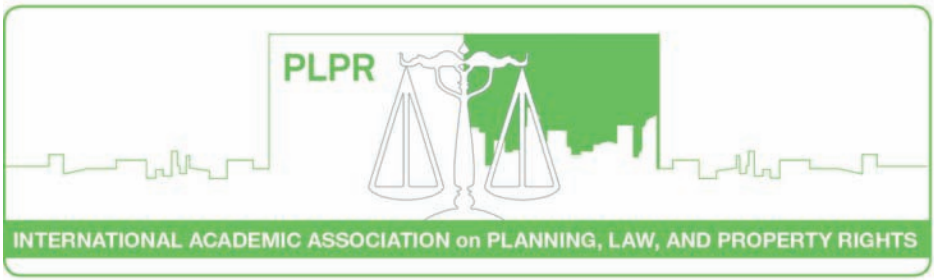
Faculty of Art, Design and the Built Environment
School of the Built Environment

INTERNATIONAL ACADEMIC ASSOCIATION ON
PLANNING, LAW AND PROPERTY RIGHTS

6TH ANNUAL CONFERENCE
Belfast
8-10 FEBRUARY 2012

Rights, Responsibilities and Equity in Land Use Planning

Book of Abstracts



International Academic Association on Planning, Law and Property Rights

Planning matters. Law matters. Property matters.
These three simple domains inspire the growing PLPR community to examine the contested relationships between public and private interests in the use and development of land.

During the Association of European Schools of Planning (AESOP) conference in Aveiro, Portugal, in 1998, a small group of scholars in the field of planning, law and property rights met to advocate the need for a Planning and Law track at AESOP. Professor Rachelle Alterman (Technion University, Israel), founding president of Planning, Law and Property Rights (PLPR), together with Professor Willem Salet (University of Amsterdam) and Professor Ben Davy (TU Dortmund) organised the first track during the AESOP conference in Bergen, 1999. A small group attended that first track, including PLPR's current president, Dr Leonie Janssen-Jansen. Since then, this international network has expanded, bringing together academics and practitioners interested in interdisciplinary research on the diverse – and often complex – relationships between planning, law, and property rights. PLPR was formally established in 2007 with an inaugural symposium in Amsterdam. Since then, PLPR has held annual conferences in addition to meeting regularly at a dedicated track at AESOP.

The Association's Mission is:

- To serve as an extended international academic peer group for research in the field by promoting a culture for academic exchange and peer review.
- To promote research with a cross-national comparative perspective.
- To exchange pedagogical approaches and methods in the teaching of planning law to planning students to enhance the learning experience and expertise.
- To support young academics researching in the fields of planning, law and property rights.

Find out more about us on: http://www.plpr-association.org/

Join us!

If you want to become a member of the International Academic Association on Planning, Law and Property Rights, please fill in the membership application form available on our website and send it to: info@plpr-association.org

President's Welcome

Dear Participants,

It is my honour to welcome all of you to our Annual PLPR Conference in Belfast, the capital of - and largest city - in Northern Ireland, UK. The location, programme and contributions in this Book of Abstracts are all elements that promise a great 6th PLPR conference, after earlier successful events in Amsterdam (2007), Warsaw (2008), Aalborg (2009), Dortmund (2010) and Edmonton (2011).

We are pleased that so many of our members, but also new participants, planning scholars and professionals from all over the world, will attend this conference, and share and discuss their research work in the field of planning, law and property rights. The themes of the papers and presentations will enable lively discussions and a lot of scientific exchange. We look forward to these during the Conference and in our ongoing collaborations and networks!

More than 150 abstracts were submitted out of which 120 were accepted after reviewing them – which finally translated into slightly more than 130 abstracts presented in this Book. This Book is only one of the many elements produced for the Conference by the Local Host Organising Committee: Professor Greg Lloyd, Professor Deborah Peel, Dr Anil Kashyap and Dr Heather Ritchie.

I would like to thank them, and the School of the Built Environment, University of Ulster, for the smooth organisation and management of this event. It is their efforts and enthusiasm that have made the Sixth Annual Conference possible.

On behalf of PLPR's Executive Committee I wish you a productive conference!

Dr Leonie Janssen-Jansen

President of the International Academic Association on Planning, Law and Property Rights

Table of Contents

1.	Conference Welcome	3
2.	Planning, Law and Property Rights: The Island of Ireland	4
3.	Planning and Property Development at the University of Ulster	6
4.	Speaker Biographies	7
5.	Abstracts	11
6.	Town Planning Review	153
7.	Notes pages	154

Welcome to the 6th Annual Conference
Hosted by the School of the Built Environment, University of Ulster

"Céad míle fáilte" - a hundred thousand welcomes - to the University of Ulster, to the city of Belfast, to Northern Ireland and the island of Ireland. We are privileged to host the 6th International Conference of the International Academic Association on Planning, Law and Property Rights.

We live in very turbulent times. The economic recession, political agendas, attendant social and community tensions and the ever present environmental crises create new boundaries to land use planning across the world. There is a dominant concern with its efficiency and effectiveness – yet there are also important questions relating to its effects on different localities and communities. Changing contexts and reforms of land use planning involve fundamental questions about justice, equity and behaviours. This is perhaps more important now than ever before – as, whilst the powerful economic, social and environmental changes taking place tend to be indiscriminate, they also tend to fall on people and places least able to adapt and mitigate. Land use planning must be about securing greater economic, social and environmental justice. To this end, the 6th International Conference being held in Belfast in February 2012 takes questions relating to rights, responsibilities and equity in land use planning as its principal themes. The Conference offers an opportune space to reflect critically and deliberate the new relations being forged around the state, market and civil society. Land use planning debates must now concern questions as to the role of property rights, the health of civil liberties, and the nature of the public interest.

We would like to thank all those who have helped make this Conference a reality – and we look forward to creating a powerful intellectual environment over our few days together. William Butler Yeats – a wonderful Irish poet – said "Education is not the filling of a pail, but the lighting of a fire". "Céad míle fáilte".

Professor Greg Lloyd

Head of the School of the Built Environment
University of Ulster

Local Host Organising Committee:
Professor Deborah Peel; Dr Anil Kashyap; Dr Heather Ritchie

Planning, Law and Property Rights: The Island of Ireland

The island of Ireland is a complex territory – comprising Northern Ireland (part of the devolved UK and falling within the sterling currency) and the Republic of Ireland (an independent nation state and part of the Euro zone). Its history is complex and is principally governed by conflicts over land, its ownership, use and control. The famine in the C19th when the capacity of the land to feed its people resulted in horrendous fatalities, social disruption and the huge emigration away from Ireland is an illustration. Today the widely cast Irish Diaspora is testimony to those times. Contemporary culture reflects the importance of land to Irish society and thinking. Seamus Heaney – the eminent Irish poet and playwright – and who received the Nobel Prize in Literature in 1995 – articulates this closeness to the land. Land tenure, land ownership and custom and tradition are very much to the surface in a modern and contemporary Ireland.

There are some very important planning, law and property rights agendas currently prevailing across both Northern Ireland and the Republic of Ireland. On the one hand, there is a deep pessimism. As elsewhere in Europe the island of Ireland is experiencing a deep economic recession and stringent public expenditure cutbacks to meet political priorities in the two states. This deflation has resulted in the contraction of the land and property development sectors, with adverse impacts evident on employment, skills leakages in the construction sector and greater investment uncertainty. Moreover, the ending of the property bubble in Ireland has created a complex legacy. This is vividly illustrated by the 'haunted landscapes' and 'ghost estates' in Ireland. Research by the National Institute for Regional and Spatial Analysis suggests there are over 300,000 vacant properties in the Republic of Ireland with an oversupply of 103,000 houses. Clearly, the role of planning in managing this dysfunctional land economy will be paramount in securing the public interest. There are also considerable geographical variations across the national spatial economy in Ireland which will have to be addressed – together with challenges posed by the continuing need for infrastructure and measures to address climate change and environmental priorities.

On the other hand, there is a cause for optimism and excitement about the contribution of planning, law and property rights to these matters. The Sixth Annual Conference takes place against a dynamic round of invention, innovation and imagination in planning on the island of Ireland. In Northern Ireland, for example, an ambitious programme of land use planning modernisation is in train. This will be linked to the reform of local government with a transfer of powers to new local authorities to realise a new democratic planning system for communities; and a review of Northern Ireland's Regional Development Strategy

to provide an over-arching spatial framework to inform the future geographical distribution of economic activities to 2025. A real innovation concerns the turn to cross border spatial planning by both governments. This offers a non-statutory approach to strategic guidance at appropriate geographical scales in Ireland as a whole and represents a real attempt at territorial cohesion and spatial collaboration in the context of fundamental economic and environmental uncertainties.

For scholars of planning, these challenging times offer insights into the emergent institutional and organisational dimensions of understanding the land question. Reflecting the wider economic and political turmoil critical questions are being asked of our conventional understanding of land and property rights. Professor DC North – writing in the Foreword of the recently published Lincoln Institute (2011) book edited by Daniel Cole and Elinor Ostrom ”Property in Land and Other Resources” – points to the evolving theories of property rights. He states that “the tools we use to translate understanding into a framework are institutions composed of formal rules, informal norms, and enforcement characteristics. Institutions are very blunt instruments to deal with very complex issues. Perhaps because the norms of behaviour and the formal rules do not work or because enforcement is imperfect, the problems are still unresolved. Underlying the economic and social institutions must be a political framework. In order to understand that framework and how societies work, we need a theory of politics, which does not exist”. The island of Ireland, which has a rich, deep and diverse land economy and history, creates a wonderful setting and laboratory to consider the role of property rights in securing that political framework for the appropriate stewardship of land and the environment.

Planning and Property Development at the University of Ulster

The School of the Built Environment at the University of Ulster has a long tradition of teaching and researching a range of built environment subjects, and celebrates an international alumni working in various aspects of planning, housing, transport, environmental health, civil engineering, construction, surveying, property investment, and development. One of the strengths of the undergraduate and postgraduate programmes offered within the School is the active way in which academics integrate their research into the design of the curriculum and the ways in which planning, law and property rights are taught. This creative climate is further evidenced by the diversity of doctoral students within the Faculty of Art, Design and the Built Environment, including a number of cross-Faculty PhD initiatives. In part, the impetus for integrating research and teaching comes from the Centre for Research on Property and Planning which is one of the Centres making up the Built Environment Research Institute (BERI) in the University of Ulster. BERI provides a forum for bringing a dynamic range of built environment disciplines together, including hydrogen and fire safety, and renewable energy. Important ambitions for the School of the Built Environment are thus to foster interdisciplinarity and to integrate principles of sustainability, justice and stewardship into the rich range of professionally accredited degrees on offer.

Most recently, the Royal Town Planning Institute and the Royal Institution of Chartered Surveyors jointly accredited a new Integrated Master's in Planning and Property Development. This is a four-year undergraduate programme which has already seen two successful cohorts of students graduate. During the Conference you will have an opportunity to meet some of our students from each of the four years. A new initiative at the University, the Ulster EDGE Award, specifically encourages undergraduate students at Ulster to enhance their employability and professional awareness by engaging in activities outside their programme of study. We are encouraging the students to meet and to talk with you and to record their encounters as a way of enhancing their learning experience and to better share in the research in which you are engaged. We hope that you will be happy to respond to their curiosity by sharing your experiences and answering their questions.

Speaker Biographies

Tuesday 7 February 2012

Anne Garvey

Title: Overview of planning and local government reform

Anne Garvey BA (Hons) MSc DipTP MRTPI is a chartered town planner and is currently Deputy Secretary (Acting) for Planning and Local Government Group in the Department of the Environment. She has wide experience in all aspects of professional planning and administration, including development management, development plans and regeneration throughout Northern Ireland. Anne previously held the positions of Director of Operations, Director of Local Planning and Director of Strategic Planning.

Diana Fitzsimons

Title: Planning Belfast – an overview

Diana is Office Director of the Northern Ireland office of Turley Associates - the largest independent planning and urban design consultancy in the UK with 10 offices in key cities. She is a chartered town planner and chartered development surveyor, with a background in the academic, public and private sectors. Diana was an academic at the University of Ulster - teaching and researching on planning policy and urban regeneration issues. She was a Principal Commissioner with the Planning Appeals Commission in Northern Ireland, conducting inquiries and hearings into development proposals and making recommendations and decisions based on the evidence presented. Since joining Turley Associates nine years ago she has led a number of major mixed use city centre waterfront projects including the redevelopment of the former shipyards and has also led a number of mixed use/leisure projects such as The Giant's Causeway Visitors' Centre. She is currently a member of the Ministerial Advisory Group which is the Northern Ireland equivalent of the English Commission for Architecture and the Built Environment and is Deputy President of the International Federation of Housing and Planning.

Wednesday 8 February 2012

Leonie Janssen-Jansen

Leonie is an Associate Professor Urban and Regional Planning at the Department of Geography, Planning and International Development Studies, University of Amsterdam (NL), Visiting Professor at School of the Built Environment, University of Ulster, Northern Ireland (UK) and Visiting scholar at

the Amsterdam School of Real Estate. In 2010, Leonie was elected as President of the International Academic Association on Planning, Law and Property Rights. She has received research grants from the Dutch Scientific Council (NWO) and the Ministry of Housing, Environment and Spatial Planning. She holds a Ph.D. (2004) and M.Sc. (1998) in Urban and Regional Planning (Utrecht University) and has worked at the Dutch Ministry of the Interior. Her current teaching, research and publications focus on the relation between planning and urban development, real estate (office vacancy), land economics, urban transformation, smart growth, regional governance and planning, and planning and law.

Peter Roberts OBE

Title: Big government in hard times: Planning, regeneration and community development in an age of austerity – some observations and questions

Professor Peter Roberts is Emeritus Professor of Sustainable Spatial Development at the Sustainability Research Institute, University of Leeds and Visiting Professor at the University of Ulster. He is an Academician of the Academy of Learned Societies for the Social Sciences (AcSS), a Fellow of the Royal Society of Arts (FRSA), an Academician of the Academy of Urbanism and was appointed OBE in 2004 for services to regeneration and planning. From 2005 to 2008 he was Chair of the Academy for Sustainable Communities. In September 2008 he was appointed to the Board of the Homes and Communities Agency. He is a prolific and compelling author and some of his most recent books (some with other authors) include Metropolitan Planning in Britain; Environment, Planning and Land Use; Environmental Taxation; Environmentally Sustainable Business; Urban Regeneration: A Handbook; Integrating Environment and Economy; Regional Planning and Development in Europe; Learning from Experience; The New Territorial Governance; and Environment and the City. He has chaired transformation programmes in Tyneside, Greater Manchester, West Yorkshire and elsewhere; was chair of the Housing Corporation inquiry into the rationalisation of housing associations; was a member of the Clapham Review of the National Coalfield Programme and is currently chair of a Task Group charged with the transformation of the Byker Estate (a Grade 2* listed estate in Newcastle upon Tyne) from a failing place to a community fit to face the future. The Byker Task Group reports to the Minister for Housing and the Leader of Newcastle City Council.

Jenny Pyper

Title: Planning for a new future?

Jenny Pyper is a BSc Honours graduate of Queen's University, Belfast and a career civil servant who joined the Northern Ireland Civil Service in 1985. Jenny was promoted to Deputy Secretary in the Department for Social Development in July 2011. The overall objective of the Urban Regeneration and Community Development Group which she heads is "bringing divided communities together by creating urban centres which are sustainable, welcoming and accessible to live, work and relax in peace." Jenny was appointed to the Senior Civil Service in 2004 as Director of Energy Policy in the Department of Enterprise, Trade and Investment where she managed policy and legislative responsibilities in relation to the electricity, gas and renewable energy industries in Northern Ireland. She moved to take up the post of Director of Regional Planning and Transportation in the Department for Regional Development in 2010, where her role included responsibility for both a revised Regional Development Strategy and Regional Transportation Strategy for Northern Ireland.

Thursday 9 February 2012

Alyson Kilpatrick

Title: Rights, responsibilities and equity in Northern Ireland

Alyson Kilpatrick BL is a barrister who practises in public law with a particular interest in housing law, homelessness, human rights and local government law. Having studied at Queens University Belfast, the Inns of Court School of Law London and the College of Europe Bruges, she commenced her practice at the Bar of England and Wales in 1992 as a founding member of Arden Chambers, London. She joined Cobden House Chambers Manchester in 2001 where she retains a door tenancy. She is the author of Repairs and Maintenance: Law and Practice in the Management of Social Housing, Lemos & Crane; Discrimination in Housing, Lemos & Crane; Housing Law and Practice in Northern Ireland, SLS Legal Publications (forthcoming); and a contributor to Human Rights Act 1998: A Practitioner's Guide, Sweet & Maxwell. While at Arden Chambers, Alyson was an editor of the Encyclopaedia of Housing Law and Practice; the Housing Law Reports; and 'Health & Housing Update'. She has assisted the Northern Ireland Human Rights Commission on accommodation issues, socioeconomic rights and the Bill of Rights. Throughout her career, she has acted for a number of public authorities, commercial enterprises, voluntary agencies, charities and private individuals.

Alyson represented the objectors at the Westminster ('Homes for Votes') Audit Inquiry, which investigated gerrymandering and malfeasance in public office,

resulting in the surcharge of council members and officials. Between 2005 and 2007, she was junior counsel to the Robert Hamill Inquiry. In December 2008, Alyson was appointed as the Human Rights Advisor to the Northern Ireland Policing Board (as an independent consultant) and has since authored a number of reports on issues such as domestic violence, stop and search, LGBT rights and children and young peoples' rights. In April 2009 she was appointed as a Commissioner on the Future of Housing for Northern Ireland, which reported formally in May 2010. Alyson was a member of the Irish Government's delegation to Timor Leste on United Nations Security Council Resolution 1325 (women, peace and security). She is a Fellow of the Royal Society for the encouragement of Arts, Manufactures and Commerce. Alyson now practises exclusively from the Bar of Northern Ireland. She is a member of the Housing Rights Service, Liberty, Justice, the committee of the Northern Ireland Bar's Pro Bono Unit and the Preventing Possession Partnership. Alyson is Vice-Chair of the Board of the Simon Community Northern Ireland.

Accounting for Biodiversity in the German Federal Transport Plans: Legal Instruments and Planning Concepts

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Transportation of passengers and goods is predicted to rise continuously in Germany. As a result an increase in space used for transportation (roads, railroads and waterways) and consequently an increasing fragmentation of landscape is implied. This seriously impacts biodiversity, i.e. the diversity of species, the genetic diversity of individual species as well as the diversity of ecosystems. The fragmentation of landscape caused by traffic routes results in the division of natural habitats, the reduction of the total area of habitats and its quality. Even though the German Government targeted a “turnaround of the trend to fragmentation of landscape and urban sprawl” as early as 1985, the trend persists until today. This paper investigates from the legal and planning point of view how future development of traffic routes can better take into account the protection of biodiversity, and how existing fragmentation can be reversed. It is especially the interurban transport network, which contributes considerably to the interruption of ecological links. Therefore, planning of federal traffic routes is of primary importance to the environmental compatibility of interurban traffic. Its legal and technical basis will be discussed first (I). In a second part it will be investigated, how a better protection of biodiversity can be achieved by avoiding further landscape fragmentation regarding the higher levels of federal transport planning, namely in the Federal Transport Plan and the Federal Demand Plans (II). The applicability of existing assessment tools (e.g. the strategic impact assessment and the assessment of the compatibility with habitats designated by the Habitats-Directive) in the planning process will be analyzed. Options for improvements will be derived. Even if further fragmentation of landscape would be reduced or even avoided at all, the contiguous habitats have been reduced continuously in the past decades. Therefore it will be analyzed, which options exist to mitigate existing interruptions caused by the past and current traffic routes by re-connecting measures (III). To improve biodiversity, those measures have to be coordinated with related planning concepts. This study

discusses such planning concepts (e.g. Habitat Network of the Federal Agency of Nature Conservation) and their coordination with transport planning and land use planning.

Keywords
transport planning, biodiversity, landscape fragmentation, strategic environmental assessment, planning law, nature conservation law

Doomed to informality: Can familial groups cope with modern planning?

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Modern, western-oriented planning theory is tightly linked to modern, western-oriented ideas, the primary being the concept of national liberalism. According to this view, current, modern societies are – or at least should be – comprised of relatively free individuals, each having a distinct self-identity matching one's biography, skills and ideals. Under the umbrella of nationality, modern people should be free to fulfill their destiny, that is, to study, work, congregate and express themselves. In the western conception, social groups are formed to match individuals' features and preferences, usually around ethnic and cultural characteristics on one hand and economic constraints on the other. The various spatial implications of this view are embedded, among other fields, in planning systems and planning institutions operating throughout the world, creating nation-wide platforms for decision-making regarding the development of the built environment. The extent to which these western and modern planning frames suit other cultures and world-views is questioned here. Particularly, the paper focuses on the complex relationships taking place in Arab-Palestinian towns in Israel, between the familial order and the traditional land regime on one hand, and the tools offered by the Israeli planning system on the other. While research on Arab-Palestinian towns in Israel was taking place mainly from the point of view of the geopolitical conflict, stressing the discrimination of Arab citizens by the Israeli state, our aim here it to take the discourse a step forward. This paper looks at the way the conflict deepens the adherence of Arab citizens to their land while disturbing the operation of old cultural codes regarding the urban development, thus contributing to the prevalence of informal planning and building and the malfunctioning of the Arab-Palestinian town. The paper ends with offering a different set of planning tools that may bridge the gap between the traditional socio-spatial order and the formal planning system.

Keywords
informal planning, traditional groups, middle east

Harnessing the "unearned increment" in land to supply affordable housing: Potential and limitations

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The idea of reaping the "unearned increment" or the "plus value" of land created by society is by no means new. It was famously proposed by Henry George in 1879, with the hope that a land-based "single tax" would be able to finance all the public needs of society without causing economic turbulence. If Henry George were living today, he would have likely added "affordable housing" as one of the items on his list of social services. The underlying rationale is that much of the value of real property is created not by the landowner's initiative and work, but by government policies that grant development rights or by broad economic and social trends. This paper addresses the degree to which recapture of the "unearned increment" is a useful approach for financing or incentivizing the delivery of affordable housing, For evidence I shall draw on the policies and practices in several countries across the world – in the past and currently. The idea of value capture in its pure form has failed to catch on widely among advanced economies, except in a few countries. However, the basic idea that government can leverage the unearned increment as a financial source for public services has not died away. In recent decades, several "mutations' of this idea have been gaining popularity in many countries, but in widely different forms and degrees. They are much more complex and less "elegant" than the direct value-capture notion, and present legal and public challenges. But they are the more realistic potential instruments for funding affordable housing. The paper first stresses the importance of distinguishing between different and sometimes competing rationales for value capture. I then review each of a set of alternative instruments of direct value capture and the degree to which they are amenable to serve as instruments to implement affordable housing policies.

Keywords

land value capture, land use regulation, developer obligations, affordable housing

Conflicts over Historic Preservation: A Cross-National Analysis of conflicts negotiated by Appeal Tribunals

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Across the globe, more and more countries and city governments are adopting laws and policies to promote the preservation of their built heritage. However, underneath the surface, bubbling debates surface and resurface. The conflicts may vary in types of contested issues and degree of severity. In many countries, judicial or quasi-judicial bodies are increasingly being called upon to resolve such conflicts. Such bodies may take the shape of first-instance appellate agencies that criticize decisions made by local planning authorities. For appeal tribunals, historic preservation presents an especially tough challenge. The rationale for preservation is almost entirely based on a complex, often enigmatic mix of aesthetics, ideologies, or particular historic narratives. While the specifics of preservation contexts and policies may differ, the challenges faced by planning appeal tribunals may be similar across countries. The overall aim of the proposed paper is to analyze built-heritage conflicts negotiated before planning tribunals. The paper presents a typology of heritage-conflicts and implements it in relation to hundreds of appeal decisions in England, Israel and the USA. The typology identifies major types of conflicts including: architectural, planning, social, economic and property-related. The aim of the analysis is to develop a body of knowledge intended to facilitate cross-national learning among decision makers, and judicial bodies. The paper also attempts a new outlook on heritage, through the lenses of conflict. It also focuses on a much neglected arena of the planning field- appellate bodies, as a source of invaluable data about day-to-day dilemmas that confront conservationists and decision makers. The comparative analysis of conflicts is expected to yield some interesting insights about similarities and differences in the dimensions of heritage conflicts and the way they are discussed on appeal.

Keywords

Historic Preservation, Heritage, Conflict, Appeal Tribunals

A comparison of regulatory regimes in England and Taiwan: does the control and management of development contribute to the creation of positive places?

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Can the control and management of development ever contribute to positive place-making? Comparing and using examples from England and Taiwan, the authors investigate differences and similarities in their regulatory systems, which are rooted in very different cultures. What can each country learn from the other? Despite such diversity, are the outcomes similar?

In this paper, the authors set the cultural and decision making context for development, and outline the planning systems within which each country operates. In each, there is a history of early planning for more than a century – in Taiwan, the first planning commission was established in 1897, in England, the first act to deal with town planning was 1909. In both, planning is a highly politicised activity which often attracts negative opinion when controls are imposed. Enforcement is controversial, and in both, economic development is of utmost importance and lengthy planning processes are seen as delays to vital investment.

In England there is a discretionary system which does not depend upon a legally binding plan, and there has been a move towards the management rather than control of development. Planners argue that this has been the case in practice for a while, and that local authority planners work in partnership with developers and other stakeholders to promote and implement proposals advantageously. The aim is to create better places in a more integrated approach to new development. However, the system has been under fierce scrutiny recently as successive governments have sought to streamline regulatory regimes.

In Taiwan, there is a view that the control of development is very important, rather than the facilitation of future land use aspirations, and much emphasis is given locally to conflicts and compromise between zoning regulations and private property rights . There is a strict zoning of land with building codes, and a system of legally binding plans which mostly aim to create new places. Even though more flexible tools such as planning permission, transfer development rights (TDR) and urban design codes were introduced in the early 1990, intending to compensate the possible negative outcomes from a strict control system, the overall planning regulation system is still considered too stiff. Its lack

of flexibility does not facilitate the modern and diverse planning trends, and as a result, does not make sense of places. Taking as a case study some aspects of development such as the conservation and improvement of historic quarters in Taiwan and England, and the use of advertisements, and considering the cultural norms which underpin these societies, the authors examine the role that decision making and control has in place-making. The authors find similarities and differences and seek to learn and apply good practice.

Keywords
Historic Preservation, Heritage, Conflict, Appeal Tribunals

Land conservation and relative scarcity: Equity issues from policy scale

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This paper aims to relate the scope of land conservation objectives from regional to more local units in economically defining land scarcity. The current conservation framework favors one social function for resources where competing uses are present. Because each private or social function of land sorts the available plots differently, choosing one function implies choosing one dimension of land heterogeneity for valuation. This paper first theoretically links the economic concept of relative scarcity to the quantitative and qualitative attributes of land available for conservation. Then, this link is used to discuss different implementations of a land conservation scheme to improve a particular social function carried out by land use regulation (habitats for biodiversity). An empirical illustration, based on data from the Provence region of France, is developed to study the effects of different policy scale trade-offs. We show the importance of local land scarcity to the distribution of the costs and benefits of conservation. Finally, we compare the equity of the different policy scale trade-offs to find an interior solution, between specialization and egalitarianism in conservation objectives.

Keywords

Land resources, relative scarcity, scale trade-off, conservation

Measuring the quality of industrial estates: the case of North Brabant, The Netherlands

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To assess the decline of industrial estates, in the Netherlands many attempts have been made to measure the quality of this type of urban area. Public policies, mainly redevelopment, to respond to decline of industrial estates have been applied for many years. Although industrial estates have been maintained poorly by both owners (private property) and governments (public space), governments have been held responsible for keeping the quality of industrial estates at an acceptable level. To justify this policy of public investments in redevelopment of industrial estates and to estimate the amount of land that is in need of redevelopment, different methods have been developed. Most of these methods are developed by consultancy firms and serve the goal of measuring the quality (and hence, the need for investments) of an industrial estate. These methods have in common that they rely on surveying the industrial estate. However, we argue that these methods only take into account the spatial quality of the industrial estates and leave out other influential factors, such as regional economic circumstances. We therefore propose a different measurement, based on the development of average property values of industrial estates. By comparing our method with previously used methods, we conclude that the policy of Dutch government in the past has mainly aimed at improving the spatial quality, rather than addressing the problems that are related to decline. We believe that improving the measurement of decline can have a positive influence on the investments needed for redevelopment and estimating the land that is in need for redevelopment in the first place.

Keywords
industrial estates, public policy, redevelopment

Climate change adaptation in Queensland, Australia – increasing resilience in the face of flooding and sea level rise

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Climate change is projected to cause rising sea levels, and an increase in the frequency and severity of extreme weather events. This is especially problematic in Australia, with 80% of the Australian population living in the coastal zone, and 711,000 residential addresses located within 3km of the coast and less than 6m above sea level. Extreme weather events are already having a catastrophic impact on Australian regions, especially in coastal areas. During the 2010-2011 Australian summer, flooding and Cyclone Yasi in Queensland resulted in 75% of the State being declared a disaster zone, and generated an estimated $3.6 billion in insurance claims. The recent spate of natural disasters, as well as long-term projections for the future, have motivated the Queensland government to enact laws designed to minimise the impacts of future sea level rise and extreme weather events. These laws are closely linked to maps of at-risk areas, and seek to either restrict development, or ensure that development is constructed to withstand the impacts of future extreme weather events. This paper provides a case study and critical analysis of the Queensland approach for adaptation to flooding and sea level rise in land use planning, and provides some recommendations based on the region's recent experience with extreme weather events.

Keywords

Australia, flood, adaptation, resilience, planning

Towards understanding public perception of anaerobic digestion in Northern Ireland

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This paper aims to prompt a discussion about Anaerobic Digestion (AD) plants and public perception in Northern Ireland. Butler et al., (2008) note that while people generally have concerns about climate change and appreciate the environmental benefits of renewable energy, there is a lack of awareness in respect of AD that can lead to negative perceptions and in turn, problems with project implementation. Since April 2011, there has been a surge of planning applications entering the planning system in NI, offering a substantive opportunity for rural economic development and a new contribution to the region's shift to a more sustainable energy system. However, in light of this "novel" technology, many proposals have attracted local debate and ultimately, third party objections. This situation is not new, nor unexpected, as AD follows in the footsteps and at times, the trials and tribulations of predecessors, such as wind farms and/or energy from waste development which has and continues to endure 'bad press'. Furthermore, a recent report commission by DEFRA (April, 2011) identified a number of gaps in research relating to AD, such as, how the public may perceive and react to its regional implementation. The report found that a lack of collaboration and partnership between developers and local communities existed and that in order to promote AD development, meaningful communication between AD developers and local residents was required. This paper sets out some of the issues related to this new wave of renewables and asks whether it can learn from the previous experience of other technologies and in turn, if it can contribute new perspectives on social acceptance.

Keywords

Renewable Energy Technology, Anaerobic Digestion, Public Perception, Social Acceptance

Planning law reform in Africa: faciung fundamental contradictions

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Planning law reform in African countries is a widely acknowledged priority. Country governments, planners, lawyers and the major donor and international development agencies are unanimous that law reform is a long overdue priority. But there is an almost total vacuum when seeking workable principles to guide planning law reform. Moreover there are few examples of legal tools that have been effective in the management of African cities. The roots to many of the urban problems facing African cities lie in the importation of legal frameworks for urban planning and development from jurisdictions in which the urban challenges are very different, where the professional capacity to implement it is incomparably greater and where the state enjoys a significantly higher level of legitimacy. Aggravating the problem of inappropriate legal models imported from abroad is the fundamental disconnect between what conventional planning law aims to do the contextual reality of African cities and African urban governance. Land markets operate very differently, economic activity in general operates according to very different rules and practices and the attitudes to and respect for formal law varies widely. The daily experience of planning law for the African urban citizen is one of threat. Planning laws are frequently used to legitimate demolition and eviction campaigns that favour elite interests. They are seldom, if ever, invoked to protect citizens' interests. This paper builds on the author's 2011 article - Berrisford, S (2011) Why It Is Difficult to Change Urban Planning Laws in African Countries, Urban Forum: Volume 22, Issue 3 (2011), Page 209-228. In that piece he identified why efforts to change urban planning laws are unsuccessful. In this paper he will outline an approach to inform future efforts, an approach that will contribute towards the development of a reconceptualization of urban planning law in the context of African cities.

Keywords
urban planning legislation African cities governance

Formulating Concepts of Justice: A Historical Perspective

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This paper will explore how the concept of justice has been formulated in the Common Law tradition and what the impact of that formulation on modes of managing urban space. It will reflect on the concept of the equitable solution, particularly as it relates to the use and management of land. It will also look at the accent place upon procedural justice and how that has been converted into an institutional framework for planning. It will draw on classic legal theory and contrast Common Law with Roman Law concepts. It will then consider the structures and practices of British town and country planning, and in particular the key stages in their evolution, including the early town planning system set in place by the 1909 Act, the debates that surrounded the planning system created in 1947 and key statements such as the Frank Committee on Administrative Tribunals and Enquiries. It will conclude by considering both the strengths and weaknesses of the particular understanding of the just system for the equitable distribution and management of land within the planning system.

Keywords

justice, common law

Changing Institutional and Organisational Forms in Parisian Infrastructure Planning: Tying Local Planning up in Knots?

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Debates around the appropriate scale for planning intervention and the nature and design of the institutional forms that plan and manage change are established features of planning theory and practice, as evidenced by the new interest in localism in England. Nevertheless, important questions exist around strategic and regional planning and planning at the neighbourhood scale, for example, and how development might best be funded, planned and implemented in the public interest. These arguments are particularly evident in the planning, design and management of major infrastructure projects. New arrangements for urban planning around Paris have been voted for under the Grand Paris Act (December 2010). Specifically, the Societé du Grand Paris, a publicly-owned investment company that is run by managers directly appointed by central government, is to take on board the local authorities' responsibilities to develop land next to new tube stations that will be built for a new public transport system around Paris (the so-called "Double Boucle Express"). The paper will consider this top-down initiative and argue that this public transport example shows a clear tendency towards a process of re-centralisation in France since the Societé Grand Paris will negotiate local territorial contracts ("contrats territoriaux") on a case by case basis with individual local authorities ("communes"). The paper will consider what this means for local planning decision making as it is potentially overtaken by a new form of regional planning.

Keywords

Paris; decentralisation; re-centralisation; transport policy; planning stragegy; central government intervention

The establishment of land transactions during Dutch spatial planning projects. A study to the aspects that influence the considerations landowners make during land transactions.

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Land property has an important role in spatial planning projects. Both the process to gain control over the necessary land, and land prices can have significant influence on the planning process. In current literature the land and property market is often perceived from a neo-classical economic perspective. The role of landowners' personal beliefs and perceptions are not taken into account in these economic models. Yet, research shows that not only the economic value of land influences land transactions, but that transaction costs play an important role as well. Also sense of place, trust, and cooperation influence the transaction process. There is thus a need to move beyond disciplinary research into interdisciplinary studies on the land market. This research aims to improve the insight in aspects that influence landowners' considerations during land transactions for planning projects. In the first part of the research a literature review and additional qualitative research among land management experts will define aspects that play a role in landowners' transaction behaviour. The paper will work on the preliminary results of this first part of the research and describe economic, juridical and social aspects that can influence land transaction processes during planning projects. In the continuation of the research, a mixed method study will explore in depth the role of these aspects. The research will provide new knowledge on the working and effectiveness of the land market in the context of spatial developments.

Keywords

Landowners' considerations, land transactions, planning

Increasing land value through open spaces – new options in the Brownfield redevelopment

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Increasing land value through open spaces – new options in the Brownfield redevelopment. Dipl.-Ing. Anne Budinger, Univ.-Prof. Dr. Dietwald Gruehn In many European countries an inconsistent discussion on the value of and the benefits from urban green spaces is going on. On the one hand, they are highly regarded on the other hand they are mostly seen as expense factors. The paper wants to point out the importance of green spaces in the urban structure, with a focus on their significance for the economic value of properties and wants to give an overview on the originating of urban waste land and the chance and opportunity to use them for green improvement of urban districts. Location is seen as the most important aspect in the valuation process of almost any property, but there are a lot of other factors which have an impact on the land value. The open spaces around such an estate are one of theses factors. Due to that fact, underused and misused sites can be transformed into a new “location” by making them a green space. In more detail the meaning and impact of green spaces for the land value will be shown, by presenting examples out of a German wide study of big and middle sized cities, the authors specify these aspects and point out the importance to include those in the urban planning process. Further on a closer look would be taken on Brownfield redevelopment projects with a focus on a green reuse, which created a new “location”.

Keywords
Land Value, Brownfields, Open Spaces

Third-party rights in the 'regulatory state': understanding the reduction of planning appeal options in the Netherlands

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On the 14th of September 2011, Dutch judges, barristers and solicitors went out on the street (in their gowns) to protest against an increase in court fees. Although it is partly a protest for banal financial reasons, it also reflects the changing and conflicting views on the role of law within society. It seems that this is not confined to the Netherlands alone, but also applies elsewhere. With the rise of the risk society came the regulatory state. Rather than central planning and steering by public ownership, we see governments turning to the law for achieving their policy goals, also in the field of urban and environmental planning. Legal rules do not only reduce the risks for society but also for policy makers, since it standardises decision-making, hence reducing discretion and chances of personal failure. The result is an increasingly complex legal system and a juridification of planning in practice. While planning has become more legalistic, in the Netherlands we see at the same time that the access to the legal system is being reduced. How can this seeming contradiction be explained? In this paper we explore, conceptually, the relationship between the risk society and the regulatory state. In addition, we connect this to ideas about the role of laws in society, comparing teleocratic and nomocratic legal systems. These conceptual explorations are empirically illustrated. Then we turn to the empirical body of the paper, in which we observe that an increase in the amount of law has led to an increase in the number of conditions that planning decisions have to take into account, leading to more and longer planning appeal procedures. As a response to that, Dutch government sequentially took and is taking three major decisions with regard to the entrance to the legal system. First, in 2008 appeal against land-use plans was confined to legally defined 'stakeholders', instead of being open to everyone.

Second, in 2010 the law was changed in such a way that these ‘stakeholders’ are now only allowed to bring to bear objections that affect their interest directly. And finally, government is preparing a bill that imposes substantial increases in court fees, in some cases increases of as much as 500%! We conclude our paper by arguing that government has chosen the easiest way out of the juridification of planning. Rather than a fundamental contemplation on the relationship between law and society, government pragmatically chooses to limit access to the legal system. This leads to a situation where our (environmental) quality requirements for a land-

Keywords
third-party rights, planning appeal, risk society, regulatory state

Access all areas? Community involvement in planning applications

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The UK Government are pursuing a far reaching restructuring of the planning system for England. The Decentralisation and Localism Bill ('the Bill') is seeking to facilitate economic growth with particular focus on businesses and residential development, reduce the barriers to implementation and pass further power to local communities. The provisions of the Bill have the potential to offer greater opportunities for community empowerment, including enabling further engagement within the planning application process and in particular involvement in pre-application negotiations with developers. But will communities have the ability to engage with such consultation in an informed manner? And critically, does the current system in England for managing information always allow for such an approach?' In many instances the financial viability aspects of a new development proposal can be fundamental to the assessment of acceptability, however the public's ability to access viability appraisal reports can be constrained by commercial confidentially and the protection afforded to organisations through the Environmental Information Regulations 2004. Using recent and notable court decisions, in particular the 'Lakota' case (Bristol City Council v Portland and Brunswick Squares Association), this paper will explore public access to information, where barriers exist, and the implications of this upon the existing and future ability of communities to genuinely and effectively engage in pre application negotiations and discussions. The paper will also reflect upon approaches to information management by local authorities and the importance of communities being aware of their right to access information.

Keywords
Planning, Engagement , Empowerment , Community , Information , Confidentiality

(Re)constructing planning in the face of uncertainty: Challenges for urban planning in Mongolia

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In the 1990's, Mongolia emerged from a socialist regime and began its transition to a market economy. Many urban planning problems which had accumulated during the socialist era surfaced during this transition period. In Mongolia's transition from a centrally controlled system of planning and development, various uncertainties inherent in a market economy were not recognized. Consequently, major changes in the physical, ecological, economic and social environment of Mongolia which occurred after the market economy was introduced made urban planning more complex. This paper outlines the process the Mongolian government is adopting as it (re)constructs urban planning in the current uncertain circumstances. Changes triggered by the transition to the market economy caused large-scale migration, privatisation, land reform, contested property rights, unplanned expansion of the cities, a shortage of urban planners and a lack of experience in urban planning. This paper describes the uncertainty currently being experienced within the Mongolian context and demonstrates its effect on urban planning. It also suggests how these challenges could be addressed. Drawing on interviews conducted with city and national urban planners in 2011, the paper focuses on the implications of the transition to market economy and subsequent political and economic reforms on urban planning in Mongolia.

Keywords
transition, uncertainty, urban planning, Ulaanbaatar, Mongolia

Why planners should not underrate the right to be heard: A revisit from the perspectives of alternative planning theories

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The legal right to be heard – Audi alteram Partem is enshrined in the constitutional or administrative law of most democratic legal systems. The right to be heard is considered a fundamental right of public law and therefore very important in the eyes of lawyers and, in many countries, citizen activists as well. Yet the right to be heard does not command a very good reputation among most planning theorists. Indeed, the right to be heard cannot replace group-oriented participation, proactive participation, communicative or collaborative planning, and more. Yet despite its limitations, few planners or citizens would wish that the legally anchored rights be abolished and that public participation be left only with the less legally binding modes. There are four reasons why planners should be concerned with how the right to be heard is formatted. First, this right is a cornerstone of public law and thus also the legal-theory cornerstone for most types of broader public participation. Second, in all too many countries, this basic right is not available in practice. Third, there are many democratic countries where the broader modes of participation are not available in law or practice. Fourth, the right is currently under threat even in democratic countries where there is a perceived crisis in an essential public service . In this paper we revisit the topic (already presented in previous PLPR meetings) from a planning theory perspective. We demonstrate why planning theorists should not give up on the legal right to be heard but instead, study how this right is manifested in different legal regimes and become engaged in influencing its shape. We evaluate alternative configurations of the RTBH from the point of view of alternative approaches in planning theories.

Keywords

Planning law, the right to be heard, public participation, planning theory

Heritage at risk in a time of financial crisis: threats and opportunities for urban regeneration in historic Lisbon

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Cities are facing today multiple challenges related to environmental and economic transformations. In times of global economic and financial crisis, Portuguese public heritage is witnessing an unprecedented process of privatisation: public real estate and historic monuments are being alienated to private stakeholders without a clear definition of the criteria for heritage protection and, more broadly, the public interest. This paper will explore the threats and opportunities for regeneration practices in Lisbon's historic centre. We will consider the case study of "Colina de Santana", following the State's decision to create new hospital and judiciary campuses in the Eastern area of Lisbon. Former hospitals and courts located in ancient convents and monasteries, including monuments listed as National historic heritage, are today under a process of alienation to private ownership. Public uses are being replaced by "boutique hotels" and other touristic activities, and by new restrictive residential forms for the high and upper middle classes, without previous assessment of population needs, heritage evaluation, and overall a project for the future of these central territories. Further consequences on the social practices of historic fabrics, though inevitable, are leading to gentrification and to specific forms of social segregation. We will analyse the recent political and ideological programs in terms of urban policies regarding heritage and the overlapping planning system of Lisbon at the regional and local scale.

The conclusions include proposals for transfer of public heritage to private entities ensuring that: 1) a community based regeneration plan is created; 2) heritage inventories are proposed for each redevelopment unit; 3) housing is considered as the primary use; 4) a redevelopment financing plan is conducted through a non-profit management agency; and 5) strategic environmental assessment is completed.

Keywords
Gentrification; Heritage; Urban Planning; Privatisation; Lisbon; Urban regeneration

Equity and spatial engagement: A theory of planning for practice?

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This paper reflects upon the evolution of planning in practice, the conceptual uncertainties that trouble the planning academy, and the ambiguous place of planning in the face of the continuously shifting power geometries created by changing institutional approaches. Recognising the real inequity and potential instability of relations between places today the paper explores the complex relationships between planning, Government and governance. This sets the context for a discussion of the conceptual foundations of the planning discipline and whether these are sufficient for planning to play a valid role in synthesising engagement with diverse interests between different sectoral, spatial and institutional levels in an era of increasingly sophisticated networking media. It is argued that a unifying theory of planning, having synthetic spatial engagement and equity as its goal, has the power to bring meaning and power to the many facets and theories in use of planning in practice.

Keywords
multiscalar equitable engagement

Consider peri-urban agricultural land as "common land" can be a source of local development?

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Peri-urban agricultural lands are, generally, private spaces and support economic activity. But they are increasingly subject to collective dynamics. In this sense, they support multiple challenges due to their multifunctionality (outdoor recreation, environmental issues, land reserve ...). Therefore, they can be analyzed as a natural resource like a forest or an ocean in the Commons's school (research group of Ostrom). We mean that peri-urban agricultural lands are subject to new forms of governance involving public actors (local authorities) and private actors (residents, farmers ...). We call these public influences on private spaces, publicness. From a research analyzing an example in the south of France (near Montpellier) and using a method of analysis crossing the study of political projects and the study of local practices, we showed two categories of publicness. The first category is a publicness by political project planning. Political project planning aims to open peri-urban agricultural land to public. In the case-study, it is valuing the link between producers and consumers and developing wine tourism. These two themes correspond with national or international public debates. The second type is a publicness by local spatial practices. The case study is in an area of Camargue traditions. In this tradition, the areas of Camargue bull breeding are privately owned, and attract many visitors and local residents. The Camargue tradition is promoted entirely by the local population and not by political entities. So we would like to consider the possibilities of interaction between the different dynamics which both have peri-urban agricultural land open to the public. Improving the links between political projects created by national and international debates, and local traditions at the origin of space appropriation, could become an opportunity for integrated development of local regions.

Keywords

peri-urban agricultural land, planning, south of France, space appropriation, publicness process

Planning, politics and power – some "power tools" for planners to better manage political power and power relations in the planning environment

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During the past few years much was written on the struggles between planners and politicians, the "power-planning dilemmas", and the power of politics (Flyvbjerg, Hoch, Forester, McClendon and Quay, McCloughlin; Allmendinger; Hillier and Watson). In spite of numerous efforts to study power relations in local authorities and to develop tactics and strategies to 'manage' power relations, there is still limited knowledge on this complex phenomenon with its hidden nuances - as is evident by the many power experiences and struggles in local authorities. Unfortunately many scholars and planning practitioners still argue and promote the viewpoint that political power and political manipulation is "a normal part" of the planning process and an aspect that planners will have to respect and manage with great caution. This paper which is based on a PhD (case) study in the City of Tshwane (South Africa) unpacks and analyses conflict and power dilemmas that arose between planners, between planners and managers and between planners and politicians during a period of government and planning transformation. The paper also explores the dynamics of power relations in a local authority planning environment – specifically within the context of the so-called web of power relations (as described by Foucault), and the social nexus (as described by Habermas, Healey and others). Although the Tshwane case study presents evidence of how political power was (ab)used to define and dominate rationality (and planners), the case study also presents numerous examples and evidence on how power and political manipulation and political conflict can be managed through e.g. proper communicative action (Healey); "the force of the better argument" (Habermas); the power of discourse coalitions (Watson; Wartenburg and Kogler); and the power of instruments. In the end this paper presents a number of "power tools" that planners can use to ensure more balanced and appropriate power relations - and ultimately a more effective planning system.

Keywords

Power and Politics, Power and Planning; Power Relations; Power Conflict; The role of Planners in Politics

THE GAUTENG GLOBAL CITY REGION: The making and global (re) positioning of a [developmental] global city [state]

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This paper, which is informed by a literature study and exploratory inquiry into the subject matter, aims to shed some light on the developmental (status) of the Gauteng Global City Region as well as the local and global developmental (state) challenges facing this region. It is accepted that much work and research was done on aspects such as: globalisation and the overall impact of this, the global city region concept and more specifically the Gauteng Global City Region. However, not enough research was done on the actual developmental role, position and opportunities of the GGCR in relation to the global nexus and more specifically the developmental role and status that is required from an emerging GGR to position itself in the global arena and also to be able to perform, trade, compete and "speak" with the major global role players and Global City Regions. The article further argues that the developmental gaps and poor performance of Gauteng cities are major impediments to the development of a proper GGR, while the limited foci on the Gauteng region/boundaries and the neglect of a larger focus on the larger developmental context, global nexus and influences, could also hamper the actual realisation of the GGCR. In view of the above, this paper unpacks some of the most prominent regional and global developmental challenges and trends as far as it relates to the development of the new Gauteng Global City Region and its (re) positioning in the global context.

Keywords

Global City Region; Developmental State, Municipal Development Planning ; Strategic Planning; Globalisation And Planning; City Branding

The contemporary politics of rights in UK urban development

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The principle of rights has not been particularly evident in UK urban development or urban politics - until now . “Rights” are being promoted by the Coalition Government in the Localism Bill for: Community Right to Buy; Community Right to Build; Community Right to Challenge; Right to call referendums. These Rights allow citizens to challenge public services, directly deliver public services, and take on statutory functions such as plan making. This paper explores the contradictions and implications for planning and development in the UK, focusing in particular on how the new Rights can be interpreted not a protection for deprived communities but a threat to equity and universal provision of services, housing and neighbourhood development. They raise the question of the difference between universal rights (e.g. Right to Life, Right to a Fair Trial, Right to the City etc) and “tactical” Rights (as in Coalition land and planning policy)that can be can be viewed as favouring some groups and communities above others and are regarded as positive or negative depending upon your political perspective.

Keywords

Community, Rights, Politics, Planning

Minimal property as a global human right

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Regarding global human rights, everybody is a social citizen. This global social citizenship produces a right to minimal property. Minimal property is a legal as well as a philosophical concept. Minimal property is shorthand for a number of global human rights established by the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other UN treaties: the right not to be owned, the right to work (which implies property rights to the rewards of labor), the right to an adequate standard of living, including adequate food, clothing, and housing. Philosophically, minimal property can be traced back to Mahatma Gandhi's talisman, John Rawls' theory of justice, Amartya Sen's entitlement approach, Margaret Jane Radin's concept of property and personhood, and Martha Nussbaum's list of capabilities. For landless persons, minimal property arranges their right to vital uses of land and other natural resources. Starving persons have the right to food or, more precisely, the right to obtain property in an amount of food necessary to achieve an adequate standard of living (unless they have this right, eating would be stealing). Since Article 17 UDHR has never been fully translated into global human rights treaties, there is a widespread perception that a right to property is missing from global human rights. This is not true for minimal property. Moreover, discourses on human rights, poverty elimination, and sustainable development seem to think that 'property' is an elitist concept not worthy of consideration in global social policy. Such attitudes neglect that several international conventions specify minimal property with respect to women, migrant workers, children, or persons with disabilities. The most recent multilateral treaty, the Convention on the Rights of Persons with Disabilities, 2006 (CRPD), conceives of property relations as a complex network of inclusion and exclusion. CRPD does not presume that persons with disabilities should have a privileged status in life. Rather, the rights granted to persons with disabilities reflect upon the States Parties' assumption what kind of quality of life everybody should be able to expect. This assumption of ordinariness contains essential features of minimal property. In earlier times, only landowners enjoyed the right to vote and other citizens' rights: property produced citizenship. To some extent, the equation works in the other direction, too: social citizenship includes the right to minimal property. T.H. Marshall's (1950) contention that social rights result in social citizenship delivers a curious result on the level of global human rights.

The States Parties to ICESCR can no longer choose whether they want to recognize social rights (although they have a margin of discretion as to how they respect, protect, and fulfill social rights). Moreover, since the States Parties, with the exception of developing countries, must not exclude non-nationals from their ESC rights implementation (Article 2, para. 2 and 3 ICESCR), national boundaries are irrelevant to global social citizenship. Minimal property, however, gives nobody the right to an equal share of economically valuable resources. T.H. Marshall identified social citizenship as an architect of inequality. Minimal property permits even a grossly unequal distribution of wealth in a world where everyone has received a social modicum. Sadly, this world is far away.

Keywords
property, human rights, social citizenship

Rethinking transformation of public spaces in Turkey

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Neoliberal urban policy implementations have led to increase the use of privatization, public-private partnerships, urban entrepreneurialism and private sector investments in urban areas. This tendency in urban policy implementations is not only affected the formation and use of urban spaces and also conducted the transformation in urban areas. One of the most important signs of this transformation is to relax a sharp distinction between 'public' and 'private'. This paper aims to analyze the process of this transformation and examine the effects of this transformation on spatial planning by focusing on Turkey. In the paper, the transformation process is examined under two different ways: First, is the privatization of urban public areas, second is the formation and usage of private public space (semi-public spaces). While the privatization of open spaces is used for first way in the paper, the formation and utilization of private public spaces in shopping centers in urban areas is used for second way. In Turkey, there is a two way discussion on this issue. On the one hand, there are important difficulties in the provision of the public spaces in urban areas because of high costs, high population, high density of buildings, etc. and the privatization of existing public spaces damages the main aim in the formation of public spaces. On the other hand, shopping centers as semi-public spaces that is open to people from different socio-economic groups, but is being in private ownership and their roles in the urban areas are needed to be discussed. References Cybriwsky, R., 1999. Changing patterns of urban public space, Observations and assessments from the Tokyo and New York metropolitan areas , Cities, Vol. 16, No. 4, pp. 223–231, Demircioglu, E., 2010. Modeling the Distribution of Rental Values of Shopping Centers in Istanbul, Thesis, (PhD), Istanbul Technical University. Erkip F., 2003. The Shopping Mall as an Emergent Public Space in Turkey, Environment and Planning A, 35, 1073-1093. Ozsoy, M., 2010. Users preferences on transformations of shopping centers into private urba public spaces: The case of Izmir, Turkey. African Journal of Business Management, 4(10), 1990-2005. Van Melik, R., Van Aalst, Van Weesep, J., 2009. The private sector and public space in Dutch city centres, Vol.26, Issue, 4 pp. 202-209.

Keywords
Public areas, private public spaces (semi-public spaces), privatization of open spaces, shopping centers, Turkey

The arbitrary layout in the urban areas of Greece

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The Greek urban areas have been shaped since 1833 in a way that until today exists and has defined the Greek cities. The major phenomenon of arbitrary layout began in 1922 with the arrival of millions of refugees that had to live in low- quality infrastructures as the existing houses didn't exist. During the next years, as the life in the city became the dream of the Greek citizens, population continuously arrived in the urban centers where entire illegal settlements that didn't have the basic infrastructures, were built. Through the years these arbitrary areas were becoming legal extensions of the existing cities that still faced problems in their sustainability, taking advantage of each Governments tolerance, as this was a solution for the low income population to have a house. Today the arbitrary layout in Greece has also a new kind of constructions. New luxurious constructions are built in forests, coasts, Natura areas and other places where any kind of constructions are restricted. This new phenomenon that is rapidly increasing in the areas around the urban centers has caused the exploitation of the natural elements and the un-controlled extension of the urban areas. Recently the Greek government has legislated a law according to which any arbitrary construction can be legalized when it's owner pays a fine that differs according to each construction's size. This new law that today functions in Greece has given the right to all arbitrary constructions to be legalized even if they have been constructed in order to cover basic needs or if they are constructed by those who do not take the existing laws into consideration. This new law leads to the maintenance of all arbitrary constructions while it encourages the continuity of this phenomenon as there is no punishment. The aim of the current paper is to present the different characteristics of the arbitrary layout in Greece, to criticize the weaknesses of this new law and to propose ways so that all citizens have the same rights but also sustainable development is achieved.

Keywords
arbitrary layout, low income, infrastructures

The development of public services allocation in the Athenians basin.

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The public services in the Greek urban planning were a subject that has puzzled the planners for the recent decades. Initially their posts were defined in the first plans in central areas, as the square, the town hall, the post office e.tc were shown in each plan. Through the years the public services were defined to be allocated in certain city's zones but almost always in city's central parts in order to achieve the optimum accessibility. In the past 30 years the urban centers gigantism, especially in the Athenians basin, the country's capital rendered imperative the need of public services allocation in other city's parts as well, as new needs had appeared. The plans that were designed, defined that public services could be allocated in sub-centers but this was not achieved as they "preferred" the axial zones of main roads taking advantage of the provided legislative freedom. This fact has led to traffic congestion and car-use maximization as public services are uses that attract many costumers. The current paper will focus on the Athenians basin as a case study and it will investigate the way public services were diachronically allocated, what changes have been achieved and how urban legislation has influenced this shaped status. Finally it will evaluate the sustainability of this allocation, in the point of urban journeys creation, and it will propose forms and posts that can ensure public services optimum allocation.

Keywords

public services, allocation, development, Athenians basin

A Cross-national perspective of agricultural property rights and policies in OECD Countries

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In every advanced-economy country where there is an agricultural sector there are also legal and economic regulations regarding rights on agricultural land. Those rules may include (or not) the following specific rights: The tenure of the land, e.g. the right to hold to the land, to have sole access to it and cultivate it. The right to sell or transfer the land freely, or to mortgage it. The right to develop or use the land to non-agricultural uses, and the right to refuse to such development or prevent it. The right to benefit from Betterment or Windfall derived from the rise in land values caused by planning or public work decision. The purpose of the study In this research project, we shall examine the property rights prevalent in the rural sector in selected countries representing a variety of property-rights trajectories: Those that have not been through massive changes in recent years, such as the USA, Canada, England, and several Continental European countries; those that have been undergoing non-revolutionary changes in the rural sector, such as Scotland and the Netherlands; and those countries that have undergone massive change, such as the former Communist countries. A systematic comparative analysis of rural-sector property rights will provide a prism for reevaluating the role of property rights in meeting the double (and often conflicting) role of the rural sector in advanced-economy countries: on the one hand, economically viable production of food and fiber, and on the other hand – the preservation of the rural way of life, history and landscape in a socially and economically sustainable way. These findings could assist researchers and decision makers who are deliberating about the appropriate land policies for their rural sector.

Keywords

agricultural land; property rights; value capture; conversion from agriculture to urban; planning law

'Us and Them?': Citizens' and Politicans' Perceptions of Planning Reform

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The discourse of 'planning reform' has dominated policy discussions on planning for at least the last 14 years. This is based on the notion that planning should better reflect the needs of the contemporary economy, the expectations of governance and do more to meet the needs of society. Since 1997, each of the devolved administrations of the UK have sought to 'modernise' their planning systems and the Con-Lib coalition is now continuing this with their localism agenda. The process of reform has differed across the UK, mediated by variations in ideologies and priorities of those in power, the varied institutional framework and broader differences in governance cultures. Proposals for reform are often subject to intense debate, sometimes isolated to key stakeholders, other times drawing in wider voices, such as those of middle England in the case of the 2011 Localism Bill. In each case, the reform agenda is, quite rightly, led by political representatives but often appears to reflect the interests of key economic elites, with major questions on how well reform reflects the views and priorities of the wider public. This paper will take the example of Northern Ireland, whose planning system has long been subject to intense criticism from a wider range of bodies (the NI Select Committee, the NI Planning Commission, the NI Audit Office…) and which in 2011, passed a major reforming Planning Act. The paper will engage the findings of two discrete pieces of research. It will first draw on an NVivo analysis of parliamentary debates during the legislative process of the new Act, noting those issues that were of greatest priority to the politicians and providing an insight into how they perceive planning as contributing to society. This will be contrasted with the findings of a major survey of the public and key planning stakeholders in Northern Ireland, undertaken in the summer of 2011, which provides a very different assessment of planning and the alternative priorities for reform. Comparison of these two sets of findings suggest there is a need to recast the relationship between planning, the public and the political class.

Keywords
Planning Politicains public reform

Application of Spatial analytical hierarchy process in land suitability (Case study: urban development of Tabriz Province-Iran)

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Tabriz province is one of the industrial and commercial metropolitans located on the northwest of Iran. At first glance can be said that, regional conditions from the past to present, suffered from some forms of environmental imbalance like the irregular expansion of urban settlements, destruction of natural resources, reduction of urban open spaces, reducing the extent of habitats, increasing in the civil services and the other related issues. Urban development rate in the most major cities of the world do not show a slow growth rate and cities have been deformed from small and separate population centers into the big physic-economic cities with associated environmental characteristics. Due to the urban development, data management and urban planning have been greatly increased and become more complex. Vast network of urban facilities, population distribution and density, land use and many other cases which often have spatial match, are adding to the complexity of urban planning. This study was carried out by the aim of feasibility testing of Spatial Analytical Hierarchy Process as the one of the relatively new multi criteria evaluation methods. The obtained results illustrate that Spatial Analytical Hierarchy Process method can be considered as a powerful decision support system tool in case of various land uses site selection in the area.

Keywords

multi criteria decision making; Spatial Analytical Hierarchy Process; urban development; site selection

Infrastructure fees and betterment zones as the forms of betterment recapture

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The paper presents main ideas of projected betterment recapture reform in Poland. A plan of imposing fixed infrastructure fees is currently discussed. The core Polish problem is an impossibility of using land value or land rent value in a effective recapture mechanism. Currently cadastral system not function properly what causes the legal defects of using cadastral value in Polish system. The key question is possibility to recapturing of betterment outside taxation instruments. The article begins with a description of the regulation concerning assessing adjacency levies and betterment levy. Next part is devoted to determining whether it is really justified to calculate the amount of adjacent levy on the basis of the property value increase. It also considers if such a mechanism is appropriate for shaping the system, allowing the property developers to make a direct financial contribution. In the third part the article discusses an proposals of “betterment zone” and infrastructural fees and outlines alternative ways of calculating the fee which are directly based on different criteria such as the length of the plots upfront lane, its space and the type of building. The paper tries to respond how correctly define such terms as ‘betterment” and “betterment zones” and what types of infrastructure could be financed in such way. Additionally a controversial problem of imposing such fees on undeveloped converted farmland is analyzing.

Keywords

betterment, infrastructure fees

The land use strategies of local authorities in the aftermath of new public management. Impacts on spatial development and sustainability

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My presentation focuses on the strategies followed by Swiss local authorities to shape their spatial development in a context where the public sector is under pressure to increase its cost-efficiency. In this new context it analyze how local authorities utilize different instruments stemming from private law (public-private partnerships, non-monetary compensations, long-term leases, public property) or public law (land consolidation/reallocation, inciting instruments such as taxes and subsidies, use quotas, building obligation) to complement planning instruments (binding general plans, non-binding master plans, zoning, private plans). Paradoxically, even though New Public Management (NPM) calls for a slimmer public sector, the need to back up the implementation of land use plans through other instruments becomes greater in order to restrain our society's footprint on land and its impact on global issues such as climate warming or natural habitat destruction. My research is broadly positioned within the critical literature on NPM that examines the impacts of the new managerial models on spatial development. It analyses the use of private-law instruments and incentive instruments by local authorities within the broader context of their regulatory action (land use planning), insisting on the fact that this combined appraisal is necessary to understand the impact of regulation on resource uses sustainability. In my presentation, I present the first results of a survey which provides a broad comparative overview of Swiss local authorities' strategies. Local authorities are conceptualized as heterogeneous entities whose members (legislative, executive, city planners, public funds managers, building managers) defend partially different interests but share the need to assert themselves in a competitive context where their competences are challenged by private or public actors defending competing agendas. I discuss three main hypotheses linking NPM, local authorities' spatial development strategies and sustainability.

Keywords

Land use planning, property rights, New Public Management, local authority, governance, spatial development

Engaging with climate change through effective land management: initial thoughts from initiatives pursued in the US

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Recent initiatives in the US such as the Senate Bill 375 'Redesigning Communities to Reduce Greenhouse Gases' (2009) seem to suggest that impact of human action on the climate system can be reduced by requiring the achievement of environmental targets (such as reducing the levels of greenhouse gas emissions) as part of land management policy. This can be seen as a radical departure from conventional land management policy both in the UK and in the US that predominantly is concerned with placing a 'geographical constraint on urban growth'. By critically examining such developments, it emerges that the question of transferability to the UK context is complex, given the varying planning traditions, more pronounced role for 'central' and 'local' rather than 'regional' actors in the UK, and differences in the scale of development pressures.

Keywords

Climate change, land management, urban containment, environmental targets, land use planning, SB 375

Delivery of Strategic Infrastructure in the Republic of Ireland - an examination of the impact of new legislative procedures on public participation

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The system of spatial planning introduced to Ireland in 1963 was based on the British Town and Country Planning Act of 1947 with one very significant adaptation. A general right of appeal was given to third parties against local planning decisions, both permissions and refusals. Some forty years later, the national planning appeals authority (An Bord Pleanala) was in effect deciding all major planning applications - local refusals being appealed by the promoters, local grants by third parties. The Strategic Infrastructure Act of 2006 represented a pragmatic response to the (then) current situation. A procedure was devised to bypass what had become merely the preliminary stage at local authority level in cases where infrastructure projects of national significance were proposed. Since January 2007, such applications have been made directly to An Bord Pleanala, however the rights of third parties to participate in the planning process were significantly diminished in the new legislative provisions. This paper will (i) contrast the paucity of statutory provision for public participation in the appraisal of strategic infrastructure development (SID) proposals with the extensive provisions for third party involvement in standard planning applications; (ii) review the protocols put in place by An Bord Pleanala to fill this lacuna with regard to SIDs and thereby ensure equality of esteem; and (iii) examine the impact of the new procedures on the independence of decision-making by the Board.

Keywords

legislation, strategic infrastructure development, public participation

Consideration of Legal Environmental Impact Assessment Requirements in Regional and Local Landscape Planning in Thuringia (Germany)

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Landscape Planning in Germany is – compared to other European countries – much more subjected to legal requirements. The new German Federal Nature Conservation Act, which came into force in March 2010, established new regulations concerning landscape planning with respect to other environmental planning instruments or needs, for instance environmental impact assessment, impact regulation, habitat networks as well as nature protection areas. While scientific community pays much attention to legislation reforms or compilations, less attention is paid to empirical research on the impact of planning instruments on decision making processes or other planning instruments. The paper points out the results of an empirical evaluation of regional and local landscape planning within the free state of Thuringia (Germany). More than 40 landscape plans on different scale levels have been investigated, selected by a multi-stratified random sample. The paper focuses on the consideration of legal requirements of Environmental Impact Assessment Law within regional and local landscape planning over the last two decades. The findings give an idea about implementation process and temporal development of landscape planning in Thuringia after the reunification of Germany. Finally the paper addresses recommendations for future development of environmental planning in Thuringia.

Keywords

Evaluation, Landscape Planning, Environmental Impact Assessment, Strategic Environmental Assessment

Measurement of Spatial Develop of City Based on Infrastructure Installation Chalus city-Mazandaran-IRAN

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Urbanization and urban development is a major phenomenon of the contemporary. Pioneer urban planning are aimed at improving the quality of life for urban development to provide optimal spatial patterns in cities, especially large cities and paid search to appropriate guide of cities development and to determine the best strategic options for developing the space strategies. Status of urban infrastructure in the city to develop quantitative and qualitative is to the extent that some experts because of the role and position of infrastructure in development uses it synonymous with growth and development are used in the city. Because of this critical positions in the city that is referred to the network infrastructure or vital networks of the town, Unfortunately, in the urban planning paid little attention to this matter yet. The purpose of this study is measuring the capacity of development of city based_on space infrastructure, according to Urban Migration and scrutinize development concepts and to emphasize the importance of its role in preparing urban development plans, objective research methods is according to theoretical_practical and the nature of descriptional and analytical. Methods of data collection are used in two track such as field and a library and documents and library and field tools for collecting data. The study population for better analysis of problem, the city of Chalus is selected as one of the coastal cities, Research findings indicate that in general infrastructure paying attention to identifying capacity despite being a key position in space development towns are neglected and the experimental findings indicates that physical_space conditions of city have not symphonic development. Therefore is recommended that we should consider city as a system, and in the urban development plans, should measure the capacity of cities' development in all dimensions, particularly in infrastructure.

Keywords

Evaluation - Spatial Develop - Infrastructure Installation - Unprepared environments - DPA Model

Windfarms in the Courts: A review of Australian case law

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n 2007 the Australian federal government made a commitment to generating 20 per cent of Australia's electricity from renewable energy by 2020. Wind energy is required to make a significant contribution to the attainment of this target but wind farm proposals have become increasingly controversial. Community opposition to wind farms is based on a range of concerns which include visual impacts, noise, shadow flicker, bird strikes, interference with television signals and a range of health impacts. This paper provides a review of recent cases, particularly from southern Australia, which have come before Australia environmental courts and tribunals, focusing in particular on issues of conflicting policy imperatives and the nature of expert evidence. It is to be presented as a non-refereed paper, reporting on 'work in progress', with a view to encouraging comparative study of emerging issues relating to wind farms in other jurisdictions.

Keywords
windfarms renewable energy caselaw Australia

Can Centralization, Privatization and Welfare Go Together? The Case of Massachusetts Affordable Housing Policy (Ch. 40B)

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The Massachusetts Affordable Housing Policy of 1969 (also known as the Anti-Snob Zoning Act, or simply 40B), is one of the most admirable and controversial acts in the history of the state. It was intended to break the exclusionary "snob" zoning that was fashionable in U.S suburbs at the time, and to "open up" the suburbs to low- and moderate-income residents by encouraging the production of affordable housing statewide. The act is a unique combination of three main pillars: centralized state power, local government authority, and privatization of public services. The paper analyzes 40B, and the modifications it has undergone over the years (both substantively and quantitatively) and re-examines the relationship between centralization, decentralization, and privatization. It also suggests how this odd combination can not only exist but also provide some benefits to the low- and moderate-income residents within society. Although apparently contradictory, the findings indicate that in certain conditions this might be possible.

Keywords

Affordable housing, exclusionary zoning, Massachusetts, low- and moderate-income residents, welfare, centralization, decentralization, privatization, state-local government relations

Gated and guarded community in Malaysia: The new roles of the state and civil society

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A gated community is worldwide phenomenon and has attracted attention of players in real estate industry. In general it refers to the communities 'forting up' in order to provide refuge from crime. Typically, the barrier might provide some sense of protection and safety to the residences to reinforce in very visible way the ongoing division and territoriality. In Malaysia, gated community problem does not only revolve around the issue of social and physical planning in short term impact but most importantly in long term impact. In response to this the state has amended the related legislations and introduced new guidelines to control the emergence of this trend of residential development. This study seeks to explore the residents' experiences living inside the gated community in Malaysia. Using three major cities in Malaysia, namely Kuala Lumpur, Johor Bahru and Penang, the study demonstrates that the efforts to increase the quality of life in gated community is a positive move to achieve the liveable residential area status. However, a wider holistic approach needs to be considered looking at the social and physical impacts towards all residents living inside the community which warrant greater role by the state. The study concludes that to create liveability within neighbourhood area, the community must play their role well apart from maintaining their own neighbourhood with the guidance from the state.

Keywords
Gated community, quality of life, residents living inside gated community

Evaluation of Instability in the rapid urban development Mazandaran - Iran

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Mazandaran state due to the special geographical position, favorable natural and climatic conditions , Proximity to the Caspian Sea , existance of long beaches, appropriate vegetation, diverse wildlife, Several rivers , mineral waters, Pleasant scenery and natural parks,is the Poles of a strong tourism industry and tourism in Iran .and continuously is added on the range of its space. in recent decades this province , has rapid growth , un bridled and ugly that has experienced changes .The imponderable urban planning has led to instability in the city accordingly, Present paper is written with an analytical - documental method with the aim of study and evaluation of dimension and effects of instability as a result of pattern of Inharmonious development And Hastily between 1375-1385. research findings show that the development and distribution of spatial city .Cause Shortage and expensive land and housing, destruction gardens and agricultural lands and environmental and natural resources degradation , wear and instability of urban texture , degradation of cultural features and the city with out identity , Development in high-risk areas of natural such as Features rivers And beaches And a range of mountains, And destroying of the aesthetic aspect of the city , appearance and expansion of marginalization merging of surrounding villages and loss of environmental features , joining sphere of influence of cities and reading. of this province at near future to metropolitan is endangered this region non - compliance of the spatial development of cities with the capacity of urban infrastructure has led to the retardation of urban planning and this subject of urban sustainability is faced with big challenge.

Keywords

spatial development , urban distribution , urban development , urban development accelerated

Property and Sovereignty: An Indian Reserve in a Canadian City

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In late 2009, scant months before the Winter Olympic Games descended on the City of Vancouver, a massive steel pole appeared beside the Burrard Street Bridge, one of the major thoroughfares into downtown Vancouver. It supported two enormous electronic billboards which displayed a flickering cast of advertising messages to the passing traffic. Several years earlier, a much more modest wooden pole appeared near the foundations of the same bridge, visible to walkers and cyclists passing under the bridge on a pedestrian seawall and to boaters entering or leaving the small inlet. It was carved in the shape of an oversized figure with smiling face and outstretched arms. Both poles, the one demanding the attention of bridge traffic, the other tucked away almost under the bridge and bearing a demeanour of greeting, announced the presence of the Squamish Nation in the heart of Canada's third largest metropolitan area. Both poles stand on land that was once and is now again, after a court ruling, an Indian reserve. Indian reserves are enduring sites of exclusion. Held in trust by the government of Canada for the Indian Bands to which they were allotted, and part of a broader Indian land policy that confined the territorial extent of Aboriginal sovereignty in Canada, the reserves are islands of jurisdiction over which provincial and municipal governments have no control. In British Columbia, these islands exist in a context where the larger issue of Aboriginal title remains unresolved. This paper will use the related, but distinct concepts of property and sovereignty to understand the appearance, disappearance, and then reappearance of Squamish Indian Reserve No. 6. in Vancouver.

Keywords

property; sovereignty; jurisdiction; indigenous peoples; Indian reserve; Vancouver

DIALOGUING WITH DEAF: How to avoid deadlock and congestion in large urban development projects

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Recent developments show, how crucial participation can be for the success of large and long-lasting urban development projects. In such projects many stakeholders compete with diverging ideas about how to use scarce (mostly inner urban) land. A prominent example for deadlock and congestion in a spatial planning process is the station reconstruction and urban development project Stuttgart21 in the city of Stuttgart in Southern Germany. Another very large station reconstruction currently takes place in Utrecht, the Netherlands. Here participation particular is taken into account the issue how to avoid deadlock and congestion. Our research interest is the answer to the question: How can participation help to avoid deadlock and congestion in large urban devel¬opment projects? A crucial question for the design of such planning processes is: why do certain groups step into a participation process or avoid doing so. Therefore, a typology of participants is developed in the paper. This typology helps understanding the motivations and constraints of different actors to participate in spatial planning processes. Ignoring certain types in particular in large urban spatial planning projects can lead to sever deadlock and congestion. Our starting hypothesis is: a viable participatory process must respond to all – or at least as many as possible – of the different participatory types in a planning process. Such participation is a challenge of optimizing the planning process with respect to participation. In most European countries, planning law frames the mode of participation in spatial planning processes. Generally, laws on consultation are heavily stacked in favour of municipalities leading and deciding the methods of participation. How do planning laws facilitate the different types of participation? In this paper, this question is going to be discussed by analyzing the Dutch and the German planning law (Wro and BauGB).

Keywords

participation, urban development projects, participatory types, Dutch planning law, German planning law

Citizen Participation Matters: Collaborative Community-Based Planning in Hillsborough County, Florida, Usa

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How do stakeholders with conflicting interests participate with their local government in a collaborative planning process to formulate and implement a land use plan that determines the future development of their community? How can such a process address the conflicting interests and property rights represented by the stakeholders? This research explores the experiences of residents, landowners, and other stakeholders who participated in a collaborative community-based planning effort in Hillsborough County, Florida, USA, to formulate a plan for the future development of their community. The participants consisted of persons with conflicting interests and property rights perspectives. For example, some homeowners viewed their community as rural and strongly desired it to remain that way. They preferred a plan with detailed design criteria and roadway constraints. In contrast, landowners and other stakeholders interested in property development viewed their community as becoming more suburban and commercial in the near future. They perceived the community plan as containing too much detail and representing unnecessary additional layers of regulation. To complicate matters, development in an adjacent county was contributing to roadway congestion in the affected community. Some stakeholders called for road widening to relieve this congestion; but others feared road widening would lead to additional development that would destroy the community's rural characteristics. These issues raise questions of how a collaborative process can adequately addresses such conflicting property rights in both the planning and plan implementation stages. This research explores the experiences of citizens before, during, and after their participation in collaborative planning processes through which community-based plans were formulated and adopted as public policy in Hillsborough County, Florida, USA.

Keywords

citizen participation, collaborative planning, community planning, land use planning, collaborative policy-making

Structural problems of public housing schemes in developing countries: the case of El Salvador

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The adequate provision of affordable housing is a severe problem in the spatial development of almost all developing countries, in which housing provision relies mainly on the informal sector operating in unplanned developments. In El Salvador, the smallest and most densely populated of all Latin American countries, the formal housing sector has only a small share in all housing activities. Publicly funded housing, being part of the formal housing sector, is intended to address the housing needs of the urban and rural poor, but definitely cannot cope with the scale of the problem and, furthermore, in many occasions and for various reasons provides housing options to the middle class. And being El Salvador one of the most violent countries in the world it is sad to see that certain morphologies of publicly funded housing developments add to the public insecurity, a situation that shows a direct impact on the financial sustainability of public housing schemes. On the basis of own empirical studies carried out in the country during several years the paper will provide a deep insight into the modes of operation and the structural problems of the public housing sector of El Salvador and will consider possible solutions to the denoted central problems, which also might be of interest to other developing countries in their effort to provide affordable housing in planned developments and to cope with the scope of the problem.

Keywords

El Salvador, affordable housing, public housing, housing finance, urban development

HYDROPA – an appeal for a functional view of space

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The European Union can be seen as the sum of 27 member states. However, this view does not cover the added value the project Europe brings. Moreover, following the view of a simple sum of member states could lead to a failure of the European idea. The EU rather follows a holistic understanding of Europe. Accordingly the questions of identity and demarcation of the “European Space” arise. At least part of the answers can be found by taking regarding functional spaces. Or vice versa: The overcoming of the absolute sovereignty of the national states and the softening of administrative borders. Therewith the EU creates an additional value (an own dimension), which goes beyond the pure addition of the national states and their policies. With the case study of flood risk management the presenting paper is going to demonstrate, why this concept is nearer to the living reality of the modern society and brings even improvements for spatial planning. Since the EU has no formal competency in the field of spatial planning, the implementation of European spatial development strategies (e. g. ESDP or TAEU) and territorial cohesion require strategic alliances with other sector policies. Here, the concept of Hydropa is one example of the diverse mosaic of Europe and the European space. This contribution discusses why and how flood risk management is particular interesting sector policy to demonstrate the pressing necessity of approach to space functionally rather than territorially. The conclusion of the paper is that the functional view of space is an essential necessity to understand and implement the European policy of territorial cohesion as well as for sector policies like flood risk management.

Keywords

European Union, Territorial Cohesion, Flood Risk Management, Soft Spaces, Borders, European Spatial Development Strategies

Zoning on water – floating homes in flood prone areas

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During the last decades the way of protecting settlements from floods changed. An integrative flood risk management with new and manifold strategies began to replace the old way of building higher and more expensive dikes. Especially the Netherlands can be seen as a good example for implementing innovating ideas as they follow the motto of making the water become a friend instead of fighting it. In this context building forms like floating homes become more important. Different to normal houses these constructions use the presence of water and are secure from floods as they adapt to changing water levels. In some cases, even land is flooded on purpose to build floating settlements. Such a strategy would also solve problems in some of the flood prone areas in Germany. First concepts for particular areas do exist. But there are a lot of difficulties with implementing floating homes, as well in general as for flood prevention purposes. One of these difficulties is the absence of adequate mooring areas. Another reason is the problematic and unclear legal status of the floating homes. Is a floating home a building or a ship? How should a planning process for areas with floating homes look like? Which laws have to be considered and which permission are necessary to build a floating home? The paper focuses on the named problems of implementing floating homes in Germany and gives answers to before listened and other questions. Further an exemplary guide for the implementation will be presented.

Keywords
floating homes, flood prevention

How Does Forest Decentralization Influence Property Rights in Community Forest Management? Case Study from Thua Thien Hue's Upland, Vietnam

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Allocating forest to village/community is pilot in process of community forest management (CFM) institutional in Vietnam. After forest allocation, villagers become forest owners. In this context, the study's conceptual framework views the allocating forest to community is seen as political decentralization- a form of decentralization in forest management and changes in property rights under forest decentralization as transfers of "bundles of rights". This study was conducted in two villages in Hong Ha commune, A Luoi district, Thua Thien Hue province, Vietnam. Kan Sam village was selected as representation of community that is allocated forest by state and Pahy village was selected as representation of community that manages forest by customary law. Through two villages in Thua Thien Hue's upland, the study found out three key findings as follows: The first finding argues that allocating forest to community was initiated by outsiders' demand. Reducing costs of forest management is a major incentive for the local governments and government agencies to allocate forest to community. The second finding point out that changes in formal rights (legal rights) in the two villages vary, while informal rights (rights in practice) are similar. The forest decentralization has significantly changed formal rights over community forest. Before allocating forest, both villages just have formal rights of access. After allocating forest, Pahy's villagers are the same formal rights, while Kan Sam's villagers have formal rights of access, withdrawal, management and exclusion. Contrary to formal rights, informal rights over community forest seem to be unchangeable under forest decentralization. The third finding makes a proposition that gaps between formal rights and informal rights over community forest always exist. There are three main causes lead to these gaps: lack of legal environment and support from local authorities; social and power relations (kinship); and differences of perception between old and young generations.

Keywords

Community Forest Management, Forest Decentralization, Bundles of Rights, Upland, Vietnam

Property rights in forced eviction, housing and planning: Gypsies and squatters in the UK

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Two instances of illegal occupation of land and property in the UK have aroused much media attention recently, both against a background of housing shortage. One is the increased incidence of squatters in upper-end homes unoccupied by their wealthy owners, a phenomenon that has been dormant since previous recessions and housing shortages in the 1970s. The other is the proposed forced eviction of a large group of Irish Gypsies/Travellers from a site in the Metropolitan Green Belt (at Dale Farm, Basildon). While they raise rather different legal issues, they both involve the tension between ownership, occupation and use of land/property. Karsten (2002) offers an historical analysis of the interactions between bureaucratic 'formal' systems regulating land ownership and use, and the 'informal' perceptions, understandings and practices of those who need accommodation. The effective abolition of the doctrine of adverse possession in the Land Registration Act 2002, and the high-profile decision of the European Court of Human Rights in Pye v UK, reflect growing interest in the social, economic, legal and moral dimensions of unlawful land use the use of land (particularly empty homes) for unlawful occupation. United Nations organizations, particularly the Centre on Housing Rights and Evictions and the Advisory Group on Forced Evictions have involved themselves in both issues, against strong resistance from the UK Government. The paper will explore the legal tensions between land use planning, protection of private property, shortage of housing/living accommodation, and protection of human and minority rights.

Keywords

Gypsies, squatting, forced eviction, planning

Adjustment of legally binding urban plans

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Traditionally, and by law, new urban areas are regulated and planned through legally binding urban plans in Denmark. Lately a new tendency has occurred. The municipalities make the legally binding urban plans quite open for future adjustment, combined with a substantially amount of provisions which empower the municipalities to later ruling. This way of making plans postpones the actual regulation of an area, making it a individually ruling for instance at the application of building permits. Case studies show examples of this way of regulating an area, which seem to be beyond the scope of the planning law. This paper deals with this problem through case study, interviews and a legal analysis of present law. If the combination of the legally binding urban plan and subsequent added requirements is misused, it will weaken the legal rights of the citizens (property owners) and in general the justice in land use planning. The scope of the paper is to establish to which degree the permission procedure and the use of empowerment provisions legally may be used in the planning process. In detail this will include the considerations of legal rights, the extend of the legal use of empowerment provisions and the combination of the use of legal binding urban plans and other legal instruments such as easements and sales agreements.

Keywords

realisation of urban plans, legal rights, justice in land use planning

What price access to environmental justice? Planning, agonistic democracy and the hidden costs of dissent

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Driven by the widely debated promises of a genuinely collaborative planning, provisions for public participation have become integral to the ideology of contemporary planning. In keeping with this commitment to participatory democracy, planning reform initiatives in many different locations have proclaimed their inclusive credentials. At the same time, however, reform has often been accompanied by countervailing pressures to speed up decision-making in the interests of economic efficiency. This parallel drive has been motivated by concern at the "cost of delays" associated with time consuming planning processes which are constructed as a serious barrier to economic growth. Drawing on case studies gathered as part of a campaign for a more democratic planning system in Scotland, this paper examines how the tension between participation and efficiency is playing out. We find that the "costs of delay" discourse has become a powerful means of sidelining those who express opposition to development, legitimising the use of a range of techniques to silence dissenting voices. In response we draw attention to the fact that "delay" is not the only cost associated with contemporary planning processes, and argue that the human price being paid by members of the public who seek environmental justice through an often unyielding system represents a hidden toll on the legitimacy of planning and democracy. Working from the lived reality of people thrust into engagement with planning, we conclude by arguing for a series of changes, both systemic and cultural, that would reduce this toll and facilitate more actively democratic processes. In doing so we reflect on how our work illuminates two questions central to the future of collaborative planning theory and practice: how a more agonistic form of planning democracy can be cultivated and sustained, and the implications of such procedural innovations for shaping more substantively just places.

Keywords

agonistic democracy, access to justice, costs of participation

Private Property and Human Rights: A Mis-match in the 21st Century?

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This paper explores the future of privately property in the context of the U.N. human rights framework. I outline the terms of the historical and current debate about private property and human rights, and show why it is difficult to come to a definitive conclusion on a matter that has been so preoccupying to social and political discourse. In 18th century foundational human rights documents (e.g. the French Declaration of the Rights of Man) the "inviolable and sacred" nature of property is asserted, as is the requirement for government to acknowledge its integrity. The 1948 U.N. Universal Declaration on Human Rights avows that "everyone has the right to own property" and that "no one shall be arbitrarily deprived" of it. In the latter half of the twentieth century multi and bi-lateral aid agencies operationalized these ideas through private property-based land reform to address the problems of the landless rural poor. Private property's role was reinvigorated in the post Berlin Wall era. It appeared that a consensus was emerging that private property was critical for human rights. But a critique of private property has also emerged that views it as a threat to sustainability and a hindrance to schemas for civic improvement. Critically assessing U.N. policy declarations about land through the lens of property rights theory, I seek to understand private property's precise role in this early part of the 21st century. Several questions frame this investigation: how are 18th century human rights concepts relevant in the 21st century?; what function does private property have in an urban world, where the poor are increasingly residents of informal settlements in mega-cities? Some advocate strong private property as being as relevant today as it ever has been. Others, sometimes including the urban poor themselves, can be more skeptical.

Keywords
private property, property rights, human rights, United Nations, 21st century

Underground spatial planning – legal settings of manageging underground projects

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The use of the underground takes already place since a long time in a considerable range. Examples are the development of mineral resources, underground storage for natural gas, geothermal energy for heating systems or the dumping of waste in the underground. The planned and expected CCS-technology in the course of the general climate and energy policy objectives of the EU Member States have shown the need for a comprehensive and seamless underground planning. The dimension of future CO2 storage and the arising conflicts requires planning the space below the surface. In addition, future energy and climate protection measures lead to an intensification of underground conflicts. Against this background, the question arises whether the existing spatial planning instruments and land-use planning regulations in Germany (and in other EU Member states) are suitable to control the expected above-ground and underground using conflicts. This and further questions the author investigated together with the Oeko-Institute Darmstadt on behalf of the Federal Environmental Agency (UBA) in the research project “Underground Spatial Planning - Proposals of environmental protection to improve the above- and underground information base, for the design of planning instruments and sustainable solution to conflicts of use (Subproject 2: Processing spatial planning and legal aspects)”. From the legal point of view, this raises in particular the following questions: • Which role plays comprehensive spatial planning on the one hand and the sectoral planning on the other hand in the field of underground spatial planning? Should adaptation of the regulation be provided principally in the field of sectoral planning? • Should the importance of land use planning on the state level be extended for an underground spatial planning? • If the previous question is to negate: Should there be an underground spatial planning fixed at the level of regional planning? The questions reminds problems within marine spatial planning, the author has already dealt with extensively in former times. Even there the question appeared, whether the features of the spatial planning system onshore can be used for non-terrestrial planning. In the presentation the question should be investigated whether a transfer of terrestrial approaches to underground conditions is possible.

Keywords
Spatial planning law / Underground / CCS / Climate change / Sectoral planning /Mining law

Principles, rationalities and consequences of government by contract

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The transformation from government to governance has stimulated market approaches of planning and has resulted in many horizontal strategies of public-private development. Contractual arrangements and procurement procedures are used to regulate mutual relationships between governmental agencies and market parties, within a broader context of European regulation. Using contracts for the realisation of public goals has advantages, for example, flexibility and specificity but the immediate focus on goals, means and results, and the direct exchange of interests run the risk that negotiations end in only a focus on price and that the ultimate aim will not be achieved; enhanced quality of development processes and of the projects itself. In addition, planning by contacts could result in a lack of transparency. Parliaments can set up conditions that constrain or limit the contraction space for the minister, the deputy, or the alderman, but in the end they are all bound to a document that has been made by lawyers and professional negotiators. The real deal is found in documents that are not available for the public and are not part of any democratic procedure. In addition, despite its aim of horizontality, it is very hard for a government to shift between its roles as legislator, coordinator, principal and project organiser. These various roles are sources of many conflicts and could jeopardize the planning goals. As many of the post-crisis responses in planning and development aim for new forms of public private partnerships, it is important governments learn from the earlier experiences to avoid problems. After conceptualizing public and private roles, and collaborative forms in urban development, this paper evaluates some Dutch cases, among which the high-speed rail project, to illustrate the risks and challenges of a planning practice with contracts as a means to arrive at policy goals. The paper ends with some conclusions with regard to pro's en con's of contracts as planning devices.

Keywords
Contracts, public-private development, procurement, privatization, the Netherlands

Identifying changes in governance processes to promote sustainable land use driven by stakeholders

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The political and scientific objectives of a sustainable use of land have brought the development of a comprehensive land use management to the agenda. In Germany, on the basis of spatial planning, many tools and methods were developed, which should support and guide public, but also private actors towards a sustainable use of land. After setting global objectives (politics) and providing tools (research) in a top down approach the further question arises for the role both play in the daily regional and local planning processes and how they enable the envisaged change in institutional and organisational forms. As recent figures show, there are not many signs of a change in land consumption. Actual research highlights, in this regard, the neglected importance of governance processes with contradicting and ambiguous objectives and a multitude of private and public actors. Within the URBACT-project LUMASEC, conducted by the Karlsruhe Institute for Technology, an approach was elaborated to develop land use management for European cities further. The approach looks at the layers “spatial pattern”, “governance” and “capacity of stakeholders”. Based on these, barriers for an implementation of a sustainable land use management are identified as well as concluding policy implications are developed. And finally, adequate tools for all layers were elaborated. Taking this approach not to develop tools but to analyse and evaluate regional and local situations with regard to already applied tools and the capacity, it can give important information on existing governance processes. This helps to describe the existing and required changes in institutions and organisational forms within land use. As a result, ways could be shown to enable a sustainable land use driven by regional and local stakeholders. This marks an important step from top-down objectives towards regional and local responsibilities.

Keywords

land use management, land consumption, changes in governance, responsible stakeholders

Rights, responsibilities and equity in Dutch land-use planning aimed at flood protection and prevention of water nuisances

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All people are equal, but some people live in areas where there is a greater risk of flooding or water nuisances. Geographical and water safety differences between 'high' grounds and 'low' grounds seem to be a fact of life. However, in government policy and in spatial planning law there is a tendency to neglect such differences. Every municipality wants to realize building projects, no matter how low its area is laying below sea level. Recent case law (Westergouwe) shows that it is legally allowed to build in a low laying area under certain conditions, notwithstanding some expected water risks related to possible water nuisances and flooding. One of the conditions is that there will be no unacceptable risk on flooding and water nuisances. Other conditions were that the floor level of the houses had to be minimal equated to the simulated flooding level, and the condition that enough water storage capacity had to be realized to prevent water problems in adjacent areas. In this paper we describe the case Westergouwe and other examples from case law to illustrate how in land-use plans can be dealt with possible problems of flooding and water nuisances. The main questions we try to answer in our paper are the following: Which water-related conditions of climate adaptive spatial planning and building can be laid down in land-use plans? Which water-related aspects are regarded as spatially non-relevant? Flood protection is mostly regarded as the responsibility of the government. In The Netherlands private actors (civilians, businesses) have their own responsibility to prevent some water nuisances (e.g.: storm water on private grounds). In this paper we describe some examples from Dutch (case) law concerning responsibilities of private actors.

Keywords

flood protection, water nuisances, land-use plan, public and private responsibilities

The barriers and opportunities of adapting suburbs to climate change

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Suburban neighbourhoods offer a challenge for climate change adaptation as the land and assets are largely privately owned. Therefore, it is difficult to engage and motivate agents of change, such as resident homeowners, to act in an effective manner to ensure that suburbs are suitable for a future changed climate. It is however important for actions in suburbs to be taken in a way which can achieve a beneficial cumulative effect, and avoid a negative impact on the area as a whole. This paper draws on research findings of the EPSRC funded SNACC project which aims to determine how suburbs can adapt to climate change. The research was undertaken in three separate cities, Oxford, Bristol and Stockport. In each city residents were gathered in workshops to view and comment on potential adaptation and mitigation options that could be applied in their suburb. The adaption options covered changes at the house, garden and neighbourhood scale and were customised to the local built typology and land morphology. The workshops sought to determine the respondents' perceptions of the effectiveness, feasibility and acceptability of the adaptation options and how their perception of climate change as a risk, and their exposure to previous climate related hazards (e.g. floods), had influenced their responses. The paper addresses a gap in knowledge on the barriers and opportunities to adapting for climate change, within the context of suburbs which have complex ownership status.

Keywords
Climate Change, Adaptation, Suburban Neighbourhoods, Acceptablity

Round in circles: property rights in Canada and the uncertain future of the Alberta Land Stewardship Act

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Round in circles: property rights in Canada and the uncertain future of the Alberta Land Stewardship Act The absence of constitutional protection of private property in Canada and the limited right to compensation for planning-related losses is well documented (Alterman, 2010; Brown, 2007). This paper highlights the effect of this legal position on political opposition to the introduction of potentially beneficial planning reforms. In 2009, the Government of Alberta introduced a new Land Use Framework which set out the province's approach to achieve its long-term economic, social, and environmental goals, and sought to coordinate all land use policies in the province under provincial leadership. The support this initiative, the legislature enacted the Alberta Land Stewardship Act. ALSA delegates to the provincial Cabinet broad powers to establish planning regions and to create regional land use plans which, once approved, supersede all other enactments and become binding on all decision makers in the province. Perhaps as a result of unfortunate drafting, ALSA created a political storm surrounding its potential impact on property rights – especially among rural landowners. Critics pointed to section 19 of the Act, which begins with the words: "No person has a right to compensation by reason of this Act …". Fearing political repercussions, the government introduced several amendments to ALSA, designed to clarify the Act, but which critics identified as largely cosmetic. Recent political developments in the province indicate that landowners' concerns remain, and that the future of Alberta's Land Use Framework is uncertain. The paper considers some of the drafting pitfalls plaguing the legislation. It then reflects on the political reality in which the question of compensation comes before land use policy. References: Russell Brown, "The Constructive Taking at the Supreme Court of Canada: Once More, Without Feeling" (2007) 40 University of British Columbia Law Review 315. Rachelle Alterman, ed., Takings International: a Comparative Perspective on Land Use Regulations and Compensation Rights (Chicago, Ill.: American Bar Association, 2010).

Keywords

Property rights, Regional Planning, compensation

“Flights of fancy”: the interdiction of aerodromes by municipal planning authorities and the validity of zoning legislation at the Supreme Court of Canada

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Rare insight into the judicial view of the zoning power was recently provided by the Supreme Court of Canada’s decision in Quebec v Lacombe. There, the Court held that a municipal zoning amendment designed to exclude an aerodrome from a lake in order to maintain a serene environment for the surrounding cottagers was ultra vires, as the regulation of aeronautics, including determination of the location of airports and aerodromes, falls under Parliament’s exclusive federal jurisdiction. The Court held that the rules governing the division of powers between the Federal and Provincial governments pursuant to the Constitution are cogent. In particular, while municipal intrusion into federal jurisdiction may be tolerated where it is related in pith and substance to a valid zoning scheme, the essence and purpose of the amendment in dispute was, according to the Court, the “interdiction of aviation”, which did not further the objectives of zoning. The Court was concerned in particular with the lack of correlation between the nature and land features of the areas affected and the ban on aerodromes. While the result may be correct, the paper makes two points. First, it argues that the Court’s ruling derives from a myth long held by judges and scholars, which overly simplifies the purpose of zoning and wrongly focuses on the physical environment when deciding questions of excludability. Second. the paper discusses the implications of having one standard for assessing the validity of local regulation that potentially conflicts with federal power, and another standard when local regulation conflicts with provincial legislation. References: Quebec v Lacombe, 2010 SCC 38 Hudson (Town) v Spraytech, 2001 SCC 40 Eran Kaplinsky, “Zoning Canadian Style: The Case of the Zoroastrian Temple in Toronto” (forthcoming).

Keywords

zoning, planning law, institutions

Permitted Development Rights and Renewable Energy in Northern Ireland

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Permitted Development and planning policy in general is a devolved responsibility. The requirement to meet the renewable energy target is set out in the Strategic Energy Framework for Northern Ireland. Utilising the power of the wind will be an important contributor in enabling Northern Ireland to meet its renewable energy targets over the next decade. PPS 18 sets out the DOENI's planning policy for renewable energy development. The PPS and its complementary SPG aim is to encourage the provision of and facilitate the siting of renewable energy and heat generating facilities in appropriate locations within the built and natural environment. Open site and predisposed to the wind from a south westerly direction, planning permission and access to nearby three phase power lines are the other aspects determine the overall feasibility of a wind farm location. This paper considers the policy context for meeting the energy and climate change challenge for Northern Ireland. Furthermore, the paper considers the economic evaluation of viable renewable energy mix for 2020 for Northern Ireland.

Keywords
Permitted Development Rights, Renewable Energy, Wind Farms

Compulsory Purchase as a key driver for creating certainty for development: Comparative study of India and Northern Ireland

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Land is a fundamental resource for urban development. The land needed for the development of greenfield or brownfield sites is largely owned by private landowners. As one of the fundamental rules of law, which can be traced back to Magna Carta, is state protection for land ownership, if such land is required for public purposes it has to be vested or compulsorily acquired accompanied by the payment of compensation. The Land Acquisition Act (LAA) of 1894 in India and The Local Government Act (NI) 1972 in Northern Ireland coupled with policy directives govern the process of land expropriation for public purposes such as road and rail infrastructure and the regeneration of city centres. This paper will compare and contrast the principles by which state authorities can compulsorily acquire land in two jurisdictions with a rich and diverse legal and constitutional history – India and Northern Ireland. It will compare and contrast the power to compulsorily acquire land and the purposes for which land may be acquired against the wishes of the owner. The basis upon which and the method by which the landowner and others can challenge the decision to vest the land will also be examined. The nature of the judicial oversight of the acquisition process in each jurisdiction will be contrasted. The principles and approach to the assessment of compensating the dispossessed owner in each jurisdiction will be considered. The paper will finally draw out some common themes that each jurisdiction has and lessons learned for planned and sustainable development.

Keywords

Vesting, Compensation, Human Rights, Sustainable Development

Transfer of Development Rights : Does One Shoe Fit All?

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Transfer of Development Right (TDR) is intended to preserve or eliminate the development potential in places to conserve and protect the heritage buildings and increasing developmental potential in places where growth is required provided infrastructure could cope with the development. This tool allows transfer of development potential of a piece of land that is reserved for some purpose to another designated area. Most successful application of TDRs are reported from the US where the New York City Landmarks Preservation Law of 1968 was first used to allow owners of historic buildings in New York to sell development rights to developers needing additional density rights in another part of town. This eased development pressures on the owners of historical buildings, thus preserving the city's heritage. The key philosophy behind concept of TDR, which was introduced in USA more than 40 years back, has since been primarily for preservation of land for a particular purpose and, to a lesser extent, to encourage development in a particular (receiving) area where higher density could be served by infrastructure services. However, it has been used in India as a land acquisition and urban development financing mechanism with significant adverse consequences. This paper examines the TDR instrument in different jurisdictions in the context of maximising societal welfare in a market economy.

Keywords
Transfer of Development Rights (TDR), Heritage Conservation, Market Economy

Private land ownership is an opportunities or restriction in land use planning? Case study: in the section of the edge of Tehran city (Iran)

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Land use planning and organized urban activities is the pivot of urban planning. Understanding patterns of urban land and property ownership is important not only because the size and configuration of land holdings affect urban morphology through new development, regeneration and refurbishment of existing land and property, but also affects the nature and shape of urban development by reflecting contemporaneous architectural and planning styles. Moreover, in view of respecting private land ownership in many countries, urban management as the main agent of implementing land use planning must acquire lands and given the financial limitations of public organizations it is not an easy work for municipalities. For example the lands located along the southeastern edge of Tehran called “Niro- daryaee”, though 80% of them are bare but have private owners. These obsolete lands have made several social and environmental problems. Therefore municipality of Tehran decided to provide urban local plan to resolve the problems, regenerate and develop the land. At the beginning because of being bare, it seems, it is possible to perform some different land use planning and various patterns of urban design. But the shape, form and private ownership of lands is serious limitation. Thus municipality of Tehran tries changing limitations to opportunities by considering people rights. It does not interfere in form and configuration of lands but it involves landowners to build their houses. This caused urban management to make big saving in expenses through attracting public participation in successful implementation of the plan. Respecting citizens’ rights, Tehran Municipality achieved their satisfaction as the final and real users of the plan through making lovely places according to their opinion, interest and life style.

Keywords

private land ownership, land use planning, municipality of Tehran, Niro- daryaee

Exploring the Distribution of Building Rights in Planning

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A landowner usually expects he can utilize his land in a profitable way, and the possibilities to utilize the land are highly depended on the right to build on the land. Building rights are determined in municipal planning – i.e. structure plans and binding local plans – in Denmark. However, landowners are within the same area often left with very different opportunities depending on which land parcels they own when planning is adopted. This raises the question of how building rights are distributed in Denmark and how the distribution is influenced by the different stipulations in municipal planning and the level of detail in these. This paper presents the different ways building rights are distributed in Denmark and discusses the landowners' different positions and opportunities. Other countries have different systems and some countries are experimenting with ways to transfer and trade building rights. This is yet another way of distributing building rights. It is discussed if other countries' way to handle the distribution of building rights could contribute to the Danish system.

Water management as catalyst for participatory climate adaptation planning in coastal regions around the North Sea

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Projected change in climate will significantly impact the hydrological cycle in all the countries around the North Sea. The issue of sea level rise is well documented. Due to a warmer climate evaporation will increase, the magnitude and frequency of extreme weather events will increase, and so hydrological extremes such as floods and droughts are also likely to be more frequent and severe. A changing precipitation regime will impact run-off, sediment transport, water quality and the groundwater level. The range of problems within 5 regions studied in U.K. (England), the Netherlands, Sweden and Germany show numerous similarities. However, the awareness and hence the knowledge of the different effects quite varies in the regions. This is reflected in different approaches both in terms of formal and informal ways of adaptive spatial planning on the local and regional level. Since water is a unifying resource most of the stakeholders adhere to, water management and related land use management are catalysts for climate adaptation planning. A German case provides an example of regional governance and participatory action of local decision makers in defining guiding principles for considering climate adaptation needs in local and regional spatial planning. Such an informal process is an important step in taking climate adaptation measures, since it is still often unclear who is responsible for developing and implementing an adaptation strategy at the different policy levels. For that reason the importance of stakeholder identification and integration in any adaptation project cannot be underestimated.We also see that the coordination of climate (change) adaptation strategies between different policy levels is often inadequate mainly due to a lack of bottom-up and up-scaling mechanisms.

Keywords
regional planning, sustainable development, stakeholder involvement

Two become one: Local government reorganisation in rural areas to improve spatial planning

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In Germany the municipalities compete for citizens for different reasons: Citizens pay taxes, the technical and social infrastructure needs a certain number of users for an economic viability, an “ensuring state” needs as many people supporting him and acting in a successful social network as possible, the built environment can hardly stand structural vacancy on a larger level since valuation, structure and cityscape are negatively affected. Unfortunately, the German population is shrinking dramatically and some municipalities are not competitive, in particular those without job offers. Especially the towns and villages in rural areas are affected by a movement of labour. Their strategy to stop this migration is to define new built-up areas in hopes to attract people. Due to the missing economic structure, this strategy is not successful; the municipalities meet high expenditures for developing the not demanded areas however. The Federal Government tries to improve cooperation between the municipalities. However, all issues relating to the citizens are matters of the local government and the municipalities do not want to share this right with their neighbouring city. Instead of joining together to manage the demographical change and the resulting financial burden they keep on planning on their own. The approach of this paper is to reorganise the local level of administration and government to improve both the spatial planning strategy particularly in rural areas and to effect an economy. Proposed is the shift of the two-tier to a single-tier structure. Assets and drawbacks are shown by analysing the German district Odenwaldkreis.

Keywords

Local government reorganisation, rural areas, spatial planning in a new local authority, effect an economy

The social floor to housing

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The right to housing is a fundamental human right and part of the right to an adequate standard of living (Universal Declaration on Human Rights [UDHR], Article 25; International Covenant on Economic, Social, and Cultural Rights [ICESCR], Article 11). The member states of ICESCR have to report how they cope with their duties to respect, protect and fulfil the economic, social, and cultural rights. In my paper I am going to compare the States Parties reports of the Latin American and African ICESCR member states and answer the research question: What is the content of the social floor to housing? Thinking about inadequate housing often leads us to think of homeless people, slum dwellers and people living in (other forms of) informal settlements. By developing different land policies, global actors try to improve the housing situation of the poor. On the one hand, they demand land ownership for people living in informal settlements, and on the other hand, they emphasize the potentials of informality. Based on a discourse analysis, I will demonstrate how the State Parties articulate these different land policy approaches in their reports and how they cope with the social floor to housing.

Keywords
housing, land, informality, homelessness, human rights, discourse

Compulsory purchase for planning purposes in practice in the Netherlands

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Compulsory purchase is within legal studies a subject for normative analysis, the core of legal scholarship (Smits, 2009), as it is about an ultimate weighting of private versus public interests. Taken all these normative issues, research on the actual use of compulsory purchase or planning purposes is rare, this may be attributed to the rare use of compulsory purchase for planning purposes. The Netherlands has a long tradition in compulsory purchase for planning purposes. American sources often refer to the De Jure Belli ac Pacis by Grotius to explain the origin of the term eminent domain. Also in his Dutch language tractate on the law of Holland Grotius indicates that towns have, against compensation, compulsory purchase rights for town extensions and improvements (De Groot, 1631, 44). In the practice of Amsterdam urban extension plans in the 17th century, compulsory purchase is not restricted to the land for the new fortification areas, canals and roads, but the land of the whole urban extension areas was transferred to the local authority that sold it for private use using contract law to shape urban development (Jansen, 1960). The present compulsory purchase act aims to enable swift purchase (Sluysmans, 2011) dates from 1851. Since 1901 planning can provide title to compulsory purchase and over the last century this title has become more and more the dominant way to compulsory purchase. The proceedings have three major steps. First, the development plan indicating the land use for the coming decade. Second, the administrative phase, a decision to purchase the land compulsory, which must be approved or taken by the Crown. Thirdly, the setting of the compensation by the court. These steps are separate involving, for example, that the Crown does not decide about the proposed land use, because this is settled in the proceedings about the development plan. The whole idea is that compulsory purchase is a last resort and the authorities are obliged to attempt to purchase the property amicably, a process which may be framed by this legal context. The paper to be presented reveals some preliminary results of an analysis of published decisions by the Crown. As this decisions are centrally published, analyzing this material provides a full account of compulsory purchase in the Netherlands. The royal degrees provide a series of relevant information about purpose of the land, the relationship with planning and arguments about the necessity of the purchase. Analyzing this material involves setting up a data format. It must be noted that although this study

provides insight in compulsory purchase, this insight is still limited, because the existence of compulsory purchase powers may structure negotiations resulting in bargains in the shadows of this legal proceedings. On the other hand, based on a Crown decisions new negotiations may result in contracts, without a formal court decision. References De Groot, H. (1631) Inleiding tot de Hollandsche rechts-geleertheyd [The Introduction to the Jurisprudence of Holland], Weduwe ende Erfgenamen van wijlen Hillebrand Jacobssz van Wouw, Den Haag. Jansen, L. (1960) De derde vergroting van Amsterdam [The third enlargement of Amsterdam], Jaarboek van het genootschap Amstelodamum 52(1), 42-89. Sluysmans, J. A. M. A. (2011) De vitaliteit van het schadeloosstellingsrecht in onteigeningszaken: Een studie naar theorie en praktijk [PhD Thesis with Summary: The viability of compensation law in expropriation cases: A study regarding theory and practice] Rijksuniversiteit Leiden, Leiden, Smits, J. (2009) Redefining Normative Legal Science: Towards an Argumentative Discipline. In F Coomans, F Grünfeld and M Kamminga (eds.), Methods of Human Rights Research, Intersentia, Antwerpen/Oxford, 45-58.

Keywords
Compulsory purchase, planning, the Netherlands

Objectively best or most acceptable? Power hierarchies and knowledge types in the Swedish wind power development

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The paper analyses the permit process for Swedish wind power development in terms of two paradigms of spatial planning and environmental management. The Swedish permit process for wind power has been criticised for being inefficient and was revised in 2009. The revisions meant letting environmental permit procedures replace local planning as the instrument of spatial planning of wind power development. The article empirically examines the first instance handling processes for aspects of efficiency and effectiveness such as how long they take, who has a say, for what reasons people want to have a say etc. Further, a comparison is made between processes before and after the legal revisions. The article is based on a sample from the permit processes for wind power in Sweden. A database has been constructed based on handling process documents collected during 2011, both according to the new as well as the old system. Early results indicate that the new process is not fulfilling its main purpose of higher efficiency without loss of effectiveness. It is neither faster nor does it include participatory aspects to a higher degree. On the one hand there is in Sweden a national drive to increase the speed of wind power development, where legal changes is one measure taken, and on the other the spatial planning system is based on a local planning monopoly. The development of wind power in Sweden is an interesting case of conflict between national goals for technological development and local spatial planning and governance of land use. This conflict between central and local power is further emphasised by what can be seen as a paradigmatic conflict relating to what type of knowledge should control decision-making; on the one side there is a calculating rationality, where expert-based knowledge is held as the defining paradigm, and on the other there is a communicative or deliberative approach dealing with balancing legitimate but not necessarily compatible interests. This epistemological battle is also seen in the two major bodies of legislation

regulating environment and land use in Sweden: the Planning and Building Act (PBA) and the Environmental Code. These two sets of legislation can be seen as expressions of two competing paradigms of environmental governance, the planning paradigm and the environmentalist paradigm for short. The paper is based on a study within the Swedish national research programme “Tools for environmental assessment, MiSt”.

Keywords
Wind power, planning regulation, spatial planning, planning paradigm, environmentalist paradigm, knowledge types

Rights in public space: the Productive Contribution of Henri Lefebvre

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Rights and responsibilities are a key terrain of strident debate in planning especially in relation to public space: itself a contested concept. Recently, a UK government minister, Eric Pickles complained that, “streets are losing their English character”. One of the few great 20th century philosopher/urbanists to provide a sustained critical engagement with the nature of public space, urban planning and planners at the theoretical and empirical levels is Henri Lefebvre. This paper argues for the importance of Lefebvre’s theoretical and empirical work. His spatial triad, ideas about urban space and ‘the right to the city’ still provide fertile theoretical grounds for planning. One of his major contributions to urban theory is his intriguing contention that space is produced through social action and is always full of meaning, rather than being inert and empty. One of Lefebvre’s most important concepts, differential space, has surprisingly received less research attention than his spatial triad. The approach here is to link theoretically Lefebvre’s ideas concerning the nature of urban space, his seminal work on differential space and the right to the city. The findings of recent research are presented. The methodological approach used mixed methods research drawing on archival, interview and visual data. Case study research related to Manchester, England is presented which reveals how planners over the course of two decades, through the production of new public spaces, inadvertently created the potentials for the creation of what Lefebvre called ‘differential space’. The paper argues that a key feature of differential space is the active politicised appropriation of urban public space by individuals and groups.

Keywords
urban public space differential Lefebvre Manchester

Maintaining apartment blocks – a case study from Victoria, Australia

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The Owners Corporation Act 2006 (Vic) provides a new process for current and future maintenance of apartments blocks in the state of Victoria. Some blocks have passed additional rules to ensure that they are maintained in a manner which supports sustainable values. The Victorian municipalities of Port Phillip and the City of Melbourne have instigated programs which provide incentives to apartment blocks to retrofit buildings to become more sustainable. The paper explores the rights, responsibilities and obligations of all the parties involved in such retrofits, and queries whether existing governance structures and requirements in the Owners Corporation Act can adequately accommodate these sustainable retrofits. Drawing on international experience, law reform suggestions are made as to how the Owners Corporation Act could better accommodate the consideration of the enhancement of buildings in an environmental manner.

Keywords
Building maintenance. Sustainability. Apartment law. Rights.

Problems and perspectives of development of compulsory purchase in Ukraine

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Compulsory purchase of land for public purposes, as a mechanism for land resources management plays an important role in such matters as maintenance of state land cadastre, state control and monitoring of land, economic incentives for land use, settlement of land disputes. According to the Law of Ukraine “On the compulsory purchase of land and other immovable property which they are located, which are in private property for public purposes or for reasons of public necessity” purchase of land held for “public use” and “expropriation in order to public necessity”. Compulsory purchase of land in practice in Ukraine is used in two ways: buying and compulsory purchase of land. Consider the compulsory purchase of land for public purposes or for reasons of public necessity in terms of two aspects: legal and technical. The legal aspect of compulsory purchase of land is considered in terms of legal possibilities of parties in condemnation of lands for public use. The technical aspect of compulsory purchase of land is considered in terms of planning capabilities at the disposal of land for public needs. Planning should be done in a way that implies the involvement of all stakeholders, including landowners and land users to reduce the area of land to be compulsory purchased. It is important always provide support and legal assistance to landowners and land users on the value of land compensation. Compensation should include consideration for the concerns and obstacles, including the reimbursement of relocation expenses as a result of expropriation.

Keywords

compulsory purchase, public necessity, public purposes, public needs

Corruption and the abuse of power in land and property development?

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The conventional neoclassical economic conversation around the efficiency, effectiveness and equity of land and property development makes a number of heroic assumptions about the primacy of private property rights, available information and rationality. When these assumptions break down, the conventional case for state intervention (in the public interest) is on the basis of inefficient market failures. In land and property development contexts this provides the rationale for statutory land use planning regulations to correct the malfunctioning market interests and processes. This account does not factor in power and the extent to which its use and abuse acts as a 'natural' adjustment mechanism in inefficient markets or in the context of state intervention to subvert the public interest from securing the much vaunted public interest.

This preliminary 'think piece' paper will recast the notions of power in land use planning through a discussion of corruption, bribery and accountability by stakeholders. It draws on evidence from public examinations of such abuse of power and seeks to explain corruption in planning through the market seeking to correct itself (rationality) and in terms of the institutional transactions costs involved when such abuses of power take place. It will consider the implications of such actions in light of the culture change being advocated as part of the modernisation of land use planning.

Keywords
compulsory purchase, public necessity, public purposes, public needs

A common computerized land register for Europe - Possibilities and restraints

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Advancement in real property administration has been split since its earliest beginnings: While surveying techniques used all means at hand to improve during the technological progress, the administration of rights, restrictions and responsibilities (RRRs) couldn't hold pace, especially in legal matters. During the last two decades, whilst the surveying transposed to be totally digitalized (HM Land Register, 2005), even some of the most advanced countries struggle to establish a digital land register (BNotK, 2011). In the EU there are multiple attempts to employ continent-wide systems regarding land administration, but all fall short of a serious unification of real property administration. This might be a constraint for future economic development, since in a unified economic sphere it hinders the realization of a common real-estate market. This being more necessary than ever, due to the ever growing demand in workforce mobility (OECD, 2011) and the rapidly recovering business real-estate sector (JLL, 2011), the unification of European land registers might be an option to improve the possibilities of cross-border operations. Scope of this paper is the possibility of a common, computerized land register in Europe. It outlines recent developments, such as the Land Administration Domain Model, as a technological basis, draws a possible vision and describes restraints, regarding mainly privacy and property law issues.

Keywords

land register, land administration, European integration, computerized administration

Open Space Provision, Making Room for Healthy Lives. How a Presumption in Favour of Development facilitated Obesogenic Urban Design.

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Open Space Provision, Making Room for Healthy Lives. How a Presumption in Favour of Development facilitated Obesogenic Urban Design. Winston Churchill in 1943 commenting upon the impact of the built environment on peoples lives said, "first we shape our buildings, then they shape us", if he had been speaking about the built environment today he might have added , "then we neglect to provide open space and that shapes our children". In short "our daily activities are shaped by the decisions we have made about how to use land and the location and types of buildings we place on the land" Powell (2005). The key objective of this paper is to identify the centrality of health and in particular obesity considerations in the context of planning praxis. The investigation seeks to connect the increases in obesity levels to the land use planning system and identifies a GIS driven methodology which will facilitate a deeper understanding of how planning can impact positively upon health and well being. The research also discusses (within the context of a case study) the development of planning policy in relation to the provision of open space and details a methodology which enables planners to assess how effective they have been with regard to implementation of open space policy. The paper also draws attention to the use of the methodology as a means to determine the extent to which the location of existing open space corresponds with residential areas in which higher numbers of children reside.

Keywords

Open Space, Policy, Obesogenic, Wellbeing, GIS

Strategic Shoreline Retreat Policy Options for Residential Real Estate: a plan to preserve the public trust doctrine

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The construction of and the continued use of seawalls to protect residential development pose considerable threats to the health of Hawai'i's beaches. Predominantly, their construction takes place as a result of chronic erosion, further exacerbating coastal conditions. All too often, seawall construction leads to the complete disappearance of the sandy beach in front of the seawall, eroding the public trust doctrine in the process, while contributing to the psychological tension between coastal landowners, beach users, and coastal resource managers. In Hawaii, beaches represent the most significant natural attraction for both residents and tourists alike. Private coastal landowners cherish their ocean views and beachfront amenities. Similarly, beach users value access to the oceans established as a background principle through the public trust doctrine under U.S. common law as well as statutorily recognized under §205A-21 of the Hawaii State Statutes. Due to ambiguous definitions and lenient enforcement, oceanfront landowners continue to expand the property certification line further into the intertidal zone known as the public beach. In recognition of this problem, this study outlines a strategic shoreline retreat policy designed to protect both the public beach as well as private assets in the interests of public health, safety, and welfare. Coastal planners face many challenges when developing policy options that further the public interest while curtailing the negative impacts and costs experienced by the private landowner. As such, it becomes imperative to study these impacts and costs in order to design a shoreline management policy able to sustain the torrent of opposition that is likely to result from difficult, but necessary decisions. The proposed policy recommendations in this paper will focus on a multipart plan integrating prohibitions on seawall construction, utilization of rolling easements, amortization schedules of seawalls and private property, and the eventual removal of hardened shoreline structures.

Keywords

climate change/sea level rise/erosion/shoreline retreat/public trust/amortization

Beyond Hesitancy: a suggestion for the transference of mediation skills and practice to planning

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Mediation involves the intervention of a skilled and experienced intermediary who attempts to facilitate disputants in reaching a mutually acceptable agreement to issues in contention. A variety of approaches to mediation exist, and mediators combine a number of strategies and tactics to manage and resolve conflict. Repeatedly, mediation is identified as 'coming of age', reflected in emerging interest and use within a variety of domains, including international arenas, community forums, environmental administrations and numerous specialism's of the judiciary. Despite burgeoning interest in mediation, hesitancy remains, in the transference of mediation skills and practice to the planning systems operating throughout the United Kingdom, with few but tentative studies occurring, and most of an exploratory nature. Yet, public sector planning is situated within conflict, where increasingly planning officers' must content with the conflicting views and interests of multiple stakeholders constituting society. Their role is to manage and mediate conflict in an increasingly complex society, yet few possess such skills. Drawing upon various theories and findings from a variety of published research studies, this paper investigates the potential of mediation in planning practice operating in the United Kingdom. With emphasis on the context of Northern Ireland, it begins by examining the attributes and characteristics of conflict within the planning domain and a comparison made to those within other realms to assess similarities and dissimilarities. With recent changes in the practice of planning and proposals for government reform in mind, attention turns to the mediation approaches adopted in specific realms to assess their applicability to the nature of conflict arising in the development and use of land. In considering also, the tactics and strategies of mediators, the paper concludes by suggesting an approach to mediation specific to planning practice may be required in order to deal with the complexities of conflict in this domain.

Keywords
Conflict, Mediation, Planning

Planning for legacy and the "dark side" of heritage values?

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A values-based approach is now an integral aspect of the contemporary protection and management of places of cultural value and significance. The development and adoption of such an approach by heritage professionals in recent years is considered by Jameson (2008) to have resulted in more democratic and wide ranging treatments of cultural heritage, allowing input from a broader range of interested parties than might previously have been the case. Yet, as noted by Palmer (2009), for example, decisions concerning what to preserve, what to develop and what to destroy continue to provoke questions about whose value, and at what cost. Clark (2002) also voiced concerns about the tendency towards the use of a relatively narrow range of values, such as architectural and historic interest, which are often hierarchical in nature. This paper will argue that an explicit recognition and articulation of a much broader spectrum of values is desirable in planning for legacy and heritage (themselves contested concepts!). Specifically, following Gamboni (1997), it is also posited that such an articulation should consider the "dark side" of values and the inherently "bonded" relationship between conservation and destruction. The paper will contend that values-based approaches need to better recognise and accommodate issues of contestation in heritage planning, management and development and to facilitate the mediation of different perspectives. References Clark, K. (2002) 'In small things remembered: significance and vulnerability in the management of Robben Island World Heritage Site', in Schofield, J., Johnson, W.G. and Beck, C.M. (Eds.) Matériel Culture: The Archaeology of Twentieth Century Conflict, London and New York: Routledge Gamboni, D. (1997) The Destruction of Art: Iconoclasm and Vandalism since the French Revolution, London: Reaktion Books Jameson, J. H. (2008) 'Presenting Archaeology to the Public, Then and Now', in Fairclough, G., Harrison, R., Jameson, J,H, and Schofield, J. (Eds.) The Heritage Reader, London and New York: Routledge Palmer, R. (2009) 'Preface', in Therond, D. and Trigona, A. (Eds.) Heritage and Beyond, Strasbourg: Council of Europe Publishing

Keywords
heritage, values, contestation, destruction, planning

Where do you think you are? Civic architecture and national identity

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Buildings and streetscapes contribute to a sense of identity and place. Yet, each inherited landscape is formed and shaped by the decisions made by countless previous generations. When the urban landscape in question is one which a newly autonomous government has inherited, it is further complicated by layers of competing values and contested interpretations; architecture can thus become a physical reminder of a conflicted past. Civic architecture, in particular, is representative of more than just bricks and mortar, it can serve as a representation and embodiment of the culture, history, society and power relations of the people responsible for its design, setting, surrounding and functions. Its meanings are socially constructed. Contextualising the discussion in relation to the Island of Ireland, this paper examines the use of civic architecture to express the ideals and aspirations of an emerging government and the theoretical models of its use in the construction of a 'national identity'. The paper will bring together an interdisciplinary literature in the development of a conceptual framework with which to assign values to an inherited civic landscape. The proposed framework will seek to inform a critical discussion of how aspects of the civic landscape project national identity and inform the social construction of the public realm.

Keywords
Heritage, National Identity, Civic Design, Architecture

Planning for Coastal Communities: Towards an Analytical Typology

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No part of the island of Ireland is more than 100km from the coast and over half the population live within 10km of it. The diversity of Ireland's coastal communities is both an asset and a challenge. The range of competing demands for coastal resources and the multi-disciplinary nature of their governance structures have resulted in a complex and piecemeal approach to their planning and management. Furthermore, the nature and extent of the challenges they face vary considerably from one location to another, presenting a significant challenge for government in terms of establishing specific policy and regeneration initiatives for coastal communities. There are inevitable risks in generalising what constitutes coastal communities, given their differing social, economic and environmental challenges, and it is widely agreed that a 'one size fits all' approach to their regeneration is inadequate (Communities and Local Government Committee, 2007; Walton and Browne, 2010). There are, however, a number of common issues which all coastal communities tend to suffer from to a greater or lesser extent, including physical and social isolation, inward migration of older people, seasonality and low paid employment and poor quality housing, as well as emerging coastal hazards, including coastal erosion, flooding, and climate change (Communities and Local Government Committee, 2007). This review proposes a typology of coastal communities as an analytical tool for categorising coastal communities. This framework is put forward as a means to group together those coastal localities with comparable issues for which integrated land use planning and development policy intervention may be required.

Keywords
Coastal Communities, Typology, Regeneration, Planning

“A just and prior indemnity”: litigation over expropriation of farmland in the Paris Region

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In the Paris Region, the spreading of the urban area over farmland in periurban spaces is a process that is often implemented through the legal tool of public use (edicted by the state) as a consequence of zoning decisions taken by local municipalities. Based on a sample of about two hundred cases collected in civil courts, the inquiry is focused on the comparison between different evaluations of compensation: compensation claimed by litigants, compensation estimated by the expropriating authority and the tax administration, and finally compensation adjudicated by the judge. Persons ejected from agricultural land areas are likely to be either landowners or tenants. Damages linked to land ownership and those linked to agricultural activity are then distinctly compensated. Therefore, one or different persons may be concerned, depending on whether the landowner is working himself as farmer on the land plots (the two kinds of indemnity will then be added up) or not (special allowance will in that case allocated to the agricultural tenant). The statistical analysis suggests that the gap between the compensation vindicated by expropriated landowners and the compensation offered by administration is maximal when the zoning rules stated by municipalities are very flexible. It happens for example when zones dedicated to future urbanization are heterogeneous, integrating land plots likely to be urbanized on the short term and farmland deprived of any facilities. When facing compensation disputes over farmland, judges have then to deal with an important dilemma. Guided by the necessity of a “realistic evaluation” that will fully implement the compensation rights of the expropriated landowner, they are likely to facilitate his capacity of buying similar goods, especially when agricultural land prices are increased by the proximity of urban areas. But at the same time, when adjudicating generous compensations, judges participate themselves to the price increasing process that is frequently observed in agricultural districts concerned by urban sprawl, as if legal standards were hesitating between promoting fair compensation and checking market speculation.

Keywords
expropriation litigation planning farmland justice compensation

Suburbia: A Legal Theory

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Despite the value-maximizing rationality of suburban life (Fischel, 2001), academia has come down hard on the suburbs. Sociologists have impugned their homogeneity (Whyte, 1956), architects have condemned their monotony (Dunham-Jones, 2008), planners have criticized their sprawl (Grant, 2000), environmentalists have railed against their automobile-centricity (Newman and Kenworth, 1989), culture critics have sneered at their materialism (Friedan, 1963), urbanists have denigrated their separation of home from employment (Jacobs, 1960), agrarians have critiqued their land-consuming wastefulness (Ehrlich, 1973), journalists have disparaged them as heralding societal decline (Kunstler, 1993), management scholars have castigated their closure to innovation (Florida, 2005), novelists have portrayed them as amoral (Nabokov, 1958), and Hollywood has panned them as authoritarian and conformist (Ray, 1955). Public health activists have even blamed suburbia for America's obesity crisis (Kreyling, 2001). There seems to be no academic exercise easier than criticizing the 'burbs. The purpose of this study is to explain suburbia on the socio-cultural front, using the U.S. Supreme Court case law on "aesthetic zoning" as a medium. The legal focus on aesthetics has broader implications than its strict doctrinal applicability; its potential is to by-pass a view of suburbia as a random "region or place…so near that it may be used for residence by who do business in the city", Piedmont Cotton Mills v. Georgia Ry. & Electric Co., 62 S.E. 52, 61 (Sup. Ct. Ga., 1908), and to see it as both "a planning type and a state of mind based on imagery and symbolism." (Jackson,1985). The point is to demonstrate that, rather than there being "no there there" (Stein, 1937), the lens of the law reveals our most pervasive landscape as a conflicted, yet nevertheless meaningful social ecology. The regulatory environment of suburban development may be driven by an economic calculus, but it supports, and is in turn supported by, a rich set of spatial and cultural norms.

Keywords
suburbs, aesthetics, sprawl, culture, property, identity

Land Privatization and Management in Serbia – Policy in Limbo

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Unlike in most other European post-socialist countries, in Serbia land policy and property reforms have been only partially implemented. A new approach is neither fully defined nor institutionalized even a decade after ethnic conflict and the Milošević era. The context and characteristics of Serbia's urban land privatization reforms and the land development management of its capital Belgrade illustrate the complexities involved in establishing new institutional arrangements under circumstances of overall societal transition. The negative implications of the prolonged transition for a new land policy and related land management instruments aggravate the already difficult social, economic and spatial development situation. The deeply embedded Serbian political culture may be the overriding cause of these difficulties.

Keywords
land policy, privatisation, property rights, development management, transition, reform

Planning by Law and Property Rights?

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Planning by law and property rights reconsidered When spatial planning is practised, planning law and property rights in a particular location interact, and this affects the way that land is used there. The planning agency has acted precisely to affect the land use, in a particular way. This practice is very common in many countries of the world, and it is – we argue – both inevitable and desirable. But there has been surprisingly little theoretical attention given to it. That gave the occasion for investigating this activity of 'planning by law and property rights'. In this paper we do that as follows. We identify the main advantage of planning by law and property rights to be that it gives legal certainty to all interested parties. But the other side of the coin is that the legal situation that it establishes might turn out to be inappropriate, in which case it might be very difficult and expensive to 'unlock' such a 'lock-in'. The probability of such a situation arising is increased by the current and expected institutional, environmental, and financial challenges. In this paper we put forward certain ideas – like adaptive planning, adaptable property rights, the appropriate geographical level for public policy, and reducing market uncertainty – for reducing the probability of creating undesirable lock-ins, while retaining the advantages of planning by law and property rights. Our conclusion is that that planning by law and property rights needs to be reconsidered from a theoretical perspective, so that it can be made to work better.

Assessing the impact of urbanization on urban climate by remote satellite perspective: a case study in Danang city, Vietnam

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Urban climate, one of the challenges of human being in 21 century, is known as the results of land use/cover transformation. Its characteristics are distinguished by different varieties of climatic conditions in comparison with those of less built-up areas. The alterations lead to “Urban Heat Island”, in which temperature in urban places is higher than surrounding environment. This happens not only in mega cities but also in less urbanized sites. The paper presents the results in determining the change of land use/cover and land surface temperature in Danang city by using multitemporal Landsat and ASTER data for the period of 1990-2009. Based on the supervised classification method of maximum likelihood algorithm, satellite images in 1990, 2003, 2009 were classified into five classes: water, forest, shrub, agriculture, barren land and built-up area. For accuracy assessment, the error metric tabulations of mapped classes and reference classes were made. The Kappa statistics, derived from error matrices, were over 80% for all of land use maps. A comparison change detection algorithm was made in three intervals, 1990-2003, 2003-2009 and 1990-2009. The results showed that built-up area increased from 8.95% to 17.87% between 1990 and 2009, while agriculture, shrub and barren decreased from 12.98% to 7.53%, 15.72% to 9.89% and 3.88% to 1.77% due to urbanization that resulted from increasing of urban population and economic development, respectively. Land surface temperature (LST) maps were retrieved from thermal infrared bands of Landsat and ASTER data. The result indicated that the temperature in study area increased from 39oC to 41oC for the period of 1990-2009. Our analysis showed that built-up area had the highest LST values, whereas water bodies had the least LST. This study is expected to be useful for decision makers to make an appropriate land use planning which can mitigate the effect to urban climate.

Keywords
land use/cover change, land surface temperature, Landsat, ASTER

Imperfect Property Rights in Vietnam-Ho Chi Minh City Case Study

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This study will discover the issue of spatial redevelopment in Ho Chi Minh (Vietnam). It will question the impact of imperfect property rights land redevelopment. By a detail analysis of the recent and ongoing transformation of urban area the main aim of the paper will be to assess the status of property rights and its impact on real estate development. Lessons for policy with regard to spatial planning strategy and guidance at national and local levels. Height-raise buildings in the CBD area will be selected involving a range of quantitative methods, particularly surveys and interviews with developers and government agents.

Keywords

Urban transformation, land rights

The Need for Good Governance: Participation and Justice in Land Use Planning

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Equitable distribution and environmental concerns as well as impact are key in land use planning. Good governance is therefore critical in planning and attainment of justice in land use. Land laws and environmental laws are at the core of justice and environmental planning. While in Kenya justice in land use is mainly perceived as equitable allocation of land, it includes ensuring that no one bears a disproportionate share of negative environmental impact or of laws and policies. A participatory approach in decision making processes would ensure that local communities and those that would be potentially affected are meaningfully involved where they stand to be affected. This also makes compliance much easier as the community feels that they are part of the process as opposed to feeling that regulations, laws and policies are imposed on them. All efforts must therefore be made if laws are to achieve their aims. The community is the stakeholder in land use planning and therefore ignoring their concerns would only be met with disapproval for any decisions made. All levels of governments should ensure that the general welfare of its citizenry is protected while developing and implementing laws and regulations on planning and land use. All stakeholders should work together to ensure concerted efforts in bringing about localized solutions in planning and land use.

Keywords

Governance, Planning, Participation, Land Use

Mining, Land Use, Legislatures, and Courts: Michigan's Kyser v Kasson Township Saga Continues

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In 2010, the Michigan Supreme Court issued a decision regarding the proper constitutional adjudication of zoning disputes involving the extraction of mineral resources. In doing so, the Court reversed a decision it had issued some 25 years prior, one that effectively established mineral extraction as a preferred land use through judicial decree. In June 2011, the Michigan Legislature pushed through an amendment to the state's zoning enabling laws -- in an astonishing 16 days, with the backing of the mining industrial association, and despite protest by other interests -- that effectively restored the Supreme Court's earlier decision. This paper discusses the history of that recent action and discusses its implications regarding planning, zoning, and the interplay between the legislature and judiciary under state law in the U.S.

Keywords
zoning, constitutional adjudication, due process, mineral extraction

Mining, Planning Law and Sustainable Development in Post-Apartheid South Africa: An Exploratory Study in a Rural Mining District

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The story of mining and its impact on the development of South Africa is not new. From when the first diamond was found in 1866, to the dawning of democracy, the industry has had a profound influence on the economic, spatial, social and political development of the country. Post-1994, both as a result of a series of changes in (1) international perspectives on mining and human rights, and (2) government policy, new legislation has forced mining companies to make tangible contributions to socio-economic development and human settlement in 'mining areas'. At the same time though, the mining sector has been accused of (still) not 'doing enough to share the wealth it generates', with a growing lobby calling for the nationalisation of the industry. Despite the advent of the new legal framework and the polemics around the industry, very little empirical research has been done on the actual interface of mining companies with planning law, socio-economic development and human settlements. In this exploratory study, this interface is studied in a rural district with a long mining history – the John Taolo Gaetsewe District Municipality. Use is made of (1) documented evidence; and (2) interviews with key role-players in the mining industry, municipal and provincial government, the private sector and the community. Key questions that are explored are: How do mining companies interact with planning law and the government's goals of sustainable human development and settlement reconstruction? What has worked and what not? What has contributed to this state of affairs? While this study has a very local, South African flavour, the broader issues it raises around power and planning law are all but local and unique.

Keywords

Mining industry; planning law; sustainable development; resource exploitation

The impact of constitutional law on housing policy: Insights to Africa

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The year 2010 marked a new era for both Kenya and Angola. Although disparate historically and politically, the two African countries enacted new constitutions with extensive chapters on human rights, including the recognition of the right to housing. Kenyan constitution, effective on the 27th of August, 2010, replaces the older version that had been in force since the country's independence in 1963. The Angolan constitution, operative as of the 21st of January, 2010, replaces the interim constitution in effect since its independence in 1975 This paper is part of a broader worldwide comparative study focusing on the similarities and differences in the legal protection of housing rights granted by their respective constitution, supervised by Rachelle Alterman and Yaffa Zilbershatz. The paper will look at the products achieved by the legislative process in the area of housing rights and the level of involvement of the United Nations, following the Special Rapporteur suggestion at the Commission of Human Rights in 1995 that – "all States proceeding with the elaboration of new, revised or amended national Constitutions, should give due attention to including housing rights provisions in these texts." We will also look at the impact on the national housing policy as a result of the constitutional legislation on the right to housing and where it has taken place through recent precedent case law.

Keywords
Housing, constitutional law, Africa, housing policy, development, human rights

The time dimension in property expropriation: Quantitative analysis of court decisions in Israel

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Tensions over time between planning and private property are inherent in the need of supplying land for public needs and in the tool of expropriation. We developed a theoretical framework that distinguished between three types of time-based issues – each of which may, in specific legal regimes, serve as grounds for challenging the legality of expropriation. 1. Delay in expropriating the designated land 2. Delay in implementing the public purpose of expropriation 3. Change of purpose from the initial public to another public or from public to private Courts in many countries are confronted by conflicts over the time dimension in expropriation cases. In European jurisprudence, the path-breaking case is the case of Sporrong and Löonnroth v. Sweden, decided by the ECHR in 1982. This specific case deals with one aspect of the time dimension – designation for expropriation for decades without expropriation. The proposed paper presents a quantitative analysis of higher-level court decisions over the time dimension in Israel from 1990 until 2010. The analysis will go beyond the descriptive statistics presented previously at PLPR. We will delve deeper into the decisions reached by the courts and ask: - Is there a relationship between the grounds for challenging the expropriation and the courts' decisions? - Is there a relationship between the level of government expropriation (central or local) and the courts' decisions? - Is there a relationship between the length of the period of delay (for any of the stages in the expropriation process) and the courts' decisions? The findings will shed light on how the courts view conflicts about the inherent tension between public planning needs and private ownership rights. The Israeli case is of one state in a cross-national analysis of this same issue.

Keywords

land expropriatio; planning law; property rights; the time dimension in planning

Equitable Distribution of Costs and Benefits in Urban Planning - The Portuguese Case

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Planning and urban development are naturally discriminatory as regards to property, associating unequal benefits to it and imposing unequal costs and obligations to the land owners. This differentiation frequently occurs through plans and permits and happens in all scales, although is more evident in local detailed plans. The main benefit associated to urban planning/development is the land rent evolution that result from the admitted land uses and building capacity. For this reason, the Portuguese mechanisms for compensating benefit differentiations usually refers to the building capacity assign by the plan to a land parcel, assuming therefore that the "standard benefit" for all the properties within the plan is its "building capacity-average". The costs supported of each land owner (land and infrastructure) result of their benefits, so the "standard cost" is usually determined in x€ for each m2 of building capacity (if a land parcel has 10% of the total building capacity admitted by the plan, it has also to pay 10% of the total costs associated to its implementation). Therefore important topics emerge about this issue: - who are the specific "stakeholders" that can participate in the equability process and how; - what kind of mechanisms (with it's own advantages and disadvantages) are suited for each type of urban intervention. This communication aims to present the Portuguese case, comparing the legal framework in this field to the current practice.

Keywords
costs and benefit of urbanization, equity, stakeholders, Portuguese case

Rights and Behaviours in Coastal and Marine Knowledge Exchange: An Information Science Perspective

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The stewardship and effective planning and management of marine and coastal resources are increasingly identified as a priority. The provision of, and access to, appropriate information are considered key pre-requisites for enabling informed decision making. This review paper presents a conceptual framework for understanding information and knowledge exchange in four proposed information domains. It addresses the needs of those working in the marine environment (users); how different interests conceive of information (data); trends in information infrastructure provision and architectural design (system); and the interconnections between these domains (relational). The paper will comment on some of the technological aspects of information management, but concentrates on the institutional and behavioural dimensions of information behaviour, since there is a general acknowledgement that organisational/ human aspects tend to be the main stumbling blocks in effective information and ideas exchange.

Keywords

Data, Wisdom, Information System, Information Seeking Behaviours, Marine

Social and spatial equity in local development plans: a historical approach based on two case studies in Southern France and Tuscany (Italy)

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Social equity in agricultural land protection has long been discussed (Jacobs, 1989). In Europe, a variety of public policy instruments has been experimented to protect farmland from urbanization, including public acquisition of land, regulatory approaches and incentive-based approaches. In France and Italy, exclusive agricultural or forestry zoning was resorted to in most situations. This land-use planning approach not only failed to avoid urban sprawl in most metropolitan areas but also showed contrasting patterns of equity, according to the place, the time period and rural land tenure. The aim of this paper is to show how the vision of justice has changed since the late 1960s around the issue of farmland preservation. Our in-depth analysis of the history of land use planning in seven suburban municipalities (close to Aix-en-Provence (France) and to Florence (Italy)) shows how public and private actors have dealt with, restricted or legitimated agricultural land conversion to urban functions. The first local development plans triggered major conflicts, as agricultural zoning created a reduction in property values for which owners have not been compensated. The open debates involved a large participation; justice was seen as an equitable distribution of building permits among property owners. In the 1980s, this point of view became less legitimate, but owners' pressures on mayors went on, through informal infra-institutional negotiations. Urban growth boundaries were periodically reassessed and expanded as needed. In the 1990s, open debates involved new stakeholders, triggering conflicts around sustainability and urban sprawl. Property owners' claims for building rights became eventually illegitimate. In some highly urbanized settings, strict farmland protection through land-use planning became a way to preserve the landscape and quality of life, by preventing new constructions and the establishment of lower class residents, reopening the debate about social equity of land use planning.

Keywords

Farmland preservation, agriculture, zoning, land use management, conflict, public policies

Asian and Hispanic Inclusion in Spatial Planning: Results from Norcross, Georgia, USA

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The United States' long history of immigration coupled with increased globalization in the 20th century has led to a vast and diverse cultural landscape with a strong multi-racial, multicultural presence. In the past two decades, the Atlanta metropolitan region has seen a large increase in its immigrant population, particularly in the city's northern suburbs situated around the famously multi-ethnic Buford Highway corridor. The suburb of Norcross has experienced a particularly large influx of immigrants from Asia and Central and South America. Once a predominantly white bedroom community, the city's racial and ethnic make-up is now heavily defined by Asian and Hispanic populations. Despite this significant demographic shift, the study of how culturally diverse populations are incorporated into spatial planning has not garnered much consideration. In Norcross, where many residents and business owners are foreign-born or second-generation immigrants, planners and politicians who are influential in planning remain predominantly white. The social, cultural, and linguistic divides that separate conventional spatial planning practices from culturally diverse populations remain largely unexplored in Atlanta's continuously-diversifying landscape. This research will use social mapping to track population migrations and the changing urban landscape, while interviews and surveys will be used determine the extent that Asian and Hispanic communities are involved in the planning process. By utilizing the largely untapped resource of ethnic population perspectives, the status of diversity and inclusion in planning will be explored. An examination of public participation and community involvement in issues relating to land use, housing, transportation, and urban design will be used to measure the extent to which cultures are represented in planning. This paper will argue that if Asians and Hispanics are not granted meaningful participation in planning processes, their marginalization will not only negatively impact those populations, but the city and greater metropolitan region as well.

Keywords
Public Participation, Spatial Planning, Multiculturalism

Sustainable development of land use in Ukrainian cities

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The concept of sustainable development is regarded by the international community as the most promising and humane ideology of 21centary. Taking into account three main components of sustainable development: society, environment and economy become evident that this process can be successful only under good government. One of the main groups of indicators which estimate rate of cities sustainability is “sustainable development of land use”. Social and economy activities of society are concentrated in cities, especially in big ones. It influences on their environmental conditions directly. Pollution of air, water and soil, noise, vibration has greatly increased in urban area. So a decision about which land use should be in priority and which land use should be restricted is the main issues for guarantee their sustainable development. Decision-making has to be based on multi-objective approach that provides balance between needs of society and nature resources consumption. This task requests legal methods to limit right of owner under private ownership on land. Factually, land use restrictions are state interference in property rights but it is a justified public interests. The balance between public and private interests is achieved by various lawful tools. The most significant of these tools are legal and spatial planning restrictions of land use. The various kinds of land use restrictions in Ukraine are analyzed and their effect on sustainable cities development is compared.

Keywords

Sustainable development, land use, property rights, restrictions

Evaluating regeneration policies for run-down business areas in the Netherlands

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To date, conformance-based evaluations of planning, which analyze whether planning policy objectives are actually achieved and to what extent this was due to the implementation of the policy, have been virtually absent in the planning literature. Reacting to this observed gap in planning research, this paper presents a conformance-based evaluation of regeneration policies for run-down business areas in the Netherlands. Alexander (2009) asserts that any planning evaluation is always contingent on the specific context in which it is carried out, since a single and widely accepted definition of what constitutes planning is missing. Therefore, regeneration policy documents by local authorities have been analyzed to generate an evaluation framework that includes measurable indicators. The analysis reveals that regeneration policies for run-down business sites are primarily intended to promote economic development and stimulate private investments in buildings. In this regard, this research can also draw on insights from the literature on evaluations of other local economic development policies. Bartik (2004) demonstrates that a variety of statistical approaches could be used to compare areas that are subject to a certain policy (the “treatment” group) with comparison groups of areas that are not targeted by this policy (the “comparison” group). Employing one of these methods, this research compares the economic outcomes on business sites that have been subject to regeneration policies with similar areas where no regeneration policies have been put into place. The following indicators have been established to measure the economic outcomes: employment growth, property values, and the level of private investments in buildings. It has to be noted here that local economic development policies with respect to run-down business areas in the Netherlands primarily entail direct public involvement (i.e. developmental planning), by means of improvement of urban transport infrastructures, provision of amenities and land assembly. Alexander, E. R. (2009). Dilemmas in Evaluating Planning, or Back to Basics: What is Planning For? Planning Theory & Practice, 10(2), 233-244. Bartik, T. J. (2004). Evaluating the Impacts of Local Economic Development Policies on Local Economic Outcomes: What Has Been Done and What is Doable? In A. Nolan, & Wong, G. (Ed.), Evaluating Local Economic and Employment Development: How to Assess What Works among Programmes and Policies (pp. 113-141): Organisation for Economic Co-Operation and Development.

Land Readjustment and TDR: a puzzle for the Italian planning?

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Land readjustment and transfer of developing rights (TDR) are well known planning tools and widely discussed in literature, though variously applied in different national contexts. The paper explains their use in the Italian planning system, their evolution through a set of statutory instruments and spontaneous adaptation, their role in the transition from a legally binding model towards a more flexible one, in a time of public welfare policy shrinking. Since the transition has proceeded too fast and, in some cases, far unruled and the outcomes of flexibility are now felt as unfair and unsustainable, the demand for a sound balance of public and private rights is in the agenda for the coming years. Costs recovery, compensation tools and reduction of building rights have to be taken into account for a more sustainable development of dense cities. The paper underlines the importance to adjust a reasonable mix of charges for new developments, in cash and in kind, comprising fees, land grant requirements, infrastructures and facilities gains (including social housing provision) and to adapt it to a fragmented land and property ownership, mostly private. It also suggests that, although legal instruments are not yet effective in a national reform, the combining of land readjustment and TDR in local initiatives of land use planning can answer to a stronger public driven strategy. The case of the new planning process for the city of Milan addresses sustainable issues and redevelopment problems that may be dealt with by proper regulations of property rights.

Keywords
Land development, TDR, sustainable land use planning

The Right to Stay Put – Dispossession through Compulsory Purchase in Scotland

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People who live in disinvested parts of cities should not be required to live in sub-standard housing, poor environments and with few services. Neither should they be dispossessed of their homes, businesses, livelihoods, schools or services in the name of regeneration as a supposed 'fix' of that disinvestment. Currently in Scotland, these are often the two options presented as available to combat urban poverty and disinvestment: either be left alone to the vagaries of urban land markets, or be cleared off to make way for a 'better class' of community. A key mechanism through which this 'fix' for disinvestment is taking place is through compulsory purchase, sometimes also called 'eminent domain'. This highly regulatory mechanism, an important feature of the state's reserved powers in relation to land ownership, is an increasingly used tool in land assembly in response to what are often seen as fragmented and complex land ownership patterns in regeneration areas. The processes and consequences of compulsory purchase are very rarely discussed. Yet high profile cases in Scotland very recently (the debate around use of compulsory purchase on the Menie Estate in Aberdeenshire, and its use to displace residents and shopkeepers in the East End of Glasgow for the Commonwealth Games) highlight deep structural injustices arising from the use of compulsory purchase. These deserve far greater scrutiny than they currently receive. This paper discusses these important issues from the principle Chester Hartman put forward more than 25 years ago in response to large scale clearances in US urban renewal programmes: the right to stay put (Hartman 1984). Using the case of the eviction of families and shopkeepers from Glasgow's East End, the paper explores the hidden injustices of the way compulsory purchase orders is being used in urban regeneration, and the often brutal consequences of its processes.

Keywords
Urban regeneration, property rights, expropriation, injustice

Design with Nature: Ecology or Exclusion?

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In 1962 a private group of Maryland's landed aristocrats commissioned the partnership of Wallace-McHarg, Architects, Landscape Architects and Environmental Planners to prepare a plan protecting their estates in the unspoiled Greenspring and Worthington Valleys from sprawling suburban development. City planner David Wallace undertook to inform government officials as to the best location for roads, and sewers and affordable housing. Landscape architect Ian McHarg undertook to use ecological principals to determine where and how limited development might go forward. Their resulting Plan for the Valleys became the starting point of the a new "ecological planning method" intended to accomplish a Design with Nature. This paper considers the successes and failures of Wallace-McHarg's Plan for the Valleys one- half of a century later.

Keywords
ecology, sprawl, infrastructure, exclusion, nature, architecture

Regulatory Takings and Water Allocation in the United States

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Water rights conflicts increasingly find their way to the courtroom and in state house in the United States. A number of these cases have decided novel issues addressing whether the regulation of withdrawal and allocation of water rises to the level of a regulatory taking in some instances. Legislative actions have most often claimed ownership of surface and groundwater by the state under the public trust doctrine. This paper summarizes and analyzes the recent flurry of court action and legislative pronouncements on the right to use water. Recent cases include Casitas Municipal Water District v. United States, 543 F.3d 1276 (Fed. Cir. 2008). In Casitas, the court found that the compulsion to divert water to a fish ladder to protect and endangered species of salmon amounted to a physical invasion and, hence a categorical taking. The Obama Administration decided not to appeal the case to the United States Supreme Court, so the ruling causes significant uncertainty as to the allowable degree of regulation of water rights in the United States. At the same time, the validity of the legislative pronouncements of state ownership will have to be determined by the courts. This paper attempts to sort out the mixed messages and provide a cohesive view of the future of water withdrawal and allocation policy in the United States in light of the newly found limitations imposed by regulatory takings jurisprudence.

Keywords
regulatory takings, water rights, water supply planning

“Critical Infrastructure Protection”: Implications of a new Regional Spatial Planning Principle in Germany

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In 2008, a new principle of spatial planning was added to the German Federal Spatial Planning Act. It demands Critical Infrastructure Protection (CIP) be taken into account in all spatial planning activities. Critical Infrastructures are “Organizations and institutions of special importance for the country and its people where failure or functional impairment would lead to severe supply bottlenecks, significant disturbance of public order or other dramatic consequences”(BMI 2009). Since CIP is a quite young term, this problem has not yet been explicitly treated in spatial planning activities. A qualitative analysis of available regional spatial structure plans and a survey of all Regional Spatial Planning Authorities in Germany show that regional spatial planning has marginally dealt with CIP related questions like infrastructure reliability in the past. Regional Spatial Planning Authorities consider CIP to be relevant in future planning processes such as the expansion of the high-voltage network that is inevitable due to the nuclear power phase-out and increasing renewable energies. However, they express the need for substantive and methodic support to make theories and concepts of CIP compatible to spatial plans and procedures. For instance, the concept of infrastructure interdependence and criticality is to be made applicable to the regional spatial context; methods for spatial criticality analysis using GIS need to be developed; stakeholders are to be identified and integrated in coordination processes. The paper contains results of current research activities at the RWTH Aachen University Institute of Urban and Transport Planning within the scope of a dissertation project.

Keywords

Spatial Planning, Critical Infrastructure Protection, Federal Spatial Planning Act, Principle of Spatial Planning, Infrastructure Resilience, Germany

Marine Spatial Planning in the Exclusive Economic Zone - Challenges and Implications for the German Planning System

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Germany is among one of the first European countries to draw up and implement Marine Spatial Plans (MSP) for its offshore territory, for both the North Sea and the Baltic Sea. The notion of carrying out spatial planning offshore was first mooted in Germany in the 1980s. However, it has taken the current, wider movement for MSP to bring these ideas to fruition. Reflecting the youthfulness of the practice of MSP, many questions arise around the legal implications of extending the practice of terrestrial based planning to offshore areas. An analysis of this pioneering plan and the consultation process behind its production is presented. In this context MSP is viewed as a challenge to the German statutory Land Use Planning system. The legal basis of the Federal German planning system was modified (through the Federal Spatial Planning Act 2004) and, though having no experience of spatial planning, the Federal Maritime and Hydrographic Agency was put in charge of the implementation of the plan. Seminal empirical research from semi-structured interviews held with the stakeholders and comments from the written responses to the draft Plans and public hearings, reveals arbitrariness in the design of the process. It appears that MSP in the Federal Republic of Germany builds upon the nation's existing provisions for terrestrial planning; where planning legislation has simply been amended or reinterpreted to incorporate marine territory as well as the land. This paper seeks to investigate and analyse this as a changing institutional and organisational form of planning and marine governance in Germany.

Keywords
Marine Spatial Planning, offshore, terrestrial planning, challenges

Professional education or the education of a profession?

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Research by Arup into the supply and demand of skills required to deliver sustainable communities identified a need to address inadequacies in town planners' technical skills, knowledge of procedures, processes and appraisal skills, financial management skills, decision making, leadership and communication skills. Seen within the context of the then prevailing land and property boom, the research stimulated debates concerning the adequacy of planners' skills and the education of planning professionals in the UK, including the extent to which university students are, or should be, taught to be practitioners, as opposed to being supported to study a broader and theoretical planning curriculum, within which practice-orientated skills form an important element. . This question sits within wider debates concerning the nature of the planning profession itself and its perceived fragility), including allegations that planning is increasingly process driven ('the process-isation of planning'), separated from its origins in reform and social movement. This paper critically reflects upon the contemporary value and purpose of a university education in planning and the proposition that planning education today should deliver "oven-ready planners" fit for the workplace. Specifically, it examines the teaching of planning law and development management in two UK planning schools (one from South West England and one from Northern Ireland), discussing the rationale for the content, nature of the teaching and learning framework, and how the curriculum is designed to equip individuals to understand, critically discuss, and (potentially) to practise the art and science of town planning.

Keywords
Planning skills / Education / Practice / Theory

Public Access for Responsible Recreation in the U.S.: Seeking the Influence of Scandinavian Immigrants

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Swedes hold a right of access to privately owned land for recreation, provided they behave responsibly with respect to the land, landowner, and other visitors. Other countries also provide this right, some by custom, and others by statute. Either way, in countries that support a right of access for recreation, responsible people can hike on private land without interference from the land owner, and without the land owner's consent. This is not so in the U.S. where the legal system values the property right to exclude more highly than any competing right of public access. U.S. law gives private landowners a virtually exclusive right to control access to land. Americans will open their land for recreation, for a fee, if they are assured of protection from liability, but they owe no general right of access to the public. Earlier, I compared rights of access in Scandinavia to those on the European continent, and in Britain. I wrote that for a country to sustain a right of public access there must be corresponding rules regarding the conduct of non-owners visiting private land. The rules may statutory or longstanding culture and practice, but rules must exist to counterbalance the landowners' inability to exclude non-owners from their land. Whereas Scandinavia's demographic background is comparatively homogeneous, the U.S. developed as a heterogeneous society and has experienced a variety of influences (including Native American and immigrant) in the evolution of its land ownership laws and practices. This paper seeks to determine the influence of Scandinavian immigrants on access laws in the U.S. To do so, it evaluates access rights in states with substantial populations of Scandinavian descent (e.g. Minnesota, Wisconsin, New Hampshire), and compares them to regions populated by people from other areas of the world (e.g. Texas, Arizona). Ultimately, I hope to understand whether American laws supporting a land owner's right to exclude are more flexible in regions settled by Scandinavian immigrants, as compared with regions settled by immigrants from elsewhere.

Keywords
Right of access, Public access, recreation, immigration, Scandinavia

Legislative changes in Spain concerning land valuation criteria in the case of expropriation by the Administration for the construction of public infrastructures

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Over the last fifty years of Spain's city planning legislation, there have been two different land valuation criteria in the case of expropriation by the Public Administration. In the City Planning Laws of 1956 and1998, the legislation established a system for land valuation based on the final use. On the other hand, in the Laws of 1992 and 2008, the criterion for land valuation was that of its real situation at the moment of expropriation. In the first case, that of the Laws of 1956 and 1998, the criterion applied was that the value of the land depended on its urbanistic classification and qualification, use of the land and building rights granted with respect to city planning regulations in force at the time. This meant that its future purpose was taken into consideration, irrespective of the current real situation. In addition, the value was calculated with respect to the future market value, establishing highly detailed calculation systems according to the comparative system. This led to a situation where the expectations of the market were valued; often based on solid markets, but sometimes based on speculative markets controlled by estate agents. In other circumstances, the market was sensitive to the Administration's own investment plans and the formation of the market value depended on the capital gains produced by the investment act that was the cause of the expropriation. In the second case, that of the Laws of 1992 and 2008, the link between the urbanistic classification and qualification established by the city planning valuation is removed. That is to say, the current, physical reality of the land is valued, not the administrative reality; the land itself, in its physical situation, is valued. The urbanistic denomination in the Plan is not valued, as this denomination refers to a future which may or may not happen. Valuation with respect to market prices is also used; however, as far as possible, the cost value prevails. Thus, the established valuation criteria aim to determine the substitution value of the plot on the market for another similar one in the same situation.

These two valuation systems, which have been described here in their pure state, but which appear in the reality of the abovementioned laws with other contaminating elements, obey very different theoretical approaches, especially with respect to one concept: real estate speculation. This gives rise to different city planning policies in the various time periods in which they were, or have been, in force.

Keywords
Land valuation criteria, expropiation, infrastructures, real state speculation, legislative changes

Fighting for the Right to Dry

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Legal barriers to the wider implementation of renewable energy are a significant factor to their deployment. Questions about issues such as nuclear safety or the landscape impacts of wind turbines dominate headlines, but even small scale renewable energy installations have raised conflicts. Al Gore famously won the right to install panels on his Tennessee home, but not without a fight waged with his town government. The most outrageous example of these barriers might be prohibitions on the use of humble clotheslines. In the United States, on average, electric clothes dryers consume approximately 6% of residential energy use. Dryers are a significant source of electricity consumption since they are so ubiquitous - 93% of U.S. households own them and few efficiency gains have been made in recent years. The clothesline is an alternative method of drying laundry that relies entirely on solar and wind energy. Yet, harnessing this form of renewable energy is actually illegal in many jurisdictions. Regulation of the built environment is accomplished through two primary instrumentalities that impact the private use of clotheslines - zoning ordinances and restrictive covenants. The majority of the nearly 60 million Americans who live in 300,000 communities operating under such covenants cannot erect a clothesline to dry their laundry. These prohibitions are typically nestled amongst restrictions on other aspects of the built environment, such as matters on landscaping and facade color. Municipal ordinances, enforced through planning and building departments, also prohibit clotheslines in some locations. The New York case of People v. Stover, dating from 1963, affirmed the right of a municipality to ban clotheslines for aesthetic reasons alone. The case is widely viewed as one of the most significant aesthetic zoning precedents in American jurisprudence, supporting the legality of subsequent regulations concerning landmark preservation and outdoor advertising. Europeans generally have far less stigma associated with drying the wash outside and bans are rare. There are a few associations in the U.K. that prohibit line drying, but it is generally a much more common practice as only 45% of homes have electric dryers. Paralleling the paradigm shift towards green planning, a recent movement to prohibit such bans has been spreading across the U.S. Florida's is amongst the strongest and oldest laws; Utah, Hawaii, Maine, Vermont, Colorado, and Maryland recently enacted a ban. Canadian provinces have been tackling the issue as well - Ontario recently banned laws prohibiting line drying. As a matter of two issues a prohibition

on the use of clotheslines is an illegitimate use of the state police power, and should be recognized as such by the courts. First, in the face of the pressing needs of energy conservation and climate mitigation, the aesthetic justification for such bans is no longer superseding. Secondly, the stigma is passé and the aesthetic justifications for such bans are no longer valid. These issues echo the larger scale concerns about how we will negotiate spatial planning conflicts regarding the local impacts of the need for renewable energy. If local control over small-scale projects is enough of a problem that such installations are routinely prohibited, it raises enormous doubts about how a fragmented decision making system will ever permit large-scale energy projects.

Keywords
Renewable Energy, Legal Barriers, Solar, Preemption

Transferable development rights as a tool for accommodating property rights impacted by coastal erosion or sea level rise

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Areas of the Australian coastline are particularly vulnerable to the predicted rise in sea level and associated erosion from increasing storm action over the next half century. The alarming prospect that significant areas of the Australian coast will be impacted or even destroyed, and hence the utility of private property rights destroyed reveals an impending collision with settled property law for tidal or coastal estuarine properties. The prospect of substantial compensation claims for such impact or destruction also disturbingly reveals limited ability, or unwillingness of State and/or local government to meet such claims. Transferable development rights are a useful tool which could facilitate the crystallisation of development potential on vulnerable coastal properties, and for such development potential once crystallised to be subsequently transferred using a multiplier factor to nearby less impacted lands.

Keywords

Compensation, property rights, sea level rise, transferable development rights

Property Rights and Developing a Sustainable Capital City: Case Study Chandigarh

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The type of political system or regime of a country determines the enjoyment of property rights of its individuals. Political thinkers primarily the Greeks and Romans worked on the Nature of State. A few notable among them are; Socrates, Plato, Aristotle, Hobbes, John Stuart Mill, Jean Jacques Rousseau, Montesquieu, Hegel, and Karl Marx. To Plato the ideal state historically occurs at the beginning. He emphasized higher level of education in those arts that had a direct relation to a successful political career one takes as the most genuine instrument to build human character and bring about political stability. He attributed a crisis in the moral, social and political life to: firstly, the ignorance and incompetence of the politicians and, secondly, the violence and selfishness of the party. Jean Jacques Rousseau recognizes that state has moral existence and that the individual's subjection to it is essentially ethical and agrees with Plato. Rousseau believes that property is the root cause of all evils. Since property is a sacred institution therefore should be guarded. The present democracies are indebted to him for political consensus which is the basis of a stable constitutional regime. In constitutional regime; City planning that intertwines multitudes to attain harmony for achieving integrated development focusing on sustainability is an effort to ensure a protected future generation for continuity of the society. In simple words, man protected by constitutional rights occupies the center stage of development planning therefore success of planning is dependent upon understanding the man, his needs, the activities and the environment he lives in. This is a vast subject therefore its understanding requires intense study to attain a deeper knowledge for developing the art and skills of intertwining the multitudes. The present paper examines the development of Capital City, its expansion vis-à-vis the property right and acquisition of property by public sector in the given constitutional regime. For this purpose the focus is on Chandigarh-the acclaimed modern city.

Keywords
Sustainable city, Property right, City planning

The wall, the door and the key: resilience, education and planning in segregated urban communities

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The concept of resilience has been increasingly used to understand and ameliorate a range of social challenges through examining how individuals, families and communities respond and adapt to stressful conditions. Resilience is appealing as a conceptual tool as it accommodates the complex, dynamic and multidisciplinary nature of the fields to which it has been applied, including urban planning and development. This paper reviews the concept of resilience and its use, extracting and detailing a selection of relevant indicators, with planning, education and non-governmental organizations (NGOs) being presented as key agents in its development. Based on the selected indicators and agents of resilience, the convergence of resilience, education and the planning process is explored, considering their collective efficacy in practice. The results of this correlation are examined with an interest in understanding and intervening in segregated urban communities that, as a result of this segregation, are considered to be living under the type of long-term stressful conditions frequently discussed in the discourse on resilience. Selected case studies are analyzed to test the potential application of the theoretical results of this thesis and include housing and education interventions for urban Roma populations in Serbia and Bulgaria. Further examples of the use of resilience specifically in environmental mitigation and intervention design will be provided.

Keywords

resilience, segregation, planning, urban interventions, education

Movement Planning and Land Use Conflicts: How Urban Planners Operate within Social Movements

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This paper examines how urban planners can be utilized by social movements in the city to support their advocacy in redevelopment land use conflicts. This paper is based on five years of participant-observation in the economic justice movement in Oakland, California (2001-2006). The conflicts were largely over complex urban redevelopment projects, raising the problem of the use of procedural efforts to influence substantive outcomes. Devolving from a specific contradiction of capitalism concerning exchange value versus use value, political and legal processes are put into place that stymie community activists challenging projects. The resultant "procedural fix" is a process in which substantive demands in land development conflicts are channeled and managed for the purposes of (1) predictability of costs and outcomes for developers and (2) muting or undermining dissent. Community opposition to projects occurs not because they are ideologically opposed to development or growth, or because they are selfishly concerned with property values, but because there are legitimate conflicts existing over the nature and operation of the political economy. The paper unpacks the various components of the practice of urban planners working with activists on those conflicts. Some initial observations provide a foundation for six components of movement planning practice.

Keywords

Urban Planning, Land Use Conflicts, Urban Redevelopment, Urban Regeneration, Social Movements, Planning Theory

Ambiguities of Neighborhood Empowerment: The Chicago School of Urban Sociology and American Land Use Law

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This paper examines a paradoxical trend in American land use law to treat urban neighborhoods as malleable and permeable while simultaneously treating suburban neighborhoods as inviolable. Urban neighborhoods are prohibited from exercising land use powers, controlling local schools, or protecting their tax revenue against redistribution, whereas suburban neighborhoods are permitted to incorporate and thereby obtain complete authority over land use, schools, and their tax base. I argue that this paradox can be illuminated by situating it within a framework initially developed by the Chicago School of Urban Sociology. According to the Chicago school, the modern city had transformed urban neighborhoods from insular ethnic communities into concentric single-use "zones," which undergo persistent and violent changes in their character as more intensive uses from the inner core penetrate outlying areas. Under this "ecological" theory of neighborhood change, urban neighborhoods were conceived as infinitely vulnerable and manipulable. While the Chicago school writers considered this a laudable development because it would spur mobility and assimilation among the growing immigrant population, they also lamented the decline of moral authority represented by the ethnic neighborhood. They believed that the pastoral settings of the suburb, restricted to single-family homes on large lots, could revive the lost moral authority of traditional folk cultures by reinforcing the primary relationships of the nuclear family, while avoiding the all-encompassing totalitarian moralism of traditional societies. Thus, although the Chicago school held that urban neighborhoods should be porous and malleable, they supported controversial efforts such as redlining, exclusionary zoning and racially restrictive covenants that provided suburban neighborhoods with legal protection against changes in their character. Modern law, in turn, reflects this duality. Courts use the rhetoric of assimilation to deny urban neighborhoods any entitlement to protect their character, while legitimizing suburban autonomy by associating the suburb with the values of community.

Consideration of environmental concerns within binding land use planning in Germany

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As well as in most developed countries, the German system of land use planning aims for balancing different major concerns of social, economical but also environmental nature. Planners´ task and accountability is to produce a resulting plan that meets the requirements of both, an optimum-solution of contradictory concerns and legally defined standards. Only few research on the effectiveness of land use planning have been conducted yet, but pointing out that especially environmental concerns often are not considered adequately. In order to learn on an empirical basis how environmental concerns are treated within the planning process and what patterns lead to different planning-results a PhD thesis is being accomplished. Due to the character of binding land use plans being a legal regulation not only on property allocation but implicitly also on environmental quality´s distribution, there is a considerable connection among planning and environmental justice. This contribution will give an intermediate report on the ongoing research with a focus on the basic problem definition as well as an overview on the current state of research. Furthermore the research questions (e.g. What environmental requirements have to be met by land use planning?; What does effectiveness mean?; What factors influence planning results?) will be outlined and the respective research concept will be introduced.

Keywords
land use planning; effectiveness; environment; planning-process

Enhancement of Property Rights in Malaysia: A Focus on Land Lord and Tenant Relationship

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Unlike other jurisdictions such as the UK, Malaysia does not have legislation that deals specifically with landlords and tenants. Thus, a tenancy agreement can be concluded either orally or in writing. As such the rights and obligations of both parties are depending on the terms and conditions of the contract entered by them. The problem would arise if both a landlord and tenant are not equal in footing in terms of bargaining power. Hence their rights either as a landlord or tenant may not be well protected. Obviously there is no specific law dealing with rent control and other related matters that lead to tenancy disputes. These include issues on security and rental deposit, quality and safety of the rented houses, termination, eviction and a mechanism for dispute settlement. While provisions on tenancies and leases can be found in the National Land Code 1965, Contracts Act 1950, Distress Act 1951 and Specific Relief Act 1950, the existing legislation remains rather vague and deals with the issue in piecemeal. The question thus arises whether a comprehensive law in a single statute is really needed to regulate landlords and tenants in Malaysia, thus it will enhance the property rights. This paper aims to identify key issues in landlord and tenant relationship and to examine the adequacy of existing legal framework in Malaysia.

Keywords
property, landlord, tenant, contract, land, procedure

Alternative Dispute Resolution in Land Use Disputes – Two Continents and Two Approaches

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This paper notes the increasing use of alternative dispute resolution ("ADR"), which includes negotiations among parties, mediation, and arbitration) generally and specifically examines its use in resolving planning controversies in two jurisdictions -- England and Wales in the United Kingdom and the State of Oregon in the United States. ADR is less expensive, more efficient, and may well result in a more satisfactory outcome to the parties. In the United States, the siting of locally unwanted land uses ("LULUs"), property rights, and litigation pose profound conflicts for the land use process. In the United Kingdom, initial issuance of permits without hearings, local resistance to major public works projects (such as airport runways and power plants) and lengthy and costly planning inquiries are similar concerns. ADR may be helpful in the resolution of these disputes. After briefly examining the legal structure of the two planning systems, the authors provide concrete examples of ADR in Oregon (a system that tends to be more informal and geared to solutions in individual cases) and examine the proposed new structure of ADR in planning law in the United Kingdom, including the recent and thoughtful "green paper" on the subject. The two systems are compared and recommendations are provided.

Keywords

Alternative Dispute Resolution, Planning Law, Oregon, United Kingdom

Rules or restrictions? An evaluation of owners corporation rules from Australia

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Under the new Owners Corporation Act 2006 (Vic), owners corporations in Victoria (known in North America as Home Owners Associations) must adhere to the Model Rules unless additional or alternative rules are passed by the owners corporation and these further rules are subsequently registered at the Land Titles Office. Many apartments blocks abide by the Model Rules - but also have in place a further set of rules and protocols, many of which were not passed formally and are not registered. Some of these rules appear to discriminate indirectly against tenants and potential renters. Examples include restrictions on occupancy levels, pets, use of common property, and the appearance and maintenance of external areas. Although based on other justifications, these rules often restrict behaviour and could be a process for screening and blacklisting potential renters from owners corporation properties. The paper argues that such onerous private governance has the potential to exclude people from particular developments. The paper examines a sample of owners corporation rules from Victoria and New South Wales to ascertain to what extent there is an indirect form of exclusion taking place; and to consider the groups likely to be impacted. The design and implementation of typical owners corporation rules will be examined in the context of Australia's anti-discrimination laws.

Keywords

Owners corporation. Private governance. Discrimination

Institutions that shape the morphology of residential areas in the Netherlands, Flanders and Nordrhein-Westphalia

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What is the role of institutions in shaping the morphology of residential areas? Crossing the border between the Netherlands and Flanders or Nordrhein-Westphalia makes a strong case for a determining role of institutions. Situated in roughly the same landscape, and built for residents with the same level of prosperity, new residential areas look very different from Dutch neighbourhoods in scale, structure, density and homogeneity. This paper tries to get beyond mono-causal explanations (like physical conditions in the Dutch polders) and analyse the complex relationship between (1) the characteristics of the development process, (2) above mentioned morphological features and (3) the formal and informal institutions that shape the incentive structure for actors involved. Insight in the system as a whole has gained importance as demographic changes and economic crisis have drastically altered the conditions for residential area development in the Netherlands. This has raised the political and academical interest into a more small-scale and flexible way of housing development. The country comparison in this paper aims not so much at recommending institutional transplantation, but at providing a mirror, in which the essential features of the Dutch system are highlighted. On the basis of literature, expert interviews, and case study research, we try to summarize the existing knowledge in research and practice. Based on the work of E. Ostrom, in which institutions are taken as rules-in-use within action arenas, the analysis concentrates on institutions that define (a) who can take part in the development process and who cannot (rules of access), (b) which are the shared images that define what is at stake in the struggle in the arena (rules of scope), and (c) what are the action possibilities that different actors have. In this, we put special emphasis on the role of the municipality. Some key factors appear to be the nature of the financial involvement of municipalities in the Netherlands; the elaborate system of financial settlement agreements on location; and the lack of possibilities for individual, 'unprofessional' investors to participate in the process.

Keywords

institutional analysis, morphological analysis, residential area development, cross country comparison, structure of housing provision

Privatisation and other varieties of private sector participation in water services in Poland

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Water supply sector in most countries is based on a public ownership. The issue of privatisation of water sector has emerged in this time when the countries with established democracies and post-socialist countries have begun to change the approach to water as a rare good, which absorbs more and more benefit costs. In the first universal access to water, as well as the convenience of using the water services led customers to treat water as a “non-product” which value isn’t appreciated in everyday life. By contrast, in Poland and other post-socialist countries until the early 90’s, water services has operated according to the “engineering approach” which was subject to a public demand. It was characterized by more technical rather than economic approach, which was based on cost accounting, energy saving requirements, etc. Because of the ideological foundations of the socialist system, the countries of Central and Eastern Europe treated water as a public good. Free (or nearly free) provision of water services for all citizens has been treated as an obligation of the socialist state. Under this system, the priority was increase of production. Improving the level of services stood in the background. This system introduced a long range and density of water and sewage networks, while after the introduction of the principles of free market economy has proved to be outdated and in need of structural changes. Prices of water to the early 90’s did not take into account environmental conditions and did not cover the actual cost of services. Consequently, the provision of water services began to be conceived as a commercial activity, in which economic efficiency is most important. In Poland there are several examples of privatisation of water sector, of which the most important is the involvement of the joint venture company “Saur Neptun”, which operates the water supply and sewage infrastructure in Gdansk. After privatization there has been no significant increase in prices for water, emerging below the level of inflation. On the other hand there was a vast improvement in quality of service, and acceptance of the company 20 years of activity - from a reluctance to recognition as one of the greatest achievements of local government in Gdansk in the first decade of action and a model example of cooperation with a private entity under the Public Private Partnership.

Keywords

privatisation, water, public use

Lessons learned from prosperous rural areas

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Besides the metropolitan regions in Europe, which have as “engines of social and economic development of a country” often priority in discussions, the rural areas moves increasingly into the focus. The heterogeneity of rural areas shows that there are many variants of these areas, which have very different developments. This leads to a coexistence of rural areas with a high positive population structure and socioeconomic developments and those areas, which show tendencies of stagnation and negative growth. Whereas the securing of services of general interest is the most important theme in shrinking regions, the question about factors of success and their transferability in growth regions, which can make a significant contribution to overall economic growth, is raised. This topic has been faced by the department of Regional Development and Spatial Planning at the Technical University Kaiserslautern in two extensive studies. Within these studies factors of success have been identified. These factors contribute to the establishment of dynamic corridors, smaller agglomerations, medium-sized cities and locations in rural areas, which positive developments draw attention to themselves beyond agglomeration areas. In this context the high significance of “powerful personalities” that act as promoters and multipliers and actively promote developments can be pointed out. Also the occurrence of successful, innovative, medium-sized companies, which are often the world market leader with enormous growth rates (“Hidden Champions”), can be mentioned. Furthermore the subject of networks between politics, economics and management has got a crucial role in promoting a business-friendly climate. Based on these results, options of action for the regional planning, regional and structural policy and other relevant policy areas were identified and implementation-related as well as target-group-oriented recommendations for action were prepared. These results and recommendations are transferable and can be used for sustainable support of positive developments in growth areas outside of metropolitan areas.

Keywords
rural areas; growth regions; factors of success; dynamic; powerful personalities

Market led measures for land assembly: Experiences for two different cities in Turkey

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Public and private developers have long considered the difficulty of assembling land to be major impediment to land development, especially in urban areas where property ownerships are fragmented (Hong, 2007; Miceli and Sirmans, 2007). Land assembly can be achieved via expropriation or voluntary purchase. It can be said that expropriation is the most effective way of removing ownership constraints. However, because of changes in public ideas and an increasing cost active public role in land assembly it may not be preferred. When the purchasing method is used for land assembly by developer or public body, a hold out problem often emerges. That is, the landowner wants to sell his/her land for more than the normal market value. This makes the hold out problem more severe in urban areas. Market led measures for land assembly can be used for solving the chronic land assembly problem. The idea behind the approach allows high density on larger sites to make voluntary land assembly more attractive. In this approach landowners get a density bonus if they achieve certain size of land assembly voluntarily (Tang and Tang, 1999; Lum, Sim, Malone-Lee, 2004; Shoup, 2009). However, in literature, there is a limited knowledge on the use and their outcomes of market led measures for land assembly in cities. The central issue in the paper is to examine the experiences in using of market led measures for land assembly in two different cities in Turkey, in Fatsa and Maltepe. Lessons can be extracted for the other countries that intend to apply market led measures for land assembly. References: Hong, Y. H. (2007), Assembling land for urban development: Issues and Opportunities, in Yu-Hung Hong & B. Needham, Analyzing land readjustment: Economics, law, and collective action, pp. 3-36, Lincoln Institute of Land Policy, Cambridge, Massachusetts. Lum, S.K., Sim, L. L., Malone-Lee, L.C. (2004) Market-led policy measures for urban redevelopment in Singopore, Land Use Policy, 21, 1-19. Miceli, T. J. and C. F. Sirmans (2007) The holdout problem, urban sprawl and eminent domain, Journal of Housing Economics 16, 309-19. Mukhija, V. (2006) Property readjustment and a tenants' cooperative in Mumbai: Some

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Keywords
Land assembly, market led measures,land development, Fatsa, Maltepe, Turkey

The relationship between the institutional environment and institutional change. The case of the land-use acts of Galicia (North-West of Spain) and the Netherlands

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In recent times, institutional theories have proven to be useful in understanding changes in planning. However there are some issues that are still controversial within the institutional literature. How is institutional change in terms of pace and size, incremental or comprehensive? How is it possible that agents that are deep embedded in an institutional structure can depart from it? Seemingly different, these two questions are highly intertwined. Institutional literature that emphasizes structure use to regard institutional change as incremental, whereas the literature that emphasizes agency uses to regard change as abrupt. By proposing a dialectical perspective of institutional change we expect to shed some more light on these debates. On one hand, a dialectical perspective can help to overcome the dualism between agency and institutional embeddedness. On the other hand, a dialectical perspective of institutional change allows us to link institutional change with the institutional context. In certain contexts, and depending on the degree of institutionalization of practices and norms, it is more likely that a certain sources of institutional changes lead to an incremental or to an abrupt institutional change. We briefly trace the emergence of the land-use acts of Galicia (2002), North-West of Spain, and the Netherlands (2008), regions with a different degree of institutionalization of planning, to illustrate this point.

Keywords

Institutional change, land-use planning

Framing the integration of climate adaptation in urban planning: performance versus conformance

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This article analyses two different frames towards the integration of climate adaptation in urban planning processes. Not meeting the norms is often considered failure in planning practice. However, in case of integration of climate adaptation, actors have to deal with scientific and technological uncertainties, urban complexities and limitations plus that the planning processes often include multiple objectives. Due to these intricacies, meeting the norms might be difficult and pursuing this goal could lead to delay or exclusion. Both ignoring adaptation in the planning process or the implementation of norms without understanding the relevance is assessed as unsuccessful integration. Consequently, successful integration of adaptation must not equal the implementation of maximum norms concerning adaptation, but a search for solutions that are feasible within the context given. The focus shifts from outcome to the process of planning. This is in line with what in planning theory is defined as 'performance' and is considered opposite to 'conformance'. The article illustrates this thesis through two Dutch case studies of urban planning processes that use a different frame of reference towards the integration of adaptation. The case studies allow a more in-depth understanding of the barriers and opportunities that relate to each frame of reference. Moreover, the article provides an exploration of specific strategies to facilitate successful integration of adaptation in urban planning and possible other policy sectors.

Keywords

urban planning, climate adaptation, integration, framing

The comprehensive Land uses planning in Greece

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The land uses planning in Greece is a field that has been faced in Urban Planning for the past thirty years. Until 1979 the kind and the post of each public use were defined by each area's certain plan. It was a decree in 1979 that defined for the first time zones where certain groups of activities were allowed to be allocated while in 1981 another decree connected the kinds of uses with the structure restrictions. Today land uses planning is still based on a 1987 decree that defined nine groups of allowed functions that can be allocated in the areas that are defined by each plan. The Greek cities planning today is based on the changes that are applied in the initial plans that were legislated in the 80's decade. The changes that are taking place, as land uses are concerned, are mainly based on the "corrections" on certain city's parts as major changes may cause reactions. This has led to comprehensive planning that is in a big degree shaped by market forces as freedom in the kinds and sizes of the allowed functions is provided. But is this planning effective? The current paper will focus on the Athenians municipality, the capital of Greece, investigating the results of comprehensive land uses planning in the shaped functional status of this multi-functional area and the effectiveness of planning during the last twenty years since the 1989 initial land uses plan was legislated.

Land and property development in turbulent times: how the property development responds

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Many authors have in recent years addressed the complex relationship between the structure of the property development industry and the outcomes of urban land and property development processes (Ball, 2003: Adams, 2004; Coiacetto, 20006; 2009; Ruming, 2009). This literature deals with, among other things, the impact of the way the property development industry is 'organized' on housebuilding patterns or on the characteristics of public private partnership arrangements, but also with the influence of changing market circumstances on the real estate industry's strategies on urban land and property markets. For instance, Adams (2004) has analyzed for the United Kingdom how far speculative housebuilding will need to change to ensure the successful implementation of the UK government's brownfield housing target. Following this recent international research, the present paper deals with the impact of two developments in urban development in the Netherlands that seem to have brought forward structural changes for the prospects of development practice. The first development concerns the introduction of brownfield targets for Dutch cities (quite similar to the UK experience, as addressed by Adams). Secondly, the present and ongoing economic and financial crisis seems to have completely changed the market circumstances under which the development industry must operate, bringing in for instance much more uncertainty about future demand and many financial obstacles. Based on case studies of both brownfield and greenfield urban development projects and interviews with representatives from the development industry, this paper analyzes in detail how the property development industry responds to those completely different market circumstances. Our empirical analysis suggests that private developers have become much more reserved in speculatively acquiring land, while, at the same time, they are moving away from volume housebuilding development (which they initially more or less copied from greenfield to brownfield development; see also Adams, 2004) towards small-scale urban development projects. References: Adams, D. (2004) The changing regulatory environment

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Keywords
property development industry; brownfield redevelopment, economic and financial crisis

Post crisis responses in Dutch urban development: a long run event study

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Recently, countries all over the world have entered a period of severe financial and economic turbulence and uncertainty as a result of the global financial crisis. Financial resources have diminished, disrupting existing planning and urban development practices. Public and private actors now – again – search for new urban development models. An important proposed solution to get the urban development processes out of trouble is sought in changing roles of the involved actors, new forms of partnership and additional public interventions on the land and property market. Many of the proposed solutions imply a – temporarily - stronger governmental role in development processes and the land market, after the 'successful' period of joint public and private development. Yet, it remains to be seen whether or not public interventions as post crisis response to this crisis will have a positive effect on real estate market outcomes and whether or not a change of roles of the involved actors in the development process has resulted/ will result in improved outcomes. In this paper we will evaluate how various interventions and changing roles of public and private actors have influenced the outcomes of the real estate markets after crises in the past, to assess the extent of radical change. Firstly, we will develop a theoretical framework on the roles of public and private actors in urban development and the way they collaborate in urban housing development processes. Secondly, in our research we have systematically evaluated the role of private and public actors, and the extent to which they collaborated in the development of semi-detached housing projects in the city region of The Hague in relation to the outcomes in seven time frames (1918-1929, 1930-1944, 1945-1966, 1967-1989, 1990-2008 (VINEX), 2000-2010 (restructuring) and 2005-2020 (proposed plans)). We will use the quantitative and qualitative criteria to compare the roles, partnership mode and the quality of the real estate outcomes. We will end with some conclusions for planning and development practice in times of (post)crisis.

Keywords

economic crisis, public-private development, urban development, housing projects, the Netherlands

Compulsory purchase in Dutch rural planning Actors applying land law and planning regulation

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One way of conceptualising land law and planning regulations is that they are part of the planner's toolkit to support governmental action in planning processes. This paper takes this metaphor a step further and analyses the ways actors are using this toolkit, as good tools are a waste to actors who lack professional skill. Moreover skilled users may use tools in novel ways not imagined by the makers (Preston, 2003). The context of drafting laws and regulations is different from the context of use, which involves that laws and regulations may have a different functions in the latter context than intended. It is not necessary to evaluate the functions in use based on the functions as espoused at drafting the regulations (Korthals Altes, 2008). For example, the present meaning of compensation clauses in the Dutch law on compulsory purchase have moved beyond the intentions of Thorbecke, who drafted this law in 1851 (Sluysmans, 2011), and it may be feasible to analyse present day compulsory purchase practice without establishing whether it fits into Thorbecke's ideas about the development of Dutch society. Analysing the role that law and regulations play in planning practice involves a sociological perspective (Griffiths, 2003). Recently different authors (Van der Veen and Korthals Altes, 2009, van Dijk and Beunen, 2009, Needham, 2006, Van der Veen, 2009, Needham, 2007) have investigated the use of law and regulations in the context of planning. This paper adds to this literature by investigating the debate and the use of compulsory purchase for landscape and nature planning in the Netherlands. Even more than in the urban planning context, the use of compulsory purchase is highly debated in the context of rural development, and its use is much more limited. This paper investigates the interplay between actors, and the ways in which laws and regulations may structure processes even when specific legal proceedings, such as, compulsory purchase, are not employed. References GRIFFITHS, J. (2003) The social working of legal rules. Journal of legal pluralism, 24, 84. KORTHALS ALTES, W. K. (2008) Evaluating national urban planning: is Dutch planning a success or failure? IN MILLER, D., KHAKEE, A., HULL,

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Keywords
sociology of law, land policy, land ownership, the Netherlands, compulsory purchase

Housing affordability dilemma among young household: Present trend in Malaysia

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Young households are facing a dilemma in purchasing their first house in the open market. The dilemma is even more profound in young household working in the private sector. This is because public sector workers are given housing loan with low interest rates and also housing allowances during their working period with the government. Recently, National Housing Policy was launched in Malaysia to help tackle housing issues in the country. National Housing Policy was previously embedded in the five-year Malaysia Plan. The government's introduction to the National Housing Policy is a step to focus housing issues rather than a part of the government's agenda. The key aim of this paper is to examine to what extent young households face the difficulties in purchasing their first house. The second aim is to determine what the role of the government in this situation is. Using a case study of major cities in Malaysia, the study employed a mixed method approach and a total of 380 respondents were obtained from the private sector. The findings indicate that majority of young household experience difficulties in purchasing their first home in respective working area due to a marked disparity between household income and current house prices. The findings also suggest that there is a serious affordability problem among young working household. The study concluded that even though the government has acknowledged a range of measures to address the current problem in meeting with housing needs of young household working in the private sector, the problem remains acute and warrant more policies and intervention by the government in the housing sector in Malaysia.

Keywords
Private sector, affordability, housing policy

Periurban: land management of a space under pressure

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In Switzerland, periurban areas are subject to significant pressures in terms of land use. For many reasons, urban centers are currently unable to meet the demand for real estate. Accordingly, a poorly coherent urbanization of periurban areas takes place, which feeds from legalized buildable land still available to carry out real estate projects. We very often assist to a small scale urban production, which tends to sprawl throughout the territory and goes against the objectives of spatial planning. Given a situation in which the landowners of legalized buildable land are powerful (no expropriation for spatial planning reasons), public body has only a limited scope to work actively in order to orientate the urbanization of periurban areas. Rather than trying to stop the urbanization of periurban areas, this research starts from the idea that these areas contain a great potential for development. An active land management is a necessary condition to use this potential according to both private and public interests. In this situation, we assume that the public actor has to take advantage of development opportunities (infrastructure, land sales, etc.) to negotiate the development of its territory with landowners and developers. We highlight firstly the main features of periurban areas. We emphasize on land issues, the pressures from the market on present activities, as well as conflicts on land use. Secondly, through case studies, we seek to document the public body's land management strategies in periurban areas in Switzerland. This allows us to show the contributions and the constraints of pro-active land management strategies to orientate urbanization towards results that integrate private and public interests.

Keywords
Periurban area; urbanization; land management; public body; opportunity; negotiation

Towards the "Livable City": Analyzing the Changing Growth Strategies in Toronto's Official Plans

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In the context that municipal governments are competing with each other for more investment in their own territories, the concept of "livable city" which intends to strike out a balance in the "economic-environmental-social" triangle is used to justify the new development or redevelopment in the central city to encourage private investment practices in Toronto. The municipal growth strategy is facing the conflict between the efficient use of land and the danger of gentrification. This study takes Toronto's Official Plans as study cases, examines the changing rationale of Toronto's growth strategy by tracking changes of the Official Plans; evaluates the extent to which the existing growth strategies contribute to achieving the "livable city"; analyzes the potential danger of social inequality causes by redevelopment projects, and suggests possible solutions.

Keywords

livable city, growth strategy, social equality, Official Plan

Climate change, urban energy and land management tools

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Climate change and energy saving are challenging the city and the territorial organisation. Innovative spatial and urban planning methods and procedures are required and new approaches and instruments must be elaborated and applied in order to shift from the building scale to the urban and territorial one. In fact, while energy saving and emission control are usually applied to single buildings, plants and technological systems, the effects in terms of energy consumption and climate gases production at the urban and territorial scale – connected to the urban form and density, activities allocation, mobility, etc. - are not fully considered, and the transfer of strategies into actions is not supported by appropriate planning processes and operative tools. The issue of urban energy efficiency in urban planning has been addressed only recently, and it is still anchored to a traditional view. New goals must be introduced in the agenda of land management research and practice, firstly overcoming the divide between energy and urban planning, secondly applying new implementation tools. As far as land management mechanisms are concerned, usual top-down, public-led actions are no longer politically and economically viable whereas new methods, based on public-private partnership, are progressively adopted. This is a major change, which can allow to include new objectives in planning practices, in terms of urban quality, equity and energy efficiency. This perspective requires the redefinition of usual methods for development rights assignment, and the activation of new planning procedures based on the assessment of actions in terms of performance instead of conformance to pre-defined rules. The expected results regard a more efficient land market and better performing development (or re-development) choices. The paper, focused on the Italian case, analyzes the possibility to integrate energy planning with spatial planning, the effectiveness of plan implementation mechanisms and the perspective of replacing public-led interventions with market tools in view of the inclusion of energy saving and climate change adaptation and mitigation goals into plan implementation procedures.

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Fresh thinking is needed to reform laws of the land

How can our outdated planning system be made fit for purpose in the 21st century, asks **Greg Lloyd**

Land-use planning reform here has lagged behind other devolved areas of the UK because of specific civil and political reasons, as well as our system of local government.

Our deliberations around land-use planning are separated from issues such as regional economic development, housing and urban regeneration.

This is much different from other areas within the UK, such as Scotland, where they are integrated to serve the wider political machine.

The whole issue has been getting a bad press which, in part, reflects a sheer ignorance of what land-use planning is intended to do.

It tends to be seen as a negative, rules-based process which seeks to stop development — and this is certainly not always the case.

Land-use planning is about looking forward and mediating change. If utilised properly, it can become the vehicle for positive change, as is the case in Scotland, where the system serves as the principal way in which public policies are articulated. Particular attention has been paid to ensuring that there is a more appropriate attitude towards the real spirit of land-use planning.

By examining the underlying role of land and property in Northern Ireland, we can understand the reasons for the delayed introduction of planning reform here.

Unlike elsewhere in the UK, there is a special value placed on land ownership, control over its use and development and to attitudes to planning.

But this requires a new approach to bring together a legal and economic perspective and a deeper psychological appreciation of the historical, social and cultural value of land here.

History shows that, in times such as these, new ideas can emerge as economic depressions can trigger new ways of thinking.

For example, there are currently calls to invest in environmental, or green, infrastructure to adapt to environmental challenges and kick-start the local economy. The 'Green New Deal' would represent a fresh way of thinking.

There is no panacea for Northern Ireland, but what we can reconsider are some of our existing ways of working.

This will be necessary if we move into a world of very slow, or zero, economic growth, environmental limits and damage and conflicts over the needs of different places and people at a time of restricted expenditure and tax revenues.

In Northern Ireland, we need to revitalise an established arm of government to serve this purpose.

It is important to consider the potential role of the International Association of Planning, Law and Property Rights, which is holding its sixth international conference in Belfast next month, hosted by the University of Ulster.

The organisation was formed in the late-1990s to consider three inter-related agendas: planning, law and property.

These areas focus on the evolving — and often conflicting and difficult relationships — between the public and private interests in the use and development of land.

Attention is paid to history, culture and conventions, land tenure and ownership and attitudes to land and property development.

This is relevant to Northern Ireland and delegates from all over the world will be interested to find out how planning system operates.

Working to a necessary culture-change is no easy task. Northern Ireland has to be receptive to using the existing mechanism with respect and confidence.

There needs to be an end to 'shouting loudly' at planners and, perhaps, listening to the ways in which Northern Ireland's well-being can be enhanced.

Professor Greg Lloyd is head of the School of the Built Environment, University of Ulster. For conference details: www.ulster.ac.uk/plpr2012

Belfast Telegraph Thursday 26 January 2012

PLPR 2013: Save the Date!

Portland, Oregon

13th - 15th February 2013

The organizing committee for the 2013 PLPR is excited to invite you to the beautiful city of Portland, Oregon for the second meeting of our association in North America. The conference will be held at the campus of Portland State University in downtown Portland from the 13th through to the 15th of February. (Please see First Stop Portland at: http://pdx.edu/fsp/ for a brief but excellent overview of the city.)

The conference theme has been (tentatively) framed as "Property Rights and Planning in a Changing Economy"— reflective of the challenges of globalization and the enduring economic downturn on our communities and professional practice.

As always a wide variety of papers are welcomed! Significantly, the conference coincides with an important anniversary in Oregon's planning history: the passage in 1973 of Senate Bill 100 which established the state's land use program.

We expect to have a few sessions that bring advocates and opponents of the system together to critically reflect on the state's growth management past and future.

We look forward to hosting you in Portland!

Expect great food, fine wine, excellent research papers and stimulating conversations, and, of course, some rain!

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