

Changes in the Swedish Planning and Building Act and a Method for Analysing Information

Maria ULFVARSON ÖSTLUND, Sweden

Key words: “Spatial Planning” “Legislation” “Swedish Planning and Building Act” “Development” ”Analytical Method” ”a Method for Analysing Written Information” “Real Estate” “Development Agreement” “Commitments” “Obligations” “Implementation” “Real Estate Management” “Real Estate Planning” “Urban Development”.

SUMMARY

The Swedish Planning and Building Act regulate the planning of land and water as well as building. It has recently been the subject of a review. This paper describes the review and discusses the use of a method of analysing written information.

The review has been put out for consultation. Around 420 bodies have made representations on the committee’s proposals. Representations were made in writing. The committee final report runs to over 1000 pages. To be able to categorize the material etc. a method for handling a very large amount of information was needed.

The method was first developed to analyse real estate development agreements. Real estate development agreements in Sweden regulate development of areas of land. They play an important role in the development process. The method is designed to analyse the representations on the review of the Swedish Planning and Building Act.

Changes in the Swedish Planning and Building Act and a Method to Analyse Information

Maria ULFVARSON ÖSTLUND, Sweden

1 INTRODUCTION

1.1 Background and objectives

The Swedish Planning and Building Act has recently been the subject of a review. The Act contains regulations about the planning of land and areas of water as well as building. The main task for the committee was to review the Planning- and Building Act and on the basis of the review submit measures and proposals for changes to the Act. Another task was to look at the coordination between the Act and the Environmental Code. The goals of the work were to consider the role of the Planning and Building Act as an instrument of sustainable development, to develop the act to correspond to the changes in society and to make possible)effective planning and building. The committee was a Swedish parliamentary committee with representatives from the seven political parties represented in the Swedish parliament.

The committee has submitted its final report. The report runs to over 1000 pages. The committee's report was put out to consultation Around 420 bodies have made representations on the committee's proposals. Representations were made in writing Digesting all the responses from the various bodies who were consulted was a huge task involving the handling of a very large amount of information. To be able to categorize the material etc. a method for handling a very large amount of information was needed.

This paper discusses the use of such a method for analysing written information. It was originally developed and used to analyse Real Estate Development Agreements in Sweden (see Ulfvarson Östlund 2002). These agreements regulate the development of areas of land. They are drawn up between municipalities and developers. They are documents containing written information on the parties' commitments, responsibilities, etc. and comprise several pages each. Their content varies widely, although it is usually based on standard agreements and recommendations issued by, *inter alia*, the Associations of Municipalities in Sweden.

The method is able to investigate interactions between written commitments and state of things and to handle very large amount of information. It handles both the contents of the agreement, the parties' responsibilities i.e. the commitments, and the state of things in the surrounding world.

Hence the method is interesting to other contexts and to apply to the large amount of information garnered through consultation about the review of the Planning and Building Act. The method categorizes the committee's proposals and the responses received through consultation.

1.2 Sweden and its administrative structure

Sweden is a constitutional monarchy. At a national level it is governed by the Swedish Parliament (*Riksdagen*) which enacts laws and determines national taxation and budgets, and the Swedish Government (*Regeringen*) which is the planning, initiating and executive organ of the State. To support the administration there is a number of other central authorities, each responsible for a special sector of society. The Government gives authorities general instructions concerning about policies and activities but in their decisions they are independent. The Ministry of the Environment is of primary importance in the spatial planning context. It is responsible for legal proposals and for directions concerning planning and to some degree for fund allocations. The National Board of Housing, Building and Planning (*Boverket*) is the main authority in the field of physical planning and building. Other important central authorities in this context are the Swedish Environmental Protection Agency (*Naturvårdsverket*), the Board of National Antiquities (*Riksantikvarieämbetet*) and the National Road Administration (*Vägverket*). At the regional level the country is divided into 21 Counties (*län*) each headed by a State County Administration (*Länstyrelse*) and an elected County Council (*Landstinget*). The County Administration's (*Länsstyrelsernas*) main objectives and responsibility are to advise, supervise and oversee municipalities, to coordinate state activities within different sectors and to promote county development by economic and other means. The County Council (*Landstinget*) is mainly responsible for the public health service, local and regional transport and some other important matters such as stimulation of tourism, support of small enterprises etc.

At the local level Sweden is divided into 290 municipalities (*kommuner*). Until 1952 there were more than 2600. They have merged into larger units in order to create more viable units around a municipal centre. They are governed by municipal councils elected by the inhabitants. Swedish municipalities are to a considerable degree independent and have among other things the right to levy income taxes. Most spatial planning in Sweden is handled by the municipalities. They are also responsible for many other services as well as building infrastructure.

Planning legislation was completely revised in 1987. The system is decentralised and puts the main responsibility on the municipalities. Of great importance for spatial planning is the The Environmental Code (Miljöbalken) from 1998, which gives considerable weight to the environment in planning.

1.3 Rules and Legislation of the Development Process

An array of different special laws with different procedures regulates the relations between landowners and the municipality in the different stages of the development process. The law regulating development is a dynamic juridical area. During the last 40-50 years, there have been many changes in the regulation of developments. The issue of implementation of developments took on a more prominent role in 1987 with the approval of a new planning and building act. This contains rules regulating the municipalities' responsibility for the

construction of common services such as roads and parks etc. It is the same with rules for the landowners' contribution to these facilities. The details of these rules have changed over the years but the fundamental meaning has stayed the same.

The planning monopoly of the Municipality plays an important role in that it allows the Municipality to adopt a detailed plan, and through that means to direct the construction of buildings.

2 THE REVIEW OF THE SWEDISH PLANNING- AND BUILDING ACT

2.1 The directive of the investigation

The review of the Swedish Planning and Building Act is presented in the report entitled SOU 2005:77 (*Får jag lov? Om planering och byggande*). The overall goals of the work for the committee concerns: a) The strengthening of the Planning and Building Act and its position and role as an instrument for sustainable development. b) The development of the Act to correspond to the latest changes in society and to make better conditions to create a good environment, possibilities for housing construction, the establishment of trade and industry and other social planning. c) To develop the Act so that it better meets the need for efficient planning and building whilst securing and developing justice and the individual's influence over the development process. The directive was extensive and the committee had a difficult task in covering the whole committee directive.

2.2 The result of the committee and the proposals in the report

The committee states in the result of their investigation that there is unanimity and a great support for the basic principles and the basic structure of the planning and building law. The committee's proposals involve no basic changes to the planning system. The proposals aim to strengthen the existing planning and building system in accordance with the original purposes and the intention of the law when it was first introduced.

The committee proposes measures within most areas of the Planning and Building Act. It suggests changes to the planning system, changes to building permits, changes in the coordination of decisions under the Planning and Building Act and the Environmental Code, and they also suggest a new appeal system etc.

The committee has suggested some changes in the judging of general interests when planning and locating buildings and rules for construction etc. To stimulate a greater collaboration between municipalities the committee has suggested changes in the rules.

Amongst others there are proposals for changes in the rules concerning the different planning levels and concerning the planning process. The importance of the implementation of plans is emphasized in the committee's report and a change suggested in the responsibility for public space

Several changes to building permits are suggested. A more uniform regime for permits is recommended and that the process of getting permission is kept together as it used to be when the planning and building act was first introduced in 1987. Some new exceptions from building permission are suggested including amongst others garden sheds of 15 square meters.

The committee was asked to look at the coordination of the Planning and Building Act and the Environmental Code and it suggests some measures to improve the coordination between the two Acts.

The Committee suggests that appeals against decisions under the Planning and Building Act should be handled in the same court as appeals against decisions about the Environmental Code, in order to coordinate the appeal system and to make the chain of authority shorter.

The committee has shown that many of the problems are due to inadequate application of the legislation.

The committee states that many problems arise from failure to apply the Planning and Building Act both in the municipalities (*kommunerna*) and in the Counties (*länsstyrelsen*). The problems are also felt to arise from lack of knowledge and understanding of the possibilities and restrictions of the planning and building systems. There also appears to be a lack of method in the handling of issues concerned with the Planning and Building Act. This means that a change in procedures appears most likely to make the planning and decision processes more efficient.

The committee state in their report that in their view few problems are caused by the legislation and indeed that many of the changes suggested in their report are in principle possible to implement through current legislation.

2.3 Some observations on the responses received during consultation of interested bodies

Many of those who were consulted consider the proposals in the committee's report to be well-founded and that the changes proposed could be enshrined in appropriate legislation. This demonstrates that the committee's findings are well-crafted.

Several bodies agree with the conclusion of the committee that development and improvement in competence is much-needed.

Many of those who were consulted say that to bring about real changes requires further, stronger measures, such as training of politician and employees, more resources and increased competence among the local authorities. The central authorities need to give advice and written guidance on how to apply the legislation.

Some bodies think that although many changes and clarifications are suggested an overall picture is missing. The proposals would change the law but the real problem lies in application of the existing law.

Many of those consulted think the proposals concerning the coordination proposed between the planning processes in the planning and building Act and the trial of environment according to the Environmental Code is insufficient. Until there is coordination between the legislations, i.e. the two acts, the planning and building processes will be ineffective.

3 USING THE METHOD TO HANDLE LARGE AMOUNTS OF WRITTEN INFORMATION

3.1 The Content of the Real Estate Development Agreement

Urban development is regulated by many laws and regulations as well as the rights and obligations in the real estate development agreements themselves. The planning and building acts, the law governing public water and sewage systems, the Code of Land Laws, the Law of Real Estate Formation, the Law of Joint Facilities and the law governing municipalities' competence, all influence real estate development agreements. The rules of governmental financing of housing developments can also influence some agreements. These rules are not to be found in one Act nor do the laws that govern the development process prescribe steps for the implementation of development.

Real Estate Development Agreements indirectly depend on laws regulating development and the fact that different kinds of laws regulate developments makes the legal consequences of the real estate development agreement ambiguous. The real estate development agreement may not over-ride statute law. The legal consequences of the agreements are complicated and a mix of public law and civil law.

3.2 An Analysis of Obligations in Real Estate Development Agreements

These agreements are multiple-page written documents. Their content varies widely, although it is usually based on standard agreements and recommendations issued by, *inter alia*, the Associations of Municipalities in Sweden. Even a small number of agreements will yield a very large amount of data to investigate.

To investigate the structure of real estate development agreements and the obligations they contain a method for handling very large amounts of information has been developed. The method was used to analyse 80 agreements for real estate development collected over 40 years.

3.2.1 Applying the method to the Agreements

The investigation of the Real estate agreements showed the characteristics of the issues dealt with in the agreements.

The method works as follows:

- The rights and obligations contained in the agreements were categorized by type and transformed into standard terms. In other words the rights and obligations that had the same meanings were expressed in the same way
- To identify and choose commitments first and foremost with an economic meaning, so called create-value-commitments.
- The existence or non-existence of a commitment in an agreement is shown by, respectively, 1 or 0.
- Fact and rules influencing real estate development and the design of agreements were identified.
- The external and internal facts were identified. The quantitative and qualitative facts are described in a standardized way and are given codes.
- The information in the agreements is shown as a matrix where the rows represent the agreements and columns the commitments and external and internal facts.
- The method also aims:
 - To choose statistical methods for the analysis of the material
 - To draw conclusions based on the statistical work consider the question at issue and the laws and regulation for urban development.

The structure of commitments and its association with external facts e.g. the demographic circumstances at different times, the economic situation, and extent of construction in the whole country and internal facts e.g. the landowner context and the physical plan situation were analysed statistically.

The legislation concerning real estate development agreements underlies the interpretation of the method. The method comprises two parts; on the one hand studies of the documents of the agreements and laws and regulations concerning real estate development agreements and, on the other hand, statistical work.

3.2.2 Example: The commitment in the agreements and the internal fact the status of the detailed plan

The relation between external facts and internal facts (with the help of factor analysis) shows e.g. that when the planning situation is a proposed plan it is commonly to be an agreement regulating housing, (see figure 1):

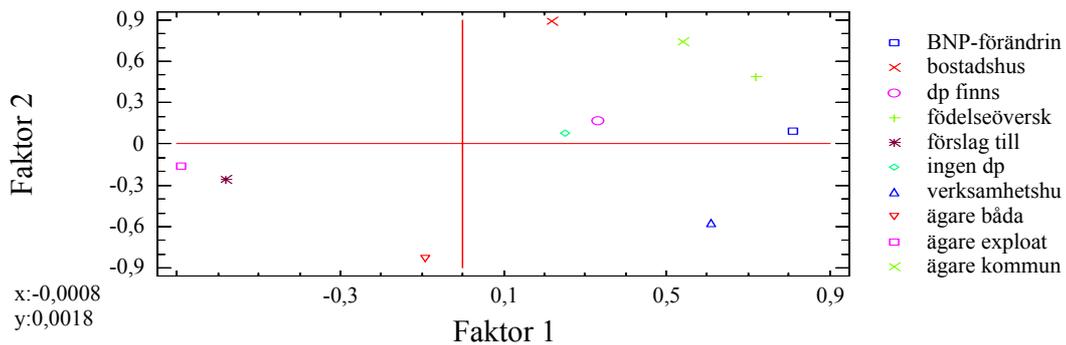


Figure 1. A factor analysis: The purpose of the development and external and internal facts. (Contents: Changes in GNP (Gross national product), Housing constructions, Approved detailed plan, Birth surplus, Proposed detailed plan, No detailed plan, Offices and shop constructions, Both the developer and the Municipality as land owners, The developer as land owner, The Municipality as land owner.

Internal facts, the status of the detailed plan e.g. whether there is an approved plan, a proposed plan or no plan has great influence on the content of the agreements. Where the plan is adopted and has legal force written obligations and commitments are few. Some commitments about the design of buildings and constructions are absent when there is no plan. Most commitments are found in the agreements were the planning situation is that there is a proposed plan. Most of the commitments are made by the developer but the municipality also makes commitments in the agreements. Where there is a proposed plan (not yet adopted) there are more commitments that can be related to the rules in the Planning- and Building Act. The analysis also shows that the internal fact; landownership has a great influence on the content of the agreement.

3.3 Analysis on the responses received during consultation of the review of the Planning and Building Act

As said the committee's proposals were put out to consultation and more than 420 bodies have made representations and submitted their views on the committee's proposals. The committee final report runs to over 1000 pages. The handling of this very large amount of information is a huge task. To be able to categorize the material etc. a method for handling a very large amount of information is needed.

Representations were made in writing. The representations took the form of multiple-page documents. The content of the representations varied widely, although it was usually based on the proposals for changes advocated by the committee's report.

To be able to investigate the structure of referral of the committee review of the Planning- and building Act the method developed to analyse commitments in real Estate Agreements were used.

The method is conformed to suite the analysis of the referrals of the proposals in the report of the review of the Planning- and building Act.

3.3.1 The method used on the responses received during consultation of the review of the Planning and Building Act

The conformed method means

- The proposals as they are presented in the committee report are identified and categorized.
- The statements in the referrals are identified to fit in the context of the proposals in the report
- The statements in the referrals are identified and compared to the proposals and then formulated into standardise terms. That means to formulate the referrals with the same meaning in the same way.
- The existence or non-existence of a statement of a proposal is described with a code 1 respectively 0.
- Facts influencing the statements in the referrals are identified.
- The external and internal facts were identified; the quantitative and qualitative facts are described in a standardized way and are given codes.
- The information in the agreements is shown as a matrix where the rows are representing the referrals and the proposals and the external and internal facts are shown as the columns.

An example of an internal fact is the political majority in a Municipality who gave statements on a proposal in their referral. One proposal in the committee report is to change the court of law order for appeals against decisions in the Planning and building Law, and mean that the court of law should be the same for decisions in the Environmental code; the Environmental Court etc.

3.3.2 Example: The municipalities answers according to political majority concerning the proposal new Court order

The Municipalities may be divided after the political majority governing the Municipality. The division is made in three alternatives: Conservative domination (Borgerligt styre) means domination of one or more of the conservative parliament parties (m+c+fp+kd) with or without the environmental party (mp) or a local party. Social Democrats (Socialdemokratiskt styre) domination means that it is governed (s, s+v, s+v+mp, s+v) with or without the environmental party (mp) or a local party, Other domination (Annat styre) means majority with overstepped political blocs where the Social Democrats or one or several Conservative parties are included but also rainbow coalitions, coalition governing and jumping majorities etc.

Sweden has 290 Municipalities and 180 have given referral to the proposals of the committee report and 65% of the Conservative governed Municipalities, 57% of the Social Democrat governed Municipalities and 68% of the Municipalities with other governing. Of 180 given referrals there are 72 who have in some way given a statement of the question about a new Court order.

Kommunernas politiska styre efter svar på frågan om instansordningen m.m.

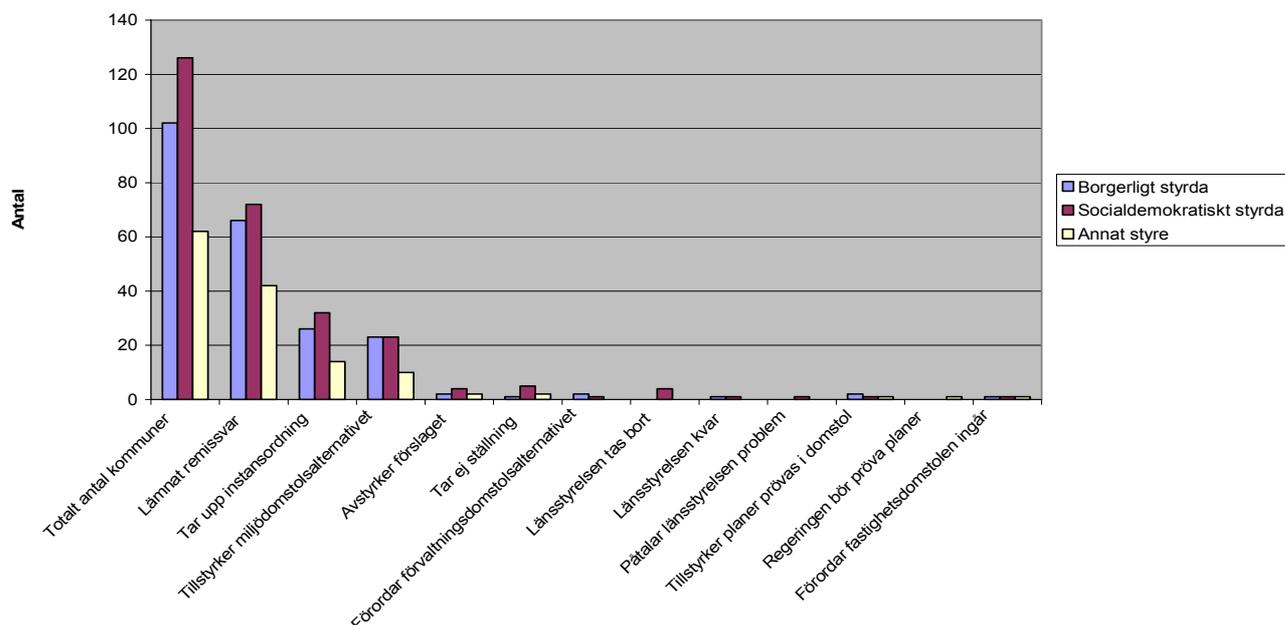


Figure 2: The Municipalities' answers according to political majority concerning the proposal of new Court order etc.

(The bar graph: 1. Blue: Conservative governed Municipalities, 2 Red: Social Democrats governed Municipalities, and Yellow: Other governed Municipalities. 1. Numbers of Municipalities, 2. Number of statements, 3. Considered the proposal of a new Court order, 4. Approval of the proposal, 5. Reject the proposal, 6. No decision, 7. Approval of another Court order, 8-10. The question of the State County Administration within the Court order, 11-12. The question of the change the court of law order for appeals against decisions of detailed plans etc.)

Figure 2. shows that according to political majority there is no difference between the statements from the Municipalities according to the political majority of the governing on the proposal of a new Court order. 23 of 26 (88%) referral in the Conservative governed Municipalities approve the new Court order alternative with a new planning and environment Court. In the Social Democrat governed Municipalities 23 of 32 (72%) approves of the new planning- end environment Court order. The Municipalities with other governing approves 10 of 14 (71%) the new Court order.

Next step the method will be to:

- Choose statistical methods for the work on the material
- Make conclusions of the statistical work consider the question at issue and the laws and regulation for urban development.

The structure of viewpoints and association with other statements and the committee proposal may be investigated and analysed by statistical methods. This work will continue.

4 CONCLUDING REMARKS

4.1 The use of the method

The method developed and used to study Real estate agreements can handle very large amounts of information. The method is also very effective at showing relationships between categories of obligations or commitments and reality i.e. state of things. It is possible to investigate complicated relationships. The method can cope with this complexity.

The analysis of the representations on the review of the Swedish Planning and Building Act shows that the method is also useful for investigating the relationships between the statements received from interested bodies and also very useful in compiling the material.

4.2 The changes in the Swedish Planning and Building Act

The Swedish Government has announced that they are planning to make the changes in steps and that the government will introduce several bills making changes in the Planning and Building Act during their term of office. One such has already been introduced. It is a bill on the new Court order and it is a so called political alignment bill, where the Government is asking the parliament to take a standpoint in the question to decide for a new Court order with this direction. If the parliament decides for a new Court order with this direction the Government could decide for a committee to investigate the new Court organisation.

REFERENCES

- Ulfvarson Östlund M (2002) Avtal för markexploatering – en strukturanalys av åtaganden, (Real estate development agreement a structural analysis of commitments) Royal Institute of Technology, Department of infrastructure, Stockholm 2002
The Swedish Planning and Building Act, (SFS 1987:10)
SOU 2005:77, Får jag lov? Om planering och byggande
Gerhard Larsson (2006) Spatial Planning Systems in Western Europe, an overview

BIOGRAPHICAL NOTES

Academic experience: MSc in Surveying, PhD in Real Estate Planning from the Royal Institute of Technology, Stockholm, Sweden.

Current position: Swedish Ministry of the Environment, Head of office 2006- . Currently involved in the Changes of the Swedish Building- and Planning Act.

Practical experience: Real Estate Formation, Cadastral surveying, Geographical Information Systems, 3D-formations, Real Estate Registry, Land Use Planning and Implementation, Real Estate Development Agreements, Formation of Joint Facilities, Teaching experience: Lecturer at the Royal Institute of Technology etc.

Activities in home and International relations:

Member of the Swedish Associations of Chartered Surveyors (SLF)

Member of the Board of the Swedish Association of Chartered Surveyors (SLF) since 2002.

FIG, Commission 8, Swedish delegate 2006-

Chair, FIG Comm. 8, working group 8.5, Land Use Planning and Implementation, 2007-

CONTACTS

Dr Maria Ulfvarson Östlund

Ministry of the Environment, (Miljödepartementet)

Division of Sustainable development

SE-103 33 Stockholm

SWEDEN

Tel. + 46 8 405 22 74

Mobil + 46 703 815 2274

Fax + 46 8 14 09 87

Email: maria.ulfvarson-ostlund@environment.ministry.se