

Investigation Into the Causes of Impediment of Access to Land Information in Land Market (Case study in Hanoi, Vietnam)

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Key words: Land market, land information, access, causes of impediment

SUMMARY

The possibilities to transfer rights on land and to establish an adequate land market depends on the level of access to land information. The lack of access to land information has hindered the growth of land market in Vietnam. The aim of this paper is to investigate the causes of impediment of access to land information using as case Hanoi capital because it has the most rapidly evolving land market. This paper focuses on three main factors influencing access to land information: policy aspects, technology aspects, human resources development.

It has been found that the impeding causes there are multiple including the current practices in land registration, inadequacy of land use plans and planning, shortcoming on the policy, lack of technology as well as lack of human resources. These factors have given rise to five main negative consequences accessing land information is time consuming and associated with high (informal) costs. Further more, a (potential) buyer is uncertain about claims and land use planning on the parcel. Therefore, the land information users lack the trust on the land information providing organizations and appearance of informal land market.

Lack of openness policy causes non-transparency. Lack of land information policies and strategic alignment have caused limitations in converting existing analogue information into digital form. The localisation of land information within each organization where services are provided in a manual way has caused high transaction time with high cost; loss of information ultimately causing lack of trust has lead to the generation of informal land market.

It is concluded that the solutions to the problems of existing lack of land information accessibility can be obtained: by promoting openness, establishing land information policy, and adopting market orientation strategies; by adopting suitable technology to convert data sets from analogue to digital format; through capacity building in terms of human resources such as training programs for land administrators as well.

SUMMARY (Vietnamese)

Chuyển đổi các quyền sử dụng đất đai và tạo ra thị trường đất đai đầy đủ phụ thuộc vào việc tiếp cận thông tin đất đai. Thiếu tiếp cận thông tin đất đai đã cản trở sự phát triển của thị trường đất đai ở Việt Nam. Vì thế, mục tiêu của bài báo này điều tra những nguyên nhân gây cản trở trong tiếp cận thông tin đất đai với địa điểm nghiên cứu là thành phố Hà Nội nơi mà thị trường đất đai phát triển mạnh nhất. Bài báo này tập trung vào ba nhân tố chính ảnh hưởng đến tiếp cận thông tin đất đai đó là khía cạnh chính sách, công nghệ thông tin và phát triển nguồn nhân lực.

Bài báo này đã phát hiện ra nhiều nguyên nhân gây cản trở đến tiếp cận thông tin đất đai, bao gồm hiện trạng về đăng ký đất đai, thông tin quy hoạch sử dụng đất chưa được đầy đủ, chính sách về tiếp cận thông tin còn thiếu, áp dụng công nghệ thông tin trong việc lưu trữ và cung cấp thông tin đất đai còn hạn chế và cán bộ quản lý đất đai còn thiếu. Những nhân tố này đã gây ra hậu quả chính trong việc tiếp cận thông tin đất đai là tốn thời gian đồng thời chi phí tiếp cận thông tin đất đai không chính thức cao. Hơn nữa, người mua đất đai thiếu tin cậy về thực hiện nghĩa vụ tài chính và quy hoạch sử dụng đất trên mảnh đất mà họ mua. Vì thế, những người sử dụng thông tin đất đai thiếu sự tin tưởng vào các tổ chức cung cấp thông tin và xu hướng họ tham gia vào thị trường đất đai không chính thức để tiếp cận thông tin và thực hiện các giao dịch đất đai.

Chính sách về công khai thông tin đất đai ở Việt Nam còn thiếu dẫn đến thông tin đất đai không được rõ ràng và minh bạch. Các chiến lược và chính sách về thông tin đất đai chưa đầy đủ gây ra sự hạn chế trong việc chuyển đổi thông tin đất đai từ dạng giấy sang dạng số. Trong khi, thông tin đất đai được lưu trữ ở mỗi tổ chức khác nhau nơi mà các dịch vụ cung cấp thông tin đất đai được cung cấp bằng các phương pháp thủ công, điều đó gây ra thời gian và chi phí giao dịch cao; thông tin đất đai bị mất không được cập nhật thường xuyên đó chính là lý do gây ra thiếu sự tin tưởng của người sử dụng thông tin đất đai ở thị trường đất đai chính thức. Điều đó sẽ là nguyên nhân dẫn đến thị trường đất đai không chính thức sẽ xuất hiện.

Vì thế, các giải pháp cho các nguyên nhân còn tồn đọng trong việc thiếu tiếp cận thông tin đất đai bao gồm: Thúc đẩy các chính sách về công khai thông tin đất đai rộng rãi, ban hành chính sách thông tin đất đai và thực hiện các chiến lược về thông tin định hướng thị trường, sử dụng công nghệ thông tin hợp lý để chuyển đổi dữ liệu thông tin đất đai từ dạng giấy sang dạng số và tăng cường xây dựng một đội ngũ cán bộ quản lý đất đai từ cấp trung ương tới cấp địa phương bằng các chương trình đào tạo ngắn hạn và dài hạn.

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1. INTRODUCTION

Efficient use and management of land are key to successful socio-economic and sustainable development and to maximize its potential benefits. A well-functioning land market is crucial for achieving these goals and a prerequisite should include easy, rapid and cost-effective access to land information (LI). Although the Vietnam Land Law 2003 aims at facilitating development of a land market, it still experiences impediments in the growth of the land market due to lack of access to LI. Consequently, LI users depend on personal contact or go to the land seller through informal means. Therefore, enhancing access to LI has high priority due to lack of information.

LI is a primary key in decision-making on land investment and management. Access to LI is important because it gives the opportunity to analyze the present situation and to plan in an effective way a land information system (LIS). Accessibility of LI is part of the transparency elements in Land Administration. LI is impacted by elements of Land Administration such as land tenure and land policies, regulatory framework, LIS, dispute and conflict resolution and services delivery in land market (UN-HABITAT and ITC, 2007).

Access to LI is indispensable. However, majority of countries around the world that are in the phase of transition or in developing stage lacks adequate access to LI (Adlington et al., 2000). Consequently, the growth of land market has not been up to the level of expectation of different players. Vietnam is one of the developing countries and changing from a command-driven economy to a market-driven economy. Gross domestic product (GDP) annual growth rates are from 6.79% to 8.43% (estimated by World Bank) in this transition stage in Vietnam over years from 2000 to 2005 (Tam, 2008). Therefore, land market in Vietnam is similar with transition economy countries. In Vietnam, land market is infantile and availability of access to LI in land market is very crucial. Therefore, identification of any impeding factors of LI to land market would suggest remedies not only for Vietnam but also for countries of similar settings and similar situation.

The main players in the land market of Vietnam are government, real estate agents, real estate developers, banks, notaries, land buyer and sellers. Those players need adequate and transparent LI to decide about investment into land. Land market is a non-efficient operation without LI. However, the Vietnam land market is still not fully operated by open market mechanism. Therefore LI users can not access LI easily.

2. THEORETICAL APPROACH

2.1 Importance of land information in land market

LI plays an important role for decision making into land investment in land market. LI components consists of land tenure, land value and land use (Dale and McLaughlin, 1999) and those components support land market for efficient operation (Figure 1).

Cadastral and land registration are concerned with land tenure. Cadastre and land registration provide the means for recognizing formalized property rights and regulating the character and transfer of these rights (Dale and McLaughlin, 1999). Cadastre and land registration support in developing a formal market and information of property and users can be legally recorded, that means security for commodity and participants in land market (Dale and Baldwin, 2000). Further, the information present in land registers might be of such as standard that people value it as the truth (Lemmens, 2008).

Land valuation is concerned with value of land and is very important in land market. Dale and McLaughlin (1999) argued “good valuations guide the market towards fair prices and allow informed decisions to be made about the efficient use of resources”. Land valuation provides a basis for land buyer and seller in performing land transactions. If land price information is adequate, it will successfully support land transactions in land market.

Land use planning is concerned with the use of land and is the process of allocating land resources to achieve maximum efficiency while respecting the nature of the environment and the welfare of the community (UN-ECE, 1996). The aim of land use planning is to improve the efficiency of public regulation overall economy and society (Needham, 2006). Therefore, land use planning is important information to land market development because it provides information about proportion and distribution of each land categories.

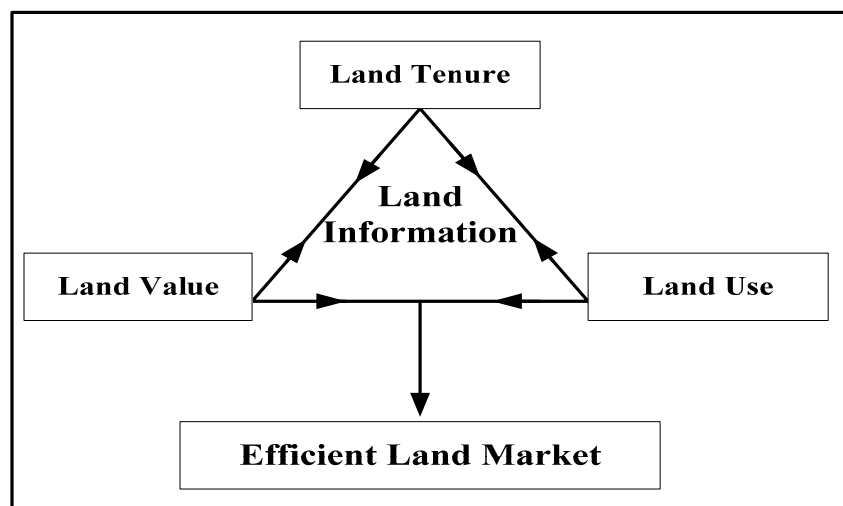


Figure 1: The central role of land information in land market complied from Dale and McLaughlin (1999)

2.2 Factors influencing access to land information

This paper starts at the point that land market is hindered by inadequate LI (Dale and Baldwin, 2000). Lack of access to LI was mentioned for transition economics (Adlington et al., 2000). Government, land buyers and sellers, banks, real estate developers play an important role in the operation of land market (Van der Molen, 2008). Three main factors influence to bring LI to land market that are three main factors: policy aspects, technology aspects, and human resources development (Figure 2).

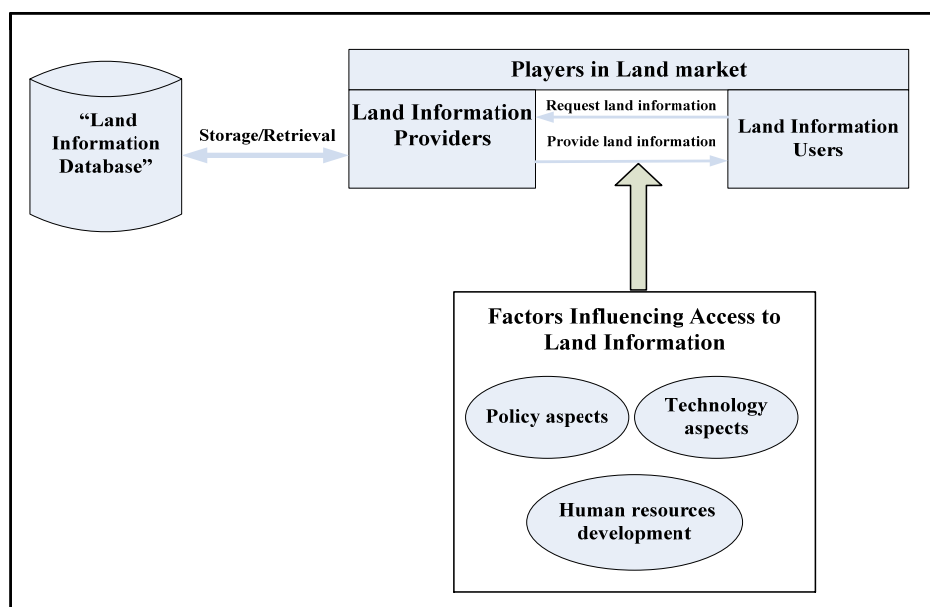


Figure 2: Three factors impact to access to LI

2.2.1 Policy aspects

Policy aspects relate to provide and disclose LI to public including openness policy, pricing policy, copyright and privacy law, data protection and data standards. As Boserup et al. (2005) stated: “Openness means measures taken to make governance affairs as transparent and participatory as possible to the surrounding community and to strengthen the general trust in public institutions”.

2.2.2 Technology aspects

Land information system (LIS) is a key components of land administration systems (UN-HABITAT and ITC, 2007). The International Federation of Surveyors (FIG) defines a LIS as a tool for legal, administrative and economic decision-making and an aid for planning and development. A LIS consists, on the one hand, of a database containing spatially referenced land-related data for a defined area and, on the other, of procedures and techniques for the

systematic collection, updating, processing and distribution of the data (UN-ECE, 2005). LIS components relating to data sets, hardware and software, and process of LI.

2.2.3 Human resources development

Human resources operate, develop, implement and support system operation in an organization. Dale and McLaughlin (1999) argued that “effective human resource management is a key ingredient in building and sustaining a country’s land administration infrastructure”. Human resources is one part of capacity building in land administration (Tuladhar, 2004) and is also one of the factors to the LIS to operate. However, human resources development is often weak in many developing countries and transition economies (Enemark and Van der Molen, 2008).

3. CASE STUDY IN HANOI, VIETNAM

Hanoi total area is 3,345 km² and its population is about 6.2 million people. Hanoi capital is the biggest urban area in Vietnam and which has together with Ho Chi Minh City the most rapidly evolving land market. To obtain representative samples three districts were selected: (1) in the business centre (Hoan Kiem), (2) residential area (Dong Da), and (3) rural area (Thanh Tri). The main criterion to select the three districts was high activity in real estate, either expressed in the building activity or by transaction rate.

Various methods were applied in the fieldwork such as interview, questionnaires, observation. Interviews were conducted with management and operation group, questionnaires were distributed with LI user groups to undertake for three groups of actors to study from the different viewpoints: 1) Management groups for policy viewpoint; 2) Operation group for the policy implementation viewpoint and 3) LI user group for practical viewpoint.

3.1 Land market characteristics in Vietnam

The Renovation policy in 1986 was the start of progressively moving towards to a market economy. Following that, legal frameworks on land were formed and amended. The establishment and operational form of land market in Vietnam has been reflected through three land laws (Table 1).

Year	Land Laws	Purpose	Land Market
1987	The first Land Law 1987 was passed by the National Assembly and came into effect in 1988	Legalize the allocation of land from cooperatives to households	Land use rights were not tradable, so no signal of land market formulation.
1993	The second Land Law was passed by the National Assembly and came into effect on 15 October 1993	- Five rights: exchange, transfer, lease, inheritance and mortgage. Land price was set for households and individuals; - Land price was defined by the State.	This was a sign of land market formulation by recognizing five rights to land users as households and individuals.
2003	The third Land Law 2003 was passed by the National Assembly on 26 November 2003 and came into effect on 1 July 2004	- Five rights are extended to nine rights: exchange, transfer, lease, sub-lease, inheritance, donation, mortgage, guarantee, make capital contribution for enterprises, households and individuals; - Land price is defined based on market price; - Land users receive land compensation upon recovery of land by the State.	Land market has been legally formulated by officially recognizing land use right certificate (LURC) as commodity in the open market mechanism.

Table 1: Timeline of land market in Vietnam land law

There are two levels of land market: primary market and secondary market (Figure 3). The primary market is operated through the channel of allocation, granting, lease and recovery on land from the State to land users (organizations or individuals/households) under land use plans and planning (LUPs). The secondary market is operated through the nine rights¹ between land users (Vo, 2007).

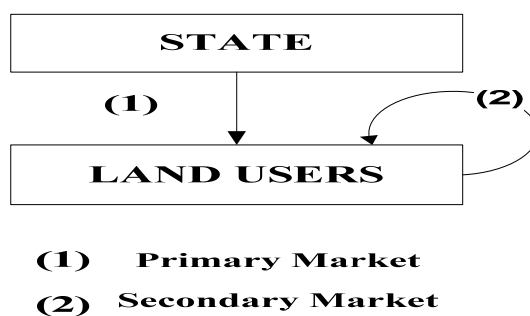


Figure 3: The two levels of land market

¹ Nine rights to land: Exchange, transfer, lease, sub-lease, inherit, donate land use rights, mortgage, guarantee, make capital contribution in the form of land use rights.

3.2 Users interest on land information in land market

Administrators in Hanoi DoNRE stated that many LI users need LI in land use right (LUR) transactions information. Figure 4 presents LI users that use products and services on LI at Hanoi capital. The Administrative forms and LUPs are used at highest frequency for land transactions. Over 44% of respondents accessed frequently administrative forms and approximately 40% of respondents used LUPs information very frequently.

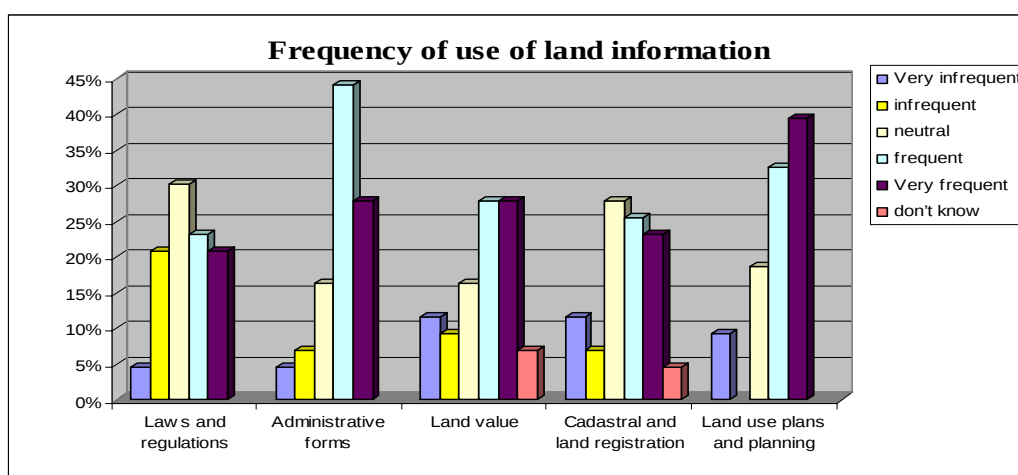


Figure 4: Users access frequently products and services of land information at Hanoi capital

4. DISCUSSION AND CONCLUSIONS

4.1 Causes of impediment

4.1.1 Cause 1: Current practices in land registration

The current practices in land registration are causing incomplete data sets. This scenario resembles the situation in several central and eastern European countries that was recognized by Dale and Baldwin (2000). Current practices of land registration suffer from complex transaction procedures, high fees, lack of meeting timeliness and late responses. For example about Land use right certificate (LURC) procedures, there exists four types of LURC: (1) issued before 1 July 2004 under LL1993 (old “red book”); (2) issued after 1 July 2004 under LL 2003; (3) Building ownership and land use certificate for urban residential land (old “pink book”) issued under Decree No. 60/1994/ND-CP; and (4) Building and Works ownership certificate (new “pink book”) issued under Decree No. 95/2005/ND-CP. Besides, the fee for LUR transactions is considered a quite high such as the income tax from land transfer (25%); registration fee (0.5% of transfer asset) mentioned in mechanism of secondary market.

According to results of interviews’ opinion the time taken to locate information (Figure 5). Only about 2% of respondents said they received LI within one day. About 25% said they

have to wait annually to receive LI from local government. Approximately 35% of respondents confirm that time depends on content of work or information request.

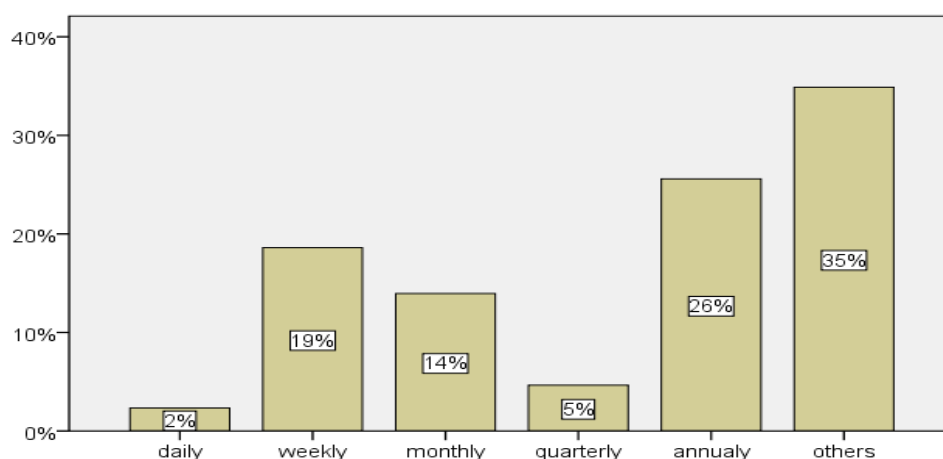


Figure 5: Time necessary to obtain land information

Those have caused to lead to land buyers and sellers into informal transaction. People do not go the Land Tenure Office (LTO) to register the land transaction. As a result, land register still holds the old information even after the occurrences of changing owners and land use lead to incomplete data sets. Unless reform is made on the way of prevailing land registration practices, LI goes on being unrecorded. Consequently, LI does not arrive to the land market at the time when it is needed.

4.1.2 Cause 2: Inadequacy of land use plans and planning

Land use plans and planning (LUPs) are a tool for the government to control land in compliance with strategies, master plans, plans of socio-economic development, national defence and security through land allocation, land lease and land recovery. LUPs play an important role in developing land market and are a good information source about the proportion and distribution of each land category such as agricultural, land residential land, and land public. Therefore, LUPs are important information for LI users for deciding land investment.

Currently, LUPs are inadequate in quality and quantity. LUPs have not been accomplished for the entire country; 34% of districts and 43% of communes still have to be defined in LUPs (MoNRE, 2008). In case of Hanoi capital has accomplished land use planning for ten years (2000-2010) and land use plans 5 years (2006-2010). However, only Thanh Tri district has the land use planning (2000-2010) and land use plans (2006-2010). No land use plans and land use planning exist at commune level of Hanoi capital.

LUPs are still in a generalised format at local levels. It has not been prepared in a large-scale format. Unavailability of LUPs information from the government side has made the players is uncertain to involve into the sale and purchase of land. LUPs always adjust in accordance

with the reality of existing situation. Therefore, lack of LUPs information is also a factor that has hindered land market growth.

4.1.3 Cause 3: Policy aspects

Absence of LI policy and therefore lack of central vision regarding management of LI has resulted in issuing multitude of circulars and decrees (Table 2). Moreover, the contents overlap in these documents e.g. Circular No.93/2002/TT-BTC and Circular No.110/2008/TT-BTC directs for regulation on income. Until now there are no legislation documents to implement decree No. 102/2008/ND-CP. This decree emphasizes regulation of collection, management; accessibility and use of natural resources and environment (NRE) information (that includes LI as well) through internet or website. At present, there is no stipulation on copyright of information ownership although there is general declaration on copyright of maps (Intellectual Property Law, 14: j, 2005 and Copyright Law, 18, 2006). The decrees issued so far do not have provision of licensing for the use of digital data. In such situation, holders of digital information cannot release their data, so LI user do not get the information they seek for. Further, there are only legislation documents on standard for the surveying and mapping and there do not standard for data sharing, dissemination and metadata publication.

No.	Legislative documents	Authority	Contents
I	Fees		
1	Circular No.93/2002/TT-BTC	Ministry of Finance	Regulation on income, payment; management and use of land administration fee
2	Joint Circular No.03/2007/TTLT-BTC-BTP	Ministry of Finance and Ministry of Justice	Regulation on guiding income, payment, management and use fees of registering and providing information on guarantee transactions
3	Circular No. 110/2008/TT-BTC	Ministry of Finance	Regulation on guiding revenue, submission, management and use fee of access and use map documents

II	<i>Provide and access to LI</i>		
4	Decision No. 210/2002/QD-TCDC	General Department Land Administration (now known as Ministry of Natural Resources and Environment (MoNRE))	Regulating storage; management; exploitation; and use of land administration information and documents
5	Decree No. 12/2002/ND-CP	State government	Regulating activities of survey and map
6	Decision No. 919/2003/QD-BCA	Ministry of Public Security	Regulating list of secret state on natural resources and environment field
7	Decree No. 212/2003/QD-TTg	Prime Minister	Regulating list of secret state on natural resources and environment field
8	Circular No. 03/2007/TT-BTNMT	MoNRE	Guiding management; storage; providing; exploitation and use information and documents of survey and map
9	Circular No. 09/2007/TT-BTNMT	MoNRE	Guiding establishment, adjustment and management of cadastral records
10	Decree No. 102/2008/ND-CP	State government	Regulation on collection; management; accessibility and use of natural resources and environment (NRE) data
III	<i>Standards</i>		
11	Decision No.83/2000/QD-TTg	Prime Minister	Regulation on the reference network and national coordinate VN-2000 for survey and mapping data
12	Circular No.973/2001/TT- TCDC	General Department Land Administration (now known as MoNRE)	

Table 2: Legislative documents on access to land information

4.1.4 Cause 4: Technology aspects

Currently, cadastral records are not complete. There are 31 provinces which have not completed cadastral records, including Hanoi (MoNRE, 2008). According to vice director of Hanoi LTO, cadastral records will be completed in 2010. Cadastral records are still of insufficient quality as land parcel are recorded inadequately. The LI is stored in Cadastral book, land index book and land change follow up book, so it is required to update same information three times in all three books. This work increases cost and human resources. Further, the cadastral records are kept in three levels as Provincial, District and Commune. So, when update cadastral records is not taken simultaneously at three levels.

Almost all LI and land related data is stored in paper format. This is one reason that LI is not available in internet and websites. For example in Hanoi case, LI users have received by paper format (66%) and other ways (16%) as telephone, oral and direct meet; and about 9% of respondents received by digital file or floppy (Figure 6).

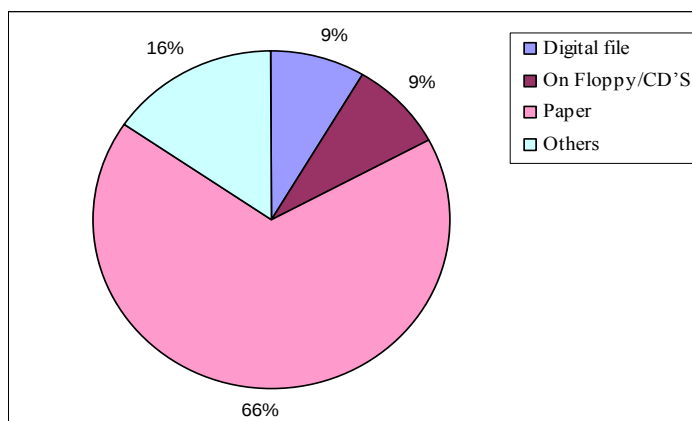


Figure 6: Type of data format received by land users

Easily and quickly availability of LI requires web-based accessibility to data. Only 9 provinces out of 63 provinces are computerizing cadastral and other records. Computerization will provide a suitable environment for linking cadastral and ownership information. However, local levels store most data in paper format. Because of this, LIS has only been able to serve in data management parts for the LTO but has not served the land market. Similarly, definition of standards is important for making sharing of data possible between LI holding organizations and is an essential part of information infrastructure. However, we did not come across standards defined for data development, data dissemination and metadata. Although state government has issued Decision No. 179/2004/QD-TTg to follow strategic alignment for bringing in information technology application for development of natural resources and environment up to 2015 forwardly to 2020, there are many limitations such as fund capacity and unsystematic investment for infrastructure development, an example at Hanoi case.

4.1.5 Cause 5: Human resources development

Human resources are limited at the local level. In spite of significant number of officers working at central level, there are a limited numbers of officers at the local level. But the, information is generated and available at local levels only. In this situation, these offices have not been seen to be effective to make flow of information readily available to the outside environment. This is in line with the argument made by Enemark (2003) that limited capacity is one of the constraints for developing organisation in an effective way. Besides, the skill of land officers at communal and district level is limitation such as cadastral surveying, LUPs.

The case of Hanoi DoNRE has 366 employees, of which 6% have post graduation degree, 69% finished university level, 7% are at college level, 8% are vocational level and 10% are remain workers (Figure 7).

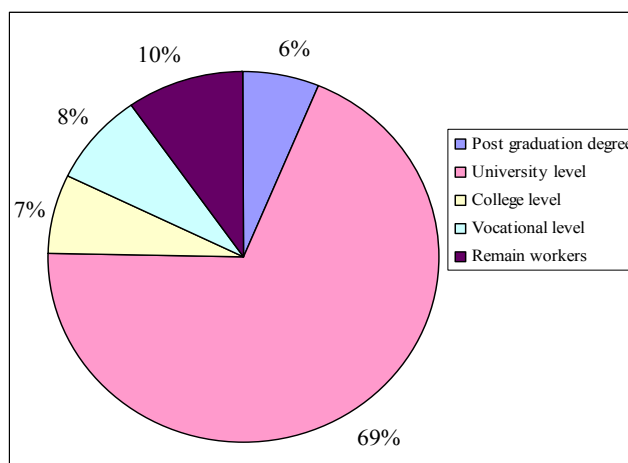


Figure 7: Education level of land administrators (Source: Hanoi DONRE)

4.2 Consequences

Incompleteness in the cadastral records, fragility of cadastral maps and insecure storage of LI causes a user to wait for a long time after a request is made. Timeliness, an important factor in the land market activities has been shadowed by existing situation of cadastral records. 26% of LI users indicate that it takes a year to acquire information from LTO or Commune People's Committee and only by 2% within a day shows that the situation in terms of LI acquisition is very critical (Figure 5). Since a customer does not want to wait for a long time. He attempts to pay extra charge (informally or illegally) to the desk personnel to get the information more quickly. Moreover, LTO should have an attitude of maintaining communication and relation with the users and providers, which seems to be lacking. High (informal) costs, lack of meeting timeliness and incomplete data sets cause a lack of trust between the LI providers and the users. This situation (Figure 8) contradicts with customer satisfaction model proposed by (Tuladhar and Van der Molen, 2003).

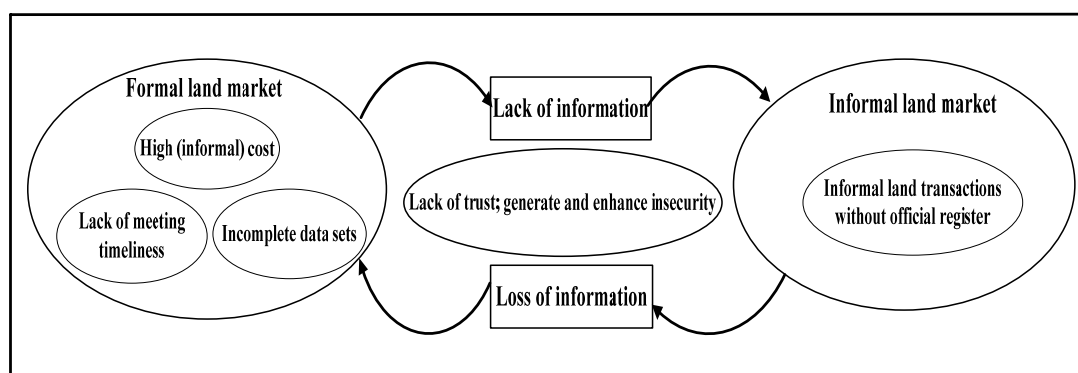


Figure 8: Feedback mechanism with degrading characteristics

Lack of trust of LI users on the land information providing organizations together with the lack of incomplete data sets has generated uncertainty on the part of players of land market especially financial institutes, land sellers and buyers. All these consequences have converged to generation of informal land market. The responses from the LI user is that if somebody always has to feel insecure on what he's possesses, then there is no reason to involve in the formal land market. As a result, majority of players deviates away from the formal land market. People do not come to register their newly acquired land and the new land holds the name of previous land owner.

4.3 Conclusions

For policy aspects: Lack of trust of LI users in accessing LI is caused by lack of openness. Therefore, LI is not transparent in providing LI. Moreover, there are still complex legislation documents in stipulating for access to LI. To solve those problems, Vietnam government should promote openness in providing LI. Openness means adoption of clear policies, legislation, guidelines, and administrative procedures in providing LI. The adoption of openness and unified pricing policy will bring to the surface informal or illegal fees. Further, government needs to bring LI policies that strictly stipulate creation, maintenance, dissemination and sharing of LI between the organizations. Those policies statement is expected to stipulate that there must be provision of digital information in the organizations which are supposed to disseminate LI. They must define such as standard, custodianship, copyright.

Organizations are also required to use market orientation strategies to understand LI user's views regarding their needs on service and quality of products. Establishing LI user forums will create transparency and interaction between the LI users and organizations develop trust between them. The market orientation helps organizations to setup reasonable prices for their services and products. This also helps to understand what a user demands and how they would like to be served from these organization for LI.

For technology aspects: Data sets stored in paper format. That means impede access to LI in land market. It takes long time for update, maintain and look for LI. So, government is suggested to apply technology to transfer cadastral maps and land records at paper format into digital format for complete data. Existing cadastral maps shall be collected from all three level offices (province, district and commune) and are scanned at the required resolution. Similarly, land records including cadastral book, land index book and land-change follow-up book are digitized and merged into the database. Once the cadastral database is created, it is ready for serving. It can be delivered in multiple forms. We can also produce value-added products out of it.

For Human resources development: To improve skills of land administrators, Vietnam government is suggested to develop sustainable training programs for all land administration groups such as:

- At four levels (national, province, district and commune) there is knowledge deficiency at academic level with respect to databases, information technology, geographic information system and international standards.
- MoNRE or cooperation programs need provide refresher and short courses to various levels of land officers
- MoNRE is suggested to deliver land officers at central level to abroad training programs (short course, Master or Master of Science) on land administration.
- Providing cooperation training program to assistant curriculum on land administration between Vietnam universities and abroad universities.

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