

The Link between Planning and Expropriation

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ABSTRACT

Planners are always torn between ideals and reality, between theory and practice, between wishes and constraints. The constraints are very often the shortage of land or of money or of both. Compulsory purchase is one of the solutions for the shortage of land. It is commonly agreed that expropriation infringes on private property rights but it is allowed when justified and compensated. Ample literature has been written about various aspects of expropriation: the public purpose, just compensation etc., but there are more ways of violation of property rights than the actual physical taking. One of the factors that affect the peaceful enjoyment of the landowner and cause a violation of property rights is the element of time. We can divide the time element into three major segments: 1. The period between the planning and the designation for expropriation 2. The period of the expropriation procedure 3. The period between the completion of the procedure and the implementation of the public use The second period of the expropriation procedure takes a long time by nature, as a result of the administrative and bureaucratic actions to be taken. If there are judicial procedures, the time is even longer. The third period is a juristic issue. The first period emphasizes the conflict between planning and property rights. Ideally, planning should be long range. The implementation of plans could occur years after planning. In order to secure their plans, the planners and the authorities require a land reserve for future public purposes. However, they usually do not have the financial resources to acquire all the land needed for future purposes. Quite often the solution is to plan, designate the land for expropriation and wait until the need arises. The interest of the planners, representing the public interest, is to designate the needed land for public purposes at an early stage and to secure the possibility to acquire it at an undetermined future time. Unfortunately, the planners' interest conflicts with the interest of the landowners and of the real estate market. The real estate market needs stability and certainty, and for that purpose the period between designation and expropriation, including compensation, should be as short as possible. To resolve this conflict between planning and property rights, a balance should be found between the two interests.

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