



# Compensation Rights for Decline in Land Values Due to Planning Decisions

A Cross-National Perspective

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## *The Issue*

- Almost all countries today have planning laws (though not all implement and enforce them)
- Wherever land-use regulation is applied to the rights to use or develop land, there may be a rise or depreciation of land values— **the pendulum**
- The plus side – “betterment” or the “unearned increment” - is not the focus here; however, it has commanded considerable international academic and organizational interest, and resurfaces as a policy agenda from time to time in different countries
- However, the reverse – compensation for decline in property values - is almost totally absent from national or international discussion or academic research
- The theoretical (intuitive) assumption that these two are two sides of the same coin is NOT supported in reality (and not even by theory)



### *Examples of situations where a land-use planning decision may reduce private property values*

All situations discussed do not involve direct expropriation; title remains and the landowner remains in control of access, transfer etc.

- 1) A former land use plan had permitted intensive development, but the landowner did not utilize these; an amendment to the plan reduces the development rights (but does not take them all away)
- 2) A rural area had not before had a statutory land-use plan and landowners had traditionally built farm homes, workplaces, storage areas. A new plan now limits land use to agriculture and there are much more limited development rights
- 3) An owner of farmland near an area of quick urban expansion submits a request for rezoning to permit development but the request is rejected
- 4) A new plan is under preparation. Meantime, a freeze is placed on issuing building permits – for a limited number of years
- 5) A plot of land is designated as agriculture and expectations of development are disappointed

### *Examples of situations – cont.*

- 6) A plot of urban land is designated as open space, but is not necessarily slated for expropriation
- 7) A plot of land is designated for future expropriation but is not expected to be needed for 10 years and government is not yet expropriating
- 8) A major highway is planned. Landowners bordering the new highway are not expropriated but land values decline sharply
- 9) An area next to a quiet neighborhood is rezoned, from public open space (park) to a school. The values of the bordering homes decline
- 10) Landowners in a quiet single-family neighborhood learn that a neighboring plot is designated for a high-rise residential tower – land values decline because the view is blocked, more traffic...
- 11) Same as above, but the single-family neighborhood is not yet built – only as development rights now reduced in value



## Why is cross-national learning relevant?

- ❑ The issue is universal and raises deep philosophical, social-justice and economic issues concerning the essence of the relationship between planning and property rights
- ❑ Yet - the current state of systematic comparative knowledge is rudimentary – even neighboring countries do not exchange views and knowledge
- ❑ Each country thus debates the problem (if at all) almost in isolation and in a haphazard way
- ❑ The negative consequences of the absence of thought-out consistent policy are borne by landowners unequally (and by the property markets)
- ❑ Analytical comparison of policies may help to frame the debate in each country
- ❑ Most important: Comparative assessment can provide a SCALE for judging what is an “extreme” policy – either on the “no compensation” side or the “extensive compensation” side.
- ❑ Looking at the rationale and functioning of the various sets of laws and policies in other countries can provide some “simulation” for other countries debating a change in laws or policies

## Systematic comparative research of 13 countries

- ❖ **Pre-stage: prior extensive comparative research on related topics (including “planning systems”, expropriation and betterment taxation)**
- ❖ **Stage 1 – pilot study: Delineate the “perimeter” of the different laws on extent of compensation rights**
- ❖ **Stage 2 – pilot study – identify the key variables among the different laws**
- ❖ **Development of a comparative analytical framework and questions**
- ❖ **Create a 13-country team of expert researchers – 1 person or team for each country**
- ❖ **Ask the authors to describe and evaluate their law and practice based on the framework and questions**
- ❖ **Several rounds of calibration of terms and concepts**
- ❖ **Comparative analysis and evaluation**
- ❖ **Identification of possibly transferable lessons**

The Countries included in the systematic comparative research project:

- The USA
- Canada
- The UK
- France
- The Netherland
- Sweden
- Finland
- Germany
- Austria
- Poland
- Greece
- Israel
- Australia

The compensation-rights span of policies

No compensation rights except for physical expropriation

Extensive compensation rights

← A broad range of interim positions →



## Key findings

- There is a great variety of laws and practices among the countries (and within single countries)
- There are MAJOR DIFFERENCES among countries
- There are major differences among European countries, including EU member countries, in both law and practice, despite the shared European Convention on Human Rights
- There are major differences even among neighboring countries with shared cultures
- Often, the findings per country are counterintuitive and cannot be “predicted” based on other attributes of that country

*Can you guess where each country would be positioned along the scale range?*

Arranged temporarily by geographic regions

Let's give scores: 1 – low level of rights 5 – generous compensation right

- The USA
- Canada
- The UK
- France
- The Netherland
- Sweden
- Finland
- Germany
- Austria
- Poland
- Greece
- Israel
- Australia

## Conclusions

- The issue of whether there should be compensation rights and for what situations merits attention and solid policymaking
- The research findings indicate that there is a large pool of very different laws and practices around the world which may be viewed as alternative policies
- International comparative analysis and evaluation can provide a relative scale, and some “previews” of some of the legal, financial and other public policy issues and impacts that might arise

*Thanks for your attention.*

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