

Land Acquisition Methods for the Mass Housing Projects: a Case Study in Istanbul

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SUMMARY

Migration to the urban areas in Turkey has started by the effect of industrilization in the early 1950s. Istanbul has been an important attraction center during this migration period until the end of 1990s. The migration has triggered the slum settlements which ended up consuming the urban land stocks of Istanbul. The slum settlements has begun to transformation process during the late 1980s. At the same time, satellite cities, gated communities and mass housing projects have started to accelarate in Istanbul.

The purpose of this article is to analyse the land acquisition methods for the mass housing projects which are located at the relatively big portions of the city. Recently global real estate investors focused their attention in Istanbul. This study underlines and analysis the problems during the land acquisition process and proposes solutions regarding this problems.

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1. INTRODUCTION

For a few decades, there has been a rapid population increase and urbanization tendency and consequently a rapid demand increase related to housing concurrently in developing countries. But, present housing and land supply has remained beyond the demand and not been able to respond to the rapid increase in demand. Deficiencies in land supply have not only been about quantity but also the quality of the land. In developing countries, deficiencies in land market in serviced land supply for housing (Dowell,1988; Durand- Lasserre,1998; Sivam, 2002; Sivam and Others, 2002) and also the high prices of the serviced lands (Durand-Lasserre,1990; Winarso and Firman, 2002) have often been revealed by various studies. As the legal land market has not been able to meet most of the demands of people that live in city or would live in city and respond to needs, an illegal land market has been formed for housing and land (Yönder, 1998; Kombe 2000, Fakade, 2000; Sivam, 2002). In literature, there are studies investigating land acquisition methods in terms of legal, political, technical and institutional aspects (Kitay,1985; Farvacque and Mc Auslan 1992) but information on process of serviced land supply for housing in legal land market or, in a wider frame, on housing development process is limited (Sivam, 2002; Turk,2003;Turk,2004). For instance, land acquisition methods of large scale housing projects that could propose solution both in terms of quantity and quality for housing problems of urban areas in developing countries or, in a wider frame, the housing development processes have not been examined in detail. This article aims at investigating land acquisition processes of large scale housing projects on different cases in Istanbul (in a wider frame, housing development processes) and the actors that take place in this process.

Urban areas face two main problems in Turkey like other developing countries. First of these is the deficiency of the houses built in terms of quality and quantity. State Planning Organization calculates the need for house stock arising from the increase in the number of household and from disaster and renewal need in Turkey every year in its development plan and annual plan. State Institute of Statistics also calculates the number of houses that have taken building license and the number of houses that have taken building using license. According to this, the number of housing need between 1990 and 2005 is 7,868,400 in urban areas as calculated by SPO. On the other hand, in the same period the number of houses those have taken building license is 6,221,915 and the number of houses those have taken building using license is 3,632,123. In the light of these data, it is seen that housing stock that has been produced in last 15 years has remained beyond the need. Once again, it is seen that there is a housing stock that has been produced without building license in this period and such houses had met the most of the needs. Nonetheless, a cumulative shortage of housing stock with license and minimum standards and quality increasingly continues (GYODER 2006). Second

is the high level of land and building lot prices in dwelling production. In Turkey, share of building lot in licensed dwelling production reaches 50% (Alkan, 1999). However, this ratio does not exceed 10% in the world today (EGEKOOP, 1995). When the situation in Turkey's biggest city Istanbul is examined in terms of quality and quantity of dwelling production, only 48 percent of the 3,136,931 houses in total have building license and the number of the houses with building license is 1,518,441. Number of the houses with building usage license is 598,532 and ratio is 19%. Only 39 have building usage license in 100 houses with building license. Number of the houses built and used without building license is 1,618,490 (GYODER 2006). Additionally, high level of the costs of land and building lot in dwelling production in Istanbul is an important problem for housing supply. Land and building plot costs in Istanbul are very high in mass housing production. For instance, as of 2006, dwelling production has a price of 1,300 dollars (\$) and 1,700 dollars (\$) per meter square in the market. In addition to land cost and superstructure cost, a sum of contractor profit and profit of land owner is added to this cost (Yetkin 2005). It is required to produce serviced building plot sufficient enough in terms of both quality and quantity in legal building plot market. Large scale housing projects can bring solution to Istanbul's housing problem in terms of both quality and quantity. However, the main problem here is the point that it is not been able to procure building plot for large scale housing presentation. Legal land market has to ease the production of serviced urban parcels in development of large scale housing projects.

2. HOUSING DEVELOPMENT PROCESS AND LAND ACQUISITION METHODS

Housing development process involves different stages. This are: the identification of development opportunities, land assembly, land development process, housing development and final ownership/use (Verhage, 2002). Healey defines land development processes as the transformation of the physical form, bundle of rights, and material and symbolic value of land and buildings from one state to another, through the effort of agents with interest and purposes in acquiring and using resources, operating rules and applying and developing ideas and values (Healey, 1992,p.36). In reality, land development process can be thought an important part of housing development process. Because, there are three reasons for this. Firstly, land is a scarce resource for housing development. It is not easy to buy any piece of land and then develop houses on it. Secondly, the characteristics of a housing scheme are a lage extent determined duiring the land development process. Parcellation and infrastructure provision set limits for what is possible during the housing construction. Thirdly, the prices paid in the first phases of the development process determine to large extent whether or not financial margin for expenditure on the residential environment might be available in later phases of the process (Verhage and Needham, 1997). Land development process has two specific aims. First one is to produce serviced urban plot at the certain standard and quality. Second one is to be provided on-site and off-site service areas. On-site services include roads, drainage, gas, electricity, open areas, parks an so on, while off-site services include schools, hospitals, sewage plants and the like (Needham and Verhage, 1998). Land acquisition methods are used to produce serviced urban plot and provide on-site, off-site services.

3. HOUSING DEVELOPMENT PROCESS AND THE LAND ACQUISITION METHODS OF MASS HOUSING PROJECTS IN ISTANBUL

The most important structuring form in which the urban housing need is met in Turkey is multiple storey residences. Multiple storey housing type with a history extending back to 1930s, differently from today's usage, has been the buildings built for renting that belong to one person. These buildings as independent and sole proprietorship have been a matter of prestige as well. For this reason, especially in big cities, multiple storey residences have been applications paid importance in terms of design, technique and production (Balamir,1994). However, for reasons such as the increase in urban population, inefficiency of serviced building plot supply in subsequent years, land prices increased highly in all of the cities and chance to build house in one parcel has decreased. With the Condominium Ownership Law dated 1965, for multiple people that came together, to have an independent section in "multiple storey buildings" was made a solution for this problem (Tekeli, 1998). Production of multiple storey buildings based on condominium ownership with the "build-and-sell" (yap-satci) system which is an organization based on small scaled production in Turkey and increase in this type of production led to a building stock poor in quality. Thus, half of the residences built from 1950s to the mid 80s have been produced with this system (Sayar and Sürer, 2006; Baharoglu,1996).

As for dwelling production after 1980, it is seen that the housing supply forms that showed up in the first years of urbanization were superseded by new housing supply forms. In this period, housing supply form based on "build-and-sell" style small production has lost its characteristic to be the prevailing supply form and superseded by "mass housing cooperativizing" form that requires developing larger and well-arranged urban parts (Güvenç&Işık, 1999). Expanding by addition of buildings one by one to the city has changed to expanding by addition of large parts to the city. Growth model based on addition of small pieces to the city is mostly seen in big cities, on the other hand in small scaled cities build-and-sell style individual structuring continues. In 1990s, one third of the houses that were built on zoned sections of the cities were realized by cooperatives. Credit resources provided by Mass Housing Administration which was founded in 1984 have a basic role in this situation. There are cooperativizings with social insurances credits before 1984. Increase of share of cooperatives in dwelling production had an important impact on urban growth processes. Cooperative undertakings which require larger areas because of their scale, mostly preferred cheap building lots around the city and consequently accelerated the decentralization process of the cities. Another trend seen in this period is that the upper-middle classes have started to settle their own areas. It is seen that this process has developed in three ways; villas with garden out of the city, multiple storey deluxe sites in the city or on periphery of the city. In brief, it can be seen that the general appearance of the cities in Turkey is formed by build-and-sell apartment blocks developing in parceling system in city centers, slum houses and mass housing blocks different in quality which are built by cooperatives and/or public or private entrepreneurs on periphery of the city (Sayar and Sürer, 2006). Istanbul is the city that represents these characteristics most strongly.

Housing and dwelling production has always been one of the important issues of urban agenda in Istanbul. There are mass housing projects produced by public authority for middle and lower income groups and urban transformation referenced improvements based on “demolish-and-build” system. Along with the high land prices and concentration in the center, housing areas built by public show a trend to develop towards to the periphery of city. Also, large scaled, multiple storey housing projects developed for upper income groups by private sector draw attention, too. Generally, these multiple storey housing projects are located towards the periphery of city and on areas with high quality natural structure.

Actors in housing development process in Istanbul can be thought as two groups as public and private sector. Institutions in public sector are Istanbul Metropolitan Municipality and local administration institutions like district municipalities or central administration institutions like TOKI (Housing Development Administration of Turkey). Private sector institutions are individuals, cooperatives, developers, real estate investment companies.

4- METHODOLOGY

In this article, land acquisition processes of large scale housing projects on different cases in Istanbul (in a wider frame, housing development processes) and the actors that take place in this process are investigated. For this reason, four different mass housing areas developed by different actors on Istanbul metropolitan area are investigated as case. The reason to choose these examples is to determine whether the housing development processes in which various actors took place and the land acquisition methods have been changed.

5- THE EXAMINATION OF FOUR CASES

5.1. Case 1: İkitelli Başakşehir Konutları (1. Etap)

Başakşehir 1st Stage Residences which is located in Küçükçekmece borders is the first project realized by KİPTAŞ which is a subsidiary company of Istanbul Metropolitan Municipality. Project has started in May 1995 and at present, construction of Başakşehir 5th Stage continues. Başakşehir 1st Stage is founded on 47.3 hectares of area and comprised of 3,004 residences.

Cadastral studies in this area have been made in 50s. According to the titles examined, the area was firstly registered on finance treasury on 01.09.1958. The area which was registered on finance treasury till 1990 was transferred to Istanbul Metropolitan Municipality’s proprietorship via sale on 11.01.1990. Zoning plan studies have started in the area after transfer of the lands to Istanbul Metropolitan Municipality’s proprietorship. Planning studies have been completed in 1992 and the plans were approved. In the plans, conditions were set as to build in free heights (h=free) and with different peers like 1; 1.20; 1.50; and 2. Zoning application studies are commenced after completion of planning studies. 18th article of Zoning Law was applied so as to provide areas available for building.

When Başakşehir 1st Stage is examined in terms of acquisition methods, it is seen that the area

was firstly transferred to Finance Treasury and secondly to Istanbul Metropolitan Municipality via sale method. Immediately after, 18th article of the Zoning Law numbered 3194 (land readjustment) was applied so as to form build up parcels and build up parcels were formed by separating social and technical infrastructure areas and infrastructure areas. Finally, Istanbul Metropolitan Municipality has given out the said area to its subsidiary company KİPTAŞ by contract and the project has been completed.

5.2. Case 2: Halkalı Mass Housing Area

Halkalı Mass Housing area located within the borders of Küçükçekmece district was realized by Prime Ministry Housing Development Administration. The project area is partly comprised of areas in public proprietary and the remaining areas are procured by expropriation.

Halkalı Mass Housing settlement was announced as Mass Housing Area in 1979. Total size of the area is 895 hectares. The large part of this area is under the ownership of Land Office. Along with Finance Treasury and few parcels as pasture parcel, there is very little number of parcels under private ownership. Proposal on master development plan of the area was presented by Istanbul Metropolitan Municipality in 1987 and approved in 1988. However, zoning plan alteration was requested with the decision on extending the light metro system to Halkalı Mass Housings. Zoning plan alteration master development plan related to the area was approved by Metropolitan Municipality on 22.04.1992 and 1/1000 Application Development Plans were approved by Küçükçekmece Municipality on 17.11.1992.

Notices in the land register of the block no 393, 394 and 395 and parcel no 1 that have been chosen have been investigated. These parcels are registered in the land registry on Finance Treasury as a parcel with 523,450 m² of area. This parcel which was under Finance Treasury's ownership in 16.08.1989 has been apportioned and separated in smaller parcels. Some of the parcels have been alienated to Mass Housing Administration within the scope of mass housing applications in 90s and then building lot and land arrangement has been made in 1992. In the application executed as per 18th article of Zoning Law, Mass Housing Administration, Finance Treasury and Küçükçekmece Municipality have participated to real estates with certain shares. Between 1992 and 1995, Mass Housing Administration has collected other shareholders' shares by purchasing method.

5.3. Case 3: Avrupa Konutları

Avrupa Residences Project has an area of 97,089 m² in Istanbul province, Küçükçekmece district, Halkalı village. Avrupa Residences Project is being built within the scope of TOKI Source Development Applications. Avrupa Residences project locates on the Halkalı Mass Housing area. With the other plans of the area along with the development plans; master development plan with alteration was approved by Metropolitan Municipality on 22.04.1992 and 1/1000 Application Development Plans were approved by Küçükçekmece Municipality on 17.11.1992. Project area has been given out to private sector by contract with the

“Proceeds Sharing against Land Sale” method that has been applied frequently in the last years.

After the bid, within the scope of the law no. 5162, Presidency of Mass Housing Administration prepared a new Master Development Plan based on its authorization on making plans on its own lands. This plan was approved by Istanbul Metropolitan Municipality Council on 19.10.2004. Later, development plan alteration was made on the plan and this alteration was approved by Istanbul Metropolitan Municipality on 14.11.2005.

Construction of Avrupa Residences project has commenced in late 2005 after taking building license and sales have started in the same period. Apartment sharing was founded during the construction and independent sections were registered on landlords. In the end of 2006, construction was completed and certification of occupancy was taken and condominium ownership was established.

In accordance with the sharing proceeds against land sale contract, all kinds of administrative and technical works related to project is undertaken by contractor company. Besides, sale of the residences is made by contractor on behalf of Presidency of Mass Housing Administration and it also executes the title deed selling operations because it is the representative in charge. These processes are controlled by Presidency of Mass Housing Administration and progress payments and payments to the contractor are effected according to the progress of construction.

5.4. Case 4: Soyak Yenişehir

Soyak Yenişehir is located within the borders of Ümraniye district. It was realized on approximately 320,000 m² of area in 6 stages as 2,905 residence units. Soyak Yenişehir is a project realized by private sector wholly with company's equities. Company which had acquired the project land by purchasing method has waited more than 20 years for developing the project.

Conditions of the development plan with the approval date of 01.03.1984 were applicable at the time of the purchase of the land by the company. According to this development plan, development right was determined as separate order and 2 storey residence area. Although there is development right allowing structuring during the purchasing period, it took a long time for the development of the environment. New plan studies have commenced in 1994 in the area with the development of a settlement like Ataşehir* right against the land and Fatih Sultan Mehmet Bridge road passing close to the land. Planning studies have been completed in 1998 and these plans were approved on 13.02.1998 and became effective with the name of Ümraniye Revision Application Development Plan. With this new plan becoming effective, 173,112 m² part of the project area of 319,265 m² was allocated as infrastructure and social facility area and of the remaining area, 10,974 m² was given for trade development and 135,179 m² was given housing development with KAKS=1.5 (Floor Area Coefficient).

However, company has objected to the deduction level of 54% for technical infrastructure and facility areas from the land with the development plan. In the objection made by company, it was argued that the deduction amount must be 35% in the building lot and land arrangement and excess deduction that will be made over this deduction causes injustice and compensation for unjust treatment was requested. After the negotiations between the company and Ümraniye Municipality and Istanbul Metropolitan Municipality, plan note was added to Ümraniye Revision Application Development Plans with Istanbul Metropolitan Municipality Council Decision no. 1145, dated 15.12.1998. Construction area increased from 202,768.5 m² to 311,283.37 m² with this plan note and an increase of 108,514.87 m² for the building area was provided. In this way, facility area excess that had to be expropriated was turned to building area right and expropriation price had become paid by building right increase. After this alteration, 15th and 16th articles of the Zoning Law no. 3194 were applied with the consent of the land owner. Technical infrastructure and facility areas that had to cede to public were ceded to public by donation without the necessity for expropriation. Development application was completed on 02.08.1999 with the number of 4790 by Ümraniye Title Deeds Registry Office by registering of title deed.

Immediately after the completion of the development application, project studies were done and construction has commenced in the same year by taking building license. Sales started after taking the licenses and titles were given immediately to the customers that bought for cash by establishing apartment sharing. Company has provided credit for credit purchases to customers itself and sales were made with terms up to 10 years. Title deeds of the customers who bought apartment with credit were given after the repayment of debt (Gürsoy 2007).

Soyak Yenişehir project which is an important project realized by private sector is under private ownership in ineffective stage and transferred to the company via purchasing method in this period. Development stage took 20 years' time. As a result of the new investments realized in the area during the development stage, Development Plan was revised and development has been completed. Along with the maturity stage of the project, company has objected to the plans made by public authority and partially prevented the loss arising from development deduction. Maturity stage being the final stage was again realized fully by the company, the projects were developed completely under the structure of the company and construction and financing were made by the company.

6- GENERAL EVALUATION AND RESULT

The first project that has been chosen as example is the Başakşehir project realized by public authority. Başakşehir was realized by KIPTAŞ which is a subsidiary company of Istanbul Metropolitan Municipality. When the examples are examined in terms of acquisition methods, it is seen that the use of a single method was not preferred, there were always multiple methods nested in each other. Firstly, the area which had been registered on finance treasury's name for long years was purchased from finance treasury and transferred to Municipality's ownership after Istanbul Metropolitan Municipality has undertaken the housing acquisition mission. In this area where basic acquisition is based on purchasing, purchasing method alone

was not able to meet the requirements of project development and development studies have commenced for establishing lands available for developing project. There is a requirement for large scaled development parcels in order to develop large scaled projects, but because the parcels acquired from finance treasury are not large enough to meet this requirement, building lot and land arrangements were made. Social and technical infrastructure areas were allocated easily at the same time with this implementation and they were developed along with the project. As a result of application of land readjustment, disordered and small areas have turned into the well-arranged urban lands where projects can be developed on. After the completion of all these applications, Istanbul Metropolitan Municipality has awarded the lands and as a result of the award KIPTAŞ has commenced construction and completed the project.

Another project again realized by public authority and taken as an example is Halkalı Mass Housing area. On the area most of which was acquired by expropriation method, projects were realized as stages and continue at present. Immediately after the announcement of the area as mass housing area in 1979, expropriation studies have commenced. Planning studies as mass housing area in the area have started at the end of 1980s. Part of the parcels in the area was ceded to Mass Housing Administration in 1990s. After completion of planning studies, development applications started again and land readjustment method was applied on the entire area. Mass Housing Administration, Finance Treasury and Küçükçekmece Municipality have participated to parcels in the area with certain shares after development application. Afterwards, Mass Housing Administration has bought other shareholders' shares and become the owner of entire parcels.

Once construction stage has come on the land after achieving the project stage with acquisition methods mainly based on public law, private law rules became effective. Projects prepared by Mass Housing Administration were built by contractor companies and controlling of the project was executed by administration. Halkalı Mass Housing development plans were made in block order and block typologies were determined with plan reports. In the 1st stage of the project, these typologies were followed strictly but afterwards different typologies were developed with a note added to the plans.

Private ownership parts of the lands where the Halkalı Mass Housing area is located were handed to public authority by expropriation method in the ineffective stage. Development plans and development applications of the area of which the development stage was also realized by public authority were made and lands were carried to maturity stage. In the maturity stage, again private law rules were applied and project was completed by contractor companies.

First three stages of Halkalı Mass Housing area were completely realized by public authority. Consequent economic crisis in 1990s led to a bottleneck in construction sector and this pause has stopped housing supply in Halkalı Mass Housing area, too. Along with the activity that started in 2000s brought the new housing supplies in the area. However, the new housing supply form differentiates from previous implementations. The area is one of the first areas on

which the proceedings sharing against land sale method which is a new acquisition method brought by new implementations was implemented. For this reason, third case chosen for case investigation is again Avrupa Residences project chosen from Halkalı Mass Housing area.

The area which has passed the same stages as previous example because it is located on the same area was afterwards awarded with construction contract within the scope of the private law rules. Awarded area was allocated as hospital area in the first project stage of the mass housing area but after being awarded as mass housing area was turned into housing area with a plan alteration.

Acquisition method that we faced in Avrupa Residences project is the proceedings sharing against land sale method which was developed and started to be used frequently in the last years. This method which allows more effective usage of the lands owned by public authority also brought a serious activity to the private sector. With this method which can actually be named as public-private partnership, public authority party only undertakes the controlling of the project. All other activities like project development, financing and marketing are under the responsibility of contractor. Contractor takes progress payments arranged according to the project completion stages and its money from the administration. This method with which the public takes the minimum risk provided an important mobility especially in the housing sector in the last years.

In the project in which the acquisition methods that based both on public law and private law were used, private actors and public actors played a role also. It is a difficult method for Turkey to develop a project only by way of private sector and private law. Soyak Yenisehir project which was chosen as a project example developed by private sector is an example for this situation.

In order to arrange the land in cadastral state so as to be available for development, voluntarily method (15. and 16. items of the Zoning Law) is implemented upon request of company. As a result of these implementations, land that was kept for long years now became available to develop project on it. Along with the start of the construction in the project completely realized with company sources, apartment ownership was established and sales started immediately. Project area was under private ownership in ineffective stage but transferred to the company via purchasing method in this period. Coming to the development stage took 20 years' of time. In this stage, company has objected to the plans made by public authority and partially prevented the loss arising from development deduction. The maturity stage being the final stage was again realized fully by the company, projects were developed completely under the structure of the company and construction was made by the company.

In accordance with the cases investigated, when looked at the acquisition methods used it was seen that none of the acquisition methods were used alone. Both in terms of public law and private law, there are methods that have to be used together. Situation that we faced in practice is that the acquisition method based on public law was used mostly at the beginning of the implementations. After acquiring urban land available for development, mostly

methods based on private law are used.

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