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"Geospatial Information for a Smarter Life and Environmental Resilience"
Negative Covenants in Densification Projects - Cadastral Challenges

Helén Elisabeth Elvestad,
Department of Property and Law, University of Life Science
helen.elvestad@nmbu.no
The purpose of the paper

• Investigation of how developers in Oslo deal with negative covenants in densification projects.

• Gain more insight into the challenges facing developers in confrontation with negative covenants in their projects.
The legal status of negative covenants and zoning plans

• Negative covenants formed the backbone of suburban development in Oslo, Norway from late 19th century onwards, until the first modern planning law, implemented in 1924.

• From mid 1990s, densification of urban areas has been the stated Norwegian national policy for urban development.

• Negative covenants still are legally binding for the owners of plots in such development areas, even if newer land-use plans, which also are legally binding for new development, shows other land uses, densities, activities, etc.
Method and data collection

- Qualitative informant interviews with the Mapping Authority and with developers in the Oslo area, all of whom have experience of negative covenants.

- The study is based on 13 interviews.
Challenges arising from the Norwegian property registration system

- The current Norwegian property registration system is divided into
  - an object register (the cadastre)
    - The cadastre contains information on property boundaries and the physical characteristics of the property,
  - a rights register (land register).
    - The land register contains information relating to ownership and rights
- When registering, codes and standard texts are used.
  - There are no clear guidelines explaining how land charges should be entered into the land register.
- Covenants that predate the creation of a partitioned property are not transferred in writing to partitions formed at a later date.
- There is nothing automatic in the fact that lapsed covenants are deleted from the land register.
Possible solutions

- A link directly to the documents after clicking on the land charges listed in the folio(s) in the land register.
- Clarify the contents of the land charge in relation to the designation stated in the land register.
- A provision whereby covenants older than 50 years will be assumed to have lapsed, unless the right-holder states that he wishes them to continue.
Concluding remarks

• Accessing information on covenants is currently a very arduous procedure.

• It takes considerable time to go through every document of potential importance to the property.

• The system is costly in terms of time and resources for rights holders and developers alike.

• A national and complete cleansing of the registers may help improve efficiency in the administrative processing of zoning and building matters.