

# What Do Americans Pay for Not Having a Public LIS?

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## **ABSTRACT**

In most developed countries, including those of western Europe, land registers and cadastres are kept – often in computer form and easily accessible – by public administration bodies or courts. There are often very long and strong traditions of doing so. Efforts are continually made by governments to enhance these systems, through legislative changes, technical development or changes to organizational structures. Transparency, low transaction costs and efficient property markets are key objectives for this development. The development of these functions was also put high on the agenda as part of the recent dramatic political changes in eastern and central Europe. They were seen as very important steps in order to establish market oriented economies as well as strengthening democracy.

The situation in the United States is very different. The US has a unique position among the most developed countries, having no state or federal system for land registration in a title system or computerized deeds system. Instead the property market relies on title insurance companies to provide stability and order. Public initiatives seem to be restricted to information about federal land. A number of actors not seen in other parts of the world are involved in conveyance and mortgage transactions.

The paper presents an attempt to compare transactions concerning the refinancing of residential property in the United States with European jurisdictions. This is a transaction of the most common kind on both sides of the Atlantic, and therefore a good indicator of efficiency. This benchmarking illustrates the differences between having and not having a well-developed public land registration system for property owners, both in the way of cost and time, and the consequences of this.

The outcome shows that it takes considerable longer time to process such a transaction in the United States, and at a considerable higher cost than the most advanced European jurisdictions. European jurisdictions have distinct advantages over their American counterparts. Most important perhaps is the fact that American homeowners have to pay considerably higher fees for refinancing transactions. The difference in costs do not seem to correspond to any benefits in the form of lower interest rates when compared to rates for other kinds of loans available in the market. As things stand today, the American property market suffers from what can only be termed as extremely large transaction costs. Furthermore there are few moves to streamline and integrate processes in the whole chain of events in property transactions.

There are many reasons for this situation, but one obvious factor is the lack of easy access to reliable and up-to-date land information. Investments made in Europe, by national governments, in well-organized land registers, computerization and the provision of the relevant information to the market has increased transparency and resulted in much lower transaction costs compared to the United States.

This leads to the question whether public investments in the creation of a modern public land register in the United States would be profitable. In fact, the cost differences are so large that it can be argued that a total reform of the government's role in keeping and guaranteeing land records is justifiable from an economic point of view. The answer to this question must of course take into consideration the possibilities to recoup the money invested through fees from the use of the information.

In addition, European governments are taking active efforts to increase transparency and lower transaction costs. Work processes and systems within the public and private sectors interact more. This development might well lead to a growth in the cost differences.

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