

# **Land Sharing in Phnom Penh: An Innovative but Insufficient Instrument of Secure Tenure for the Urban Poor**

Expert Group Meeting on Secure Land Tenure:  
“New Legal Frameworks and Tools for Asia & the Pacific”

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Paul E. Rabé

# Land Sharing—Definition



*Sengki (Bangkok), photo courtesy of Parinya*

***A negotiated agreement between landowner/developers and land occupants to partition and share a plot of land***

- » Most commercially viable portion goes to landowner/developers to develop
- » Remaining portion is leased, sold or given to land occupants for legal occupation

# Significance of Land Sharing

Land sharing as the “*only way in which the urban poor can gain formal access to land and security of tenure within a city without a substantial subsidy*”

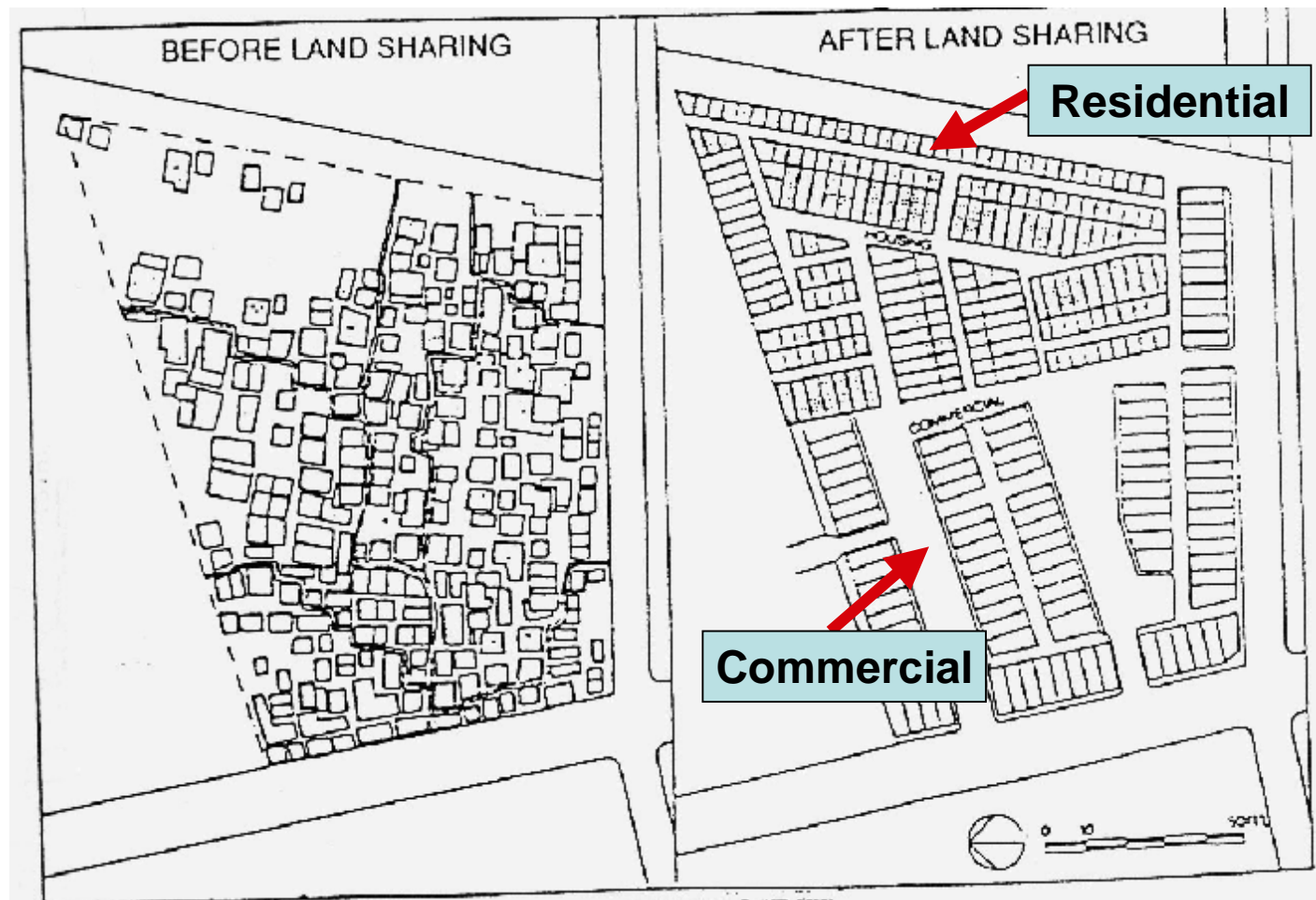
*(Yap Kioe-Sheng 1992)*



# Outline of the Presentation

- Land sharing
  - » Definition
  - » Principles
- Slum upgrading in Phnom Penh
- Guiding questions
- Pre-conditions for land sharing success
- Beyond land sharing
- Conclusion

# Land Sharing—an Illustration



Land Sharing in Manangkasila area of Bangkok (1982)  
Source: Archer, 1990.

# Land Sharing—Basic Principles

***Four basic principles of land sharing***  
***(Yap Kioe-Sheng, 1992):***

- 1. **Densification:** re-housing slum community on smaller plot of land***
- 2. **Reconstruction:** demolition of (some) existing structures and rebuilding at higher densities***
- 3. **Participation:** required during negotiations with landowner, allocation of new plots, demolition of existing structures, and reconstruction***
- 4. **Cross-subsidy:** minimizing external subsidies by ensuring that land price rise of commercial portion can cover deficit from community's inability to pay for land, housing and infrastructure***



# Land Sharing: a “Win-Win-Win” Solution?

In principle, land sharing offers prospect of a **WIN-WIN-WIN solution** to slum upgrading and redevelopment, through **compromise**, not forced eviction :

**For land occupants:**

- Improved housing & living conditions
- The right to stay in the city (titles)

**For developers:**

- Access to land
- Right to develop in strategic locations

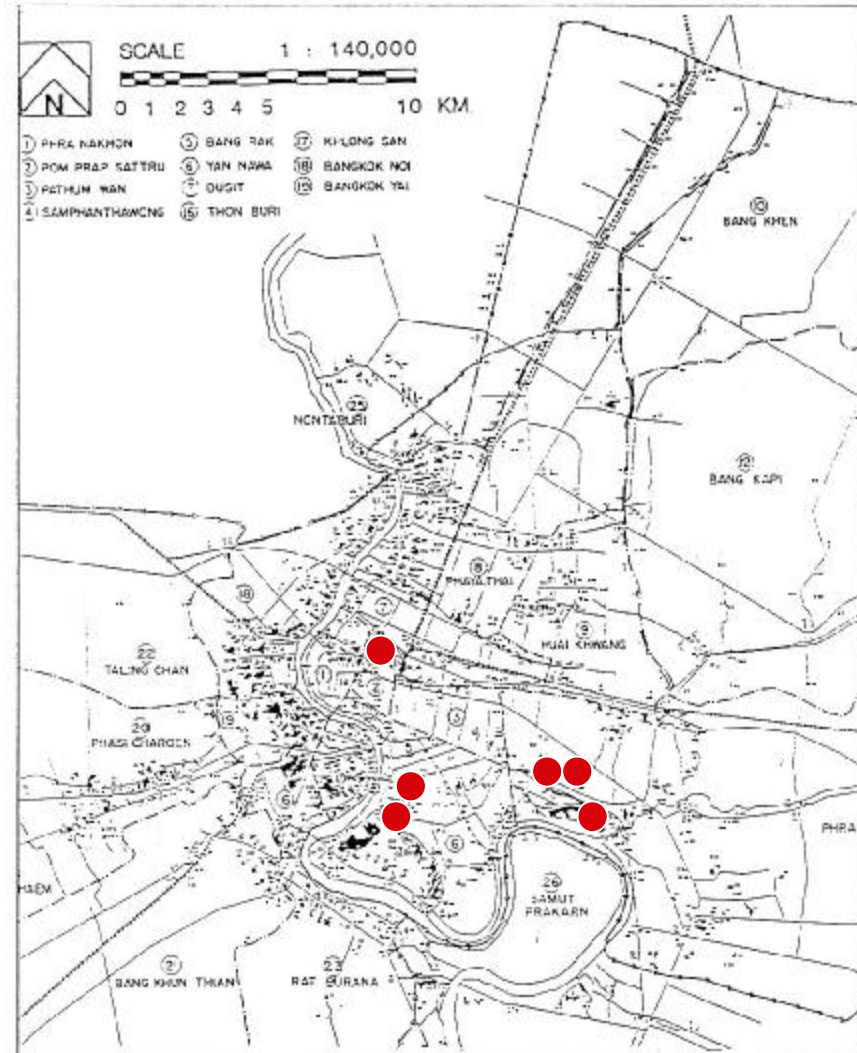
**For public authorities:**

- Slum improvement
- No violence
- Private development

# Land Sharing in Bangkok & Other Cities

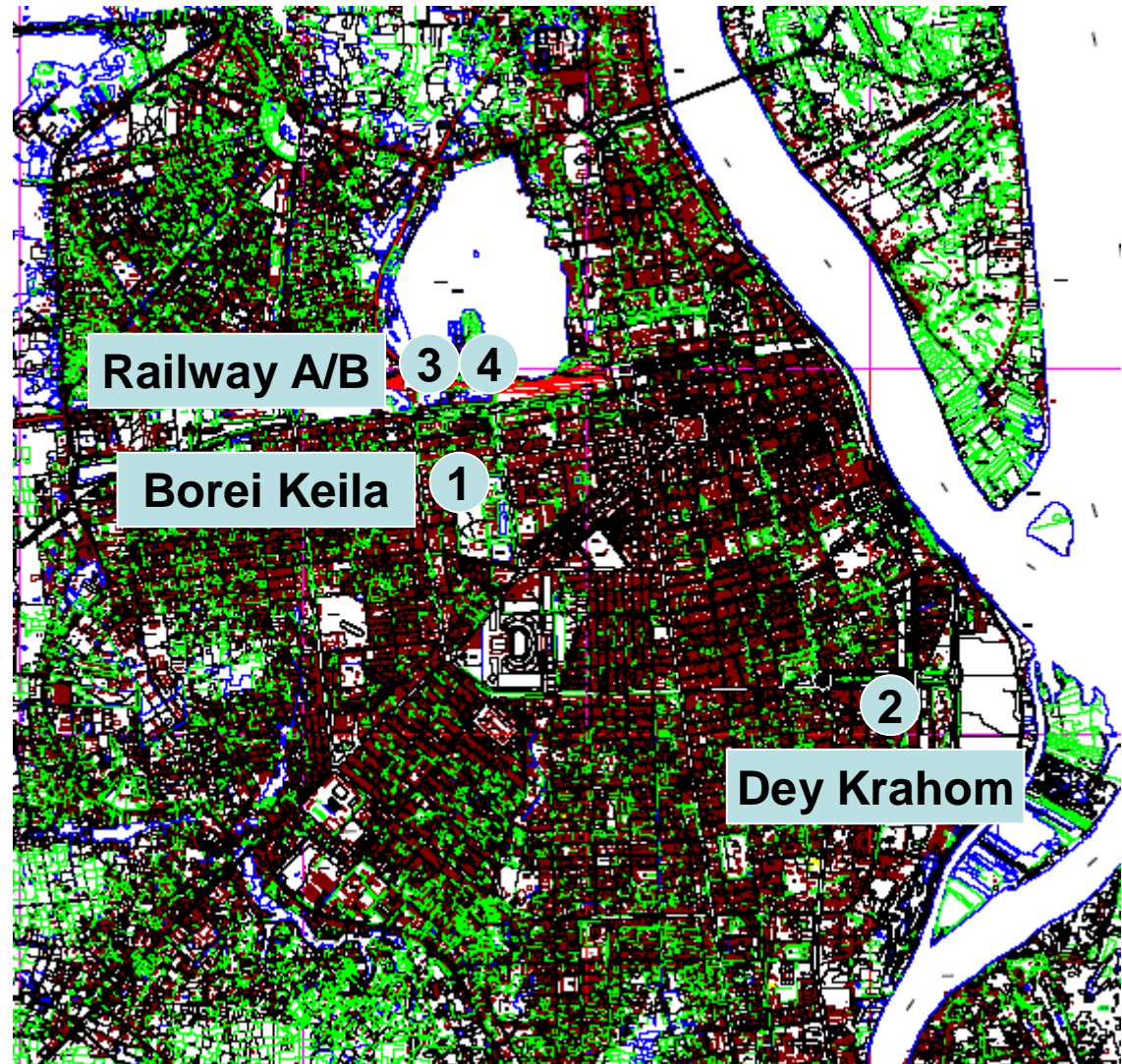
- At least 7 cases of land sharing in Bangkok from 1970s to early 1990s
- Now reappearing in *Baan Mankong* national slum upgrading program
- Other Asian cities
- Various forms of land “sharing” exist worldwide, on public and private land

Land Sharing sites in Bangkok (1970s-1990s)  
*Source: Archer, 1990.*





# Land Sharing in Phnom Penh (1)



# The Phnom Penh Context

- Active land market
- 6% avg. economic growth
- Developers expanding
- City center properties “hot”

569 informal settlements

62,000 households



## Land Sharing in Phnom Penh (2)



- Announcement of an upgrading program of informal settlements in Phnom Penh (May, 2003)
  - » 100 settlements per year for 5 years
  - » Land titles to be provided
- Political breakthrough after years of evictions
- Four pilot sites: chosen upgrading technique is land sharing
- Total population of 4 sites: +/- 4,000 families



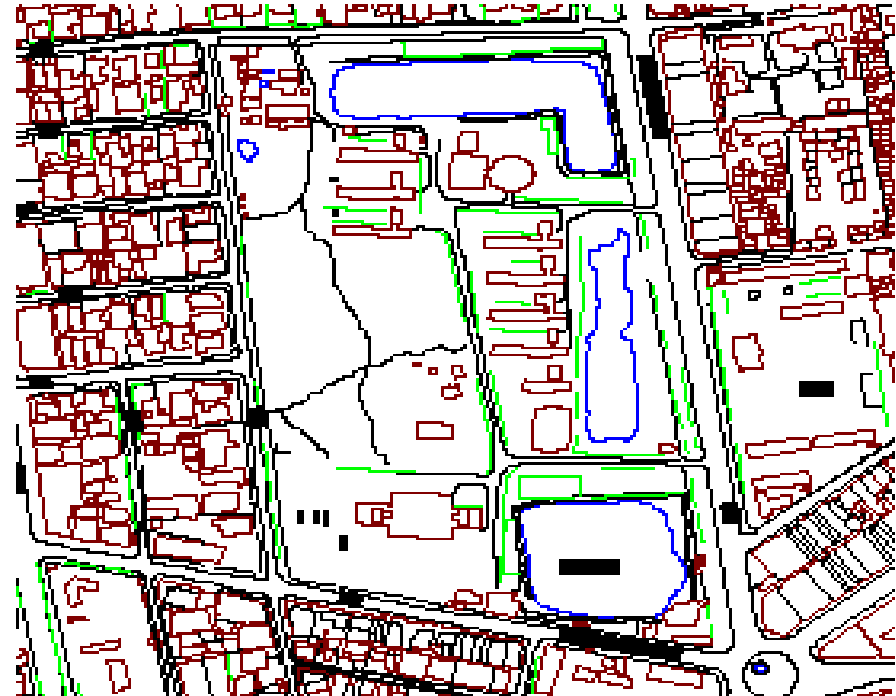
# Questions

- What is the outcome of land sharing so far in Phnom Penh?
- Why is land sharing turning out differently in Phnom Penh than in other Asian cities?
- Does land sharing in Phnom Penh result in tenure security for the residents of informal settlements?

# Borei Keila



Total area: 14 ha.

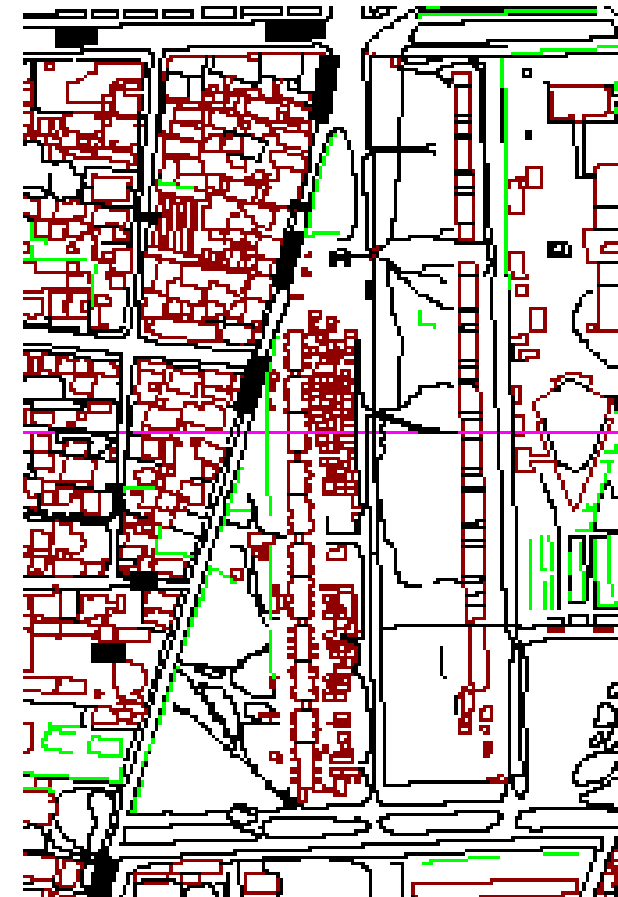


- Land sharing agreement:
  - » Residents to be re-housed in 10 apartment blocks, on 2 ha
  - » Developer gets building rights around perimeter of site
  - » 12 ha of site is freed up for future development

# Dey Krahom



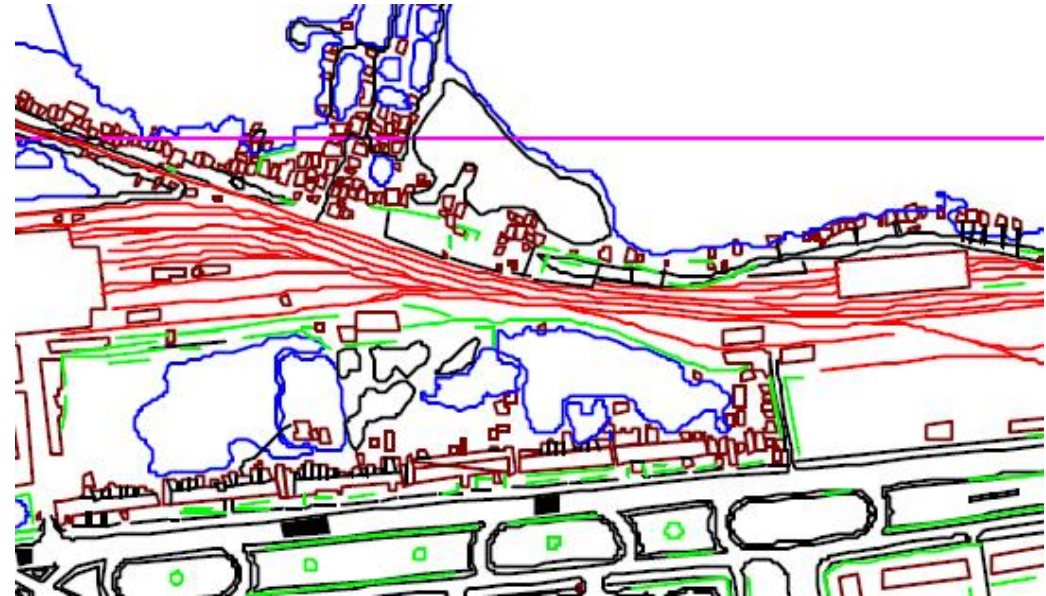
Total area: 3.7 ha.



- Land sharing abandoned
  - » Physical site constraints
  - » Residents negotiating with developers for suitable relocation package
  - » Little intermediation



# Railway Sites (A & B)



Total area: 1.3 + 10 ha.

- Land sharing deadlocked
  - » Leaseholder resists land sharing
  - » Communities resist relocation
  - » Little intermediation

# Pre-Conditions of Land Sharing

- *What makes parties come to the negotiating table?*
- *What makes compromise possible?*
- Power of main stakeholders (land occupants and landowner and developers) must be fairly evenly matched
- At least 7 main pre-conditions

Buoyant local economy & booming land market

Well organized community; community consensus

Long-established community

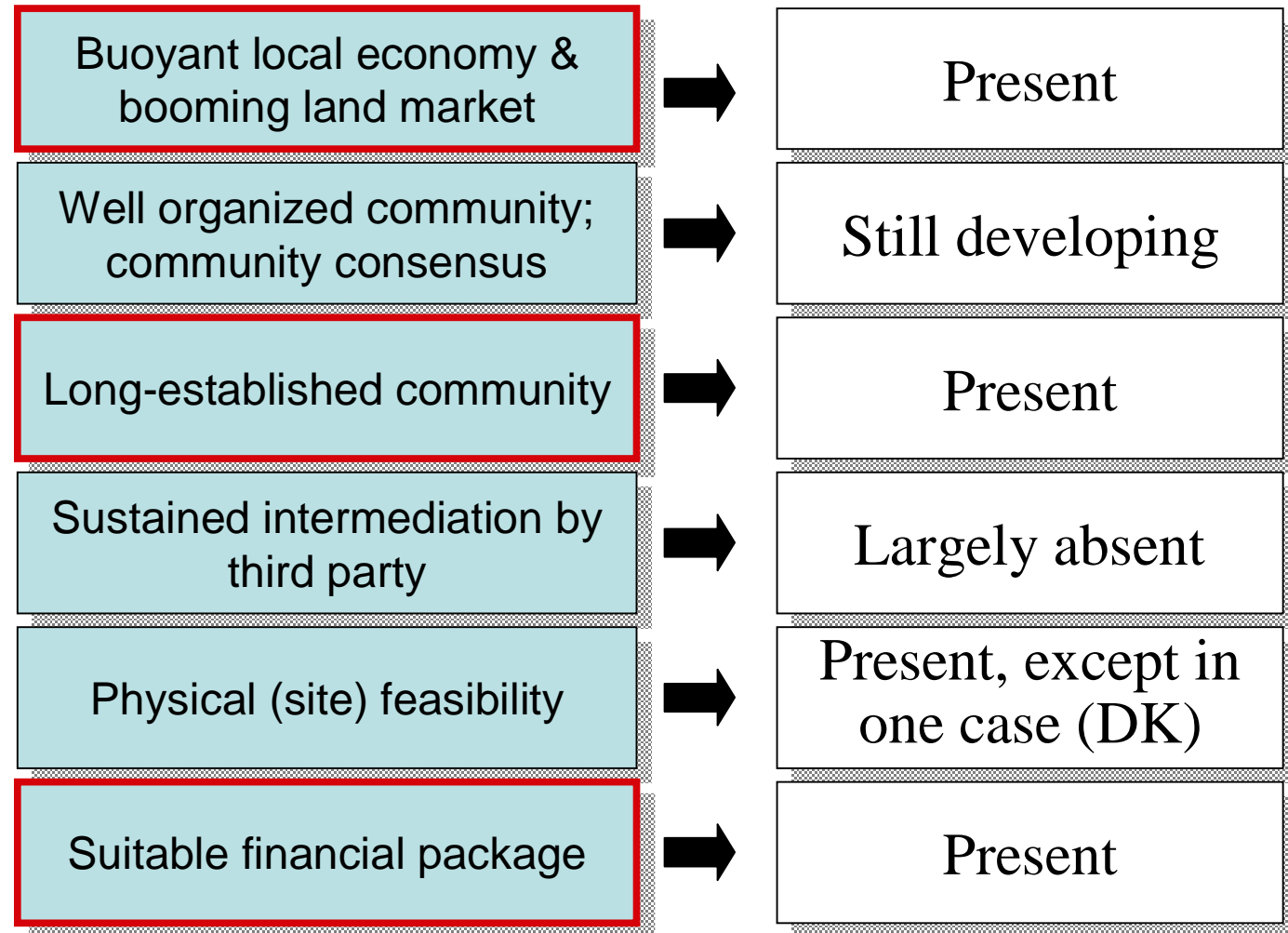
Sustained intermediation by third party

Physical (site) feasibility

Suitable financial package

# Pre-Conditions of Land Sharing—Phnom Penh

*Three driving forces of land sharing in Phnom Penh:*





# What is Behind the Driving Forces?

- Active land market
  - » Developers seek access to land & properties in city center through land purchases and swaps, or through “sharing” (Borei Keila case)
- Financial arrangements
  - » Developer pays for new housing on site or in new site; housing is free for land occupants
  - » Developer gets land or right to build
- Land occupants in many informal settlements may have “possession rights”
  - » Provision in Land Law 2001

# Current Trends

- Lack of public intermediation
- Process of “interest sharing”
  - » Negotiation and power struggle between private developers and land occupant communities
- From supply-driven to demand-driven
  - » First case of Borei Keila was supply-driven process—land sharing imposed
  - » Other three cases: lack of intermediation
  - » What do the people want? They want the best deal, which is not necessarily staying in the city
- Moving beyond land sharing
  - » Land sharing compromise has limited appeal
  - » Practical difficulty

# Conclusion: Lessons from Bangkok

- Land sharing *can* work!
  - » All 7 land sharing sites now fully integrated into the city
- Getting the poor to benefit from land price rises
- Land sharing experience parallels emergence of civil society and political openness in Thailand:
  - » Since 1980s communities much better organized
  - » New constitution
  - » Democracy at local level
  - » Rise of NGOs and CBOs
- Conflict between public agency commercial interest (Crown Property Bureau, King's Property Bureau, Treasury Dep't) and public concern and image
- Impact on the poorest residents and on original residents?
  - » Land sharing schemes have excluded newcomers, renters and poorest of the poor (Askew, 2002)
  - » Cost of rebuilding homes can be too much for poorest households, who sell their rights and squat elsewhere
  - » Residents complain of rising costs associated with regularization
  - » High turnover of communities after agreement
  - » Some cases: only few original residents remain



# Criteria of Success—Bangkok

## *Wide variety of circumstances of land sharing...*

- High stakes: all land sharing sites located in or near city core and main employment centers
  - Main communities affected resisted “silent evictions”
  - Strong employment link: communities in local service sector and small-scale industries
  - Crucial role of intermediary organizations (NHA) and “allies”
- Slums that have been more successful at resisting eviction are:
    - » Larger
    - » Better established
    - » Better connected
    - » On public land
  - Landowners participate in land sharing not by legal necessity, but for pragmatic and “cultural” reasons (charity and merit-making)
  - Political will

# Conclusion: Land Sharing in Phnom Penh

- In Phnom Penh, intermediation by third party is critical
  - » Without intermediation, parties will not necessarily gravitate towards land sharing...
- Land sharing not a “solution” to eviction!
  - » Comparatively small-scale and low impact
  - » Success depends on many circumstances
  - » Difficult to replicate at broader scale
  - » Depends on physical/site characteristics
- Secure tenure: is the inducement strong enough?
  - » Many land occupants may already have possession right
  - » Land occupants can get (more) secure tenure through other schemes (land swaps with developers)
  - » Many families may prefer to swap their land in the city



*Land sharing in the city?*

*...Or a move to new premises outside?*



*A dynamic situation, with shifting priorities, preferences, and interests of developers AND community residents ...*



# Contact Details

## **Paul E. Rabé**

- *Freelance consultant in urban management, based in Phnom Penh, Cambodia*
- *Doctoral candidate, DPDS, School of Policy, Planning & Development, University of Southern California*

E-Mail: [paul@paulrabe.org](mailto:paul@paulrabe.org)

Tel: +855 12 440 650

E-Fax: +31 20 524 8999