



Public Value Capture in Turkey

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SMART SURVEYORS FOR LAND
AND WATER MANAGEMENT

CHALLENGES IN A NEW REALITY

Introduction

Cities today face many complex challenges, including **demographic changes, rapid urbanization, economic crisis, natural disasters, effects of economic growth, climate crisis** which all increases the pressure on land.

In response to these challenges, countries, especially developing countries turned their attention to search and improve their value capture tools and financial instruments for additional funding stream for providing serviced land, land assembly and (re)development, and recovering the cost of a public improvement or service.

Introduction

In the past decade in Turkey, there is a renewed interest in public value capture tools to strengthen the financial dimension of the planning system and land development, evidenced by the policy documents such as;

in the Integrated Urban Development Strategy and Action Plan

- making legal arrangement on value capturing to prevent land speculation (Action 2.1.4)

in the 11th Development Plan

- broadening the tax base (article 181 and 263.7),
- introduction of ad valorem taxation of properties (article 264.2),
- increasing the revenues of local governments (article 181 and 264),
- using value increases of properties for the quality and development of cities (article 684),
- capturing value increases from plan amendments (article 225.2),
- integration of property values into Land Administration System to determine the value increases from public investments (article 684.1)

Introduction – Public Value Capture

Value capture is an umbrella term used to describe a range of financing mechanisms sharing a common rationale that

the benefits of public investments and decisions are capitalized into property values and this value increase, namely betterment, plus value, windfalls, or unearned increment should be captured by the public.

Countries use a variety of tools, instruments and process to capture the value increase resulting from public investments, decisions or actions, and the general economic development such as **taxes, developer obligations, exactions, impact fees, levies, tax increment financing, land readjustment, land banking, land leasing, land development, etc.**

Introduction – Public Value Capture

In addition to the great variety of the value capture tools, for each tool, there are also diverse rules, process and applications, which affects the usage, efficiency, acceptance and success.

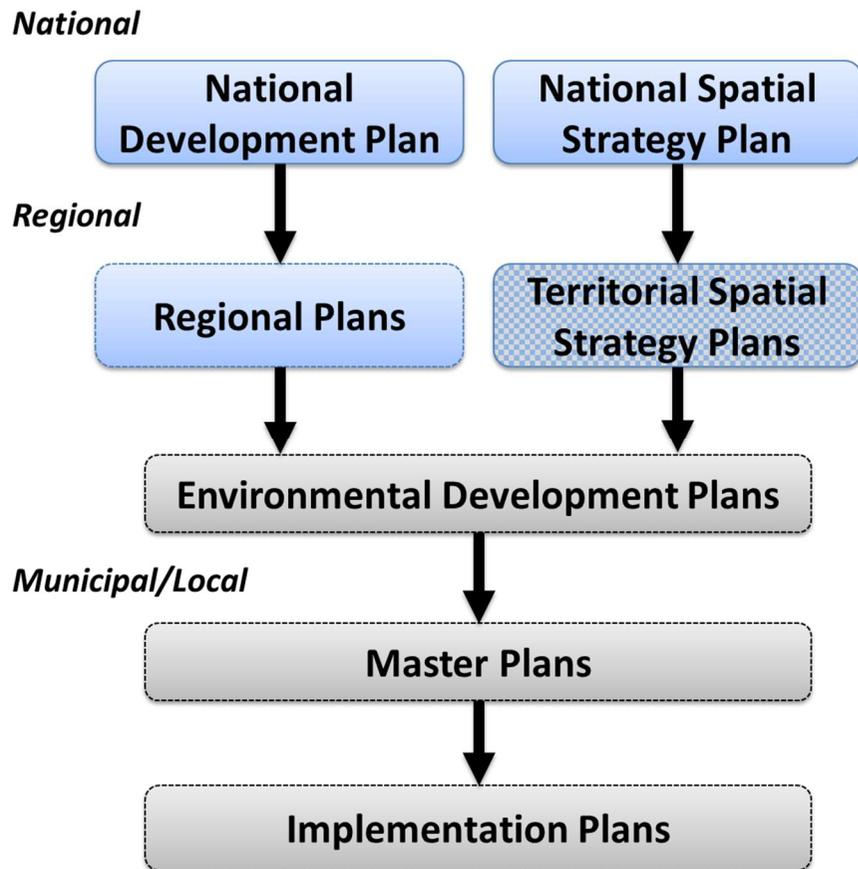
Thus value capture tools in a country and their effectiveness or success mainly depend on country's planning, land management, land administration system and its institutional, legal, technical and social framework.

Therefore, this study aims to present the Turkish case and the main characteristics and the efficiency of the value capture tools that are;

- related with the planning system,
 - plan notes, planning protocols, plan amendments
- related with the land assembly and development
 - land readjustment, voluntary plan implementation
 - recoupment charges for infrastructures

will be presented.

Planning System in Turkey



plan-led regulatory/discretionary system

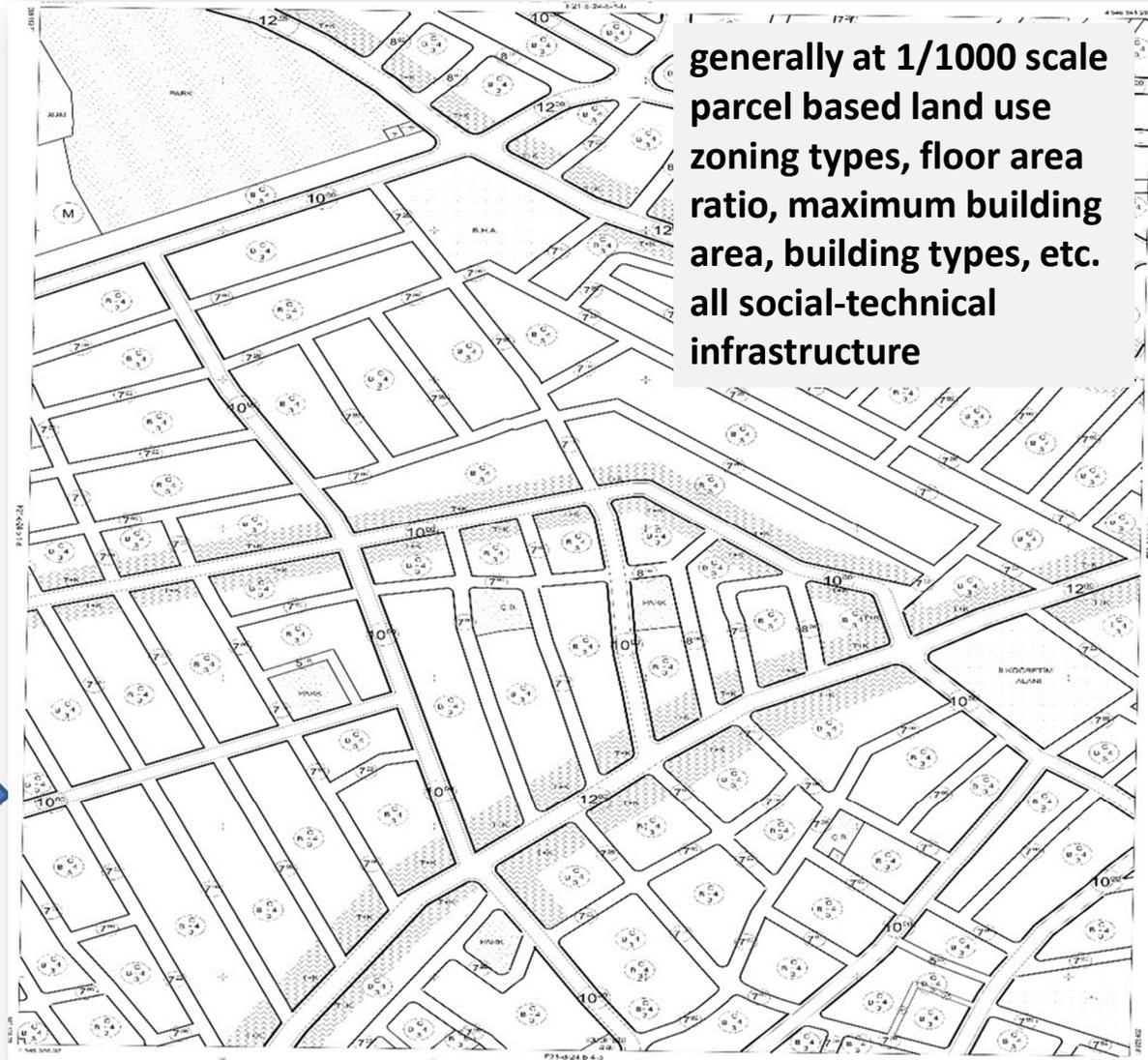
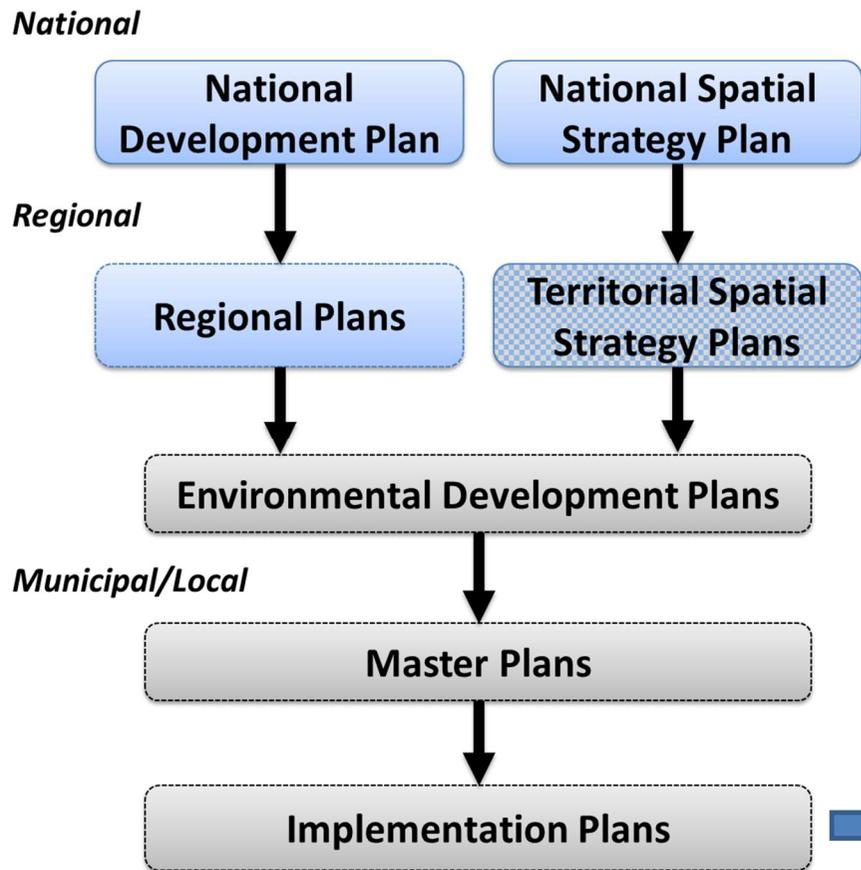
driven by the national policies and through a hierarchy
land-use decisions are implemented at a local level.

For the coordination of the plans, each plan have to be
in accordance with the above plan in the hierarchy.



Figure: Modified by author from: Land-use Planning Systems in the OECD: Country Fact Sheets, 2017

Planning System in Turkey



plan amendments

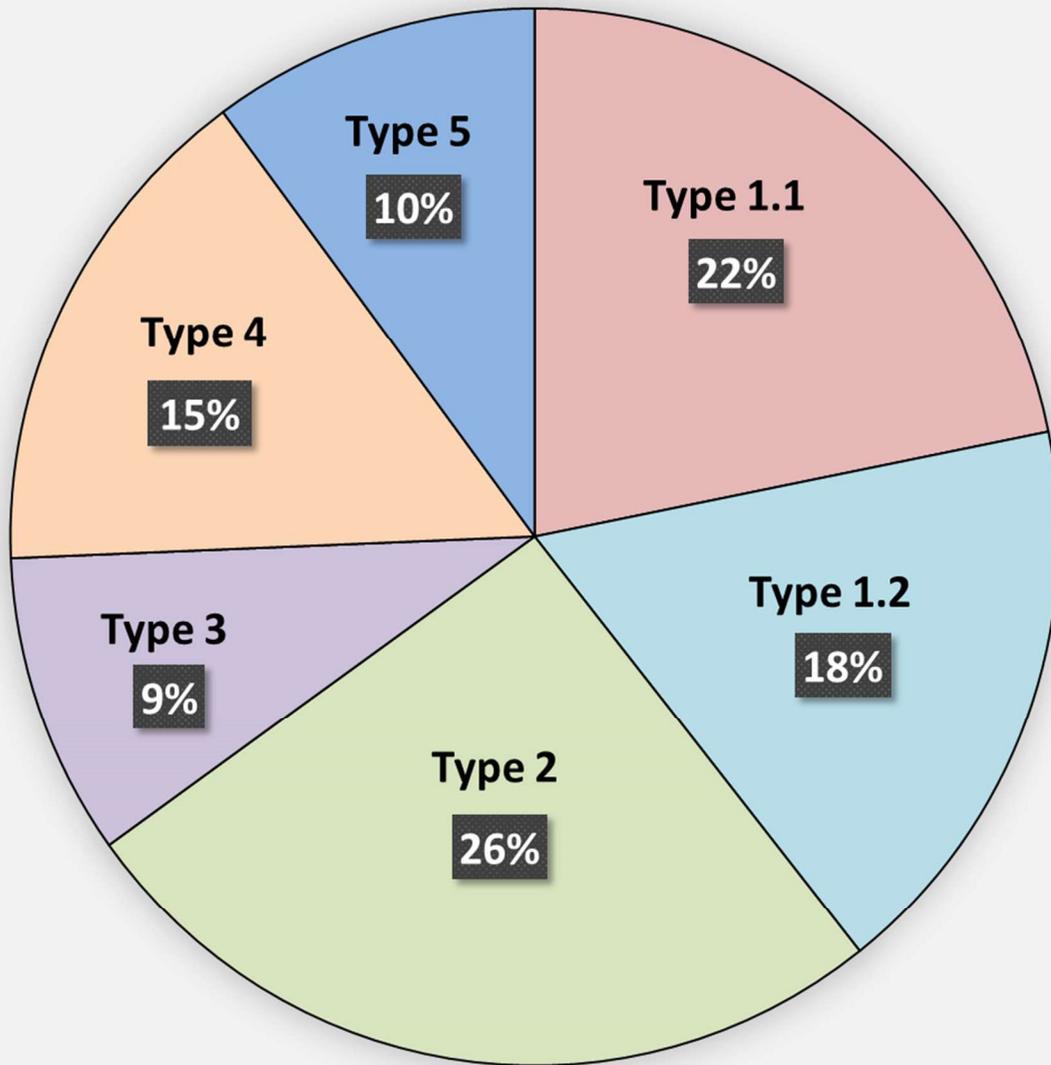
Implementation Plans has a fundamental impact on property values, which is the main driving force of planning amendments by developers/individuals.

In 1985, planning powers are decentralized and transferred to the local governments. From then, Municipal Councils are the only authority in the decision making of plan amendment proposals which resulted much easier and uncontrolled plan amendments.

In a case study in Istanbul, more than 2.900 plan amendment proposals in a 5 year period between 2014 and 2019 are analyzed (Yilmaz et. al. 2020).

Based on this analyze, the main types of the parcel based plan amendments and their classification are identified.

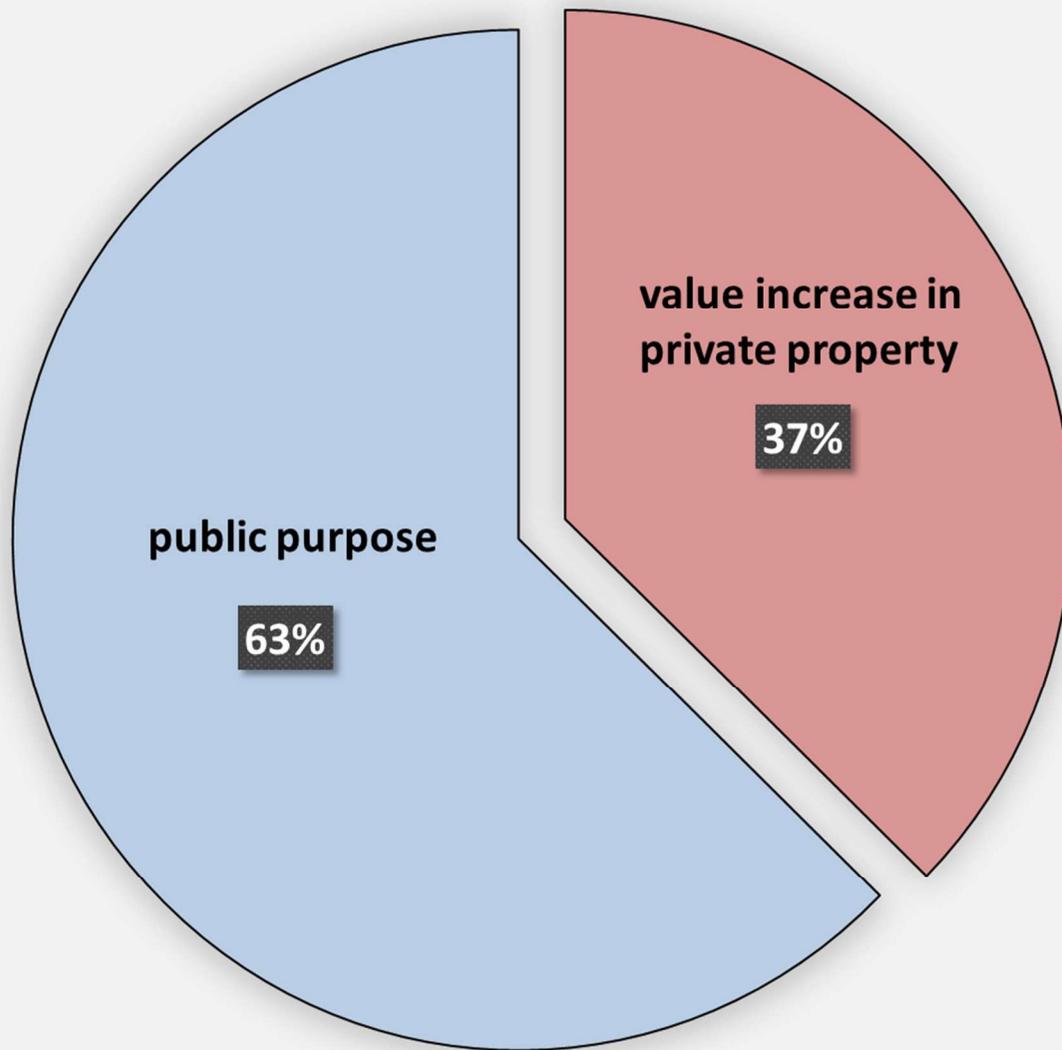
plan amendments



Plan Amendment Distribution by Type in Istanbul between 2014-2019 (%)

- Type 1.1: from public spaces to building area
- Type 1.2: from building area to public spaces
- Type 2: between public spaces
- Type 3: for preservation of historical areas, etc.
- Type 4: increase in building right
- Type 5: for plan implementation

plan amendments



Plan Amendment Distribution by Type
in Istanbul between 2014-2019 (%)

■ Value increase ■ Other

plan amendments

Municipalities also use **plan amendments as a kind of development agreements/protocols.**

These protocols provides extra development rights or approval of a certain project in exchange of developer obligations/contributions, such as land or money donation for a certain social/technical infrastructure. However, the process do not follow a detailed regulation.

In some projects, these protocols are used for legalization of the illegal buildings/building parts in exchange of developer obligations/contributions.

As a result, plan amendments were become to be perceived as corruption and irregularity by the society.

plan amendments

Recently, as a solution to this problem, parcel-based plan amendments are prohibited and a **new value capture tool** is introduced for the value increase in block-based plan amendments in 2020.

Developers/landowners that receives additional development rights or a more profitable land use should compensate in cash.

Payments will be shared among the public administrations and will be used in public services.

In plan amendments, value capture is used for regulation of the system as a policy tool.

Plan Notes

In Turkey, a spatial plan is a whole with a report and the **plan notes**.

The **plan notes** provide detail explanations for the spatial representations of the land use functions, development conditions, building rights, rules etc.

Municipalities use **plan notes to get additional contributions** or **free land deduction** for social and technical infrastructure in exchange for additional development rights, profitable use etc.

In addition, plan notes are also used as a **passive policy tool** for supporting a public policy such as disaster prevention. Via plan notes, municipalities provides extra building rights to make urban renewal projects financially feasible.

Public Value Capture in Land Assembly and Development

In Turkey, especially after 1950, urban population has increased rapidly which necessitates implementation of the plans to provide sustainability of the city land stock for development.

Until 2019, there were three main tools for the implementation of the plans which are;

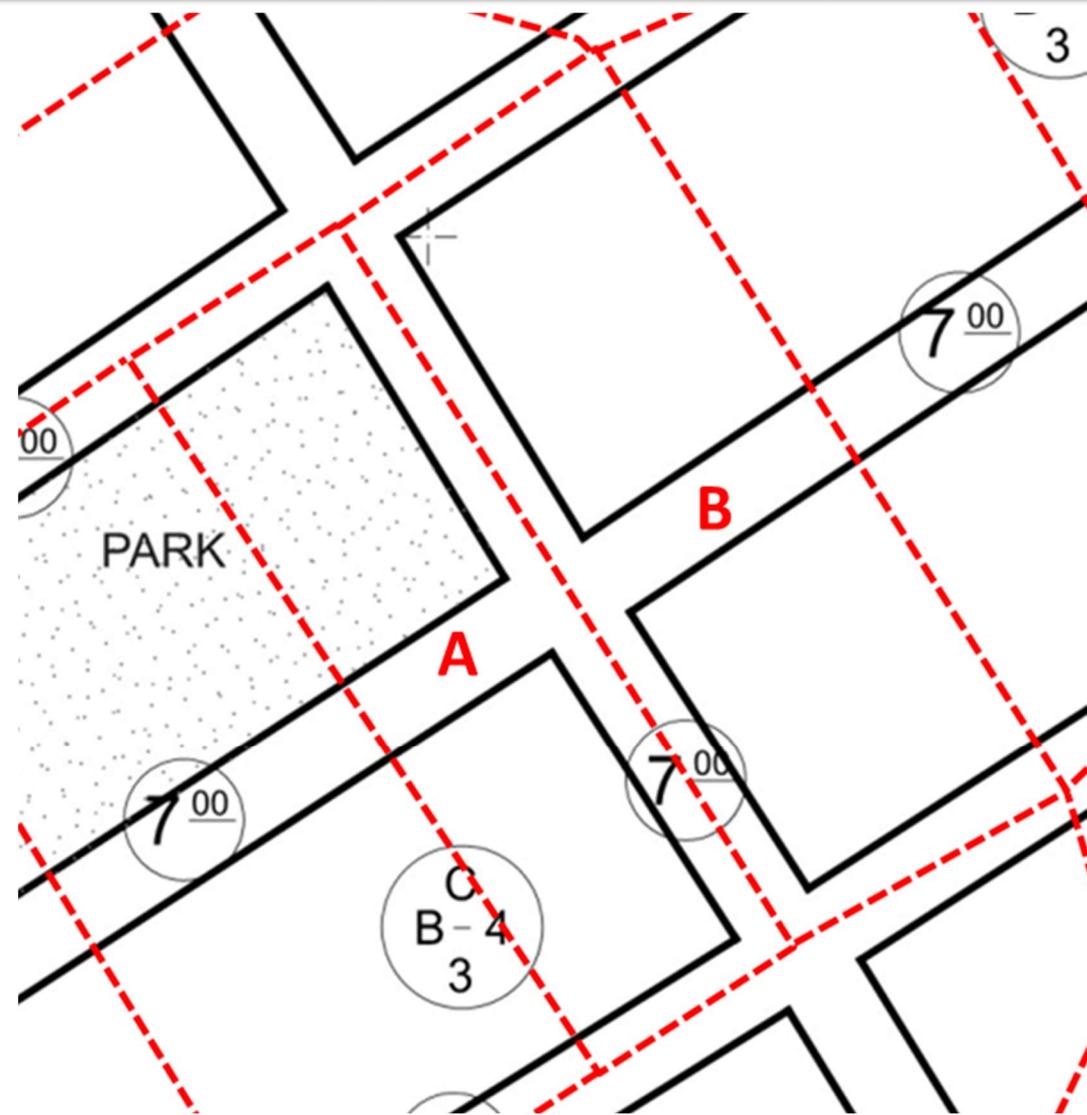
- **voluntary method,**
- **expropriation,**
- **land readjustment**

voluntary method

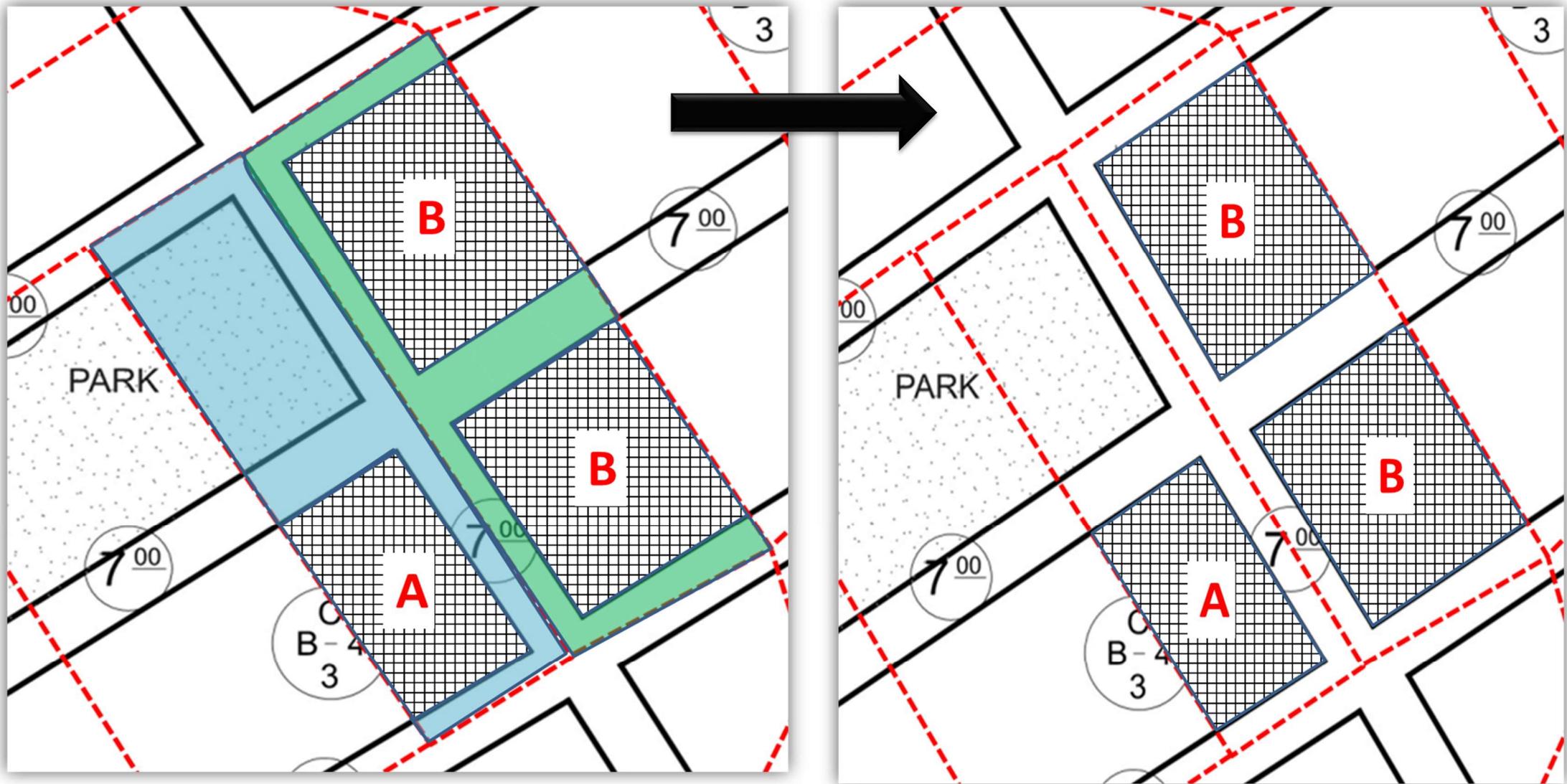
voluntary method

In voluntary method, with the requests of the landowners, areas allocated to a public service in the plan are given freely by landowners to obtain a building right in the remaining area if possible.

if remaining area will not be suitable then landowners will not apply and wait for land readjustment or expropriation.



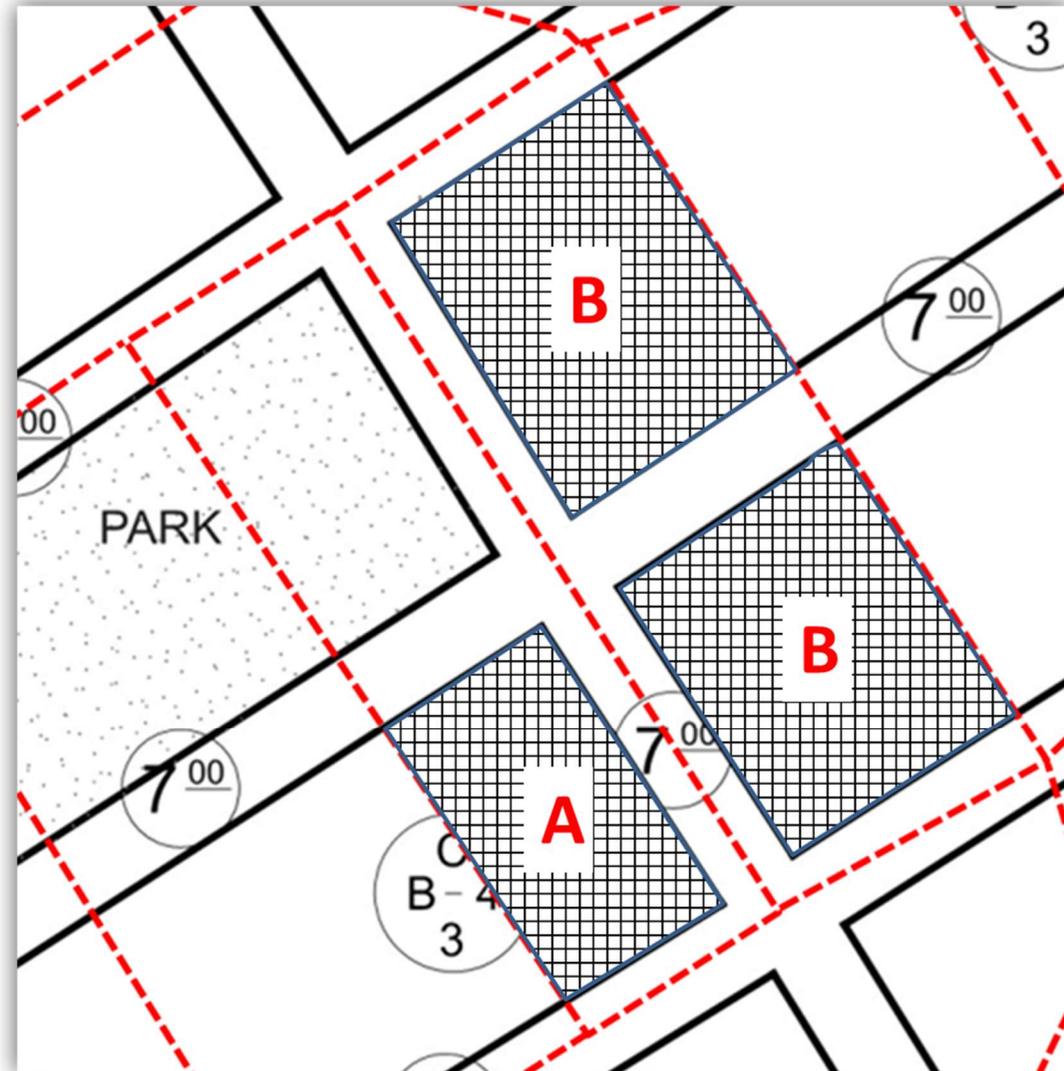
voluntary method



voluntary method

voluntary method

- No certain land deduction ratio.
- land deduction depends on location of the cadastral parcel and the plan,
- equality is not provided,
- lower costs for municipalities,
- parcel based quick implementation
- takes much more time for the whole plan



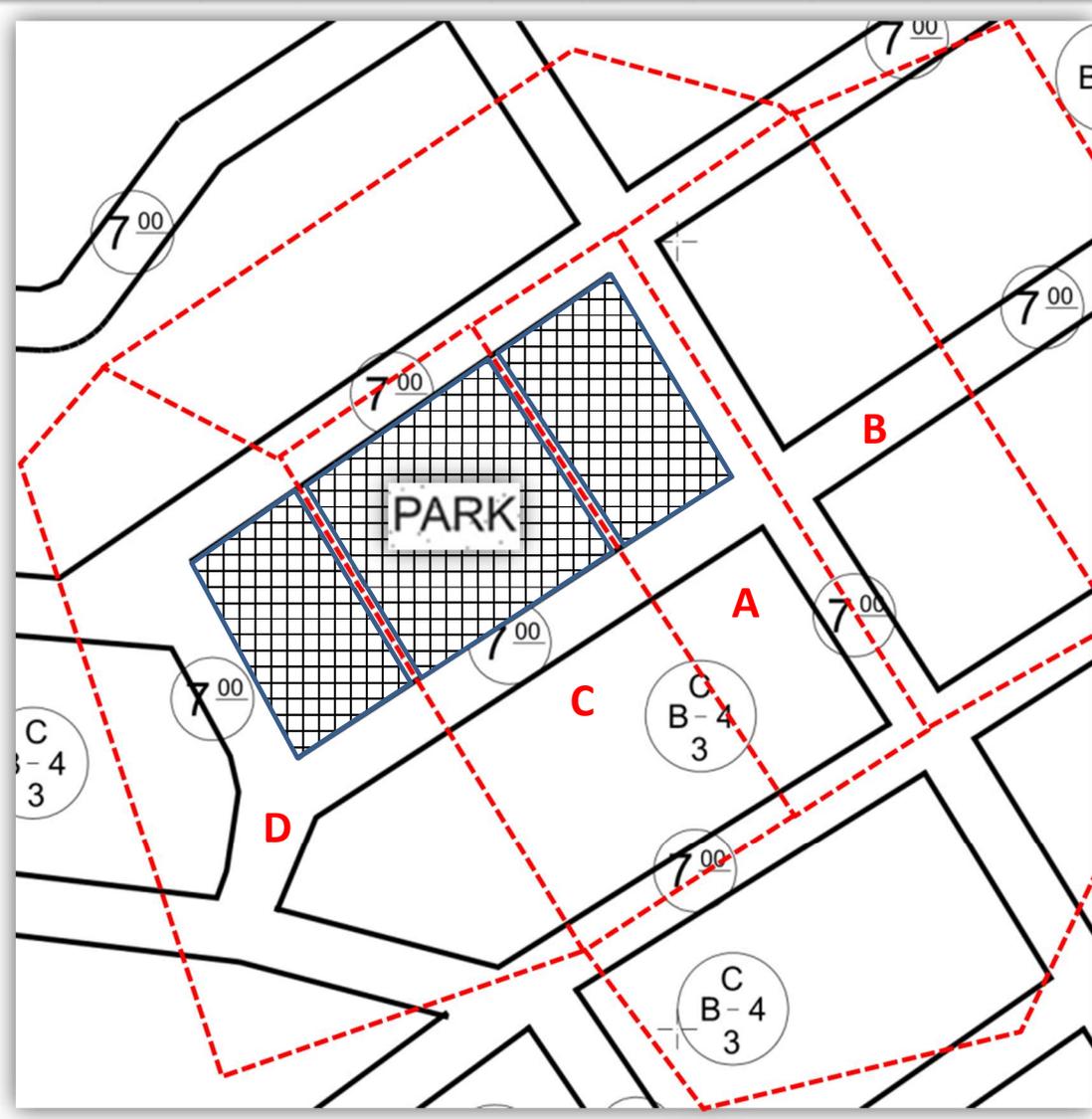
expropriation

expropriation

In expropriation, public spaces are provided by expropriating all the areas that corresponds to the cadastral parcels.

the first option is to purchase the land through negotiation, if an agreement cannot be reached compensation set by the court via expert commission.

financial problems – increased cost
social problems – legal action, delays, etc.



land readjustment

land readjustment

the project area is formed by mathematically adding or pooling the parcels within the project boundaries.

the areas allocated for public purposes are extracted from the project area.

Remaining area is subdivided into urban parcels, and allocated to the landowners based on their shares in the project.

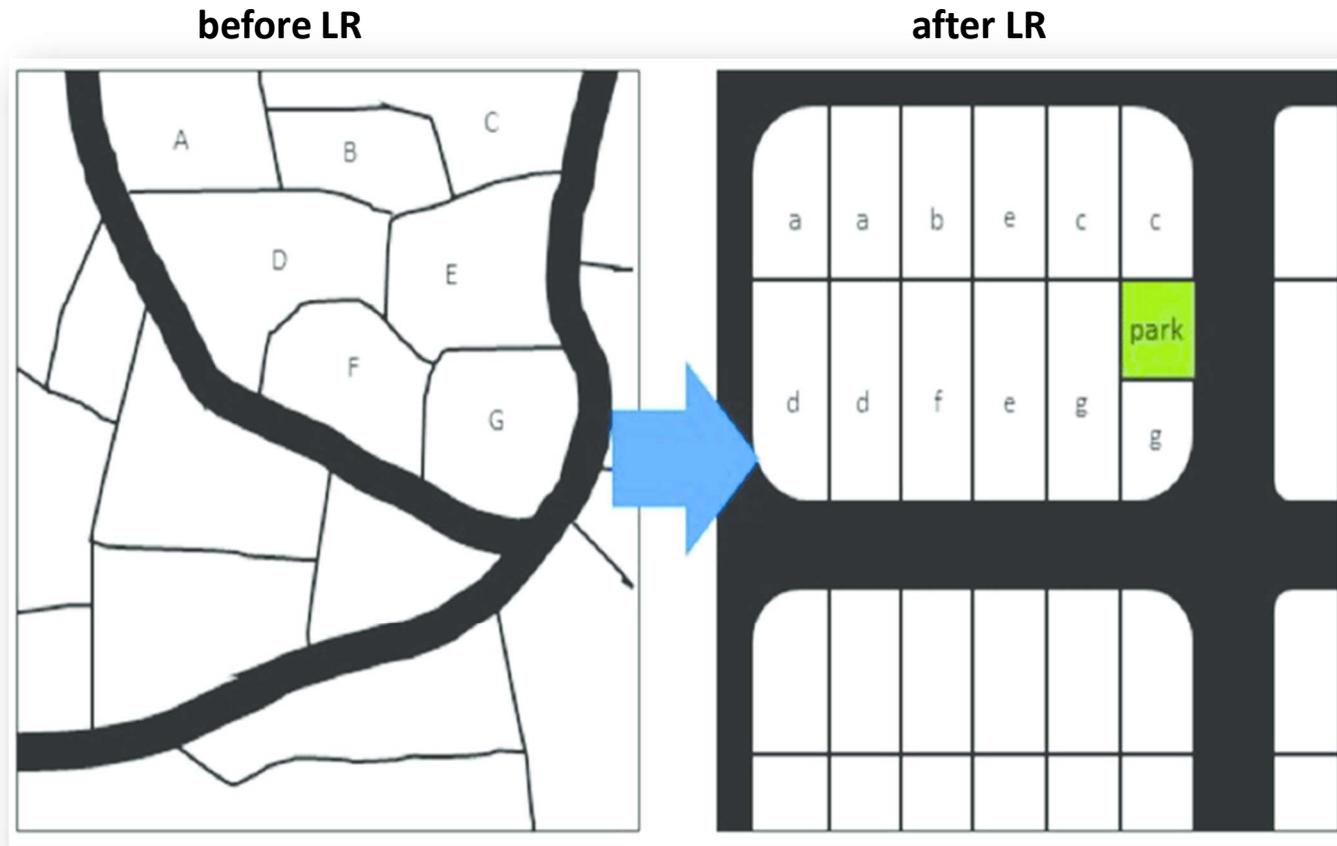
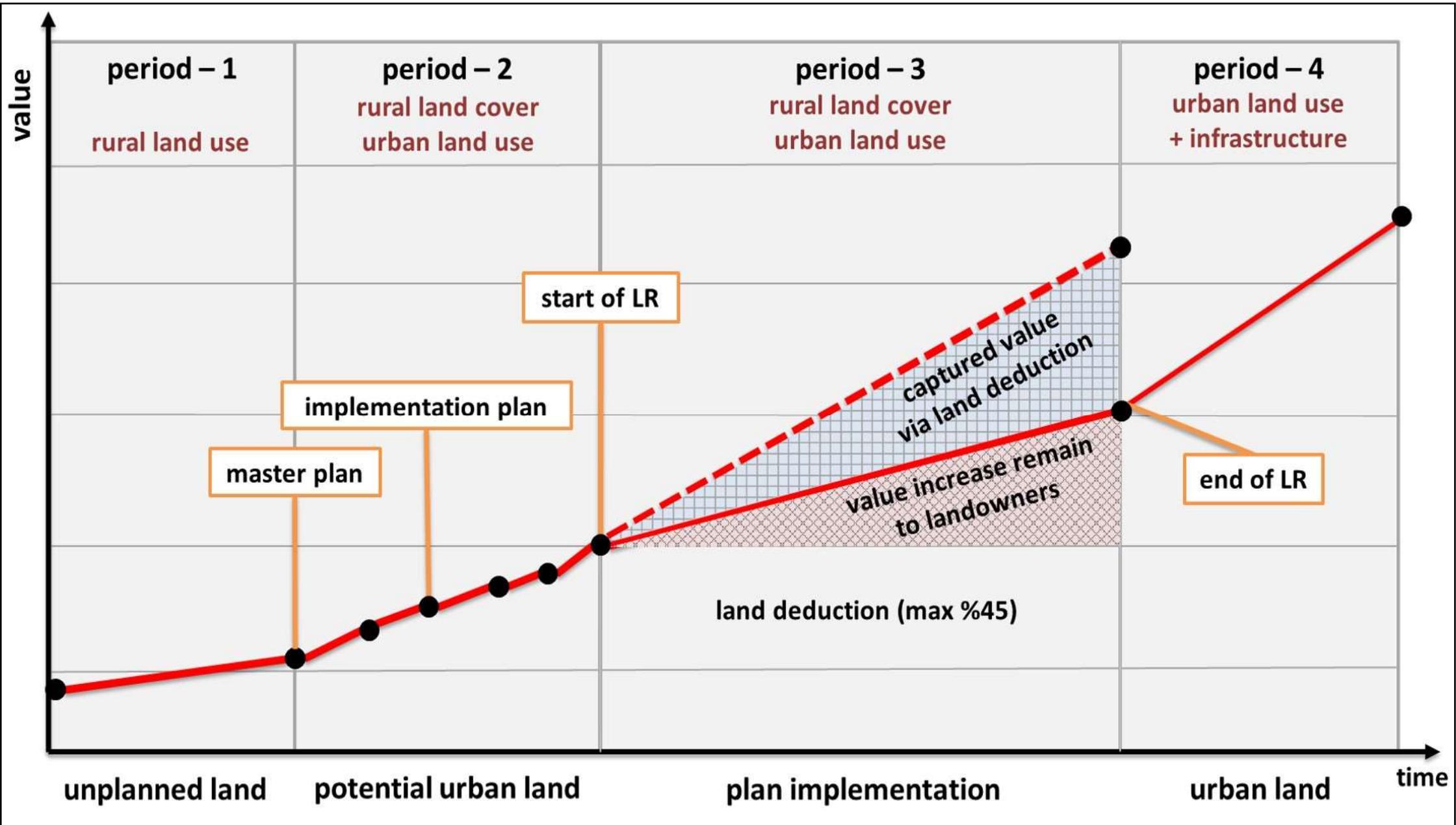


Figure: Lawrence C Walters, 2016



Land Assembly and Development

According to the survey by the Ministry of Environment and Urbanization; in all types of local governments, the **voluntary method** chosen as the main plan implementation tool.

| Plan implementation choice | expropriation | | land readjustment | | voluntary method | |
|-----------------------------------|---------------|------|-------------------|------|------------------|------|
| | 2014 | 2016 | 2014 | 2016 | 2014 | 2016 |
| metropolitan district mun. | % 26 | % 28 | % 34 | % 34 | % 40 | % 38 |
| provincial municipalities | % 28 | % 32 | % 36 | % 33 | % 36 | % 35 |
| district municipalities | % 24 | % 26 | % 32 | % 30 | % 44 | % 43 |
| town municipalities | % 24 | % 22 | % 31 | % 28 | % 45 | % 50 |

The reason is that municipalities avoid covering the costs of a comprehensive LR implementation, and although it takes longer time, prefer waiting voluntary method.

However, many problems arise with the delays of the plan implementation in long term.

Land Assembly and Development

Based on the legislation, areas allocated to the public spaces should be acquired in five years. However time needed to implement the whole plan via voluntary method takes much more which resulted in limitation of the use of property rights for an uncertain time period and accepted as **intervention to property rights** by the Turkish Supreme Court in 2010.

By the Turkish Supreme Court decision, it is accepted that;

- public entities remaining passive and not realize the acquisition of the areas allocated to the public spaces within five years interfere in the property rights
- landowner's power of disposition is diminished,
- enjoying the right to property becomes impossible.

This problem is called **confiscation without expropriation by plans** in Turkey.

Public Value Capture in Land Assembly and Development

After this decision, landowners have been able to claim for compensation based on value of their property, and all municipalities were obliged to pay compensation. Still many municipalities have accumulated debts to pay.

Finally, voluntary method is restricted with an amendment in 2019 and land readjustment becomes the main land assembly and development tool for the realization of urban plans.

In addition, the value capture capacity of land readjustment is improved by a 5% increase on legal land deduction rate.

recoupment charge for local infrastructure

In Turkey, infrastructure costs and construction are not included into the land assembly process. It is the responsibility of the municipalities, and they can only collect a **recoupment charge for local infrastructure** for street paving, drainage, and other improvements.

These fees are taken after the installment of the infrastructure and calculated by a certain pricelist however cannot execute the 2% of the taxation value which is much more lower than the market value.

| | expropriation value | taxation value |
|-----------|----------------------------|-----------------------|
| Example 1 | 626 TL/m ² | 54 TL/m ² |
| Example 2 | 632 TL/m ² | 179 TL/m ² |
| Example 3 | 673 TL/m ² | 58 TL/m ² |

Yıldırım, M.K., 2017

Conclusion

In Turkey, planning powers are decentralized to municipalities in 1985 and only revenues from property taxes are transferred to the municipalities.

Still financial decentralization that is needed to cover the burden of planning, land assembly and land development could not be provided and the financing gap could not be closed.

Together with the non-functioning cost recovery and value capture tools, the planning system fails to provide a balance in distribution of the costs and the benefits of urbanization.

In general, urbanization costs have to be borne by the municipalities and the benefits and the value increases resulting from public investments, decisions or actions in urbanization is usually left to the landowners or the developers.

Conclusion

Therefore, implementation of the urban plans, acquisition of the public spaces and the physical conversion is generally delayed which resulted as **confiscation without expropriation by plans**.

In this financial structure, municipalities should fight against time to prevent confiscation while preventing plot speculation, taking measures against urbanization pressure, reducing disaster risks, climate crisis, etc.

In response to these problems there is a renewed interest in value capture tools however the early implementations and the system design seems to be behind expectations.



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