

# **Local Governance and Real Estate in a Market Economy: Opportunities and Challenges**

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FIG Commission 7

## Opportunities for improving local governance in a market economy

- Potential to place local finances on stable fiscal basis through use of market value (*ad valorem*) real estate taxes
- Potential to use powers of compulsory purchase to secure desirable public goals by paying compensation based on market value
- To improve efficiency in delivery of public services

## **Challenges to local governance in a market economy**

- Potential for manipulation of real estate tax assessments by taxpayers, government and, tax officials
- Potential to for local government powers to be subverted to increase individual property values and profits
- Potential for contracts and public-private partnerships to be subject to fraud, malpractice, and maladministration

## **Placing local finances on sound fiscal basis**

- Growing demand for public services, eg health care, education, requires funding
- Property taxes really only option for local government as property is immovable unlike sales, incomes, or people
- Real estate can be valued at open market rental or capital value
- Occupancy or ownership of real estate indicates ability to pay

# Conditions for *ad valorem* real estate taxes

- Ability to compile fiscal cadastre of characteristics of properties
- Information about rents and sale prices
- Qualified valuers able to analyse market evidence and undertake comparable valuations
- Qualified valuers able to derive proxies for market values where these do not exist eg buildings used for public services

## **Problems with open market valuations**

- Limited comparable evidence due to small number of transactions
- No two properties are identical so judgements have to be made about applicability of evidence and adjustments
- Law is not absolutely clear in all cases leading to negotiations between taxpayers and tax authorities and tax authorities issuing extra-statutory guidance
- Valuation involves judgement – scope for poor governance

# Checks and balances in tax valuations

- Employing professionally qualified valuers make assessments
- Publication of assessments so taxpayers can compare theirs with others
- Publication of valuation methods used in tax assessments
- Separation of tax assessment and tax collection bodies so former have no direct financial interest in consequences of assessments
- Obliging tax assessors to reveal comparable evidence used in assessments

# Checks and balances in tax valuations

- Fair and independent system of appeals against assessment
- Use of expert valuation courts with valuers to advise judges on matters of valuation evidence and method
- Codes of practice for tax assessors to include values, eg integrity, and operations, eg time take to respond to letters
- Ability for taxpayers to pursue complaints about breaches of code of practice through impartial system

# Role of local government in regeneration

- Ability to use powers of compulsory purchase to assemble sites in fragmented ownership
- Ability to grant town planning consents for regeneration schemes
- Ability to clean up contaminated sites
- Ability to provide development sites with infrastructure
- Ability to hold competitions and tenders to secure best designs and development partners
- Ability to secure financial advantage for local population through leases to developers to share in profits

## **Problems with local government involvement in regeneration**

- Value of property higher after site assembly and town planning consent than before
- Negotiations with developers over scheme details and rents impacts upon their profits
- Negotiations with developers over planning gain and infrastructure contributions

**Therefore** scope for corruption, abuse of power, and maladministration eg complaints about Valencia's (Spain) Ley reguladora de la actividad urbanística (1994)

# Checks and balances in compulsory purchase

- Separation between acquiring authority and confirming authority so latter can reject scheme
- Right of those affected to be heard at public inquiry conducted by confirming authority and to challenge evidence of acquiring authority
- Compensation to be at open market value NOT open market value in existing use with additional compensation if planning consent given for higher value use
- Use of qualified valuers to assess compensation
- Ability to appeal against compensation to independent valuation court

# Improving efficiency in public services

- Creation of contestable market in which public bodies may have to compete for public contracts with private companies
- Public-private partnerships to secure efficiency benefits
- Requirement on local authorities to achieve target returns on their assets
- Use of asset rents

# **Problems with improving efficiency in public services**

- Potential for corruption, maladministration, and malpractice in award of contracts
- Need to secure best value and not just lowest price in contracts
- Poor contract negotiation and contract management skills can give undue benefit to private contractors

# Checks and balances in improving efficiency

- Use of independent auditors to check local authority accounts
- Sanction of surcharges on councillors to recoup losses where acted beyond powers
- Use of best value audits with league tables of local authority performance
- Corporate governance inspections of failing local authorities that can result in their suspension
- Creation of powerful audit body to fulfil these functions

# Checks and balances in improving efficiency

- Creation of independent body to whom the public can refer complaints of maladministration and injustice – local government ombudsman
- Requiring local authorities to adopt codes of conduct covering matters such as bias, misuse of resources, using position improperly, and failing to declare financial interest
- Creation of independent body who can investigate complaints
- Use of judicial review so that judges can determine whether action was proper, fair, and in accordance with human rights