INTERNATIONAL ACADEMIC ASSOCIATION on PLANNING, LAW, AND PROPERTY RIGHTS

BOOK OF ABSTRACTS

19th ANNUAL PLPR CONFERENCE

3rd-7th March 2025
School of Geography and Planning
Cardiff University
Cardiff, Wales

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Presentations

A1: Property Rights and Land Governance in Renewable Energy

Time: Tuesday, 04/Mar/2025: 10:45am - 12:30pm · *Location:* 0.04
Session Chair: Mathias Jehling

Mitigation of Opposition: Integrating Property Rights into Renewable Energy Landscapes

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The integration of property rights into renewable energy planning offers a pathway to reduce opposition from landowners and local communities, which often hampers the deployment of renewable energy projects. This paper explores the role of property rights in mitigating conflicts within energy landscapes, defined as areas where renewable energy production coexists with other land uses such as agriculture, conservation, and recreation. By adopting a participatory approach that actively involves landowners in the planning process, this research aims to address the socio-economic and ecological complexities associated with renewable energy developments.

This study applies Elinor Ostrom's socio-ecological systems framework and Actor-Network Theory to analyze the dynamic relationships between stakeholders, land use, and energy production. Case studies of energy landscapes, particularly agrivoltaics—where solar panels are integrated into agricultural land—are used to assess the benefits and challenges of such multi-use strategies. The research focuses on how equitable governance mechanisms, inclusive decision-making, and innovative land-use strategies can promote the social acceptance of renewable energy projects while addressing concerns about property rights and land use conflicts.

Land use conflicts emerging from renewable energy developments are hampering the energy transition, thus this study explores energy landscapes as a possible solution for balancing energy production with local land uses. The main focus is on integrating property rights considerations into energy planning, and its possible effects such as renewable energy projects achieving greater social acceptance, reducing conflicts, and promoting more sustainable and equitable land use outcomes. The research aim is to gain new insights for researchers, policymakers, and developers seeking to enhance the resilience and fairness of energy transitions.

Who Owns Heat? Property Rights in Geothermal Energy

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With 50,000 times more heat energy within the top 10,000 meters (around 33,000 feet) of the Earth's surface than contained in all of the world's oil and natural gas resources combined, geothermal energy is a tremendously promising, clean, and renewable energy resource. Yet, geothermal energy accounts for a mere 0.4% of the total electricity generated in the United States. One of the more challenging reasons for this predicament is the ambiguity in property rights related to the development and ownership of geothermal energy resources. While landowners can raise ownership claims to oil, gas, water, and other tangible natural resources found in their subsoil, it is unclear whether they have similar claims to the thermal energy located below their land. The presentation explores questions of ownership rights and interests in geothermal energy—an incorporeal, uncontainable, natural resource that is better defined as a characteristic of underground formations rather than as a physical or tangible thing. More broadly, it looks at the effects various existing and theoretical approaches to ownership might have on the development of geothermal energy resources. The underlying premise is that absent clear property rules for ownership in geothermal energy, commercial and public investment in this promising, clean, renewable energy resource in the United States will remain limited. Rather, clearly defined ownership interests could have profound implications for nearly every aspect of geothermal energy development—exploration, harvesting, conversion, and transfer of this distinct energy source—as well as for decarbonizing the economy.

Governance of cumulative land use impacts of the energy transition: Regional and national perspectives

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The accelerating energy transition across Europe, driven by international policies to reduce greenhouse gas emissions, increased profitability of renewable energy production, and shifting geopolitical dynamics, is reshaping the continent's energy landscape. Large-scale wind and solar power projects require vast land areas, which in turn affect the local environment by altering carbon sinks, biodiversity, and cultural landscapes, for example. The cumulative effects of renewable energy production on land use can be significant, with wide-ranging implications at regional and national levels. However, little attention has been given to how these cumulative impacts are governed. This study addresses this gap.

This research aims to examine how the cumulative impacts of industrial-size wind and solar power on land use are governed at regional and national levels. We seek to understand how these broader impacts beyond local level are managed and to identify potential governance challenges and gaps in this context. Our study focuses on Finland which is one of Europe's most promising countries for renewable energy. In recent years, wind power has surged to 18% of Finland's total energy output, with industrial-scale solar projected to reach 5-10% by 2030. Through 15-20 interviews with land use experts from state administrations, regional federations, and key advocacy organizations, we analyze how regional and national impacts are understood and addressed. The data will be collected in autumn 2024.

This study contributes to the literature on national and regional land use governance in the energy transition. It also enhances understanding of the interactions and tensions between different levels of government in energy transitions, particularly in the dynamic between decentralized energy production and predominantly centralized energy policymaking. On a practical level, the research identifies key challenges and gaps in the governance of cumulative land use impacts from renewable energy at both national and regional levels.

Decentralized Renewable Energy and Municipal Properties

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The climate crisis demands a swift transition away from fossil fuels (IPCC 2022). A rapid and large scale expansion of renewable energy in the coming years will be critical for tackling climate change. Decentralized small-scale generation through distributed solar PV or wind by communities, households, firms, enterprises and farms has enormous generation potential and is projected to account for 26% of all growth in renewables (IEA 2019).

However, like any other public policy, the development of renewable energy infrastructure can have far reaching and long lasting distributional ramifications. With the rush to renewables, it is particularly important to understand how policies can be designed so that more vulnerable populations see benefits, and existing socio economic gaps are narrowed, rather than broadened. The question is relevant at the household, community and regional scales, since decentralized generation can affect inequality across all such units.

Our study explores the factors influencing the adoption of PV installations on public buildings that are owned by the municipality. The production of energy can be a source of long-term steady income for the municipality, enabling it to provide a wider range and quality of services to its residents. Therefore, the decision of the municipality to install PV on its buildings can have long-lasting economic and social effects, that may increase equality amongst municipalities and distributive justice or decrease it.

The study employs a mixed-method approach, combining quantitative data with in-depth interviews with officials from 10 municipalities across Israel. These municipalities will be carefully selected to reflect the variety of municipal profiles in terms of size, centrality, population size, economic, social, ethnic and religious demographics. The study aims to identify patterns, best practices, and barriers to solar panel adoption on municipal buildings in Israel.

The research outcomes are expected to have significant implications for policymakers, urban planners, and environmental advocates both in Israel and internationally. By highlighting successful strategies and common obstacles across different municipalities, this study can inform the development of more effective and socially just policies and support mechanisms to accelerate solar panel adoption on municipal buildings.

B1: Mixed Use Development and the Public in the Private (1/2)

Time: Tuesday, 04/Mar/2025: 10:45am - 12:30pm · *Location:* 0.16
Session Chair: Nir Mualam
Session Chair: James Thomas White

Special Session

The session seeks to offer a new perspective on emerging approaches to land use mix in cities that are undergoing transformative vertical urbanisation in the early 21st century. Drawing upon a diverse collection of international case studies presented by planning, law and design scholars and practitioners, the session will focus on an urban phenomenon which manifests when public facilities, such as schools, nurseries, and community centres, are co-located within privately-developed real estate projects via agreements and/or partnerships between public authorities and developers. The session's presenters shall demonstrate how this new type of pubic-private collaboration materializes in practice using a range of policy instruments.

Advantages and risks in financing public amenities through Planning Deals: A theoretical perspective

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A 'planning deals' is a mechanism that city governments now use to create needed public amenities with private financing. The deals are tailored in site-specific plans, usually for high-rise building(s)- and for built or open public spaces within it, or nearby. The planning documents and legal contracts aim at assuring the benefits for the public- and for the developer, by balancing between land prices, building rights, taxation, and the cost of the public spaces. The deals are considered as a 'win- win' means for simultaneously improving of the city's appearance and infrastructure, attracting businesses, residents, tourists, and investors- and supplying for the public. Moreover, the deals increase income from taxation, and with them public treasure can be kept for other, less profitable projects, areas and tasks.

Yet with the accumulated urban experience, this mechanism was criticized in various cities. Scholars argued that as planners are vital part in the deal-making, their authority is compromised, and they are often forced to lessen the size and the quality of the public amenities. Massive and expensive projects are the only ones that can finance the needed amenities, and other building forms are neglected. Additionally- the need to conclude complex agreements harms planning transparency, the public have limited access to the details and the decisions. Each deal is promoted and discussed individually and in a local context, and a wide-angle consideration of the cumulative needs, and consequences is prohibited.

In Israel, and especially in Tel Aviv-Jaffa, the deals became a leading planning tool together with the rise of dozens of expensive towers or clusters. The lecture will address the literature and use the lesson from Tel Aviv to exemplify the 'deals' advantages and problems.

Leveraging Luxury for Learning: Co-locating high-rise residential flats and a school in the London Borough of Hackney

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This paper examines the 'vertical allocation' of public and private uses in high-rise buildings focusing on London, UK and the case of Nightingale Primary School and The Otto flats in Hackney. Nightingale-The Otto is a tower-podium building comprising two private residential towers, residential amenity spaces and a two-form entry primary school at ground/first floor level. It was delivered by a partnership led by the London Borough of Hackney in the late 2010s during a period of increasing demand for classroom spaces and decreasing government funding for education. The paper therefore examines Hackney's controversial policy of leveraging the value of publicly owned land to fund its education estate by co-locating luxury flats with a school. It draws upon an analysis of semi-structured stakeholders interviews, archival materials and direct observations of the development and its environs. The paper explores the political rationale for Nightingale-The Otto, outlines the policy and regulatory frameworks that made it possible (e.g. Hackney, 2010), catalogues the planning, design and construction process, and evaluates the outcomes. On the one hand, the co-location has worked successfully both for residents and the staff and pupils of the school and has won prestigious design awards as a result. Yet, on the other, despite the protestations of local people, public land was permanently transferred into private hands (via a 999-year lease) and no affordable housing was provided on site. Such as outcome raises questions about the long-term benefits for local people living in one of the most deprived areas of London. The paper thus concludes by asking if the correct balance was struck between the public and private objectives for Nightingale-The Otto and considers the extent to which the case is emblematic of the wider neoliberalisation of urban governance in London during the early 21st century (Imrie et al, 2008; Penny, 2020).

Vertical Allocation of Public Spaces: Developer Obligations pursuant to "Sobon" on the Paul-Gerhardt-Allee Development, Munich

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Public value capture by developer obligations is an effective tool to finance the provision of social infrastructure.

The German legal system is well established and includes some recommendable aspects. It is advisable to regulate explicitly permitted contract contents as in the German law. This should be an open list, primarily for the purpose of clarification. Regulatory arrangements may also determine the spatial and factual issues to help establish a nexus between proposed development and the public amenities required by the city. Thus, national legislation can create the framework for handling of contracts, while retaining the flexibility for local regulations to accommodate changing needs for public services or changing public perceptions about what services merit public support. This is important to enable solutions for specific local problems.

Furthermore, the feasibility of value capture depends above all on local economic conditions (especially land values). Munich has the highest land values in Germany. This has very negative consequences for housing prices, but leads to very good conditions for value capture and thus the provision of public facilities.

At the municipal level, the Munich case example illustrates that a decision in principle on value capture and developer obligations can contribute to transparency and equal treatment of stakeholders. On the other hand, the model should be flexible enough to take into account specific preferences of the developer.

The Munich model (and similar others across Germany) requires a thorough calculation to determine the development-related increase in value. The capturing of land value can then be calculated, and accordingly amenities may be priced and required by the city. Land value capture of up to 67 % of increases is established in practice and jurisprudence in Germany. A win-win situation has to be created in which the municipality receives financial support to cover the follow-up costs and the investor retains sufficient profit from the urban development.

Finally, the Munich case shows that vertical allocation of child care facilities is an important tool to support a compact urban development and to avoid/reduce new soil sealing.

Mixed Use Development and Vertical Allocation of Public and Private Uses in Seoul

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The history of mixed-use buildings in Seoul began in the 1960s, shortly after South Korea's first Urban Planning Act was enacted. Typical mixed-use buildings initially contained a large amount of commercial floorspace and a small residential component. However, over time, the proportions shifted, and residential took over as the dominant land use in mixed-use buildings. This change was driven by private developers who realized that higher profit-margins could be achieved if residential floorspace was maximized. As a result, mixed-use buildings in South Korea typically have the following characteristics: (a) they are generally recognized as more luxurious compared to other types of apartment buildings; (b) the proportion of residential space relative to other uses within these buildings is much higher, which has prompted the government to focus on regulating or adjusting the maximum limits. Furthermore, while local governments that benefit from the contributions of mixed-use developments prefer a separate structure for public facilities, existing laws have become barriers to constructing such public facilities and other private amenities within the same building. (c) Public facilities are physically separated from the residential and commercial sections of the building. This chapter will introduce a representative case of recent mixed-use development in Seoul, the Hapjeong District 3, located in the northwestern part of the city. This case will show how public uses were distributed in the building during the process of development and how the use of these facilities is proven problematic due to a lack of clear long-term plan and financial resources.

C1: Property Rights, Land Policy, and State Intervention

Time: Tuesday, 04/Mar/2025: 10:45am - 12:30pm · *Location:* 0.22-23
Session Chair: Eran Kaplinsky

Speculative land fragmentation in the Netherlands: the potential of Nordic land formation tools

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In the Netherlands there is a practice of entrepreneurs who buy agricultural land, fragment it into tiny parcels and sell these parcels individually for high prices to private people. In this practice, they are using aggressive marketing campaigns suggesting that buying these parcels is a fine investment. However, usually this land has no prospect for development at all. Not only for the buyers, but also for society this practice has some disadvantages. The fragmentation of land in tiny parcels without any exit to public roads is not easy to be undone. Although in the contracts there are provisions of uniting land if development is allowed, but as development is usually not foreseen, it results in durable extreme land fragmentation. In the Dutch legal system there are no restrictions on owners to split their land in separate plots. A notary can draw a line and may pass a deed to split an estate in two parts. There are no rules restricting owners to do so and also a lack of cadastral measurement and, consequently, no finalised cadastral parcellation has no impact on the legal status of an estate formed by such a deed. In Nordic countries there are rules on property formation which oblige that changes in land parcellation must follow the land uses foreseen by local land use planning. This paper explores whether the systems of Nordic countries (Denmark, Finland, Norway and Sweden) could help to address this issue of speculative land fragmentation and it explores the potential for including some of the principles of Nordic systems in the legal system of the Netherlands without changing the cadastral system. An important prerequisite is that such an improvement must have low impact on the normal operation of land development and must fit to European regulations for protection of property and the freedom of allocating capital.

Balancing Public Interest and Biodiversity: Biodiversity Offset Implementation in the Czech Republic

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Biodiversity offsets have become an important tool in balancing economic development with the need to protect biodiversity, aiming to compensate for the negative impacts of projects on ecosystems by ensuring equivalent biodiversity gains elsewhere. However, the implementation of biodiversity offsets often involves complex legal and administrative processes, especially when determining how public interest is interpreted in decisions that affect biodiversity. This research aims to analyse the implementation of legal regulations in the Czech Republic, focusing on how public interest is applied in cases involving projects with potential negative impacts on biodiversity. The study addresses three specific research questions: How is the concept of public interest perceived and interpreted in decision-making processes concerning projects that affect biodiversity? How does the current state administration handle the ambiguity of the public interest concept in practice?

The research employs a qualitative content analysis of data gathered through in-depth semi-structured interviews with frontline state administration officers who are directly involved in decision-making processes affecting biodiversity. The study provides insights into the practical application and challenges of legal provisions related to biodiversity protection.

From constrained to speculative land policy in Switzerland and the Netherlands

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Public landownership is widely regarded as an important tool for achieving policy goals in spatial planning. As part of active land policy, public property rights serve as key instruments to guide urban development. However, public landownership can be leveraged in various ways, ranging from land assembly and preparation to long-term leasing and public housing development. The role of public landownership spans a spectrum: from a constrained approach focused on achieving specific policy objectives unattainable through market mechanisms, to a speculative, market-driven strategy aimed at generating development profits. How public landownership is used has significant implications for its capacity to support policy goals effectively. Despite its importance, this nuanced application of public landownership has received limited attention in planning literature. Consequently, little is known about the institutional factors that influence municipalities' strategic use of public land.

This contribution relies on a neo-institutionalist approach to understand how rules and norms shape the use of public landownership. To illustrate the variation in public landownership use, we analyse four densification projects in the Netherlands and Switzerland where public landownership was applied in contrasting ways. The two countries are chosen as contrasting cases. While the Netherlands is typically understood as a country with a strong planning tradition, where local governments have many and far-ranging instruments at hand to ensure implementation of planning goals, Switzerland is mostly seen as a country of reactive planning practices, focused on preserving the status quo rather than steering spatial development.

Our findings underscore the importance of institutional factors, such as municipal fiscal systems and citizen involvement, in ensuring municipalities maintain a long-term focus when using public landownership. We argue that these institutional drivers warrant greater attention in comparative analyses of land policy across different countries.

What are the limits of state intervention in property rights? A discussion on the example of Türkiye

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State intervention in property rights is a legally and socially controversial issue. The state's ability to exercise control over property for the public good constantly raises the limits of property rights and the balance between the public good and individual rights. While the role of the state on property emphasizes the need to strike a balance between public good and individual rights, the limits of these interventions are criticized on issues such as property rights violations, compensation and justice (Kaya, 2019).

In Türkiye, expropriation, zoning regulations and land consolidation are among the most prominent instruments used by the state to intervene in property. Expropriation is widely used as an intervention in the public interest, especially in infrastructure projects and urban development projects.

Article 18 of the Zoning Law allows the state to reorganize land parcels for the purpose of ensuring orderly development and efficient land use (Türk, 2004). However, in practice, these regulations may have undesirable consequences such as unequal land distribution and decreasing real estate values. At this point, the limits of these interventions in the public interest conflict with individual property rights and are criticized.

Land consolidation aims to increase agricultural productivity and prevent land fragmentation in rural areas. The consolidation projects implemented in Türkiye have different levels of success depending on local conditions and are shaped by local legal and socio-cultural factors (Janus, 2021).

One of the indirect intervention tools of the state on property is the regulations aiming to prevent the fragmentation of agricultural land (Yucer, Kan, Demirtas, & Kalanlar, 2016). In addition to consolidation, the state is also authorized to lease unused land for a period of two years.

Although the state's intervention in property is driven by an understanding that prioritizes the public interest, the limits of these interventions and their relationship with individual rights remain controversial in legal and social terms. This paper aims to discuss the state's intervention tools on property and how these tools strike a balance between property rights and the public interest through the case of Türkiye.

D1: Strategies for Special Challenges

Time: Tuesday, 04/Mar/2025: 10:45am - 12:30pm · *Location:* 0.24-25
Session Chair: Janet Askew

Ageing and underoccupied housings: an innovative and solidarity-based pilot project on "kangaroo housing"

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Housing underoccupancy is a major phenomenon. For example, data for Belgium show that the share of people living in underoccupied housing is 60%. For people over 60 years old, this proportion rises to 74%. This major phenomenon is rarely addressed, either by the authorities or by researchers, even though its reduction could make it possible to provide solutions to the housing crisis by avoiding further land take.

Our presentation will be structured in two parts. We will begin with the presentation of a survey that showed that better information on alternative forms of housing leads a large proportion of elderly households to reconsider the idea of staying in their – underoccupied – home for as long as possible. There are two main forms of alternatives. For the first form, the initial occupant leaves her-his underoccupied dwelling for intergenerational housing or for the formula of grouped housing for the elderly. In the second form of alternative, the original occupant remains on site and the dwelling is shared. It can be shared with a single person (a student for instance), or it can be shared with a family. This second form is generally referred to as "kangaroo housing".

The second part of our presentation will be devoted to the results of a pilot project on kangaroo housing. This project was implemented in a peri-urban Belgian area, parts of which are marked by problems of housing affordability. This project began in the form of working groups including local authorities, the population, real estate experts and a company active in the construction of modular pavilions.

Following this first stage, the project continued with a feasibility study relating to three technical possibilities: the division of the dwellings, the construction of an adjoining and communicating pavilion and the construction of an independent pavilion. This study has integrated the constructive aspects but also the financial and legal aspects. The feasibility of various formulas has then been assessed: alternative loan mechanisms (loan without repayment, etc.), the sale of a solidarity life annuity (to a cooperative or a public institution), the dismemberment of property rights (surface rights, etc.).

Activating junk real estate - Strategies of German municipalities

Astrid Maurer
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Many European cities face a massive shortage of housing, while at the same time the designation of new building land shall be minimized to reduce land consumption. In this context, it is a problem if land is not used as efficiently as possible. Many German cities experience (volitional) vacancies, misuse of buildings or unused building potentials. Junk properties are a special category of inefficiently used land. Problem properties are real estates that with substantially maintenance backlog, negligence, or inappropriate use (BBSR 2020; MHKBG 2019). Some German cities develop intervention strategies to deal with such junk properties and improve and provide sufficient housing.

This paper explores such municipal strategies. To understand the different policy arrangements and approaches, it is important to understand different interventions. Therefore two explorative case studies are used: Hagen and Halle in Westphalia. Both cities pursue different strategies and use different interventions, whose peculiarities lie not only in the range, of the chosen land policy instruments, but also in their combination.

In a first step, which is based in the policy arrangement approach, it is analyzed how junk properties are discussed and monitored, who are the relevant actors, what are rules and which resources are available for strategies. As a result, effective intervention strategies of municipalities are reflected also in terms of their efficiency, legitimacy and equity. The question of how the respective property rights are dealt with in this entire context is particularly interesting.

Key words: land policy, housing market, junk property, property rights, action strategies, land management instruments

Planning deregulation and state-induced rent gap: the opening of new rent gaps via office to residential conversion in London

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Since 2013, a planning modification in England that allowed office-to-residential conversion without requiring permission from the Local Planning Authority has received attention from researchers. Studies have unbundled the planning process of this deregulation policy (Clifford et al., 2019), whilst others have delved into the dwellings' poor quality (Marsh et al., 2022; Pineo et al., 2024). Recent studies have increasingly focused on the relationship between office-to-residential conversion and the housing market (Chng et al., 2023; Chesire & Kaimakamis, 2022). However, the relationship between deregulation and state-induced rent gaps has not yet received particular attention.

Neil Smith defined rent gaps as the difference between the potential ground rent and the actual capitalised ground rent with the current land use (Smith, 1979). As potential rents follow the logic of "highest and best use", the 2013 modification enabled the conversion of lower office use (capitalised ground rent) to higher residential use (potential ground rent). Initial rent gap studies revealed that what drives rent gaps is the actual capitalised ground rent decrease over an extended period (Teresa, 2019)—leading to much denser literature on capitalised ground rent generation rather than potential rent gaps. Thus, this study asks what the relationship between potential rent gaps and the 2013 modification in London is. The proposed approach provides empirical evidence about potential rent mechanisms that have remained under-researched in literature (Clark & Pissin, 2023) and the influence of deregulation in state-induced rent gaps.

Using four fully converted buildings in the London Boroughs of Barnet and Croydon as case studies, this research unveils that office owners who developed office-to-residential conversion are obtaining four or more times rent gains as residential use (using as proxy Boroughs' housing transactions) than with the former office use. Complementing the rent gap analysis developed for the case studies with key actors' interviews, this research shows how the 2013 modification opened a new type of state-induced rent gap—unfolding the close relationship between planning deregulation and new rent gaps.

Second home policies - A comparative perspective on Austria, Germany and Switzerland

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Second homes are popular real estate, especially in alpine and coastal tourist regions – for recreational as well as profit-oriented purposes. However, a substantial share of second homes in small municipalities leads to manifold problems, such as (i) pushing locals out of the land market due to rising prices, (ii) a loss in tax revenue for financing infrastructure or (iii) under usage of social infrastructure.

The present paper aims to analyze second home policies in three federally organized countries, Austria, Germany and Switzerland, and to compare those policies systematically. Both, the analysis as well as the comparison are based on a public policy analysis model. The common denominator is that there is a political discourse present in all three countries that sees a high proportion of second homes in the Alpine region as the cause of a number of spatial problems. However, there are already relevant differences in the concrete definition of the problem and also in the chosen intervention mechanisms.

The analysis shows that while similar phenomena occur with extensive second home development, the policies rely on differing rationales. In Switzerland, second homes are perceived as structural threat for the alpine cultural landscape. Whereas in Austria and Germany, the negative effects of second homes on the land and housing market are valued as the main problem. However, similar interventions are taken – even though on different levels. In Switzerland, a maximum share of second homes per municipality has been introduced into constitutional law – thus action is taken on national level. In Austria, especially the alpine states introduced regulations in planning law (in zoning plans; by the need for permits) to restrict new developments and added additional tax obligations for second homes. In Germany, municipalities oversee the development of appropriate measures, in particular by applying statutes to contain misappropriation of the housing stock. We therefore observe that although three comparable geographical regions in three equally federally organized countries are examined, fundamentally different planning approaches to limiting second homes are pursued.

A2: Local Governance and Planning for Climate Change Resilience

Time: Tuesday, 04/Mar/2025: 2:00pm - 3:45pm · *Location:* 0.04
Session Chair: Lilian Van Karnenbeek

The special role of municipalities in climate change adaptation

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The presentation will focus on the role of municipalities and local governments in adapting to the impacts of climate change. Climate change mitigation and adaptation require a specific response from state actors. However, the presentation will argue that municipalities play a different and arguably more important role in adapting to the impacts of climate change than in mitigating climate change.

The background is the recently enacted Federal Climate Adaptation Act in Germany. Among other things, it obliges state legislatures to pass laws requiring local governments to develop climate adaptation concepts. Municipalities are thus faced with a new planning task. But why is the legislator using a system of tiered planning here - federal, state, local - that it is not using to address climate change mitigation? The aim of the presentation is to show that municipalities are particularly well placed to plan for adaptation to climate change. While mitigation of climate change primarily requires planning at higher levels, adaptation to the consequences of climate change is much more local. To illustrate this, the presentation will draw on the structure of climate change adaptation and will compare them to the structure of climate change mitigation. Although both areas of climate action serve the same end, the protection against the impact of climate change, they arguably require different legal structures, different actors and different instruments. Adaptation is a response to local vulnerabilities that vary from place to place. There is no clearly defined quantitative target as there is for climate change mitigation.

However, adaptation is not limited to planning. Plans also need to be implemented. Again, the question arises as to what specific role local governments can play. It will be argued that the various tasks associated with climate adaptation are not new and that municipalities have always been obliged to perform them. In particular, the duty to provide local public services plays a central role. It will be argued that adaptation to climate change is not a new task, but rather a grouping of several existing tasks under a new heading.

Preventing Progress: Euclidean Zoning as a Catalyst of Climate Change and an Inhibitor of Climate Resilience

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In the United States, Euclidean zoning laws have become one of the most pervasive and systemic challenges to climate resilience because the laws' division of land by categorical type entrenches and perpetuates car-dependent infrastructure and urban sprawl, resulting in land usage that wastes resources, exacerbates climate change, and restricts efforts to adapt to or mitigate climate change.

Originally intended as a public health measure, Euclidean zoning laws divided land use into three separate purposes: industrial, residential, and commercial. This division ensured that the public, safely housed in residential areas, was protected from exposure to dangerous pollution emitted from factories and businesses located in industrial and commercial areas. While Euclidean zoning initially contributed towards public health, its role in creating pollution has undermined its original goal, and its proliferation across the country has only created more pollution and exacerbated climate change, perhaps the biggest public health threat.

By dividing land uses into distinct zones, Euclidean zoning dramatically increases distances between residential areas, where people live, and necessities like food and goods, which are restricted to commercial areas. These increased distances typically require car travel to navigate, resulting in car dependency and excessive carbon emissions. Since Euclidean zoning also sets minimum plot and parking lot sizes, it drastically increases the footprint of buildings, contributing to urban sprawl and excessive concrete usage. These factors impact cities' heat retention, flooding susceptibility, and pollution levels, ultimately worsening climate change in the process. Such unintended consequences undermine the purpose of Euclidean zoning's role as a public health measure by increasing climate-related risks in the very residential areas it originally sought to protect. Thus, not only are these laws unproductive—they are *counterproductive*, actively stifling efforts to protect people and adapt to the ever-changing climate while simultaneously ensuring waste continues.

Communities must reform Euclidean zoning laws to reclaim poorly-utilized land and more effectively combat climate change and its hazards. The present analysis evaluates alternative zoning approaches, such as mixed-use zoning, as well as scientific data to determine which aspects of the current zoning laws require reform to make the greatest impact on climate change and climate resilience.

Assessing the Options, Advantages, and Disadvantages of Local Plans, Policies, and Regulations to Manage Great Lakes Coastal Shorelands for Enhanced Community Resilience

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Much of the coastal shorelines of the North American Great Lakes are comprised of highly erodible sands and gravels. As such, they are receding remorselessly landward, and many coastal communities are losing shorelands to the lakes over time. The U.S. Great Lakes states have delegated much of the authority and responsibility for managing coastal shorelands to their local governments, many which are small and lack administrative capacity to do so effectively. The states are working to support local planning and regulatory efforts through, among other things, outreach and education programs to help local officials and residents better understand both concepts of coastal resilience and the kinds of local plans, policies, and regulations localities are authorized to deploy.

Drawing from prior empirical and legal analysis, this study presents a survey and analysis of various planning, policy, zoning, and other local regulatory options available to local governments for managing Great Lakes shoreline development to enhance

community resilience. The paper focuses, first, on explaining the trade-offs involved when managing development in highly dynamic coastal settings (e.g., potential loss of natural shoreline from shoreline armoring versus potential loss of unarmored built structures), and second explaining processes local governments might employ for integrating information regarding state coastal management programs and laws, best available information regarding Great Lakes coastal shoreline dynamics, and best management practices options in general.

Policies reviewed include, for example, local nearshore infrastructure siting and relocation options. Local regulatory options include, for example, ordinances to implement dynamic coastal setbacks, to conserve nearshore natural features, to prohibit the installation of hardened shoreline armoring, to limit parcel splits that prevent relocation of nearshore structures, and so on. The paper assesses the purposes advanced by each potential option, the trade-offs implicated by that option, factors to consider when developing and implementing that option (e.g., local shoreline characteristics, limits on legal authorities), and other procedural best practices for option design, adoption, and implementation. The paper concludes by stepping back and drawing on prior empirical work to assess the likelihood that localities will have the capacity and political will to implement these various policy options effectively.

Who plans the forests in Poland and what for?

Magdalena Belof[1], Malgorzata Bartyna-Zielinska[2], Agnieszka Lisowska-Kierepka[3], Piotr Kryczka[3]

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In recent years, massive logging in Poland has sparked widespread public protests and increased attention to forest planning issues. More than 77% of Poland's forests are state-owned and managed by the State Forest Holding, which primarily exploits these areas for economic purposes. Forest management is largely outside the realm of spatial planning, with the Holding near-exclusive control. This is a significant issue, as it impacts 29.6% of the country's territory (9.48 million hectares). A key concern raised by civic groups is the exclusion of public opinion from forest planning, especially the lack of mechanisms to influence decisions about forest management or logging.

Public pressure resulted in the introduction of regulations, between September 2022 and December 2023, allowing public control over the management of selected forest areas with the status of so-called ‘community forests’. These are areas particularly important for recreation and public use, where local residents participate in management decisions, balancing social, economic, and ecological needs. In 2024, the Ministry of Environment and Climate initiated work on mapping potential community forests around 14 major urban areas and final delimitation is expected to be completed in October 2024.

Our study aims to track the dynamics and results of this bottom-up initiated process, focussing on the challenges of defining boundaries, planning, and future management of the community forests. Since this new instrument holds promise for increasing transparency in forest planning on a broader scale our study also seeks to explore whether community forests could potentially serve as a model for further reforms. We will also investigate what role local governments and EU Green Deal policies play in this process. The study will be based on legal frameworks and documents, as well as interviews with key stakeholders. Our findings will serve as a starting point for discussions on increasing public participation in forest planning in Poland and a possible shift of the current economically driven paradigm toward one that better incorporates the environmental and social values of forests.

B2: Land Policies for Affordable Housing: Historical Transformations (1/5)

Time: Tuesday, 04/Mar/2025: 2:00pm - 3:45pm · *Location:* 0.16
Session Chair: Josje Anna Bouwmeester
Session Chair: Gabriela Debrunner
Session Chair: Jessica Verheij

Special Session

This special explores global perspectives on the role of land policy in addressing the affordable housing crisis in different countries, regions, and cities. The session aims to start a multidisciplinary dialogue among scholars working on the intersection between land policy, property rights, and affordable housing provision from diverse geographical regions across the world. Contributions focus on different planning instruments on the national, regional, and local levels available to steer affordable housing outcomes and reflect on the role of public and private actors in housing provision. Insights from various international case studies highlight innovative approaches and best practices in affordable housing provision, covering cases characterized by different planning systems (discretionary vs plan-led), housing tenure systems (tenant vs owner-occupied), and land policy approaches (active vs passive). Contributors to this special session have the opportunity to contribute a chapter to an upcoming book (edited volume) on land policies for affordable housing.

Land policy for affordable housing in Switzerland: ground leases

Josje Anna Bouwmeester[1], **Gabriela Debrunner**[2], **Jessica Verheij**[3]
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This study aims to examine the potential of land policy as a mechanism for improving housing affordability, using Switzerland as a key case. In many Swiss cities, the increasing lack of affordable housing and rising evictions are pressing issues on the political agenda. To address these challenges, municipal authorities are promoting affordable housing development within city boundaries. One particularly promising tool in Switzerland's larger cities is the use of long-term ground leases, which allow municipalities to provide land to non-profit cooperative housing developers at below-market rates (Balmer & Gerber, 2018). By doing so, cities aim to reduce reliance on profit-driven institutional investors who dominate the Swiss housing market, fostering favorable conditions for non-profit actors. Due to the flexibility in terms that can be included in long-term ground leases, there exists a wide range of potential requirements around rent caps, housing types, and social integration that can be regulated through this instrument, thereby ensuring that cooperative housing provides secure and affordable options for its members.

Using a neo-institutional framework, the objective of this study is twofold: first, to assess the potential of long-term ground leases in promoting affordable housing in Swiss cities; and second, to understand varying uses of ground leases in different municipal contexts. This research is grounded in qualitative case studies of three Swiss cities where the use of ground leases for affordable housing is well-established: Biel, Bern, and Basel. Data will be collected through in-depth interviews with key stakeholders, including municipal planning authorities, housing cooperatives, and for-profit real estate developers—some of whom have initiated their own cooperative housing projects. The expected results of this study include a nuanced understanding of how ground leases are implemented and adapted to meet local housing needs, as well as insights into the challenges and limitations of this approach. The findings will contribute to the broader discourse on land policy as a tool for addressing housing affordability and offer lessons for other cities facing similar housing crises.

A Legislative Revolution for Enforcement of Affordable Housing Requirements

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Since 1975, the State of New Jersey has led in requiring municipal governments to adopt and enforce plans and ordinances that require them to achieve their fair share of their region's need for low and moderate income housing affordable to families with less than 50% and 80% of the regional median family income. Largely, this impetus has come from judicial decisions, namely the famous Mt. Laurel cases, in 1975 and 1983. In 1986, the NJ Legislature adopted the so called Fair Housing Act which provided an administrative mechanism to substitute for Court mandate municipal fair shares and direct suits by builders for the right to build affordable development. As a result, by 2000 over 50,000 units has been created with two rounds of fair share numbers allocated throughout the state.

By 2000, this effort stalled. The Council on Affordable Housing established to administer the program never adopted a third round of numbers due to begin that year. Both political parties contributed to this failure. No new housing plans were mandated for 15 years. In 2015, the NJ Supreme Court reassumed control of the program, ruling that the administrative failure required the courts step in again. The judiciary did this, approving over 330 municipal plans which included a projected 30,000 homes to be approved by 2025. However, the issue of what would happen then, for the 4th Round of fair shares.

In a startling development, the Legislature adopted and on March 20, 2024, the Governor signed, a new law, which provided a permanent mechanism for establishing enforceable fair shares every ten years, beginning in 2025. If they wish to avoid suits, towns must adopt fair share numbers by January 2025, using a series of vacant land, economic capacity ,and population growth factors specified in the statute. Six months later, they must adopt and file zoning and other regulations for implementing these plans. Challenges to the numbers and the plans are to be quickly resolved through a dispute resolution program. There is no other state which has such a direct, legally enforceable legislative mandate to plan for affordable housing.

Tracing the roots of land commodification and housing densification in the Alpenrheintal - a long-term, comparative approach

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The housing affordability crisis compels us to think more critically about the role of land ownership, as housing issues are fundamentally land issues. Historical developments and practices of land ownership, along with hereditary traditions, can significantly impact today's housing challenges. Similarly, urban densification is shaped by various socio-historical logics

regarding what constitutes good housing and for whom the state provides housing—and in what ways. The commodification and densification of land and housing intersect through multiple trajectories.

This paper argues that a deep understanding of these trajectories is essential for effectively implementing land policies aimed at achieving affordable and dense housing today. What were the preconditions for affordable housing in the past, and what can we learn—or choose to forget—from these developments?

This presentation focuses on the historical geographies and the different layers of land and housing commodification and densification in the tri-national region of Alpenrheintal. By examining the development of four industrial neighborhoods in the region, various historical trajectories will be explored. This long-term perspective will particularly emphasize the role of land commodification and the changing actors involved in housing development. By analyzing Alpenrheintal as a tri-national region, we can comparatively assess different aspects of the housing system.

Housing the model city of socialism: one century of land and housing policy in Minsk, Belarus

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Belarus, often overlooked in European urban and housing studies, presents a unique system of housing provision, shaped by its Soviet legacy and contemporary authoritarian government. This paper examines the evolution of housing and land policy in Minsk over the past century, from the abolition of private property on land following the 1917 Russian Revolution till today. It demonstrates that while the provision of affordable housing has remained a key element of the social contract between the state and the people, the understanding of affordability and the dominant forms of tenure have shifted significantly. In line with the main objective of this session to explore "the role of land policy in addressing the affordable housing crisis," this paper shows that although the price of land as such was not a factor in the Soviet housing provision model, the development costs of land still presented a significant factor in mass housing provision, leading to debates on zoning and urban density. Moreover, while the decommodification of urban land has been fundamental to the Belarusian model of affordable housing provision, it has also enabled primitive accumulation through housing under the current political regime. A paradigmatic example of this shift is the strategic partnership between the state and the private developer Dana Holdings, which has monopolized the housing market in Minsk since 2008. Although marketed as prime residential real estate, Dana Holdings' developments heavily rely on state subsidies, including free land and government-funded infrastructure—subsidies that were formerly exclusively reserved for state housing companies. Ultimately, this model allows for large-scale profit extraction under the guise of affordable housing provision.

ADVENT OF ZURICH'S MUNICIPAL HOUSING POLICIES

Sanna Kattenbeck

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This paper argues that municipal intervention policies in Zurich's housing market at the turn of the twentieth century significantly influenced evolving ownership structures and, consequently, impacted the urban forms that emerged with a distinctive logic. These new forms distanced themselves decisively from the speculative housing estates that dominated Zurich's working-class districts at the end of the nineteenth century. Moreover, as "the residential buildings constructed by the city may not be sold",**[1]** the land was withdrawn from speculation. The shift from state-determined building laws to city-level regulation significantly impacted ownership structures, land value, and land use patterns.

To achieve the research goal, this paper analyses a specific moment in Zurich's urban history through its urban codes: following the 1907 referendum to amend the city constitution, stipulating "promoting healthy and affordable housing".**[2]** Given that building law in the latter half of the nineteenth century was primarily characterized by an economic-liberal signature, this initiative at the municipal level is highly relevant and should be viewed as a social-democratic corrective. Against this backdrop of an emerging land market, this paper examines how different urban codes interacted with urban development at the turn of the twentieth century by analyzing the advent of municipal housing policies. It explores how these policies contributed to shaping specific urban forms, such as the revised perimeter block and semi-detached housing colonies.

[1] Stadtrat Zürich. Abstimmungszeitung der Stadt Zürich. 21.04.1907. Stadtarchiv Zürich (V.A.c.16.:41).

[2] Stadtrat Zürich. Gemeindeordnung der Stadt Zürich. 1907 (181). Amtliche Sammlung. Stadtarchiv Zürich.

C2: Legal, planning, economic and social Issues in urban densification: a comparative approach (1/3)

Time: Tuesday, 04/Mar/2025: 2:00pm - 3:45pm · *Location:* 0.22-23
Session Chair: Alan Mallach
Session Chair: Tal Alster

Special Session

Densification, or the reconfiguration of already built areas to accommodate higher density, has become a major feature of both urban planning and housing policy. As such, it has prompted new legal frameworks and planning strategies, including zoning reform in the US, brownfields programs in the UK, land readjustment in South Korea, and Israel's innovative 'vacate and build' model. This special session will pursue a comparative approach, in order to look at how densification operates under different political and economic conditions, and different planning regimes, and how those differences affect both the forms that densification takes, but also their outcomes.

Densifying Suburbia - Developers' initiative and planners' inertia?

Katharina Künzel
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Suburban areas hold significant potential for densification to address housing shortages, yet there is a notable inertia in municipal planning departments to exploit this potential fully. Instead, private developers have increasingly driven suburban densification initiatives, positioning themselves as key actors in urban development. Despite their growing influence, the strategic behaviour of developers and the relationship between urban planning authorities and privately driven projects remain poorly understood. This study explores the relationship between key decision-making resources and the strategic behaviour of different types of developers involved in suburban densification in Dortmund. Employing a qualitative approach, including document analysis and interviews, the research investigates how developers manage various resources—legal, financial, human, informational, and political—within the development process. The findings provide insight into the motivations, interests, and strategies of developers, offering a deeper understanding of the complex dynamics underpinning suburban densification efforts.

Accessory Dwelling Units: A 'Do-It-Yourself' Model of Residential Densification

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In the context of the growing US movement for zoning reform, action to further the development of Accessory Dwelling Units (ADUs) have become increasingly popular. The emergence of ADUs (a category which includes the conversion of an existing single family structure into two or more units, the expansion of an existing structure to accommodate a second unit, or the construction of a freestanding unit on the same parcel) as an element in American housing and land use policy raises a number of interesting planning and legal questions.

The regulations governing ADUs raise important legal issues about the respective roles of state and local government and local control of land use decisions in the American legal system, as well as important planning issues, including the viability of the single family zoning regime, and the planning implications of densification in different urban and suburban contexts. The use of ADUs for densification raises other interesting questions. The extent to which ADUs actually expand the housing supply (as distinct from housing family members), and the affordable housing supply in particular, is contested. I will present recent evidence from California on that issue.

ADUs, moreover, are the only significant densification strategy that is not primarily based on large-scale capital-intensive development activity driven by governmental planning or developer interests. Instead, it is the sum of multiple separate decisions by individual property owners pursuing individual economic or social interests. As such, it represents a notable experiment in changing land use through a bottom-up "do it yourself" process.

My paper will present the legal and planning issues associated with the changing role of accessory dwelling units in United States land use law and practice, and explore the implications of this for single-family zoning and the extent to which can lead to significant increases in the supply of housing, particularly affordable housing. Finally, I will offer some observations on the significance of the 'do it yourself' land use change model, and whether the ADU movement in the United States offers any lessons or models for housing and land use policy in other countries.

Homeowners Saying "Yes, In My Back Yard": Evidence from Israel

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The role of homeowners in curbing housing development, leading to shortages and lack of affordability, is a dominant explanation for tightened regulation and limited housing supply in high-demand areas. This paper shows that homeowners can also play the opposite role, as pro-development stakeholders. Original research based on permitting data, a survey of owners and analysis of planning objections from Israel shows that the self-interest of owners does not necessarily lead them to oppose development. Indeed, when owners stand to directly reap the gains of densification they are very likely to embrace landowner preferences, demanding redevelopment and further upzoning of their buildings. The paper makes two contributions. One is theoretical: elaborating conditions that shape homeowners' interests and the
politics of planning. The other is policy-relevant: highlighting a politically feasible path for densifying high-demand neighborhoods and regions.

A legal and management comparison of auto-constructed and state-led densification in South Africa

Neil Clifford Klug[1], **Margot Rubin**[2], **Sarah Charlton**[1]

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In South African cities densification is happening in multiple ways, driven by diverse actors and initiatives both authorised and promoted by government authorities, as well as those that bypass their involvement. In the low-income housing sphere where demand for accommodation is acute, two strands of densification reflect contrasting strategies, dynamics and dimensions of governance. Both involve the creation of new housing stock, and both accommodate low-income households. The first is a relatively recent top-down housing typology driven by government in partnership with private developers: low-rise blocks of flats for very poor households included into mixed-income developments with substantial private-sector interests. The second strand has a longer trajectory: rooms-for-rent built in the yards of individual, mainly low-income homeowners, often without building permission or legal compliance. Collectively, the densification impacts of these rooms are substantial, although they are not without problems related to conflicts between owners and lessees around excessive rent seeking practices and inadequate contractual arrangements. These two trends represent very different approaches and implications, in terms of management, maintenance, social relations, and ultimately governance.

In this paper we compare these two phenomena, using cases from across the South African highly urbanised province of Gauteng, drawing attention to the differing actors, relationships, legal aspects and management implications of each. Generally, the response from government to the bottom-up approach, locally provided rooms-for-rent has been wary, piecemeal, incoherent and embryonic. By contrast the state continues to promote the blocks of flats approach, despite problems with their poor conceptualisation and execution and the unhappiness of many of their occupants. We argue that this differentiated state response has to do with the latter being celebrated for their perceived formality, while the state often tends to ignore the contribution of the rooms-for-rent largely due its inability to conform to “acceptable” standards, its incrementalism and general “messiness”. As such, the two cases of densification unveil that even within the same country, metropolitan and legal system, two forms of profit-led densification are treated very differently by the state.

D2: Public Space and Urban Governance

Time: Tuesday, 04/Mar/2025: 2:00pm - 3:45pm · *Location:* 0.24-25
Session Chair: Sofija Nikolić Popadić

Public-Private Partnerships for Parks: A Geography of Policy Transfer among Non-Profits

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The past four decades have witnessed the proliferation of a particular dynamic in the administration of public parks and open space—namely, public-private partnerships. Typically, these partnerships take the form of a nonprofit established to raise funds for and, in large part, govern these spaces in place of direct control by the local parks department or other relevant authority. The apparent success of this model and its wide replication, is evident especially across the United States and Canada. As more of these nonprofit organizations have formed, a professional network has also emerged through which relevant knowledge, policy, and best-practices are shared among practitioners. Lessons from park projects—from official policies and funding structures to design elements—are learned from cities by (other) cities, in many cases at the initiation or with the help of a nonprofit. This paper will explore these issues. Specifically, how planning policies pertaining to park and open space development/preservation, move from one place to another, how non-profits help in policy mutation and/or transplantation across cities. We explore how these organizations engage with city-to-city learning and how planning ideas (including those related to law, management, and property) travel across jurisdictional borders. This analysis focuses on data collected through a survey of practitioners. The results indicate that, far from being incidental, knowledge transfer is an acknowledged an even deliberate part of nonprofit work in this sphere, one that is visibly shaping urban park policies as well as the cities around them. The implications of this research are therefore important not only for this issue area, but to other urban issues, as well as for the study of city learning in general.

Public space, planned as a structuring and connecting element aiming for human interaction, conceived as a barrier by layers of institutional levels

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We plan to improve our spatial surroundings, but the result doesn't always turn out as planned. There is a mismatch between goal and form when public space, planned as structuring and connecting element as part of a larger whole, aiming for human interaction, is conceived as barriers preventing both. In this paper, we seek to identify the action situations creating this mismatch and the structuring exogenous variables framing them. Our analysis is based on Ostrom's (2005) IAD-framework.

The Norwegian Planning and Building Act (PBA) organizes the planning processes as a hierarchy of legally binding plans. Municipal master plans and area zoning plans are prepared by the municipality. Detailed zoning plans are more often prepared by private actors. A plan-led system thus performs as development-led practice, dependent on private initiatives and a market demand in urban transformation and densification projects.

According to PBA planning 'shall establish goals for physical, environmental, economic, social and cultural development of municipalities, and state how these functions can be discharged' (§ 3-1). The list of functions and considerations pursuant to the act is long. The recipe for prioritising between conflicting goals is left out. Furthermore, PBA portrays land-use planning as linear. However, knowing that planning is iterative, the apparent absence of testing and evaluation of the design before implementation is worrying.

Area zoning plans seems to be key to understanding this problem. We have discovered a duality in our cases. To handle complexity, property rights, and an unknown time perspective, these plans are zoned into several sub-areas, and/or projects of prescribed solutions. First, urban planning strategies concerning the whole plan are developed, street alignment of buildings and city block structures, based on grids of connecting public spaces. Second, instructions on conceptualization of sub-areas and/or projects are formulated as rules. The second section largely deviates from the first, and both formulated as legally binding statutes, with no trace of testing and evaluation before implementation. This dual layer of statutes forms the bases of detailed zoning plans before a series of sectorial guidelines, contributing to the conceptualization of public space, conceived as barriers by layers of institutional levels.

Land rights for livelihoods in urban public space

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This paper contributes to PLPR discussions on informal land rights, with a focus on land rights in urban public space. For many of the urban poor with limited space in the home, external space, often the street, is a crucial but highly contested place of work, where rights to operate are based on complex informal negotiations with powerful urban actors, including street-level bureaucrats, local gangs, or political parties, and extensive payments of fees or bribes. Drawing on a rights-based perspective, and on concepts of the role of law and property rights in urban development, the paper explores dimensions of property rights which exist in public space.

'Public space' here is interpreted as all physical space to which the public have access, and an understanding of the social and political relations which determine use of that space, irrespective of ownership or planning designation. Far from a contradiction, in many urban settings individual rights to operate in public space are intricate and well-established, and rights to use, transfer, inherit or sub-let space are highly controlled.

The paper explores how groups marginalised by ethnicity, sector of work, gender or migration status navigate issues of claim, contest and control in urban public space. It further examines the concepts of collective claim, and extent to which urban public space operates as a 'common pool' resource (Ostrom and Hess, 2010) in contexts of widespread poverty, especially where customary land tenure is commonplace. The paper draws on field research over 20 years on urban informal economies in Africa, Asia and Latin America, including the economies of refugees and displaced people who must negotiate hybrid national and international regimes. The conclusion argues or a more nuanced understanding of collective rights to underpin an equitable approach to the management of urban public space.

Street Vending Livelihoods: Exploring the Potential of Property Rights Regimes in Public Space, A Case Study in Xi'an

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Public spaces are essential sites for street vendors' operations, but in many parts of the world, vendors' rights to use these spaces are undermined by ambiguous or exclusionary property rights regimes, which inhibit their ability to sustain a livelihood. In the Chinese context, the dual land property rights system in urban and rural areas presents a unique opportunity to study the impact of different land rights regimes on the marginalized street vending community. While urban public spaces are government-owned and regulated, those in urban villages operate as rural land and are collectively owned by villagers. This collective ownership model offers a more inclusive approach to public space management, potentially benefiting street vendors. This research aims to investigate the potential of collective property rights in urban villages as a more inclusive alternative to the socialist rights regimes of urban China or regimes influenced by capitalist economic logic found outside China. Through a case study of Xi'an, the research conducts comparative analyses of property rights regimes in public spaces within and outside urban villages to explore how different frameworks impact street vendors' livelihoods. The findings reveal that urban villages with collective property rights regimes offer more inclusive environments for street vendors. These areas see higher vendor density, longer operating hours, more vendor types, a greater diversity of products, and higher incomes compared to those outside urban villages. However, despite having more stable access to public spaces, vendors in urban villages face significant operational costs, such as rent, utilities, and sanitation fees. Additionally, their access remains precarious, as informal rental agreements leave them vulnerable to sudden rent increases and evictions.

The design of real estate: ownership rights, the CPTED approach and owners liability to prevent crimes by third parties.

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Background

Property owners have the right to design and manage their premises, though this right is subject to various legal restrictions and responsibilities. Inevitably, tension arises between the rights of ownership and the obligations imposed by law. This tension becomes particularly evident when a crime is committed by a third party on or near the owner's property, raising questions about the extent of the owner's duty to prevent such criminal acts.

Aim

The study explores this issue through the lens of the Crime Prevention through Environmental Design (CPTED) approach, which advocates for urban design strategies aimed at reducing crime opportunities. CPTED is based on four key principles: natural access control, natural surveillance, territoriality, and maintenance. The study seeks to determine whether Israeli law integrates these principles, an issue that has yet to be addressed in academic literature.

Methods

The researchers will examine two categories of legal frameworks: A. Planning and building laws, regulations, and guidelines. B. Private legal rules, with a particular focus on tort law. They will draw upon the Nevo Legal Database, along with governmental and municipal databases, and conduct a qualitative analysis to evaluate whether these legal documents align with the core principles of the CPTED approach.

Preliminary findings

At this stage, the findings concentrate on court rulings concerning the tort liability of property owners for injuries sustained due to criminal acts. A total of 682 decisions related to the tort liability of premises owners were identified in the Nevo legal database, of which 30 specifically addressed liability for damages resulting from criminal activity. The qualitative analysis uncovered five key considerations for holding premises owners liable. However, only in one case—TA 2271-04, Estate of the Deceased Tamir Baraz et al. v. Beitili Ltd. et al.—did the court's ruling reflect principles aligned with the CPTED approach.

Preliminary Conclusions

In most cases, the tort liability of property owners has been attributed to factors unrelated to the property's design. Notably, only one case demonstrated a court decision that aligned with the CPTED approach.

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A3: No Net Land Take

Time: Tuesday, 04/Mar/2025: 4:15pm - 6:00pm · *Location:* 0.04
Session Chair: Katharina Künzel
Session Chair: Peter Lacoere

Comparative Strategies for Reducing the 'Net Land Take' in Germany and Switzerland

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Land is a limited natural resource that should be preserved. Currently, the rate of land consumption for settlements and infrastructure poses significant challenges which lead to loss of biodiversity, landscape fragmentation, and degradation of the environment. In 2002, Germany's National Sustainability Strategy was established, and the target was set to reduce the 'Net land take' (*NLT*) to 30 hectares per day by 2020. In 2016, the target was updated and the duration was extended, aiming to reduce the *NLT* to less than 30 hectares per day by 2030. The European Commission also has a goal of zero *NLT* in the EU by 2050. However, the *NLT* in Germany was 52 hectares per day on average between 2019 and 2022, according to the Umweltbundesamt, Germany. Also, the *NLT* is very high in the rural areas when compared to the urban areas in Germany. On the other hand, Switzerland made significant progress in sustainable land management despite its unique topography and limited land availability. Since most of the available literature emphasizes defining land take, this paper specifically investigates the planning and practical implementation of the policies at the local level to limit land consumption.

Therefore, appropriate urban and rural case studies from Germany and Switzerland, primarily addressing the reduction of land take policies that are structured and implemented are examined. Analyzing EU, national, and municipal data, supported by literature and interviews, this paper depicts the indicators and policy frameworks used to address *NLT* in each country. With the most relevant instruments in German and Swiss federal zoning regulations, to assess their effectiveness in reducing land consumption, the comparison shows that Germany struggles to achieve its national sustainability targets while Switzerland's advanced approach offers valuable lessons to Germany in mitigating land take. Finally, the paper shows which strategies Germany can adopt from Switzerland to achieve the 2030 National target and the EU's zero *NLT* goal by 2050.

Are small-town newspapers communicating the issue of land consumption? New developments through the lens of the press in rural Bavaria

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In the Bavarian state of Germany, rural areas contribute disproportionately to land consumption. This trend includes towns experiencing demographic decline and those with plenty of buildable lots (Miosga et al.2020). Rural land consumption has little in common with sprawl on the periphery of metropolitan regions, as planning literature has emphasized in the past, and more to do with rural housing development dynamics and the many actors involved such as village mayors, property owners, councilmembers, and planning staff (Ritzinger 2018; Gerend 2020). Moreover, research has shown that buildable land potential for rural infill development in most German villages and small towns is typically more than adequate (Ehrhardt et al. 2023; Blum et al.2022). In order to understand the rural discourse around new housing development and land consumption, the local newspapers may offer clues on how the issue is framed for its readers. Local newspaper coverage still matters greatly in local politics. Frequently, mayors report on plans for new single-family housing developments in glowing terms for the local press. This paper asks: are small-town papers critically informing readers on linkages between such developments and land consumption? The methodology underpinning this paper utilizes quantitative and qualitative textual analyses of newspaper articles related to new development in a rural Bavarian region. The results offer data to constructively engage the local media on the issue of land consumption.

How planning policy and landowners' agency shape small-scale densification in suburban areas

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Many European countries are pushing for urban densification to reduce net land take. Despite the prevalence of the topic on political agendas, planning authorities' pursuit of the goals are limited, particularly in suburban areas where resistance to change is common among both residents as well as municipalities. Past research on urban densification has primarily focused on medium to large-scale projects, i.e. 'hard' densification. In contrast, small-scale 'soft' densification efforts initiated by private landowners have received far less attention. Specifically, the interaction between planning policies and the agency of these landowners remains underexplored.

We address this gap by investigating the impact of planning policies on small-scale densification efforts initiated by suburban landowners. Qualitative interviews are conducted with landowners and developers in suburban areas of Liverpool (UK) and Dortmund (Germany) to explore how planning frameworks (which usually expect new development to blend with the existing neighborhood) influence and restrict landowners' decisions and options, thereby prompting how landowners navigate the planning system. By looking at both successfully developed plots as well as those that have remained vacant for extended periods, the research highlights the relationship between structural influences of planning policy and the agency of individual private landowners in suburban areas.

This contribution provides important insights into how suburban densification is influenced by both planning policy and landowners' agency, contributing to a deeper understanding of roles and interests in the suburban densification processes. A clearer understanding of the challenges faced by landowners and the limitations of the existing planning framework could provide the basis for rethinking and adapting current planning policy to better meet the new challenges of densification.

Net land take in Portugal: one step forward and two steps back

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Urban development in Europe is being shaped by the "No Net Land Take by 2050" target, set by the 2011 Roadmap to a Resource Efficient Europe [1] and supported by the EU Soil Strategy for 2030 [2]. Land take refers to the “loss of undeveloped land to human-developed land” [3, p. 4] over a specific period.

Land take have already been addressed by previous studies [4, 5], which analysed changes in land cover/land use between 2007 and 2018 in mainland Portugal, by NUTS III regions and by municipalities in the metropolitan areas of Lisbon (AML) and Porto (AMP). In those ones, the increase in artificial land surface area was 4.6% in AML and 4.9% in AMP, slightly lower than in mainland Portugal (5.7%).

Although Portuguese legislation does not explicitly refer to the goal of "No Net Land Take", it is somehow reflected in the Portuguese Law of Land-use Planning (2014 and 2015), strengthening the exceptional nature of the reclassification of rural land to urban land. However, to mitigate the current housing affordability crisis, the government approved in January 2024 the so-called "*Simplex urbanístico*," which aims to facilitate the creation of new residential or industrial areas on rural land.

This setback in achieving European goals has naturally raised concerns among academics, practitioners, and public organizations involved in spatial planning. Our team at CiTUA will soon coordinate a research project, whose main objectives are: (1) To develop a methodology to determine the degree of soil sealing within urban areas and to monitor its evolution; (2) To identify the urban spaces most vulnerable to the effects of climate change with potential for de-sealing, and those that would benefit from the development of nature-based solutions; and (3) To produce recommendations concerning soil sealing in urban areas.

This presentation has a two-fold purpose: on the one hand, it will discuss the progress and setbacks of Portuguese legislation in achieving the goal of ‘No Net Land Take by 2050’; on the other, it will present the contribution of our research project in proposing approaches that can support revisions of Municipal Master Plans in this context.

Upping densities; are the great expectations of densification being wasted in the back yards of suburbia?

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Densification has become an important planning policy in many countries to both prevent urban sprawl and encourage an urban renaissance (Dembski et al., 2021). In England, this can be seen in the National Planning Policy Framework’s ambition to make the most effective use of land by supporting the development of underutilised sites. Delivering central government’s policy ambitions has always proved challenging, as epitomised in Pressman and Wildavsky’s (1973) seminal work on complex and fragile delivery chains. Notably, lower tiers of government contend with local needs and priorities alongside delivering national demands, while successful implementation is demonstrated to concern the fit between mechanism and local context (Smith, 2018). This is becoming apparent in England, where (under it's discretionary planning system) many local plans are adopting a somewhat lacklustre approach to densification, particularly as it might be applied to smaller sites in suburban areas (i.e. 'soft densification') (Dunning et al., 2020). In this paper, we report the findings of a review of densification policies in two metropolitan areas in England (the Liverpool City Region and the West of England) which draws empirically from interviews with senior planning officers to understand how densification is framed and practiced in local planning policies. Here, we find local authorities to take an ambivalent attitude towards small scale densification in suburban areas, with proposals often regarded as something which is 'nice to have' rather than an essential policy ambition. As such, we question in what way are the admirable ambitions of densification withering in England’s suburbs?

B3: Community Rights, Housing, and Land Use

Time: Tuesday, 04/Mar/2025: 4:15pm - 6:00pm · *Location:* 0.16
Session Chair: Deniz Ay

Community and Human Rights: Safeguarding Language and Housing in Irish Urban and Regional Development

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Irish (*Gaeilge*) is the first official language of the Irish state. Despite this, the prevalence of the language has dwindled in much of Ireland, apart from regions known as *An Ghaeltacht.* These regions are designated areas where there are special measures in place to safeguard the language. However, despite these efforts, there is a troubling decline in the percentage of people capable of speaking *Gaeilge*. This decline is closely intertwined with housing, presenting a complex web of challenges for housing policymakers.

While there have been substantial amounts of research into the decline of the use of the Irish language, along with studies into the Gaeltacht regions, this research has not delved into the role of housing in promoting and protecting the Irish language. Moreover, there has been substantial research into international minority language protections, but again, this research has focused on other aspects of language protections, such as education, rather than housing. In addition, more research is needed into the role that international human rights law might play in linguistic minority protection.

This paper aims to fill these research gaps in three main ways. Firstly, this research explores the main challenges facing Gaeltacht regions by analysing key legislation and regulations to ascertain if the Irish legal framework adequately addresses language issues and housing rights concerns. Secondly, this article explores the role of international human rights law, particularly the right to adequate housing, in protecting linguistic minority regions. The main United Nations and Council of Europe treaties concerning minority language protections and the right to adequate housing are analysed. Thirdly, this article explores the need for housing policies that strike a balance between fostering development and safeguarding linguistic identity and suggests possible considerations and avenues that housing policymakers should consider to build sustainable communities in these regions.

Group And Collective Rights, And Urban Planning: Case Studies From Québec, Canada

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Group and collective rights are human rights, but such rights emerge when the members of a group are discriminated against in order to protect the group temporarily or in perpetuity, depending on how long the discrimination lasts. Some literature exists on how individual human rights affect municipal matters (Agrawal, 2020, 2022, 2023), but studies investigating urban issues from the lens of a group right or collective right are almost non-existent. Using liberal theorist, Kymlicka's rights framework (1995, 1998) and relying on existing legal and political discourses (Rousseau & Côté, 2017; Samson & Langevin, 2015; Sanders, 1991; Taylor, 1994), key informant interviews, and a select set of case law pertaining to the French-speaking Quebec province in Canada, the research concludes that the tension between individual and group rights and the collective rights of French-Canadian Quebecois and Indigenous peoples are responsible for growing discord in Quebec. Municipalities – big or small – in Quebec appear to be struggling to handle the demands of the Indigenous, ethnic and religious minorities living among them. The legal complexity of and potential inconsistencies between the Quebec Civil Code and Charter and the Canadian Charter make the situation more challenging. The popular sentiment against and distrust of the Canadian Charter among Quebecers further complicates municipal efforts to find solutions.

Informality Matters – The Invisible Work Activities in German Inner Cities

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In recent decades, attention to informal land use has steadily increased. Numerous studies, as well as European legal frameworks, have demonstrated that informal land use is a significant issue for scholars focusing on planning, law and property rights (Kolocek 2017). In this paper, we specifically examine informal work, which we consider to be a complex issue encompassing various dimensions (Devlin 2018; Herbert 2021; Roy 2005).

Germany's welfare system has been gradually eroded over the past decades. Its socio-political logic has changed from an 'active' to an 'activating' welfare state (Butterwegge 2018). Poor people often compensate for the lack of state care by engaging in informal work, such as begging, selling street newspapers, or collecting bottles. This informal sector has become a significant but invisible pillar in the German welfare state.

The presentation is part of the MaBIs (Marginalized Groups and the Solidary City) research project, which focuses on the transformation of inner cities. We first provide an overview of informal work activities of poor people. For each activity (street paper selling, collecting deposits, and begging), we systematically examine several dimensions of informality, such as the degree of formalization, recognition by public authorities and its (new, but often overlooked) importance for ensuring an adequate standard of living. Additionally, we explore the spatial dimension, asking how planning regulations affect the daily lives of people working in the informal sector.

Furthermore, we look at the content of street papers in Germany from cities such as Bochum, Dortmund, Munich, and Hamburg, focusing on the significance of informal work for people who are or have been homeless. We present the findings of an empirical content analysis, addressing the following questions: To what extent are informal activities discussed in these papers? What claims to space are made? Which actors are targeted by calls for (de)regulation?

We conclude with a critical discussion of various approaches to address informal work activities in a highly formalized country like Germany.

Innovative Policy Responses to the Housing Need in Nigeria: Lessons from Finland and Singapore

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Housing is a significant issue for a nation like Nigeria due to its fast-growing population and urbanisation. The relevance of affordable housing in Nigeria is further revealed in the 2024 World Population Review (WPR) of African countries with the highest homelessness rates, which estimates Nigeria with the highest level of homelessness in Africa. The WPR data estimates that over 24 million people live without a place to call home in Nigeria. With no discernible end in sight, this paper explores the need for innovative land use and social policy approaches to supplement and disrupt Nigeria's current land use policies and affordable housing schemes. Using a comparative approach, the paper will detail how Finland and Singapore adopted a housing-first approach (including social support strategies) and a comprehensive land-use policy in providing affordable housing. However, the paper will first unpack the concept of homelessness in Nigeria and the key drivers of homelessness. The effectiveness of Nigeria's active and passive land use and socio-legal policies in ensuring land management, equitable access, and affordable housing will also be examined. The paper will use the unique integrative land use and social policies of Finland and Singapore – such as the Finnish Land Use and Building Act; Land Use, Housing, and Transport (MAL) Agreements; Social Mix Principle; Finnish Housing support and subsidies; Singapore's Land Acquisition Act; Public Rental Scheme; interim rental housing scheme and other upper and lower-level programmes – in proffering useful recommendations to tackle homelessness and provide affordable housing in Nigeria.

Spatial Transformation by Law: Promise, Practice and Future Pathways

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Since the dawn of democracy in 1994, the rapid and decisive spatial transformation of South Africa's fractured, unequal and unsustainable settlements created during its Colonial and Apartheid pasts has been a core principle, key driver, and desired outcome in and of spatial planning, land-use management and local government legislation. Law, so the promise held, would ensure the realisation of the spatial transformation so crucial to the many other economic and social transitions that the country had to go through.

Practical experience, has, however been quite the opposite. Despite a wide array of strategic, spatial and sector plans prepared in, for, and by municipalities with spatial transformation as core objective, its manifestation on the ground has remained elusive. This has raised serious questions as to 'what else', 'what more' and 'by which means and mechanisms' spatial transformation could and would be brought about.

In this paper, the authors engage these questions making use of commissioned research they undertook for the South African Local Government Association (SALGA) in 2023 and 2024 into (1) progress with spatial transformation in a sample of twenty municipalities, and (2) indicators by which spatial transformation could be measured and used to assist municipalities in improving their performance in this regard.

While the research deals with a specific South African situation, the broader engagements with (1) human behaviour, (2) organisational culture, and (3) the prospects and limits of 'the law' in the pursuit of progressive planning objectives in power-dense, multi-stakeholder environments should be of interest to researchers engaging similar phenomena and questions in other settings.

C3: Land Rights, Expropriation, and Housing Justice

Time: Tuesday, 04/Mar/2025: 4:15pm - 6:00pm · *Location:* 0.22-23
Session Chair: Stefano Cozzolino

From Cardiff Bay to St. John's, Newfoundland: the Pointe Gourde principle and statutory compensation in de jure and constructive expropriation

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Constructive expropriation is recognized in Canada when regulation (1) deprives an owner of all reasonable private uses of the land; and (2) confers on the public authority a beneficial interest in the property or an advantage flowing from it. In rare cases where constructive expropriation is established, the question of the compensation to the affected owner arises.

The issue is illustrated by the 2024 decision of the Supreme Court of Canada in *St. John's* (*City*) *v. Lynch*. The claimant owned undeveloped land within the watershed of the Broad Cove river, which supplies clean water to the city of St. John's. When the land was originally acquired, it lay outside the city's jurisdiction, but as the city expanded, the land was brought first under the municipality's pollution control, then later under the city's building permit requirements, and finally in 1992, under the city's zoning powers. The land was subsequently zoned for certain discretionary uses. The owners enquired as to the possibility of limited development but were ultimately informed that to protect the city's water supply, the property must be left in its natural state. The courts upheld the owner's claim for constructive expropriation.

The question before the Supreme Court was whether compensation was payable based on the value of the lands with or without zoning restrictions. The issue was framed as the application of the *Pointe Gourde* principle, according to which compensation for expropriation should be based on the market value of land prior to the initiation of expropriation without taking into account any appreciation or depreciation which was due entirely to the scheme underlying the acquisition. This compensation principle originates in case law, but is now codified in Canadian expropriation legislation. In the *Lynch* case, the Supreme Court concluded that under the circumstances compensation is payable on the footing of the value of the land as currently zoned.

The paper uses legfal methodology to assess the suitability of the *Pointe Gourde* rule to constructive expropriation. More broadly, the paper raises questions about the applicability of statutory compensation to constructive expropriation, which was controversially held to be grounded in common law.

Post-Colonial land acquisition (appropriation?) in Singapore

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Lee Kuan Yew's People's Action Party (PAP) won political control of Singapore in 1959. His incentives for foreign direct investment and preference for stable government are well known. Less well known are his Socialist roots, and a series of measures to secure 90% of the land in public ownership. This paper will identify the origin of Lee's land regime. He wrote 'I saw no reason why private landowners should profit from an increase in land value brought about by economic development and the infrastructure paid for with public funds' (Lee, 2011:97). In Parliament (1994) he said 'things have to be done which are unpleasant. I changed the acquisition laws… it was Robin Hood but I succeeded in giving everybody their own home' quoted in (Han, Fernandez and Tan, 2015:341). Norwegian Town Planner Erik Lorange, led a UNDP delegation to Singapore in 1962 and advised 'the necessary legislative basis for compulsory acquisition of land for all kinds of planning purpose must therefore be secured' (Lorange, 1962:27); he also suggested that this land in turn should be offered to developers on 99 year leases in return for an upfront premium and annual ground rent. The centrepiece in this programme of reform (revolution?) was the Land Acquisition Act of 1966, which enabled the state to acquire land 'for any public purpose'. The logic of this arrangement will be challenged by reference to land rent theory, highlighting some of the consequences and contradictions facing policy makers today in dealing with two classes of 'property' owners: freeholders with ever rising asset value, against a growing cohort of leaseholders with falling asset value. It worked for a time, but leaseholders can now see their stakes eroding in value, while an elite minority are protected by anomalous freehold tenures. Essentially, the land regime instigated is flawed by its design. In 1960 Lee referred to the PAP as 'a revolutionary not a reformist movement', (Han, Fernandez and Tan, 2015:345). In which direction will the novel land regime in Singapore rearticulate? Towards a fulfilment of Lee's revolution, or towards a more conventional, western pattern of private ownership?

Eviction of unlawful occupiers in the Netherlands and South Africa: balancing housing and property rights

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The right to adequate housing is recognized as fundamental by the United Nations, playing a central role in the fulfillment of all economic, social, and cultural rights. Enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), this right offers a variety of protections, including security of tenure, habitability, and affordability. Despite the ratification of the ICESCR by 171 out of 193 UN member states, the global housing crisis remains dire. UN-Habitat estimates that 1.6 billion people currently live in inadequate housing, with this number projected to rise to 3 billion by 2030. Many of these individuals reside in informal settlements or abandoned buildings, where lack of legal title and security of tenure exacerbate the vulnerability of their housing situation.

This paper focuses on one of the most marginalized groups in the housing debate: unlawful. While much of the scholarly work on housing rights has concentrated on landlord-tenant relationships, there is a significant research gap when it comes to understanding how the right to adequate housing protects unlawful occupiers. This study aims to fill that gap by examining the legal frameworks that govern the eviction of unlawful occupiers in two jurisdictions with contrasting approaches to unlawful occupation: the Netherlands and South Africa.

In South Africa, unlawful occupation was heavily penalized until 1998, when a constitutional right to adequate housing and specific legislation protecting unlawful occupiers were introduced. Conversely, squatting was decriminalized in the Netherlands until 2010, but since then, anti-squatting laws have criminalized the practice and expedited evictions.

Through a comparative legal analysis, this paper investigates the extent to which the right to adequate housing offers protection against eviction for unlawful occupiers in these two countries. It explores whether housing and property rights are inherently in conflict in eviction cases and assesses which right takes precedence. The findings contribute to the broader debate on balancing housing and property rights, offering insights into how different legal systems reconcile these tensions to realize the right to adequate housing.

Land reform beneficiaries negotiating basic services from exclusionary Municipal land administration and management processes in Steve Tshwete Municipality, Mpumalanga Province, South Africa

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Equitable access to land is a basic human right. Access to land enables the basis for negotiating access to basic services and infrastructure needed for dignity, health and sustainable settlements. However, the distribution of this finite resource in the global South has undermine the capacity of some populations to enjoy the land aligned rights and associated benefits. As a result policies intended to secure access to basic services like water, energy and sanitation undermine the capacity of marginalised communities to enjoy sustainable livelihood and safety. This paper uses the example of the Doornkop Communal Property Association in Mpumalanga Province in South Africa to illustrate how narrow Municipal spatial planning conceptualizations of land delivery and planning perpetuate the marginalisation of those who have secured land through Restitution process. The paper concludes by highlighting the initiatives by the community to secure access to basic services and suggestions for municipal land management and use planning professionals to be more inclusive in the interpretation and application of land governance administration and regulation. The data is collected through ethnographic qualitative research engagements with Municipal officials, Communal Property association members. These include key informant interviews, focus group discussions and secondary data review.

The study illustrates how traditional municipal definitions of land and basis for extending services undermine the Constitutional Rights of land reform beneficiaries in South Africa by privileging economic and market- based criteria at the expense of equally legitimate socio-economic criteria. The study highlights the strategies deployed by the marginalised community to negotiate basic services from Municipal and other stakeholders in South Africa

Key words

South Africa, Land Reform , Spatial planning, Marginalised, Communal Property Association, tenure , exclusion

Readjustment Plans for Urbanizing Palestinian Society in Israel

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Arab-Palestinians citizens in Israel constitute about 21% of the country's overall population. Due to prolonged negligence from the side of planning institutions and due to freezing master planning in Arab localities for years, many of these localities lack basic infrastructure, development and urbanism and experience a severe shortage of housing.

In the last decade, and after a serious criticism to this kind of discrimination and injustice toward Arab-Palestinian minority in Israel, planning institutions began to promote master planning for Palestinian localities. Land readjustment plans (PLIs) were the primary mechanism in this endeavor. PLIs re-planned and re-organized the private lands of Palestinian landowners to afford, at the end of the process, new parcels for housing, commerce, roads, green zones, public needs and other uses of land. According to Israel's planning institutions, readjustment plans aimed to ensure new modern neighborhoods. However, a wide group of Palestinian landowners and stakeholders opposed PLIs.

The research discusses that dispute between planning institutions and landowners. It includes an analysis of approximately 1,780 objections that were submitted by landowners to different PLIs in different sites. These objections reveal what really concerns landowners, what they defend indeed, and how did planning institutions deal with their arguments. It embodies a conceptual and cultural conflict between landowners and the planning institutions. Inter alia, while planning institutions believe that PLIs aims to transform Arab society from a rural, local and conservative life to a modern- urban life, landowners believe that planning institutions strive to change their "way of life" and force them to adopt "western way of life" without giving much respect to their tradition and culture. Although the voice of landowners is dominant, it is still worth to note that there are other voices among Arab society, especially the youth, which support land readjustment mechanism and willing to adopt the new housing model it ensures.

Meanwhile, knowing that ignoring the demands and vision of landowners prevents the implementation of PLIs, the national planning administration in Israel instructed planners to ensure broader public participation of the landowners and to consider their demands as possible within the planning regulations and norms.

D3: Comparative Land Valuation (1/1)

Time: Tuesday, 04/Mar/2025: 4:15pm - 6:00pm · *Location:* 0.24-25
Session Chair: Rebecca Leshinsky
Session Chair: Terje Holsen
Session Chair: Rachelle Alterman

Special Session

Valuation of land has a long history, nuanced to nation states and legal traditions. Given global challenges from climate change, including floods, landslides and fires; increased tenure in multi-unit living with international ownership; defects in high rise buildings; wars; artificial intelligence; and the global real estate trend; it is timely to discuss issues and factors that must be included in processes and methodologies for the valuation of land as current perils impact on more than nations and individual citizens.

Introduction to the session

Susan Jane Bright
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Introducing the special session "**Comparative Land Valuation"**

Land rent theories and contemporary urban production: a territorial approach

Olivier Crevoisier
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Rent theories have been the subject of renewed attention and contradictory debates in the field of economic geography for the last ten years (Hyötyläinen and Beauregard 2022 ; Haila 1988/2023; Birch 2019 ; Ward and Aalbers 2016). Paradoxically, for a subject so fundamentally linked to space, there are very few works that take a territorial approach (Crevoisier 2014; Colletis-Wahl et al. 2008) to rent. By this, we mean that there exist at subnational and subregional scale endogenous forces in cities and regions that constantly re-negociate how value can be constructed (territorial development theories) and how this territorially linked value is redistributed, considering the control of land.

Adopting an ideal-typical comparative perspective, this article presents a typology of rent theories and rent forms, comparing the main configurations along economic history (Ricardo and Marshall) and proposing that two particular rents are characteristic of today. Firstly, the attractiveness of capital which, since the early 2000s, has been flowing into urban activities, and property in particular, from globalised financial markets. Secondly, consumer mobility, which has developed extraordinarily over the last fifteen years or so, putting different cities in competition with each other in terms of the services and infrastructures on offer. This gives an outstanding importance to the opinions of financier and consumers about places, activities, cultures, etc. This changes how the city is produced, both in the Global North and in the South (Aveline-Dubach 2023a).

These new ways of producing the city outline profound changes in contemporary capitalism. The functions of the entrepreneur and of the rentier are coming closer together, or even fusing in one single player. It is no longer a question of creating value, for example in manufacturing, and then producing downstream the city that will house the workers associated with them. It is now a question of producing a city upstream that will enable the development of both innovative Florida-style activities (Florida 2005), and residential and “presential” activities that will capture the spending of more mobile consumers.

The reform of quasi-judicial appraisers and statutory land valuation politics in Isreal

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Israel has a national land use system and statutory land valuation is identical throughout the state. A statutory land valuation occurs when the law specifies which data and circumstances are relevant to determining the value of the land. Using the contexts of compensation for expropriations and betterment levy in Israel, this article examines how appraisers play a power-generating role in statutory land valuation politics. In 2009. lawmakers in Israel reformed the dispute procedure for statutory land valuation. A landowner who disagrees with a local planning authority value assessment for a betterment levy or compensation offer cannot argue their case in a civil court. In its place, the legislature established a new status for a small group of appraisers (about 8 to 10) designated by the Ministry of Justice named quasi-judicial appraisers (QJ appraisers). A QJ appraiser essentially serves as a judge in determining statutory land valuation and its decision can be reviewed by a civil court only for legal error.

The reform of mandating landowners to bring disputes before QJ appraisers rather than before a civil court, had significant effects on the politics of statutory land valuation. According to the law, the fees of QJ appraiser are a percentage of claim and paid in equal portions by the parties (the landowner and the local planning authority). As a result, claims that are brought to QJ appraisers are tilted toward disputes that involve land of high value typically properties in central Israel and not in the periphery, and in which the amount in dispute is above the fees due. The granting of appraisers a status like judges also creates power structures that lead to the standardization of land value and help local planning authorities influence land market development. These two effects of the QJ reforms will be elaborated in the broader context of the souring housing prices in Israel and the affordable housing crisis.

Valuation practices in urban land readjustment cases in Norway

Terje Holsen, Helen Elisabeth Elvestad
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Valuation of real property is an essential part of land readjustment, with the purpose to establish the right exchange value of parcels shifting owners. Applied methods should be expedient for the exchange purpose. Based on empirical findings from land readjustment cases in Norway, this article assesses whether and to what extent valuation methods in land readjustment are appropriate. The article is based on document analysis of court records on land readjustment from all the Land Consolidation

Courts in Norway, analyzed through institutional theory emphasizing (the lack of) institutional adaptability. The essence of land readjustment is to facilitate implementation of urban transformation. As a peculiarity, Norwegian land readjustment is governed by a special court – the Land Consolidation Court – which historically and still largely is dealing with traditional rural land consolidation. Legal rules on Norwegian land readjustment valuation equate rules for land consolidation. Areas to be exchanged should be valued based on 'foreseeable use', usually understood as investment value. However, for buildable plots, market value might be used. The legal rules can be described as institutional norms or strategies, formulated as approximate procedural descriptions. Legal rules on what to value involves a significant element of discretion and should be understood as a norm. The choice of valuation method is more to be considered as a strategy. The study show that courts lack own expertise on urban valuation and, thus, often take the parties' prior valuation for granted. Furthermore, documentation on valuation methods used is sparse, in several cases such information is absent. Few court records reflect on the complexity of valuation in land readjustment. The lack of own expertise and few cases for processing by the courts contribute to land readjustment appearing unpredictable and risky for the parties. It emphasizes the slow acquisition of competence by these courts in land readjustment due to limited institutional adaptive capacity. The findings from this study contribute to the understanding of how path dependence linked to rule design, history and culturally conditioned norms and strategies lead to inertia in institutional adaptability.

Valuation risk in eminent domain process

Svend Oppegaard

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In eminent domain cases in Norway, the government is bound by law to try to achieve a settlement both concerning the property takeover and the government's economic compensation to the property owner. The property owner has a choice of accepting or declining the government's offer. If the owner declines, the property will be taken by power and the case goes to court which decides the government's compensation to the property owner.

The aim of this article is to study how the courts' verdicts differ in similar cases, and to get an overview of in which kind of eminent domain cases the risk is greatest for the government and for the property owners. These cases are mainly government takeovers of agricultural land, forested areas, housing and industrial land.

This article is based on document studies of court rulings, focusing on road and railroad cases after 2013. The registration of the eminent domain cases and the analyses of the decision-making processes are based on institutional theory (North 1990; 2005, Ostrom 2005). The court cases are also categorised according to type of property and type of method the courts have used according to eminent domain law and appraisal theory to decide the government's compensation to the property owners.

References:

North, Douglass C. (1990): *Institutions, Institutional Change and Economic Performance*. Cambridge University Press.

North, Douglass C. (2005): *Understanding the Process of Economic Change*. Princeton University Press.

Ostrom, Elinor (2005). *Understanding Institutional Diversity*. Princeton University Press.

A4: Emerging Issues with Privately Owned Land providing public amenities

Time: Wednesday, 05/Mar/2025: 8:30am - 10:15am · *Location:* 0.04
Session Chair: Susan Jane Bright
Session Chair: Brian Webb

Special Session

This session will explore issues that are emerging from the increasing global trend towards the private ownership of land that is also open to use by sections of the public; and/or contains public amenities; and/or in which infrastructure is paid for by private persons. Examples include shopping malls, recreational land, and private housing estates. It raises issues in relation to the enjoyment of fundamental rights (free speech etc), standards of construction, planning law, sustainability and property law.

Neighbourhood data capitalism and the rise of the urban data trust

Brian Webb
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Urban data trusts are a mechanism used to place an independent fiduciary intermediary between the data generated by individuals and its use by others (Houser and Bagby, 2023). They are predominantly used to broker agreements between groups of residents/tenants and external organisations through the creation of a 'trusted environment' for the collection/sharing/use of place-based data. In the UK, they have begun to be used as a means of managing data generated within master planned commercial and residential estates (Pinsent Masons, 2022). While urban data trusts are often promoted to ensure data privacy within 'smart' and 'digitally enabled' communities through the managed sharing of publicly generated data, they can also be used as monetization vehicles to allow the selling of neighbourhood resident data for commercial interests (Rinik, 2020).

This research explores the implications of this use of urban data trusts for neighbourhood development and the residents that live in them. It draws on publicly available legislation and governance frameworks to identify the different legal structures available to establish urban data trusts, their different purposes, the potential user groups, and processes being used in the development process to embed the production of data into new residential housing estates. In doing so it argues that, in the context of reduced local government public expenditure, placemaking initiatives, amenity, and public space maintenance and management may come to increasingly rely on the constant selling of personal data to generate an on-going income stream for use by either developers, housing associations, or public organisations such as Local Councils.

The research concludes by questioning how the rise of urban data trusts might further reduce the agency of individual buyers and renters within the UK's housing market, limit housing choice, and restrict individual's ability to manage how their personal data is managed and used. A future research agenda is then set out to consider the implications of urban data trusts for future residential development.

The implications of large-scale complex development for housing affordability (online)

Cathy Sherry
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Australia is experiencing a housing affordability crisis, and governments are convinced that the solution is increased housing supply through high density development.

While Australian cities need more apartments, large-scale development comes with significant costs for homeowners. This is because strata legislation overrides the ordinary rule of Anglo-Australian property law that prohibits positive obligations on freehold land. Strata titles are freehold fees simple, but they are subject to a statutory obligation to pay annual levies. Originally intended to fund routine building maintenance, the levying provisions have opened the floodgates for the provision of extensive services and facilities that owners are made to pay for, including those that have traditionally been publicly provided.

Purchasers of apartments in large-scale, mixed use high and low rise estates are now funding the on-going maintenance of roads, parks, plazas, playgrounds, foreshores and bushland, including spaces that are publicly accessible. As Australia strives to reach net zero, moving from centralized energy and water provision to local, distributed, privately-owned resources, apartment owners are being called upon to own, manage and fund sustainability infrastructure such as embedded networks (microgrids), trigeneration plants, black and grey water treatment plants, solar panels, EV chargers and car share services.

As lay owners often lack the desire or skills to manage complex infrastructure, developers embed the services of third party companies in developments. Using stratum or volumetric subdivision, infrastructure might be sited on separate parcels owned by the developer or associated companies, rather than on strata common property. However, apartment owners will still be compelled to pay for maintenance and use of infrastructure through registered building management statements and developer-negotiated body corporate contracts.

The legal and financial obligations created by these developments are not only beyond the understanding of lay purchasers, but also the governments and planners who are incentivizing them.

This paper will examine the financial and legal reality of large-scale high density development for owners, and the way in which it is shifting costs for infrastructure and public space from the wider community, paying through rates and taxes, to apartment owners, paying through private levies, with serious implications for housing affordability.

The Rise of Privately Managed Housing Estates in England and Wales and Legal Plasticity

Susan Jane Bright
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On large modern housing estates in England and Wales it has become the norm for the infrastructure and maintenance no longer to be the job of local government but of private companies. This can have deleterious implications for standards of construction and maintenance as well as imposing significant costs for home owners that are additional to local taxes. The emergence of this model of private management depends on lawyers finding a workaround to the twin problems that in England and Wales the burden of positive covenants (eg to pay for estate maintenance) does not bind downstream purchasers and the benefit of

negative covenants (eg not to alter the exterior of the house) may not be enforceable by management companies. These issues have yet to receive attention from academic scholars.

This paper will report on research that draws on elements of doctrinal legal research (examining the 'law in the books' that takes the form of case law and statutes), empirical research by the author (interviews and document analysis) and also draws on an eclectic range of sources including media reports, policy papers, and parliamentary debates.

The paper will:

1. outline the development of the model of privately managed housing estates in England and Wales and the emerging issues;
2. report on a small case study that illustrates how lawyers have turned to the 'plasticity' of law, or more accurately, legal technologies, to achieve by indirect means an outcome for their clients, the developers of these estates, that cannot be achieved in a more direct away according to the law on freehold covenants;
3. outline how the UK government is responding to these issues.

Geothermal energy – planning for the future?

Gunnhild Solli[1], **Katrine Broch Hauge**[2]

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Geothermal energy can be a potent contribution to a sustainable energy transition: It is a renewable energy resource, relatively affordable, stable in production, and available everywhere. Geothermal energy can be established on smaller scales for private households, but also upscaled as an energy source for larger consumers like industry, hospitals or energy network for local communities.

Although geothermal energy can be extracted in several ways, a common feature is that geothermal energy requires either land on the earth's surface or volume in the subsurface. Even if use of geothermal energy is increasing, rights and governance of geothermal energy is poorly regulated by law in many countries. A consequence is that geothermal infrastructure can be established without proper notification to the surroundings and can typically be in conflict with existing interests, such as already established energy sources, or cause damage to buildings. Also, the mere establishment of the geothermal infrastructure can create new property rights to the subsurface and can be a potential barrier for future development and societal needs. Planning is key to exploit geothermal energy in a better manner and further research is needed to highlight and develop future strategies.

The article discusses how establishment of geothermal energy can be an integrated asset in sustainable land-use planning by addressing conflicting user interests in the subsurface and consider the long-term sustainability of the overall geothermal system under different legal instruments and regulations. The article will be based on legal comparative analysis of selected European countries.

B4: Mixed Use Development and the Public in the Private (2/2)

Time: Wednesday, 05/Mar/2025: 8:30am - 10:15am · *Location:* 0.16
Session Chair: James Thomas White
Session Chair: Nir Mualam

Special Session

The session seeks to offer a new perspective on emerging approaches to land use mix in cities that are undergoing transformative vertical urbanisation in the early 21st century. Drawing upon a diverse collection of international case studies presented by planning, law and design scholars and practitioners, the session will focus on an urban phenomenon which manifests when public facilities, such as schools, nurseries, and community centres, are co-located within privately-developed real estate projects via agreements and/or partnerships between public authorities and developers. The session's presenters shall demonstrate how this new type of pubic-private collaboration materializes in practice using a range of policy instruments.

Zürich, Switzerland: Using long-term ground leases and negotiated land use plans for sustainable urban housing

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Beyond the beautiful alpine images, Switzerland is a highly urbanised, highly populated country with one of the most expensive land markets in the world. Thus, spatial planning is confronted with the great challenge of preserving the beauty of the country while at the same time, creating a sustainable supply of housing. In an attempt to meet the increasing housing demands stemming from growing prosperity and ongoing immigration, densification has been the political leitmotif of Swiss spatial planning for decades. Against this backdrop, Swiss planners have increasingly made use of an interesting combination of planning instruments in recent years: The possibilities of negotiating special land use plans have been combined with the provision of public land through long-term ground leases. In this way, the public sector can achieve the goals of its sustainability policy – explicitly considering social and economic sustainability in addition to ecological sustainability. The chapter portrays the case of Zurich Kalkbreite, a redevelopment project whereby a tram depot in the centre of Zurich was raised by several floors to create a combination of public open space (roof terrace), small businesses, and affordable housing. The chapter describes this case, while explicitly addressing the housing policy context. In addition, the planning instruments that make projects of this nature possible are considered in more detail.

Public and semi-public spaces in a mixed-use, high-rise Australian development: how do we value good design for building community?

Helen R Barrie[1], **David Kroll**[2], **Kelly McDougall**[1], **Katie Miller**[1], **Adii Shtykov**[1]
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This presentation explores a unique Australian case study. U City is an 'extreme' mixed-use or hybrid building in inner-city Adelaide. The U City building was envisioned as a 'vertical village' and developed by Uniting Communities; a not-for-profit service provider established in 1864 in South Australia. The building hosts retirement living, short- and long-term disability accommodation, not-for-profit service delivery for vulnerable and disenfranchised population groups, commercial tenants including two food outlets, and conference facilities. A major city redevelopment, the $100 million, 19-storey building was designed by world renowned global architecture firm Woods Bagot and completed in 2019. U City operates as a carbon neutral, 6-Star green building (according to the Australian Green Building Council) and was awarded the 2020 'Good Design Australia' Award for Social Impact.

In order to create a sense of a vertical village and foster community and belonging, U City has been designed with several unique public spaces, freely accessible to workers and residents in the building but also to the wider Adelaide community. This includes an Art and Craft Studio space, a versatile, dynamic and oversized lobby space and a third floor space equipped with a full kitchen, informal seating areas and breakout rooms with a wide terrace running the length of the building.

Results from 4-year Australian Research Council project (2022-26) show that public spaces in the building are used in multiple ways to express community and foster belonging. This expression is dynamic, evolving and inclusive. However, we contest that this is as much about the support and championing of actors involved as it is about building design. We consider what value can be placed on incorporating dynamic, public spaces into high-rise building design; what elements of the U City design allowed for the building of community and placemaking and would building design alone have achieved this result.

Co-location of public and private uses: happy marriage or a recipe for disaster? The case of Tel Aviv

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This paper explores an example of public-private cooperation in which city administrations sell land in exchange for public services for the benefit of the community, provided as part of private projects. The result is a complex mixed-use development where public and private floors are co-located. The challenges and opportunities of such projects are examined through Tel Aviv (Israel) as a case-study.

Israel has the fastest rate of population growth in the OECD and for several decades has been experiencing intense urbanisation. In tandem with this urbanisation, Israeli policymakers have increasingly adopted this public-private mixed-use approach to land use planning, especially in core metropolitan areas. In particular, over the past two decades, the city of Tel Aviv-Jaffa has produced over 60 mixed projects in which public floorspace has been allocated within private developments. To explore the public-private mixed-use phenomenon, we adopt a case-study methodology which analyses the Gindi Tel Aviv project, where residential apartments (private sale), offices, and a shopping centre (mall) were weaved together with public uses – kindergartens, a school, an urban park, and a municipally-owned sports and recreation centre. The paper critically reviews the development: the planning process, the mechanisms that enabled allocation of public floorspace; and management challenges that have arisen since completion. We find that while important amenities were provided, issues of equity arise given that no

affordable housing was earmarked in the high-end project. In addition, the complexity of the development raises questions about future developments of this type.

Brussels' Marchandises project: vertical allocation for regeneration initiated by a regional development agency

Constance Uyttebrouck

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The Brussels Capital Region (BCR), Belgium, has witnessed growing state support for mixed-use development in former industrial and office areas. Citydev, a publicly-owned but independent regional development company, is involved in converting these sites and allocating public floorspace within mixed-use projects. This paper explores a vertical allocation case – the *Marchandises* project – located in Brussels' Canal district. Driven by land scarcity and sustainable development goals, *Marchandises* is the first mixed-use project in the BCR to include a multi-purpose building with a mix of uses (manufacturing space, economic services and housing) that are expected to evolve over time. The project includes a public day-care facility, in response to the shortage of such facilities in the BCR. The paper analyses the ownership and responsibilities of the stakeholders as well as the development process and the contractual and legal aspects. Importantly, it points to implementation challenges related to specific planning instruments, regulations and procedures. Still, projects like *Marchandises* contribute to fulfilling urban regeneration goals and show how introducing housing and public facilities in industrial zones both foster economic growth and guarantee the public good. Overall, this case study shows how the combination of public facilities and private uses helps improve cities' resilience and liveability.

C4: Legal, planning, economic and social Issues in urban densification: a comparative approach (2/3)

Time: Wednesday, 05/Mar/2025: 8:30am - 10:15am · *Location:* 0.22-23
Session Chair: Alan Mallach
Session Chair: Tal Alster

Special Session

Densification, or the reconfiguration of already built areas to accommodate higher density, has become a major feature of both urban planning and housing policy. As such, it has prompted new legal frameworks and planning strategies, including zoning reform in the US, brownfields programs in the UK, land readjustment in South Korea, and Israel's innovative 'vacate and build' model. This special session will pursue a comparative approach, in order to look at how densification operates under different political and economic conditions, and different planning regimes, and how those differences affect both the forms that densification takes, but also their outcomes.

Adapting to Change: Urban Densification Strategies in Austrian and UK Spatial Planning Law

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This contribution examines spatial planning laws in Austria and the United Kingdom, focusing on strategies for urban densification. As both nations grapple with sustainable urban development, this contribution explores how their legal frameworks and planning systems address the challenges of redensification. Using a comparative case study approach, this research is looking into key legal and institutional structures in both countries. A detailed case study of Austria's spatial planning law explores land-use regulations, development control mechanisms, public participation processes, and urban densification policies (e.g., zoning plan amendments, building transformations, vacancy activation). Additionally, the contribution examines the integration of critical infrastructure (e.g., district heating), property rights, and constitutional law considerations in the Austrian context. Findings reveal significant differences between Austria's federal, locally detailed approach and the UK's more centralized, discretionary system. However, both countries share a common goal of adapting their planning frameworks to address climate change, housing affordability, and urban sprawl. Austria's legal structure, influenced by EU law, and the UK's distinct post-Brexit framework offer valuable insights into the evolving role of spatial planning in promoting sustainable urban transformation. The research aims to contribute to the growing discourse on comparative urban planning law, providing practical insights into legal mechanisms for sustainable urban densification. Keywords: Spatial planning, urban densification, zoning plan amendment, vacancy activation, building transformation, comparative law, Austria, United Kingdom, sustainable development.

Property rights on volumes as instrument for housing densification and multiple land use

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As a result of demographic developments, the density of the population in Europe is increasing and, hence, the need for more densification of building and housing complexes is becoming increasingly higher. An optimized use of the air above the ground and of the underground is, in view of these challenges, increasingly important. This optimized use triggers the question whether property volumes can, from a property law perspective, be stacked the one above the other. From a legal perspective, this raises the issue of 'property rights on volumes' and its relation with traditional concepts, such as immovable accession.

In the face of the housing crisis in Europe, several legal systems have introduced innovative legal devices in order to strengthen the 3D-development in property rights. While these property rights on volumes were traditionally limited to condominium law, private law systems have enlarged the scope of 3D-property beyond the borders of condominium. We give two examples: Belgian private law in general, and property law in particular, has been the subject of a major reform, resulting in a first completely new Civil Code since the Napoleontic Civil Code. The development of a three dimensional perspective on immovable property rights was one of the major cutting edges of the reform, as the Belgian legislator, for the first time, (1) gives a 3D-definition to ground and (2) allows to create perpetual building rights on volumes under certain conditions. The same analysis exists with regard to French law: an amendment of 2014 ('Loi Alur') provided for a legal ground - which was further enlagerd in 2019 - for property of volumes in the framework of an "ensemble immobilier complex" (EIC). Other countries (Netherlands, Germany) have followed teh same pattern or are contemplating on it (Poland).

From a legal perspective, these legal developments challenge traditional concepts, such as mandatory provisions on condominium law and immovable accession, in order to optimize ground use and contribute to the housing crisis. The author will analyse these challenges from a legal perspective.

Planning as dealing with land rents: Causes, consequences, and remedies

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The planning literature has focused largely on land value uptake (i.e. betterment) due to public decisions and investments and, consequently, on different policies capturing those value increases (e.g. Alterman, 2012; Halleux et al., 2023). However, the fundamental notion of land values, or 'land rents', is often neglected or poorly understood (Vejchodská et al., 2022).

Economic rent, particularly tied to land, is a crucial yet underappreciated factor in shaping urban challenges such as recessions, housing affordability, inequality, segregation, and sustainable urban development. Henry George (1879) argued that population and economic growth drive up land values, generating unearned income for landowners. George's proposed solution was a land value tax to redistribute this wealth back to society. Although George's ideas were widely popular in his time, they were not fully adopted due to practical and theoretical challenges, such as distinguishing land from improvements and resistance from neoclassical and Marxist schools of thought (Ryan-Collins et al., 2017).

However, economics is now returning to Henry George's ideas, and we argue that planning has to catch up. A land value tax has the potential to provide the benefits of increment-focused policies in terms of urban expansion and density while reducing

both tax distortions and potentially administrative costs, as well as acting as a solution to more problems outside the scope of planning (Kumhof et al., 2021).

This proposed paper reviews the causes, consequences, and remedies of land rents related to urban planning. Paraphrasing Willem Salet, land rents are too important to leave them to economists.

Mitigating Land Overuse through Urban Regeneration: A Holistic approach to Climate Neutrality

Federica Castellano[1], Michael Tophøj Sørensen[2], Janni Sørensen[2]

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Urban densification has emerged a pressing issue in the context of climate change, with significant environmental, economic and social implications arising from land overuse. According to the United Nations "World Urbanization Prospects 2018", nearly 70% of the global population will live in urban areas by 2050, emphasizing the need for strategic approaches to contain urban sprawl.

European institutions have actively promoted sustainable polices to limit urban further land expansion. Key measures included the Soil Strategy for 2030, the European Climate Law No. 1119/2021 and the Fit for 55 package. In response, many European countries have implemented urban regeneration measures as an alternative practice to new land use, focusing on reorganizing existing buildings, rehabilitating degraded or abandoned areas, and enhancing public spaces and urban greenery.

Despite these strategies, progress has been slow. To achieve the "Zero net land take by 2050" target, more effective legal and planning tools need to be implemented across all EU member states. This is necessary because soil health directly affects key goals, including combating biodiversity loss and achieving climate neutrality and resilience.

This article attempts to clarify the concept of urban regeneration -in the broadest sense-, arguing that it offers a comprehensive strategy to address the intertwined challenges of sustainability and urban growth. The research aims to establish a precise and inclusive definition of urban regeneration, encompassing 12 distinct aspects

The issues under consideration are examined using a 'cumulative method', which involves the systematic collection and legal analysis of key principles, case law and insights from leading legal research on urban regeneration, together with a review of binding legal frameworks and policy instruments from supranational, national and local sources. Denmark and Italy are selected as case studies to illustrate how two different national legal systems are addressing the challenges of urban regeneration. By comparing these approaches, the article aims to highlight the potential for developing a shared legal strategy across European countries to mitigate land overuse, considering territorial specificities.

To conclude, this research proposes urban regeneration as a holistic approach that can guide policymaker in steering urban development towards greater sustainability and resilience, aligning climate goals.

D4: Land Value and Spatial Justice

Time: Wednesday, 05/Mar/2025: 8:30am - 10:15am · *Location:* 0.24-25
Session Chair: John Blair Sheehan

The space of justice. Disentangling the notion of "spatial justice" and rediscussing the "spatial turn"

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The notion of "spatial justice" is widely employed in the contemporary academic literature and public debates. This notion is usually deemed decisive for a radical change in urban policies and planning. However, there is no agreed definition of what spatial justice is. This happens also because the idea, despite obtaining immediate and extensive success, still lacks some necessary conceptual and analytical explorations and clarifications. This paper critically revisits the idea itself of "spatial justice". To do so, it makes some preliminary specifications in regard to "institutional ethics" and the issue of "space" itself. Against this background, the paper discusses (and illustrates empirically) five cases in which space is effectively involved in justice issues: (i) as an influencing factor; (ii) as a unit of allocation; (iii) as a privately owned asset; (iv) as a public domain; (v) as a precinct. The paper concludes by arguing that the notion of "spatial justice" is derivative rather than foundational.

Efficiency and Equity - A dialog between City Capacity and Just City frameworks

Orit Shohet Radom, Ravit Hananel
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In recent decades municipalities have emerged as key players on both the national and international arena. In many cases, municipal policies surpass the state's, positioning municipalities as primary players in their interactions with residents, and with a scope of duties that expands significantly over time. Consequently, nowadays municipalities are required to increase efficiently and innovation in their everyday decision making; but at the same time, as public institutions (in democratic countries), they are also bound by principles of justice and reasonableness and must ensure their decisions are fair and equitable.

Our study examines whether municipalities can formulate a fair and efficient decision-making policy at the same time. In the first stage, we examine the development over time of decision-making theories, especially within urban planning arena. Since the end on the World War II, those theories have undergone significant changes as part of global political, social, and economic transformations (among others the transformation from social democratic regimes to liberal and neo-liberal regimes). During this period, scholars have identified two major relevant theoretical developments: the transition from positive-procedural to normative-critical theories, and a shift in focus from the process to an emphasis on achieving desirable outcomes.

Second, in the practice stage, we seek to examine the actual dialog that exists between efficiency and fairness in urban life. We chose to focus on two contemporary major theoretical frameworks: City Capacity and Just City approach, and ask: is it feasible to formulate a policy that combine these two frameworks simultaneously? If not, what is the trade-off between them? And whether (and what) trade-offs exist in different places and regarding different aspects of urban life?

Nowadays, as local authorities take on greater responsibility for providing services and significantly influence residents' well-being, the need to balance between the framework of city capacity and of that of just city becomes relevant and important more than ever. The examination of the theoretical dialogue and the actual implementation and trad-offs between these two frameworks can provide decision-makers and researchers with insights that will help design an efficient and fair urban policy that will benefit all its residents.

Inertia of Suburban Densification – Fear and Fetish of Private Property

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Densification promises to resolve the policy conflict between the reduction of land consumption and the provision of housing for the increasing demand in cities. Already decades ago, densification has been a popular both in the academic and political debate in many countries. In many cities in Europe, planning authorities promote densification in their policy plans and programmes.

While in many city centres in Europe, densification is occurring as a spatial phenomenon, e.g. in Zürich, Utrecht, or Munich, there remains a high yet unused potential for densification in suburban areas. Here, densities are low and reserves for densification are ample. But in suburban areas, the implementation of densification objectives by planning authorities is inert. Where densification is occurring, it is often not on the initiative of municipalities.

This contribution seeks to unravel reasons for this inertia of suburban densification. These reasons are deemed to be within conceptions of property of two important stakeholders of urban densification: municipalities and landowners. We argue that homeowners attach a meaning to property that resembles elements of a fetish, while planning authorities in part fear interventions in private property. Therefore, fear and fetish of property might hamper urban densification. The paper seeks to substantiate this thesis by empirical findings from different studies and research projects. Empirically, this contribution builds on a qualitative data synthesis of studies of densification and housing in Germany, it brings together findings from previous studies from sociology and urban planning.

The first part of this paper explores the role of private property for homeowners in suburban areas; the second part of the paper unravels how municipal planning authorities and policymakers view property rights, when intervening in urban development; the third part of this contribution discusses the implications for implementing densification for strategies of land policies.

Emerging from Planning's Gray Area: Assessment of the Integrated Investment Plan as a New Tool for Collaborative Planning Process in Poland

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The financial involvement of private investors in drafting local zoning plans (LZP) and their related obligations has historically been a point of ambiguity in the Polish spatial planning system. Although public-private collaboration has been relatively common in practice, these activities often operated on the edge of legality, raising concerns about transparency and compliance with state law. The introduction of the Integrated Investment Plan (IIP) can therefore be considered a pivotal systemic change in the planning reform of 2023.

We seek to investigate whether the IIP can create a more transparent equitable, and collaborative solution to previously opaque investor-led planning processes. In particular we aim at investigating on how the IIP, through standardized legal framework, mitigates the risks of losing a balance between investor interests and public welfare. Preliminary findings suggest that IIP brings new opportunities, i.e. greater clarity and accountability through mechanisms such as the urban agreement, which formalizes investor obligations and includes provisions for public engagement. However, potential risks remain, such as over-reliance on private funding and challenges in maintaining long-term urban coherence. Despite these concerns, IIP appears to offer a promising framework for municipalities to navigate the complex relationship between public interests and private investments.

Using a narrative research design, we will examine a single case study of a poorly executed investor-funded LZP, enacted by local authorities under the old system prior the IIP. Drawing on an analysis of state law, a review of grey literature, and interviews with planning stakeholders, we will conduct a step-by-step evaluation of the previous regulations and explore whether the new instrument would be more effective and efficient in addressing the challenges encountered in this case. We assume that the case study will illustrate general systemic change towards investor-funded local plans, in particular in the aspect of transparency.

This paper contributes to the ongoing debate in international comparative planning studies by critically assessing the IIP as a regulatory tool, and in general, developer obligations in planning process. It underscores both the opportunities and limitations of standardizing the financing of local plans and suggests ways to improve the framework to enhance deliberative planning process.

The Relationship between Land Values and Land Use Planning: An Antipodean Perspective

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Much literature concerning land use planning neglects (or even ignores) the relationship with land values. In this paper, it will be canvassed why the well intentioned praxis of land use planning often struggles to recognise the impact of such planning endeavours (beneficial and detrimental) on land values. The practises of land use planning and valuation have genealogies which are markedly different, notwithstanding their congruent activity is land. Given the two professional practises (and academic research) share an iobvious common purposiveness of activity, the authors raise a question is there a hidden teleological intention embracing the two areas of activity? Specifically, in this paper, the authors will ask firstly, why is this so? Secondly, why are there apparently almost intractable difficulties within land use planning in Australia in responding to emerging changed constitutive conditions such as climate change, whereas land values and valuation have responded often seamlessly to the reality of property market evidence.?

A5: The Digital Age & Big Data

Time: Wednesday, 05/Mar/2025: 10:45am - 12:30pm · *Location:* 0.04
Session Chair: Mark Smith
Session Chair: Brian Webb

Between Condominium Governance and Urban Governance: New Digital dynamics?

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As urban areas increasingly rely on multi-unit housing developments, condominium governance plays a crucial role in shaping urban life. However, studies on 'smart cities' and the digitalization of cities often overlook condominiums. Since these are privately owned spaces, they are frequently neglected in discussion of urban transformation, including the digital turn.

This paper challenges the binary, property-based, distinction between private and public realms in urban – and legal – studies, arguing that condominium and urban governance are increasingly becoming more intertwined than traditionally perceived. Through the lens of digital evolutions, the paper explores how new inflection points between these governance structures.

The research employs qualitative methods, including interviews with condominium owners, property management professionals, and key figures in the Tel-Aviv municipality, focusing on the city's digitalization efforts in relations to individual and community rights, housing, public amenities and their integration within private spaces, and urban services. It also draws on the analysis of written materials, social media content and legal frameworks.

The findings reveal emerging patterns in private-public governance relationships and highlights the impact of digital tools in decision-making, democratic participation, property rights, privacy and social equity. The study contributes to a deeper understanding of how digital innovation reshapes governance structures, urban citizenship, and the right to the city.

Limiting promiscuous housing. The effects of regulating the market for short-stay rentals in the Netherlands

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In popular urban tourist destinations, such as Amsterdam, Barcelona, and Paris, platform-mediated short-term rentals took housing markets and neighborhoods by storm. After the initial enthusiasm about the opportunities they offered in the light of the ‘sharing economy’, the drawbacks soon became visable, most notably surging house prices in already tight housing markets, and a decreasing livability of neighborhoods. In the Netherlands, the state lagged behind in its regulatory response. But once the law was put in place, many cities implemented policies to discourage short-term renting, mostly trough a permit or reporting obligation, and a maximum tenant duration per year. However, the effects of these local policies remain unclear or ambiguous. The aim of this paper is to estimate the effects of local regulation on the availability and occupation of short-term rental housing. We do this by using nation-wide Airbnb microdata for the Netherlands (2016-2023) and by estimating two-way fixed effects models that allow for controlling for both time and spatial fixed effects. The results show that Dutch local authorities that have employed restrictive policies experience a sharp decline in both the availability and occupation of Airbnb units. In addition, the results show that there is hardly any waterbed effect: the loss in urban centers is not compensated by increases in neighboring jurisdictions without restrictive policies. This *ex post* policy analysis provides much needed insights for future *ex ante* considerations of potential policy effects.

PRIVATE AND PUBLIC REGULATION OF SHORT-TERM RENTALS IN THE PLATFORM ECONOMY

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The surge of the platform economy has dramatically increased the participation of short-term accommodation throughout the last decade, often leading to unease over its lackluster regulation and its consequences on the availability of long-term affordable housing, as well as the urban landscape. The paper discusses the recent development of national STR regulation, with examples from Croatia, France, Spain, the Netherlands, Germany, and the US, as well supra-national developments in the EU. Last summer the EU passed Regulation 1028 on STR data collection, to ensure adequate policy responses, which have proven difficult due to a lack of access to information about actual STR practices, but has not gone further. National regulation which did so has been challenged before the ECJ which found that housing shortages are an overriding reason of public interest justifying regulation, but said nothing about other important reasons relating to urban planning policies, which the paper explores.

Further to that, in a large segment of the STR market, decision-making is additionally distributed between multi-unit building owners falling under ordinary property law. This private law backdrop adds an important analytical layer, separate from public law, and countries vary significantly in their decision-making rules. This means that the role of private law in regulating STRs is as important as public law, but it presents specific problems. Property law is designed to protect private interests and resolve conflicts on the very general level, so any modification should preserve this aim and carefully balance constitutional protections of property with public policy. On the other hand, such design may interfere with streamlined policy-making both because private interests are specific to the co-owners, and are often unaligned with public policy, and because STR policy is typically made on the local, community level. The paper discusses various decision-making models, and the role of private actors in STR regulation with particular reference to Croatia, a prime example of a tourism-heavy country, which is in the turbulent process of adopting an unusual model of predominantly private-law regulation of the STR market, and analyses the complex dynamics between private and public governance of this market.

Blockchain and the Digital Transformation of Conveyancing in Finland: A Case Study (online)

Anniina Minttu Marja Saari[1], Sarah Sinclair[2], Rebecca Leshinsky[3]

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This presentation documents how blockchain technology has been implicit in the digital transformation of conveyancing in Finland, a country with unique property ownership system. Finnish property ownership is divided into two categories: traditional highly regulated real estate, and housing cooperatives, where apartment owners purchase shares in limited liability housing companies. The real estate system is governed by the Land Code (1995/540) and the Limited Liability Housing Companies Act, (2009/1599) respectively regulating traditional real estate and housing cooperatives. Despite the availability of the Land Survey of Finland's digital Property Transaction Service since 2013, only 5% of traditional property transactions were conducted digitally in 2020 (Land Survey of Finland, 2020).

This dual system created a unique regulatory environment in which multiple stakeholders co-operated to implement blockchain technology solution which has resulted in significantly streamlining both types of property transactions. In 2023, Finland recorded 57,636 housing cooperative share transactions, with 42 % conducted digitally and 29,939 residential property transactions, of which around 21 % settled digitally (Statistics of Finland 2024; Land Survey of Finland, 2024; KVKL, 2024; Olkkonen, 2024).

The blockchain-driven transformation began in 2015 with the government's decision to digitalise the previously paper-based housing company shares into a centralised governmental registry, while leaving the organisation of digital share trades to the industry. A technology startup seized this opportunity by proposing a blockchain-based transaction platform for banks. Since the largest Finnish banks had already invested in R3's Corda blockchain, they readily collaborated.The competing banks would not have agreed on a shared platform without blockchain. Following pilots with tax and land survey authorities, banks, real estate agents, and the tech company, developed a streamlined digital transaction process for housing company shares. The platform launched in 2019 with support for housing cooperatives and expanded in 2022 to support digital property transactions. However, users must still finalise property transactions through the government system, as the Land Code requires. Nonetheless, the blockchain industry platform offers a more flexible service than the government's digital service alone.

This presentation highlights blockchain's indirect and broader implications for property rights management, offering insights into its potential to drive industry-wide digital transformation in conveyancing.

Factors influencing citizens' intentions to cede land use rights for urban rail transit projects: An extended theory of planned behavior

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Although urban rail lines are the backbone of urban transportation, mass land acquisition for urban rail construction projects often faces controversies that may delay urban rail construction. Previous studies have explored factors affecting delayed construction while human dimensions remain unsettled. This study analyzed citizens' intention to cede land use rights for urban rail transit (URT) development. We employed two models: the Theory of Planned Behavior (TPB) and an extended model that combines dimensions of inequity, satisfaction, moral perception, government action and policy perception. A survey of 381 citizens who experienced land acquisition for URT projects in Hanoi, Vietnam, was conducted. We employed partial least squares structural equation modelling (PLS-SEM) to test the extended theory of planned behavior model. Our results revealed that inequity negatively influenced citizens' intention to hand over their land for URT development. Citizen satisfaction is a key factor in the intention to cede land use rights for URT development. Policy perception, government actions, attitudes toward behavior, subjective norms, and perceived behavioral control influence their intention positively. Notably, the results revealed the mediating role of citizen satisfaction in citizens' intention to hand over their land for URT projects. Compared to the original TPB, the extended model more effectively predicts citizen satisfaction and intention ($R^2 = 0.612$). The results provide valuable insights for policymakers to understand why communities may object to URT and TOD projects and to assist the local authorities to avoid delays and refusal of planning consent.

B5: Urban Regeneration, Social Sustainability, and Citizen Participation

Time: Wednesday, 05/Mar/2025: 10:45am - 12:30pm · *Location:* 0.16
Session Chair: Dasha Kuletskaya

Urban Planning and Energy Renovation Challenges in Dense and "Economically Disadvantaged" Neighbourhoods: Insights from Nordstadt, Dortmund

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Dense and complex urban areas with a high degree of (private) property fragmentation are often celebrated for their vibrancy, diversity, and urbanity. However, given the fact that action responsibilities are distributed among many small agents, these areas present significant challenges to public urban regeneration initiatives, such as energy renovations. These challenges are particularly evident in economically disadvantaged neighbourhoods with relatively low attractiveness, where poor building conditions and concentrated poverty may hinder efforts to improve buildings. While the literature consistently discusses the difficulties in achieving energy renovations in privately owned buildings—especially in cases involving complex co-ownership situations, rental apartments with low demand, and small owners with limited, if any, financial capacity—existing research and policies have not sufficiently investigated or adequately addressed how to achieve widespread energy renovations in neighbourhoods of this kind and what role planning can play in this regard.

This research delves into this question by investigating the case of Nordstadt in Dortmund, an area that simultaneously presents (i) diffuse energy inefficiency in buildings, (ii) relatively low-income levels, and (iii) high property fragmentation. It offers an overview of scholarly debates, explores concrete building owners' perspectives, problems, and motivations, and reflects on possible implications for planning and energy renovation strategies. The study focuses on the results of a survey submitted to a large group of building owners (over 100) and an in-depth analysis of a selection of compelling cases with the assistance of professional energy consultants. The main goal is to reveal the complexity and variety of situations often hidden by generic assumptions, as well as the reasons for the current mismatch between existing energy policies and incentives and the actual willingness of private actors to undertake energy renovation efforts in urban areas of this kind. This research is part of the broader CATCH4D project, which supports climate adaptation strategies at the local level through innovative 3D mapping and thermographic analysis in collaboration with the City of Dortmund. It relies on close cooperation with the Urban Renewal Office, Nordstadt District Management, and strong connections with building owners.

Social sustainability in land policy formulation and agenda setting

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As cities grow due to urbanization, risks of social problems such as segregation gain strength if different governance levels do not implement policy responses. This can endanger social sustainability. At the local level, municipalities can use land policy to steer urban development and enhance social sustainability. Land policy consists of policy actions in the land market which municipalities take to guide or obligate land development. In this paper we form a comprehensive understanding of how municipalities set and position their land policy agendas in relation to social sustainability. The goal is to study how municipalities define social sustainability, and which challenges and aspects of social sustainability are being addressed in the municipal land policy and why. Also, we study which actors affect this policy agenda setting. Extant literature on land policy addresses policy formulation, that is the definition and selection of policy objectives, and social sustainability, but to our knowledge the literature does not explicitly focus on the policy formulation of social sustainability related actions, and, in general, the literature has been concentrating mainly on the context of housing affordability. Thus, we aim to contribute to this gap and form a comprehensive understanding of social sustainability in the context of land policy formulation. The study is conducted through literature review and semi structured interviews of 6 biggest Finnish municipalities. Literature review ties together social sustainability in land policy context and policy formulation literature and forms the basis for interviews and analyzing collected results. The analysis allows us to form a comprehensive picture of municipalities priorities and possible blind spots regarding social sustainability in land policies and possible conflicts with other municipal policy goals. Thus, this study contributes towards a deeper understanding of land policies related to social sustainability.

Citizen dialogue in Danish, Norwegian, and Swedish detailed planning

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Citizen dialogue is a frequently requested component within Danish, Norwegian, and Swedish detailed planning. It is an activity demanded by both politicians and citizens. Despite this, citizen dialogue, in the form that many envision, does not have an obvious place in the statutory detailed planning process in any of these countries and today functions often as a complicating factor. There has been an ambition in all three countries to create a more inclusive planning process, but in practice, citizen dialogue has not received the space that many expect.

Although "everyone" seems to want better public participation in spatial planning, "everyone" is not a uniform size. Actors have an inconsistent understanding of what constitutes a "good" or "correct" process and result of public participation. Furthermore, public participation does not take place in a vacuum. Consequently, it must be understood in relation to the planning system of which it is a part. Legal complexity affects the functionality of a planning system and its individual elements. Based on institutional analyses, one must have in mind that the "text of the law", the rules of the game, and "law in action", the play of the game, can portray very different outcomes. Legal intentions are not always compatible with practical consequences of the use of instruments such as public participation.

This paper aims first to describe how early citizen dialogue is applied in the three countries. Furthermore, the project will investigate how and why early citizen dialogue can be understood at the system level in Danish, Norwegian, and Swedish detailed planning, and how the results of such dialogues can be implemented in the ongoing planning work with the support of

respective legislation. Another parameter in the research is to discuss whether Sherry Arnstein's "Ladder of Citizen Participation" is the best starting point for discussions on citizen dialogue or if other systems can be applied.

Political Citizens, Apolitical Processes? Planning Law and its Influence on Administrative Participation Culture. Insights from Case Studies in German Medium-sized Cities

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In my PhD research I examine which roles planning authorities attribute to citizens and how they are discussed within the existing institutional frameworks. Based on empirical findings from two case studies in medium-sized cities in Germany, I explore these role expectations, their construction, and their consequences: Which organizational logics and professional frameworks shape these constructions and ultimately individual actions?

In my interviews with members of planning authorities I noticed one predominant narrative about their own function: They are neutrally bundling and weighing concerns and define what is a just result. Planners expect citizens to contribute to this process by bringing in their concerns but to accept the planners' result even if it does not display their interests. This is kind of an ideal interpretation of the relationship between citizens and the planning authority. It follows the administrative process of including citizens into the development of a binding land-use plan as defined by the German building code. According to planning law, it is mainly the administrations' task to carry out the planning process by bundling and weighing and therefore balancing different interests without an own political position (in German: *Abwägung*). By this, members of the planning authority prepare the political decision legitimized by the citizens' votes.

But what the administrative planners experience when it comes to interaction with citizens is something very different: Citizens try to uphold their political interests in and outside of administrative participation processes. In the interviews the planners report that with feelings of frustration and powerlessness. Interestingly, the motif of neutrally weighing citizens' interests – inherent in the building code – seems to influence all kinds of participatory approaches of the planning authority. It affects informal processes and integrative concepts as much as the zoning processes it is dedicated to. Thereby, the motif is central to role framing processes concerning participation. This raises questions about the relevance of planning law for the professional and organizational culture(s) of planning authorities. These observations can also be embedded in planning theory considerations on the role of the political in planning and on practices of (de)politicization.

Inclusionary Housing Policy in South Africa: slaying dragons or tilting at windmills

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South Africa has over 2.4 million households registered on the National Housing waiting list, the key instrument through which lower income households apply for state-subsidised housing. This is despite over twenty years of enormous public investment and numerous state-led housing programmes that have intended to supply affordable accommodation. Where state housing has been supplied, it has unfortunately been on the urban periphery and as such has maintained racial and socio-economic segregation. To combat this spatial form and increase the number of players, in the affordable housing sector and reconfigure South African cities, some of the larger South African metropolitan municipalities and more powerful provincial authorities have developed their own Inclusionary Zoning Policies (IZPs). The idea has been to capture value and to bring the private sector more directly into the provision of affordable accommodation using mandatory IZP on new developments. The results have, at best, been mixed and bring into question the very idea of IHP in cities in the Global South. Especially, in contexts like South Africa where there is a limited tradition of planning gain, the property markets are highly exclusionary, whilst municipalities have limited technical capabilities.

Using interviews with 26 property developers, practitioners, officials and academics and looking at the evidence of IZP projects in Johannesburg, Stellenbosch and Cape Town, the paper considers the main debates and perspectives on IZP in South Africa. We ask if the South African state is tilting at windmills in the sense of trying to produce a policy that although noble is both unworkable and largely unnecessary or is this an important and necessary policy step i.e. slaying a dragon. Ultimately, we conclude that despite the relatively uneven take up and implementation of the policy, it is a key land policy mechanism by which to ensure the delivery of well-located affordable housing and to start to introduce and ensure the larger acceptance of land value capture instruments by the development sector.

C5: Legal, planning, economic and social Issues in urban densification: a comparative approach (3/3)

Time: Wednesday, 05/Mar/2025: 10:45am - 12:30pm · *Location:* 0.22-23
Session Chair: Alan Mallach
Session Chair: Tal Alster

Special Session

Densification, or the reconfiguration of already built areas to accommodate higher density, has become a major feature of both urban planning and housing policy. As such, it has prompted new legal frameworks and planning strategies, including zoning reform in the US, brownfields programs in the UK, land readjustment in South Korea, and Israel's innovative 'vacate and build' model. This special session will pursue a comparative approach, in order to look at how densification operates under different political and economic conditions, and different planning regimes, and how those differences affect both the forms that densification takes, but also their outcomes.

Strategies of suburban densification in the Eurométropole de Strasbourg

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Urban sprawl in the EU contributes to land take, soil fertility loss, and increased climate change vulnerability, while cities face growing social housing demands; consequently, EU policies targeting 'no net land take' by 2050 are driving densification strategies to optimise existing urban spaces. Low-density suburban spaces in European cities offer largely untapped densification potential to cater towards said goal and ease housing shortages. Yet, even if densification is generally seen as environmentally and socially desirable, densification strategies that intervene in land rights tend to provoke opposition, since they are strongly protected by property rights. Legal instruments of land policy impact property in different ways and therefore produce varying results. Thus, strategies of land policy rely heavily on shared values among affected stakeholders about the application of certain instruments to produce desirable outcomes.

Local planning authorities and landowners are key stakeholders in land policy, acting in a given legal framework to shape suburban densification. But knowledge on suburban densification is limited by the lack of empirical evidence on processes and structures at the city-regional scale, which hinders an assessment and further development of respective land policies.

This study seeks to better understand the impact of spatial planning interventions of planning authorities on suburban densification in the in-depth case study of the Strasbourg metropolitan area, France. Through semi-structured interviews with planning officials and policy analyses, the choice for or against certain instruments of land policy is being analysed and their results in suburban densification processes mapped out. Drawing from complimentary research of the SUBDENSE research project, the amount of completed residential dwellings over the last years can be benchmarked and compared to the actual demand to gain an evidence base for the effectiveness of applied strategies. Thus, the study will highlight the successes and issues with the instruments of land policy used, aiding in better cross-border understanding of drivers of suburban densification.

Keywords: Densification; Land Policy; Property Rights, City Regions; Housing; Land-Use Planning; Urban Development

Sustainable Urban Renewal: Challenges and Potential in Non-Demolition Renewal in Israel

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Against the emerging perspective that views urban renewal as an ongoing process for resilient urbanism, the dominant model in Israel relies on the governmental approach of razing old neighborhoods and then rebuilding them (RR), inviting private developers to demolish and reconstruct, enabling them to sell the additional built assets and thus profit from the project. As this policy raises fundamental questions about long-term sustainability, this research examines the potential and challenges of urban renewal without demolition in Israel. The study seeks to identify alternative frameworks for adapting residential fabrics to contemporary standards, including seismic retrofitting, without compromising the existing social and cultural fabric.

The research has identified five key barriers impeding the advancement of urban renewal without demolition in Israel:1) **Economic Barrier**: Stems from the current model which requires high economic viability. Preserving and strengthening existing buildings pose a profitability challenge compared to demolition and reconstruction. 2) **Cognitive Barrier**: Refers to public and authorities' perceptions of the value of older housing. The clear preference for new apartments and high-rise living, perceived as status symbols, meets the lack of awareness of the cultural, community, and urban value of older neighborhoods and buildings. 3) **Engineering Barrier**: Focuses on the technical challenges of renovating and upgrading existing buildings. Despite technological advancements, there is a gap in awareness and skills in using advanced technologies for upgrading and reinforcement. 4) **Planning Barrier**: Relates to the gap between the national policy that offers a one-size-fits-all solution and the need to adapt unique plans for each neighborhood, offering a combination of deconstruction and preservation at a varying scale of densification. 5) **Regulatory Barrier**: Refers to limitations and difficulties arising from laws, regulations, and policies that are not sufficiently adapted or encouraging for preservation and upgrading solutions.

The research proposes a new framework for urban renewal in Israel, emphasizing the importance of preserving and upgrading existing buildings. This approach requires a fundamental shift in existing perceptions, economic incentives, regulations, and planning policies. It also necessitates innovative and creative engineering solutions, adaptation of standards, and raising awareness of the value of older urban fabrics.

Understanding Densification: Types, Drivers and Policy Implications

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While urban densification is a widely pursued policy goal to reduce net land take, there is a large variety of types of development and certain forms of it are more sustainable than others in terms of efficient use of land and neighbourhood effects. This study

looks at the different types of densification in Liverpool, England, between 2011 and 2021, distinguishing the nature of change (i.e. subdivision, conversion, infill, brownfield land or replacement development), house type (i.e. single family dwellings, multi-family dwellings or shared accommodation), and built density compared with the immediate environment (i.e. same, higher or lower density). A multinomial logistic regression is employed to analyse in which kind of neighbourhoods these types are most likely to occur using a range of socio-economic and built environment indicators. We find the densification types to be influenced by different sets of determinants, including the predominant building age, housing form and level of deprivation. We discuss the influence of institutions and actor constellations specific to the English context. Our findings point at the need for policies that are more targeted towards the specific types of densification that neighbourhoods are prone to experience, thereby ensuring a fair distribution of the benefits and burdens of densification.

Densification or Gentrification? Analyzing Displacement of Vulnerable Resident Groups in the Zurich Langstrasse Area

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As urban areas grow in size and population, and the importance of land as a non-renewable resource becomes inevitable, cities worldwide are prioritizing densification in their spatial planning implementation strategies (Dembski et al., 2020). However, existing research shows that due to densification implementation, often performed in the format of upgrading measures of existing stocks, rents in urban neighbourhoods can increase significantly (Theodore, 2020; Kadi et al., 2022; Bouwmeester et al., 2024). Consequently, this leads to displacement of vulnerable resident groups, i.e., gentrification (Lees et al., 2008). In this article, we analyze 'how' and 'where' densification has influenced gentrification processes in inner-city locations since the 2010.

More precicely, this article examines the case study area of Langstrasse in the city of Zurich, Switzerland, for the timespan of 2014-2022. A GIS analysis of socio-demographic factors (e.g., age, education, nationality), building data, and rent data is undertaken. Through superimposing layers of different analyses, quantitative **hotspots of change** are identified. To validate them, qualitative walking interviews with local residents are performed to identify locations 'where' they have noticed urban changes in their neighbourhood since 2014. Finally, nine main hotspots are identified.

Conclusively, these nine hotspots show that densification has led to gentrification in almost all locations. Even when the residents were not directly displaced (e.g., because the plot was previously not used residentially), densification has indirectly led to exclusionary and sociocultural displacement (e.g., by supporting the establishment of shortterm rentals or business-apartments for expads). Housing cooperatives and other non-profit developers are identified as key players in the counteracting of gentrification dynamics.

D5: Financing and governing nature-based solutions on private land (1/1)

Time: Wednesday, 05/Mar/2025: 10:45am - 12:30pm · *Location:* 0.24-25
Session Chair: Paul Hudson

Special Session

The proposed special session aims to foster a dynamic and interactive exchange of ideas on innovative financial mechanisms and governance structures to support sustainable nature-based solutions (NbS) on private land. This session will adopt a "Blue Skys thinking" workshop approach to facilitate a creative dialogue among participants. The goal is to leverage the collective expertise and experiences across a range of geographical and social contexts to advance the development of financial products and mechanisms within the given the challenges posed by complex property rights, planning, and legal issues.

Biodiversity offset in a world of land scarcity: A comparative study of legal tools for land securement

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To remedy the rapid loss of biodiversity globally, biodiversity offset is integrated into several countries' land policies – often linked to strategies on no-net-loss. Biodiversity offset is defined as nature conservation- and -restoration activities to compensate for loss of biodiversity arising from development projects. While financial budgets often are available to implement such measures, land availability is a common and widely recognized barrier to secure land for offset projects. Nevertheless, tools to cope with land scarcity remain unexplored.

In theory, these tools may range from securement by zoning or nature conservation, to contractual solutions or expropriation. The measures have in common that they can imply interventions in private property. Against this backdrop, legal tools for land securement for biodiversity offset are examined in a cross-case comparative analysis between Germany and Norway. The countries represent similar political systems, but while Germany has practiced offset since the 1970s, Norway is about to introduce a legal basis for mandatory offsetting. The data collection is based on primary sources (cases, statutes, regulations). Applying the Institutional Resource Regime (IRR), this article explores patterns in the treatment of private property in offset systems across national legal frameworks.

Our study works on the hypothesis that there are decisive limitations on tools that imply interventions in property for securing land for offsets. It is assumed that the limitations are related to legal uncertainty as to whether the offset has a legitimate purpose that justifies interventions in private property. Thus, practitioners rely on market mechanisms where ad hoc arrangements are made to purchase land – resulting in negative effects on the quantity and quality of offsets.

Our study seeks to provide knowledge to the discussion on private-public tensions in property rights, as well as valuable information for political decision-makers to reinforce tools to secure land for biodiversity offsetting.

Land Use Planning in a Nature Crisis – learning from comparative approaches in England and Wales

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The nature crisis presents one of the most pressing challenges for land use planning in the 21st century. Law has an essential role to play by ensuring that new development is subject to rigorous requirements to ensure the protection of endangered species and support wider ecosystems resilience. The need for an effective land use planning response to the nature crisis is particularly pertinent in the UK which has recently been reported to be one of the most nature depleted countries in the world. This situation has emerged despite the operation of a sophisticated system of land use planning in the UK; balancing the needs of society, economy and environment on an island with a small land mass and large population. The poor state of nature in the UK also exists despite the operation of a legal framework for the protection of endangered species and vulnerable habitats that has been operating for more than 40 years ago.

Recognising the limitations of the existing regulatory frameworks, the devolved nations of England and Wales, in the UK, have developed new approaches to enhancing biodiversity through land use planning. In England, a natural capital approach has led to the introduction of statutory, quantitative system for ensuring biodiversity net gain in new developments. In Wales, a policy on biodiversity net benefit has been introduced in line with a governance approach focused on the sustainable management of natural resources. This paper interrogates these two systems for enhancing biodiversity and asks the following essential questions: how do these new approaches address the problems of previous regulatory strategies aimed at halting biodiversity loss? Is there a genuine difference between the two approaches in this respect or do they share some essential elements? Crucially, what can we learn from the experience in England and Wales about the role of land use planning law in addressing the nature crisis more widely.

Nature positive planning in Wales - An alternative approach?

Jill Gettrup
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International commitment to tackle the biodiversity crisis aims to to halt species decline by 2030 and for humans to live in harmony with nature by 2050 (UN Convention of the Parties (COP 15), 2022). As changing land-use is a contributing factor to habitat degradation and loss, the UK has moved beyond no net loss policy to nature positive planning, requiring developers to demonstrate increased biodiversity, not just minimise or offset harm.

While the theoretical and empirical aspects of no net loss policy and implications of offsetting have been discussed in various contexts, there is limited (though fast growing) scholarship on nature positive policies. In the UK this is predominantly focused on the impact of England's planning policy of Biodiversity Net Gain. Research has not considered the approach in Wales, where town and country planning laws and policy are devolved to the Welsh Government.

The Welsh context is unique in that it requires new development to support improved ecosystem resilience and deliver net benefit for biodiversity, departing from the neoclassical metric-based norm that is dominant in England and now Scotland. At its core is

a commitment to place making - delivering benefits beyond the physical development boundary and embedding wider resilience into planning decisions.

This project evaluates the role of planning in tackling the nature crisis, creating a cultural critique through a discourse analysis exploring the moral principles and aesthetic judgements as well as the empirical ecology that has, and continues to, affect the evolution of the Welsh approach. It assesses implications for both biodiversity and human wellbeing, identifying normative views and assessing the potential to challenge undisputed cognitive authority - particularly around who decides which species and habitats benefit, where, when and for whom.

Considering the nation's cultural connectedness to 'biodiversity', Welsh traditions and people's relationships with nature and with each other through nature, this case study offers a new perspective on the planning processes involved in delivering nature positive development – including the financial mechanisms and governance structures required to secure longevity, questions of equity for human and non-humans and sustainability in the face of climate change.

Mechanisms to finance private sector natural flood management

Paul Husdson

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Natural flood management (NFM) offers a sustainable, eco-friendly approach to mitigating flood risk, yet its implementation in the UK has predominantly been driven by public sector initiatives. This viewpoint paper explores mechanisms to finance and govern private sector engagement in NFM, a crucial yet underdeveloped aspect of climate resilience. Drawing on examples from policy, finance, and environmental governance, we examine innovative financial models that can incentivize private investments in flood mitigation. Furthermore, we address the governance structures required to ensure accountability, transparency, and long-term sustainability in NFM projects led by private actors. This is particuarly important given that the initial projects often set up financial mechanisms and investements that outlive the instigating organisation by a substantial degree, complicating the governance and long-run success of NbS. By identifying key challenges and proposing solutions for integrating private sector contributions into national flood management strategies. We do so, using an ongoing project in North Yorkshire (Ousewemn) as a case study in developing such long-run investments in a sustianable manner on private land.

A6: Densification and Landownership

Time: Thursday, 06/Mar/2025: 8:30am - 10:15am · *Location:* 0.04
Session Chair: Jean-David Gerber

Logics of national land policies – From sustainability objectives to responsibilities and actors in France and Germany

Caspar Kleiner, Mathias Jehling
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Achieving sustainable urbanization has increasingly been a national land policy objective in many countries for the past decades. Consequently, especially in Europe, governments formulate laws, provide policy instruments and regulate what urban form is produced. However, empirical evidence in comparative studies of land policy impacts on urban form suggest that some land policies have impacts on urban form while others do not.

Neo-institutional research on land policy provides a theoretical explanation to these discrepancies by setting actors in the center of policies and the subject they aim to control, i.e. urban form. This helps to hypothesize that in national land policies, the distribution of responsibilities among actors on the ground is determinant of the impacts of the achievement of policy objectives. Consequently, this contribution addresses the research question: How do national land policies conceptualize impacts on produced urban form through the distribution of agency among actors?

To answer this question, a comparative policy analysis of national land policies aiming for sustainable urbanization in France and Germany is conducted and set against a spatial analysis of urban form. We analyse and explain underlying logics in the conceived impacts on urban form through the distribution of agency among stakeholders, in particular municipal authorities and private property owners. We critically address the degree of obligation postulated in national land policies to achieve formulated policy objectives. For this, legislative documents are assessed comparatively against the backdrop of empirical evidence of the evolution of urban form in the Strasbourg-Karlsruhe cross-border region from 1990 to today.

The analysis shows that land policies vary in the degree of obligations between the two national systems. While some land policies necessitate actors to act specifically, others provide instruments actors can use at their choice. The analysis further suggests a correlation between the agency, which we describe through the degree of obligation provided to the actors, and the progression towards pursued policy objectives, also seen in the spatial analysis on urban form. Our research highlights that a combination of obligations and rights given to the actors largely influences the effectiveness of land policies in achieving formulated land policy goals.

Who drives urban densification? – Linking landownership and spatial dynamics

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Cities worldwide develop policies to promote and control urban densification. However, a high percentage of densification takes place without the purview of strategic planning. It is driven by individual landowners, who hold a strong position in deciding if land is developed or not. Despite their pivotal role, knowledge on landowner involvement was previously restricted by limited access to landowner data. We address this gap and make use of a unique dataset, available for the city of Dortmund, including landowner data for each parcel in 2011 and 2021. Using a geospatial approach, we identify six forms of densification, ranging from large-scale multi-family housing development to small-scale densification with low-density housing and provide for the first time a systematic analysis of the involvement of private individuals, private companies, the municipality and housing cooperatives within these processes. The results show that private individuals play an important role in small-scale densification, which accounts for a third of all densification in Dortmund and takes place mainly in suburban areas. Further, we showed that each densification type is associated with a distinct pattern of landownership and change of landownership over time. Our findings highlight the need of customised land policy approaches, which are able to address private landowners' interests, in order to facilitate and allocate densification processes.

Ambition but to what intent? The need for a new typology of densification

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Stemming from origins in the compact city, densification essentially involves devising means for increasing the number of residential units in urban areas (Debrunner, 2024). Densification is increasingly perceived (both within academia and practice) as a desirable policy response to increasing urbanisation as a means of both containing urban sprawl and for enabling more sustainable living (Dunning et al., 2020). Despite this interest, there is surprisingly little work on defining densification beyond Touati-Morel's 2015 hard-soft dichotomy. Suburban areas, while intrinsically diverse, are one urban area with seemingly great potential for increased densification through re-urbanisation (Jehling et al., 2020; Dembski et al., 2021). Yet suburban densification, which is intrinsically opportunistic development on small sites, reveals challenges to how we as academics perceive and represent densification. In particular, just how dense should densification be? Is densification the right solution to small suburban sites? Can we distinguish between good densification and bad densification? How does complexity differ between large and small sites? In our paper, we present a typology of densification inspired by and drawing from our empirical findings of our qualitative and quantitative investigation of densification in different suburban neighbourhoods across England as part of the SUBDENSE project. Here we find densification to be far more nuanced and intrinsically multi-faceted than others have made it out to be.

Who owns the post-socialist city? The property rights and land ownership pattern of Warsaw's skyscrapers and largest commercial projects

Malgorzata Barbara Havel, Waldemar Izdebski

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Land ownership is a key factor influencing urban transformations and city development (Watson 2012, Davy 2023). The relationship between antecedent ownership patterns and the process or outcome of urban development is extensively documented in Western Europe (Adams et al., 2002; Adams and Watkins, 2002; Hong and Needham, 2007). What is it like in post-socialist cities? The transition from communist ideology to capitalism was a story about changing the approach to property rights and the ownership pattern. In the doctrine of the communist system, land was common property, thought to be without value. This ideology assumed the elimination of a natural person's right to the ownership of land. The post-socialist countries have undergone a long and complex transformation with regard to property rights conditions. In Eastern Europe, multiple forms of property rights relations emerged, non-corresponding to Western notions of 'exclusive private property' (Stark 1996; Lampland 2002; Sturgeon and Sikor 2004, Verdery 1996, 1999). For example, in Warsaw, the land was nationalized, and then the restitution of property rights was not resolved, leading to ambiguity concerning existing contestations over a single property. At the same time, very intensive spatial and ownership transformations were taking place (Havel, 2022). Who owns a post-socialist city today? Using the example of Warsaw, we will examine who owns the land in Warsaw today. In what forms and who is the owner? We will also look at how ownership data is made available. In particular, we will systematically look at developments that have significantly impacted the structure of an urbanized landscape: skyscrapers in the downtown of Warsaw and large commercial developments. In doing so, we will link spatial results with property rights and ownership patterns. The paper aims to understand the underlying property rights and ownership relations in post-socialist cities to provide better evidence for policymakers and further research on urban transformations.

B6: Land policies for affordable housing: market inefficiencies (2/5)

Time: Thursday, 06/Mar/2025: 8:30am - 10:15am · *Location:* 0.16
Session Chair: Josje Anna Bouwmeester
Session Chair: Gabriela Debrunner
Session Chair: Jessica Verheij

Special Session

This special explores global perspectives on the role of land policy in addressing the affordable housing crisis in different countries, regions, and cities. The session aims to start a multidisciplinary dialogue among scholars working on the intersection between land policy, property rights, and affordable housing provision from diverse geographical regions across the world. Contributions focus on different planning instruments on the national, regional, and local levels available to steer affordable housing outcomes and reflect on the role of public and private actors in housing provision. Insights from various international case studies highlight innovative approaches and best practices in affordable housing provision, covering cases characterized by different planning systems (discretionary vs plan-led), housing tenure systems (tenant vs owner-occupied), and land policy approaches (active vs passive). Contributors to this special session have the opportunity to contribute a chapter to an upcoming book (edited volume) on land policies for affordable housing.

The role of speculation in increasing housing prices and housing shortage – case of Munich Sendling

Liliane Raths
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Whereas the need for housing has increased drastically, living space is becoming scarce in the major German cities. This has led not only to an explosion in land prices but also to opportunities for speculators.

This research aims to analyse which factors contribute to land speculation and to deduct why cities do not have sufficient instruments for taking actions to interfere in speculations with privately owned land.

The research methodology relies on a case study approach, which draws on a combination of collecting documentary evidence (through synthesizing scientific and grey literature on similar practices and artifacts as well as collecting statistical data), followed by an interpretative analysis of current land policy instruments and policy impacts.

From 2010 to 2023, prices for residential building land in Munich rose by almost 350%. This price trend results in investors buying plots of land without the intention to build and speculate on value increases, thereby depriving buildable land of urgently needed housing. Several factors also favour speculation with land such as advantages of property gains compared to other forms of investment or the market's lack of transparency, which favours money laundering and tax avoidance.

The ”Sendlinger Loch” is a negative example of speculation with residential building land. The site was sold in 2015 for 30 million euros to Eurytos Wohnbau GmbH & Co. KG and sold three months later for 73 million euros to the investor M-Concept - an increase in value of 143% in twenty months. Despite the plans of M-Concept to build 128 flats, the construction was stopped, and the plot has been derelict for years. M-Concept can no longer be reached for further inquiries.

We conclude that the case shows that speculation practices play a significant role in driving up prices and restricting access. We note that despite a number of instruments available and tried, cities have only limited options for action against these speculative business models, as legal instruments are often not applicable if the property rights are in the hands of private investors.

The role of vacant dwellings in the Austrian housing market

Arthur Schindelegger
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The provision of affordable housing units is the perpetual core theme in the discourse on land policy. How to build new affordable dwellings, how to manage the building stock or where and how to densify are only a few questions debated in science as well as politics. Considering the no-net-land take goal and increasing conflicts over land (need for energy transition and agricultural self-sufficiency) affordable housing must be established in the first place within existing settlement boundaries. This is also the case for Austria with the highest population growth rates in the few existing metropolitan areas.

Overall 4.9 Mio dwellings exist in Austria but only a bit more than 4 Mio have at least one registered permanent resident. This means that 18% of all dwellings are second homes, used for commercial activities or are vacant. These vacant flats have recently found their way in the political discourse as many of them were bought for speculative reasons and limit the supply on the housing market. Up till recently no land policy instruments were in place to set any incentives to bring vacant flats back to the rental market but in spring 2024 the Austrian national council passed with a two third majority an amendment to the constitution, that allows the single states to tax vacant dwellings with the overall aim to prevent and reduce vacancies. The discussion on the appropriate tax rate against the background of the superior principles of the Austrian constitution – in this case proportionality – is ongoing.

The intended research pursues this sensitive question with a gradual approach: first, a statistical analysis depicts the distribution of vacant dwellings, and the recent dynamics based on public statistical data. Second, the research will point out the justification and expectations of the recent constitutional amendment and third, the various acts of the states on vacancy taxes will be analyzed.

Overall, the research aims to evaluate if the newly established financial mechanisms hold the potential to provide additional housing space and relief pressure from the urban housing markets.

Low Housing Affordability: The Role of Increasing Land Values in Creating More Equitable Future

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Housing affordability has become a pressing issue worldwide, with many societies experiencing an unprecedented level of unaffordability. Although this perception might be influenced by the increasing overall material demands of society, it undeniably

intersects with broader concerns of equity and social justice and thus requires urgent attention. Housing affordability challenges are particularly relevant for specific societal segments, such as low-income earners, younger generations, and residents of prospering regions.

This contribution identifies rising land values, especially in metropolitan areas, as a fundamental driver of increasing housing costs and a central factor in the current housing affordability crisis. While, e.g., expanding the amount of land available for development seems for many scholars like a potential solution, this approach is only justifiable in metropolitan areas experiencing significant population inflows, and even then, it provides only a partial remedy. This is evident, for example, in the United States, where housing affordability remains a significant concern despite greater land availability compared to European cities. Additionally, environmental concerns related to land take and the impact on ecosystems make this strategy unsustainable in the long run.

The paper explains why land values and housing costs continue to rise in contrast to other material goods, which have become increasingly affordable over time. It proposes that targeted tax reforms – specifically, the introduction or increase of land or property taxes alongside reductions in other forms of taxation – could offer a pathway toward more equitable and affordable housing outcomes.

Land policies for affordable housing – the case of Portugal

Sónia Alves[1], **Dulce Lopes**[2]

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One of the aims of spatial planning is to control the right to develop and/or change the use of land and the buildings on it. Spatial planning is achieved not only through land use plans, but also through sectoral policies – for example in the field of housing – that often involve partnerships with the private and not-for-profit sectors. Municipalities hold substantial spatial planning powers to manage competing interests in land and development, and have introduced multiple instruments to address urban and housing problems, such as those related to gentrification and ghettoization, as well as those related to housing inaccessibility and unaffordability.

However, in many countries, it is unclear which institutional arrangements and policy tools have been used by local authorities to shape territorial development and to address a combination of problems related to rising land and property prices, as well as insufficient development of affordable housing options.

This paper's aim is to advance our understanding of the policy goals and tools set at the local level to make more land for affordable housing, available at an affordable price. To do so, the paper, which draws on semi-structured interviews, document analysis, including of relevant academic literature, tries to answer the following research questions:

Which regulatory frameworks have municipalities enacted to secure the provision of social and/or affordable housing (e.g. for middle-income families) in new housing developments? How successful have they been so far?

Have municipalities set mandatory affordable housing targets through land-use plans or at project-level planning negotiations? Has this type of agreement between parties been formalized in private law contracts? What examples are there of this?

What are the conditions that explain differences and similarities in planning policies, practices, and outcomes at the local level? And what role have specific factors such as political commitment and technical capacity played in securing housing affordability?

This research will draw out the implications of the findings for urban and housing policy.

From Centralized Social Democracy to Centralized Neoliberalism: The evolution of Israel's housing policy

Ravit Hananel, **Harel Nachmany**

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Israel was established in 1948 as a social-democratic state with a progressive welfare policy, and was characterized by highly centralized housing policy. Over the years there have been major changes in Israel's politics, society, and economy. Nevertheless, the housing policy is still very much national and central, though with an essential twist. The study examines the evolution of Israel's housing policy since from a centralized social-democratic policy to a centralized neoliberal policy, as it is today. The analysis is divided into four periods, each of which is characterized by a different housing policy, which is reflected in different decisions, policy tools, goals, budgets, and target populations. The periods are : the first period is between 1950s–1970s; the second period is between 1980s–1990s; the third period is between 2000–2011; and the fourth period is since 2011– until today. The research findings indicate that centralization has always been Israel's default response to national crises. The findings also show that, contrary to popular opinion, centralization processes are largely value-free; that is, they can appear in conjunction with diverse ideologies and regimes and therefore do not necessarily ensure more egalitarian and just policy outcomes. We demonstrate this conclusion by discussing the broad social and spatial consequences of the prevailing centralized neoliberal housing policy.

C6: Transformation of Planning Law and Processes (1/3)

Time: Thursday, 06/Mar/2025: 8:30am - 10:15am · *Location:* 0.22-23
Session Chair: Charlotte Damböck

Special Session

The climate and biodiversity crises require fundamental changes in planning and land use. As legal scholars we observe that the current legal systems in Europe do not provide the necessary means to manage transformative actions or even hinder them. We thus want to pose the question if a social-ecological transformation in planning and land use entails a transformation of the legal system itself. Inputs on the current state of the fundamental right to property, on new forms of administrative action and on aspects contributed by general applications should constitute core aspects of this special session and guide the further discussion on the function of law in the social-ecological transformation.

The Enhanced Role of Sustainability in Both Property Law and Spatial Planning Law – A Belgian Perspective

Dorothy Gruyaert
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This contribution provides a Belgian perspective on the transformation of both planning law and property law towards a more social-ecological legal system.

The recent reform of Belgian property law is a fine illustration of how the legislator has incorporated the importance of sustainable development into the Civil Code. The new Article 3.43 of the Civil Code on the use of common goods explicitly states that the use of these goods must always be in the public interest, including the interests of future generations. The idea that resources are inexhaustible and that everyone can freely use them is now definitively a thing of the past. Scarce resources such as water require a tailored legal framework.

The Flemish Spatial Planning Code also explicitly refers to sustainable development. Article 1.1.4 of this Code stipulates that spatial planning is aimed at sustainable spatial development, where space is managed for the benefit of the current generation, without compromising the needs of future generations. The spatial needs of various societal activities are weighed against each other simultaneously. Spatial capacity, environmental impacts, and cultural, economic, aesthetic, and social consequences are all taken into account. In this way, spatial quality is pursued. The Flemish Council for Permit Disputes recently changed its case law and no longer views this article merely as an aspirational goal, but as an autonomous criterion in both planning and permit policy.

Regarding permit policy, there is another notable trend in the Council's case law. In a groundbreaking ruling on the permit for a gas station, the Council held that it is not unreasonable for a permitting authority, to demand cooperation of actors applying for projects in concretely translating municipal climate goals into permit policy. Thus, private owners and companies also bear responsibility in addressing the climate and biodiversity crises.

The author argues that these interesting developments in Belgian property and spatial planning law demonstrate that there is room for 'transformation through contextualization' in the law.

How and why snapshot planning fails to take future generations into account. A case study from Norway

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Planning is by definition forward-looking, but also an instrument to facilitate spatial improvements over time. The 2008 Norwegian Planning and Building Act (PBA) was adopted to promote sustainable development in the best interests of individuals, society and future generations based on long-term solutions (1-1), coherence (3-1), conformity between and within plans (1-5) and impact assessments (4-2). Such sustainable development and future-oriented perspective leaves open the question of how planning can transform the assumed future needs into concrete strategic objectives. In theory, law and practice, reconciling future considerations with immediate needs is a classic spatial planning issue resulting in tension between predictability and flexibility as well as between long-term concerns vs short-term solutions, normative responses vs fuzzy practices (de Roo 2017).

The aim of this paper is to show how and why this official objective is difficult to implement, based on a case study. To this end, we introduce the concept of *snapshot planning*, which can be defined as contractual, opportunistic practice, driven primarily by immediate priorities and mostly concerned with past and present challenges with little thought for, the unknown, future and little interest for long-term needs. Given the PBA requirements for impact assessments, this contractual, opportunistic practice is a puzzle.

This failure will be illustrated through detailed zoning plan implementation. Indeed, despite Norwegian planning culture has a prescriptive approach to planning and although voted plans presumably represent a product of the prescribed result, having followed the processes, and added right content at the right time, our findings show that these plans reflect short-term solutions, detached from an intended whole. The results are counter-intuitive and counter-productive, contrasting with France, a country characterized by the precocity of its prospective approach to planning.

The result becomes a *snapshot planning* mainly guided by immediate needs and motivated by time-saving and financial gains. The main driver appears to be the will to reduce risk of both developer and municipality – a *plan securing reflex*. The product is city planning for the moment that can be considered neither flexible nor predictable over time.

Sustainable development, temporality, and spatial planning legislation –Norway, France, and Denmark in comparison

Marius Grønning[1], Guy Baudel[2], Daniel Galland[3], Knut Boge[1]
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"*The law shall promote sustainable development for the benefit of the individual, society, and future generations*"; so reads the object clause of the Norwegian Planning and Building Act (§1-1). It reflects a amendment (1993) to the Norwegian Constitution's human rights chapter: "*Nature's resources must be disposed of on the basis of a long-term and versatile consideration that safeguards this right also for posterity*" (§112). These juridical adjustments follow the 1987 World Commission on Environment and Development's definition of sustainability as "*Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.*" For spatial planning, which is fundamentally a forward-oriented practice, the embedded reconsideration of time cannot be taken lightly. The mere introduction of a value based object clause to the PBA may seem like a superficial quick-fix, unless we look into the interrelations between regulation and temporality. In this paper we consider the profound implications of intergenerational temporality for the relationship between legislation and spatial planning practice.

A key to analyse the reconfiguration of temporality, legislation, and spatial planning is to look at it from an institutionalist perspective. Firstly, it enables us to see how institutions that were put in place to resolve past problems reproduce current patterns of action, organisation, and power. Spatial planning is a legacy from industrial capitalism, for which planning was a forward-oriented practice of growth, social reform, and progress. Secondly, the territories that we plan are seen through frameworks of historicity, forward-orientedness, and institutionalised temporalities of action, systems, and instruments. The question here is whether these cognitive frames through which we consider time are consistent with our frameworks of practice.

Finally, a comparative analysis of planning institutions in Norway, France, and Denmark may allows us to see varieties in structural configuration of practice (how we imagine the future) and systems (how we organise to pursue a purpose) with government apparatus (how government action is seized by instruments). From this approach we expect to find evidence on how efforts to control future results through present action is currently changing, and how our thinking and practice can evolve.

The Transformation of Law in the mobility sector

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One sector that is undergoing a transformation process, particularly in light of climate change and the climate crisis, is the mobility sector. The mobility transition requires a comprehensive set of different measures. Technological innovation and digital change alone will not be enough to achieve the climate targets and reduce land use. In addition to promoting the development and implementation of new technologies the state therefore must restrict traffic that is harmful to the climate and promote a shift to more sustainable forms of mobility. From a legal perspective, the question arises of what role public law has in the mobility transition. It is necessary to examine whether on the basis of the existing legal framework, the administration has the necessary instruments to drive forward the necessary changes.

An analysis of the exiting legal framework for the mobility sector shows, that a successful mobility transformation requires also a transformation of the law. Firstly, this concerns the legal possibilities for the administration to restrict road traffic for climate protection reasons, which have been very limited in Austrian administrative law so far. Further questions arise in relation to the integration of alternative mobility services such as car sharing or on-demand transport into the public transport system. This is because the current system for planning, organization and financing of public transport in Austria only applies to the conventional public mass transport services. Furthermore, the legal framework for sectors that are important for mobility behaviour, such as housing, needs new instruments to implement sustainable mobility concepts, including alternative mobility services like car- or bike-sharing in the residential environment during the planning of new urban development areas and the transformation of the existing building stock.

Based on these and other selected examples, this contribution aims to show the extent to which the legal foundations and instruments in the mobility sector are subject to a transformation in the context of tension between new technologies, restrictions and guaranteeing services of general interest.

D6: Development Rights, Institutions, and Instruments

Time: Thursday, 06/Mar/2025: 8:30am - 10:15am · *Location:* 0.24-25
Session Chair: Tuulia Puustinen
Session Chair: Pauliina Krigsholm

Transaction Costs of Implementing the Transfer of Development Rights Program in Milan

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Transfer of Development Rights (TDR) programs are widely used as planning policy tools to achieve various sustainability objectives, such as environmental protection, agricultural land preservation, heritage conservation, and the provision of ecosystem services (Falco, 2012; Guzle et al., 2020). Since the 1970s, TDR programs have been implemented in countries like Germany, Switzerland, The Netherlands, Hong Kong, and South Korea (Janssen-Jansen, 2008; Cho, 2002). These programs facilitate the transfer of development rights from "sending areas," where development is discouraged, to "receiving areas," where growth is desirable. While research highlights that TDRs can be more efficient and equitable than traditional zoning, the implementation of these programs incurs substantial transaction costs (Shahab et al., 2018). These costs include negotiating sale prices, finalizing contracts, administrative processes, and information gathering (Chomitz, 2004).

Despite extensive studies on TDRs in the United States, little attention has been given to city-wide programs, particularly in non-U.S. contexts. Cities, characterized by high land prices, scarcity, and brownfield developments, present unique challenges compared to regional programs. This paper addresses these gaps by investigating the transaction costs associated with Milan's TDR program—one of the few well-established city-level initiatives globally. Using transaction-cost economics as a theoretical lens (Williamson, 1998), we examine when and by whom these costs are incurred during TDR implementation in Milan.

Our analysis reveals several distinctive factors influencing transaction costs in Milan, including land decontamination requirements, speculative market behavior, high TDR prices, and regulatory complexities. These findings highlight deviations from county or regional programs and underscore the need for targeted interventions to minimize transaction costs. The insights from this case study offer valuable lessons for planners in Italy and beyond, providing strategies to enhance the efficiency, effectiveness, and equity of city-wide TDR programs.

The migration of development rights: the spreading of urban challenges

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To reduce compensation payments, many local governments have adopted non-financial compensation mechanisms that grant property owners additional development rights or other benefits in an attempt to even-out additional costs incurred by property owners. These mechanisms reduce financial risks of both owners and municipalities that need to pay compensation, and may even stimulate new investments. But they have a significant impact on the physical form of the city and on the administrative capabilities of local governments. This paper focuses on specific Non-financial compensation mechanism - Transfer of development rights (TDR).

TDRs add additional unplanned development rights to the urban fabric, and affect the geographical distribution of rights in the city. This might result in prioritizing the interests of private developers and landowners at the expense of the interests of the general public. Furthermore, these mechanisms are usually based on agreements and negotiations between stakeholders, adding discretion to decision-making and weakening transparency towards the public.

Tel Aviv' city center was designated as World Heritage site in 2003 (the White City). In 2008 it approved its conservation plan, designating 1000 buildings for preservation. In this paper we explore the footprints of the 189 TDRs that were approved as part of this plan. We highlight the time gaps between planning approval and implantation, the changes of land use, and the geographical distribution of the development rights. We also look at the institutional changes that were incorporated to allow the implementation of TDRs in the city, and the limitations they caused on the planning system.

Mapping the implications of contracts for urban futures: A case study of Toronto's Regent Park

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Against a backdrop of climate, energy, and housing crises, governments and other actors have been implementing major programs to build sustainable neighbourhoods and infrastructure assets and services. At the local level, city governments, developers, investors, housing associations, and community organizations have engaged with *contracts* to implement solutions addressing grand societal challenges. It is in the public interest that these contracts project and treat futures accountably, as they represent and institutionalize political choices with vital, long-term societal implications.

Making contracts involves predicting, shaping, and institutionalizing the future (Macneil, 1980); contracts *institutionally fix* the condition of (parts of) cities, assets, or services. Critics contend that contracts stifle innovation and obstruct the transitions that the planetary crisis urges cities to make. Contracts have mainly been considered safeguards or protection mechanisms: they anticipate problems and challenges, their scope is narrow, they spur risk-aversive behavior, and they leave limited room for maneuver, and hence they are not seen as vehicles for change (Brown et al., 2016; Girth, 2017; Savini, 2016). While recent contracting processes for building, operating, and maintaining urban neighbourhoods and infrastructures indicate that transitions and futures are becoming increasingly incorporated into contracting practices, empirical research on these developments has remained very limited. The proposed paper seeks to flip the narrative from 'contracts as *fixed futures*' to 'contracts as *enablers of futures*', rethinking contracts by addressing their *transformative potential* and presenting new conceptions and relevant features of contractual arrangements for future urban environments – perhaps with alternative allocations of responsibility and risk and alternative spatial and temporal scopes.

To critically and empirically address the relationship between contractual arrangements and urban transitions, the paper dives into a controversial urban renewal project: the Regent Park Revitalization in Toronto, Canada. The Regent Park Revitalization will serve as an illustrative case to detect, problematize, and explain how and to what extent contractual arrangements relate to

the future. Based on desk research, interviews, and site visits, the study maps the implications of contracts for urban transitions both institutionally and geographically, visualizing how and to what extent contractual arrangements for neighbourhoods and infrastructures put weight on future decisions and opportunities.

Boom or doom for reclaim land projects in times of rising interest rates – the new financial reality for such large infrastructure projects

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Reclaim land projects are challenging as they draw on the commons, even though they benefit cities. Reclaim city projects to date have, inter alia, improved congestion, offered transit to underserviced city sections, revived blight, and cultural heritage city precincts. Such projects can also provide more housing with greater affordable and mixed-use opportunities for single dwellings, families, and the growing number of smaller households, as well as urban parks, schools, and childcare facilities. They can also improve the carbon footprint for cities, implement electric vehicles infrastructure and the planting of more trees in urban areas. With high inflation and a different attitude to real estate investment, post pandemic, national and municipal governments may be more cautious to plan and finance such projects. In this presentation, we discuss opportunities and challenges for future reclaim land projects in terms of city and citizen benefits and disbenefits, and the financial and legal realities for such projects given global inflation and more stringent finance opportunities. We suggest that such large infrastructure projects are still important for cities and could be financed with private public partnerships involving greater participation from pension funds and large landholding multi-nationals, who would be more willing to take on such risk.

Stakeholder Perceptions on Financing Green Infrastructure through Land Value Capture: Insights from Antwerp's Lidding Project

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As cities strive for climate resilience and liveability, policymakers are often confronted with the challenge of securing adequate funding for green infrastructure (GI) initiatives. An example is the ongoing multi-billion-euro "lidding" project in Antwerp, Flanders, which aims to construct a green roof over the city's ring road. This project is designed to reduce noise and air pollution while creating new urban green spaces. However, like many large-scale GI projects, it faces significant budget shortfalls, prompting policy and academic interest in alternative financing mechanisms such as land value capture (LVC). Yet, despite this growing interest, there remains a lack of understanding about how stakeholders involved in actual projects perceive the use of LVC. This paper addresses this gap by examining stakeholder perspectives on three key aspects of LVC policy: (1) the grounds upon which public authorities have the right to capture value increases, (2) the methods by which these value increases should be captured, and (3) how captured value should be reinvested. Drawing on in-depth interviews with stakeholders from civic action groups, regional and local administrations, and academic experts who participated in a consultation platform on the valuation and financial assessment of the Antwerp lid project, this paper offers insights into stakeholder attitudes towards LVC. These interviews were conducted following a societal cost-benefit analysis and a financial feasibility assessment of pre-selected LVC instruments for the project conducted in 2024 by the institution of the authors. By analyzing the diverse perspectives on LVC, this study contributes to a deeper understanding of the opportunities and challenges in using LVC to finance GI.

A7: Urban Renewal and Spatial Dynamics

Time: Thursday, 06/Mar/2025: 2:00pm - 3:45pm · *Location:* 0.04
Session Chair: Jennifer Gerend

The Evolution of Building-Scale Urban Renewal in Istanbul: A Decade of Renewal in Bağcılar District

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Under the influence of neoliberal policies, the central government has shifted its housing policy, focusing on the implementation of urban renewal. In 2012, the Law on Transformation of Areas Under Disaster Risk (Law No. 6306) came into effect as a significant and controversial legal instrument in urban renewal. One of the most notable features of this law is that it encompasses renewal processes both at the building-scale and the area-scale. Since the enactment of the law, especially building-scale renewal projects have gained momentum, creating significant impacts on urban development, planning, and the housing market. Istanbul is the city where building-scale renewal projects are most intensely implemented. The different impacts of building-scale renewal projects have been revealed by various studies. These studies mostly emphasise the negative effects. However, these studies mostly neglect the temporal impact. Focusing on a case study area in Istanbul, this study analyses urban renewal at the building scale by considering the temporal effect. Bağcılar district was selected as the case area. Bağcılar is one of Istanbul's most densely populated districts and is also an example of where building-scale renewal is often applied. The study analyses the spatial change and its content in the renewal practices at the building scale between 2014 and 2024 in the case of Bağcılar. As the plan decisions have not changed in the district for the last 10 years, there has been no change in the legal framework. This situation enables a detailed analysis of the dynamics behind the changes in urban renewal processes. Within the scope of the study, the change in the spatial distribution of urban renewal at the building scale in the last 10 years and the economic, spatial and social effects of such a change on the settlement are analysed. The identification of the time-dependent effects and changes of urban renewal at the building level is an important contribution for countries with a similar dynamic.

The Critical Role of the Spatial Dimension of Property for Urban Renewal

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The spatial dimension and organisation of property significantly impact urban dynamics. In particular, given the importance of place-based (private) agents' actions in driving urban change and the continuous and necessary upgrades of buildings, property ownership configurations (e.g., more centralised or more fragmented) are indispensable factors in understanding the ease, or lack thereof, of coordinating urban renewal for local municipalities. While this aspect has been analytically debated—for example, regarding whether certain urban areas are more or less open to spontaneous and difficult-to-control processes of change—the relationship between the spatial dimension of property and urban renewal policies remains insufficiently consolidated.

This talk reflects on this issue and discusses why the spatial dimension of property, particularly at urban and neighbourhood scales, is not merely a secondary consideration for those addressing urban renewal. Instead, it represents a crucial structural precondition that planners must seriously consider. After establishing the theoretical groundwork for this topic, the talk will present insights and reflections based on a concrete case study examining the challenges of energy renewal strategies in Dortmund. In particular, it will show how different property ownership configurations present distinct challenges, obstacles and opportunities.

This work is part of the broader CATCH4D project, funded by ICLEI, which supports local climate adaptation strategies. The project is in collaboration with the City of Dortmund and relies on close cooperation with the Urban Renewal Office and strong connections with local building owners.

Legal and Administrative Challenges to Residential Retrofitting Practices in the Case of Istanbul, Turkey

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Earthquakes all over the world cause damage or collapse of buildings. The collapse of buildings is the main cause of death and injury. As a result of this destruction, a serious economic loss also occurs. However, it is possible to minimise or prevent earthquake losses by implementing earthquake risk mitigation decisions. Two main approaches for earthquake risk mitigation in existing buildings are ‘retrofitting’ and ‘earthquake-oriented urban renewal’. Retrofitting involves intervention to make the existing building performance earthquake resistant without demolishing the building. Urban renewal, on the other hand, refers to the intervention to demolish the existing building and replace it with earthquake-resistant reconstruction. Such an intervention can be at the scale of a single building or at the area scale. However, governments mostly favour the latter policy. The main motivation behind such a preference is the pressure of the real estate market, the expectation of high profits in a short time, and the acceptance that construction-oriented growth increases GDP and employment. A similar approach has been adopted in Turkey. As a matter of fact, after the 1999 Marmara Earthquake, an earthquake-focused urban renewal approach was adopted to strengthen the existing building stock and urban transformation was prioritised in the legal instruments for earthquake risk mitigation that came into force as of 2004. However, the idea of applying only urban renewal to all existing buildings to improve the seismic performance of Turkish cities seems unrealistic in terms of both financial resources and ensuring improvement in a short time. Therefore, it is inevitable to activate retrofitting as an option. However, neither in the international literature nor in the national literature, retrofitting policy approaches in the planning system have been sufficiently analysed. This paper focuses on the main legal, administrative and practical challenges of retrofitting within the planning system in the case of Istanbul in Turkey. The paper analyses retrofitting practices in Istanbul within the framework of legal and governance resources, actors involved and implementation processes, and identifies the main challenges. The findings of the study are expected to contribute to seismic retrofit practices in similar countries.

Planning and building the image of the compact city - rather than structures that facilitate compact city qualities

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Compact city is the most actual model within Norwegian sustainable urban densification policies. The discourse of compact city qualities in policies enhances effects such as social interaction, community spirit, and cultural vitality through proximity to transport and services and opportunities for safe walking and cycling.

The article focusses on compact city building as urban form and the process of urban development through the operative tools in the planning system. It contributes to the general discourse concerning densification policies of what compact city quality is and how it is developed through the legislative framework.

The article builds on a comprehensive case study comprising six different cases with compact city ambitions in three Norwegian cities: Oslo, Kristiansand and Stavanger. The cases address three typical morphological urban tissues: the pre-existing, the new, and the transformed tissues seen in light of *general* (Planning and Building Act) and *specified* (zoning plans) *planning regulation.*

The findings of the study reveal a strong tendency to build the image of the compact city rather than structures that facilitate desired compact city qualities. Ambitions for place quality in the Norwegian Planning and Building Act as well as planning documents are primarily described through a *desired visual expression* whilst the study shows i that the legal lines and provisions of zoning plans are the defining planning tools for achieving compact urban development with capacities for sustainable development. General regulations of details and constructions of buildings play a vital role in determining the outcome of planning on urban form. As such, there is a tendency for building control processes to override ambitions for compact urban quality in planning documents, and the transition from planning to built reality is not delivered.

The article proposes solutions such as redefining planning instruments for zoning focusing on relationship and form, rather than purely use and aesthetics. This includes a stronger emphasis on provisions of the plan and the building line, highlighted as a renewed and redefined tool for city building which helps to reintroduce compact city quality into urban technical regulation.

B7: Land policies for affordable housing: inclusion and segregation (3/5)

Time: Thursday, 06/Mar/2025: 2:00pm - 3:45pm · *Location:* 0.16
Session Chair: Josje Anna Bouwmeester
Session Chair: Gabriela Debrunner
Session Chair: Jessica Verheij

Special Session

This special explores global perspectives on the role of land policy in addressing the affordable housing crisis in different countries, regions, and cities. The session aims to start a multidisciplinary dialogue among scholars working on the intersection between land policy, property rights, and affordable housing provision from diverse geographical regions across the world. Contributions focus on different planning instruments on the national, regional, and local levels available to steer affordable housing outcomes and reflect on the role of public and private actors in housing provision. Insights from various international case studies highlight innovative approaches and best practices in affordable housing provision, covering cases characterized by different planning systems (discretionary vs plan-led), housing tenure systems (tenant vs owner-occupied), and land policy approaches (active vs passive). Contributors to this special session have the opportunity to contribute a chapter to an upcoming book (edited volume) on land policies for affordable housing.

Conceptualization of affordability and segregation in Danish planning

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This paper explores the decrease of affordable housing in Denmark and the shift in the paradigm regarding urban development, especially in Copenhagen. It is based on a large literature review where the understanding and conceptualization of segregation and affordability are examined. In the largest cities in Denmark a housing crisis is on the rise, where it has become difficult to secure affordable housing in these cities. It is mainly due to economic-driven urban development of the Danish larger cities but also a consequence of ineffective housing policies and planning. Copenhagen as the largest city and capital of Denmark, is experiencing the complication in relation to the lack and decrease in affordable housing, which has led to gentrification, segregation and displacement. The consequence of segregation is observed through increase housing cost which have forced people with lower- and middle-income to move, either further out of the city (depending on commuting to work) or into marginalized areas, experiencing social problems. It is, therefore, a relevant issue for planners, policymakers and citizens to address in relation to the future of urban planning and development of Denmark and Copenhagen.

This presentation will in particular focus on our findings in relation to the conceptualizations of segregation and affordability in urban planning in Denmark, with the perspective of informing planning for affordable housing in Copenhagen.

Housing market and affordable housing in Serbia

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The sale and renting prices for apartments in Serbia have been increasing in the last few years. This trend takes significant proportions especially in larger cities. These circumstances make it very difficult for some people to pay rent, and especially difficult to buy an apartment. According to data, the price affordability of an apartment on the market in Serbia is very low. Comparing the average purchase price of an apartment to the annual income of the household, the results show that only 10% of households with the highest incomes belong to the group which can easily afford an apartment. The research shows that along with the increase in apartment prices, the number of newly built apartments has also been increasing. Number of dwellings increased by 15.0% in 2022 compared to 2021. According to the Census of Population, Households and Dwellings in 2022 in Serbia 97,88% of dwellings were in private ownership, and only 0,60% of dwellings were in public/state ownership. When it comes to occupancy status of dwellings, only 6,44% were rented. One part of the research is dedicated to answering the question of significant difference between the low purchasing power of the population versus large number of privately owned apartments and a small number of rented apartments. The research results show that there is a need for state intervention to enable certain categories of the population to have access to adequate housing. Therefore, policy and legislation on social housing were analyzed. Special attention in the research was devoted to affordable housing. The policy towards affordable housing, legal regulations as well as the several projects related to affordable housing were explored. The results show that state support for construction of apartments which will be sold below the market price to certain categories of population was usually made by financing projects from the state budget, providing construction land by the state, subsidizing housing loans. The research is particularly focused on the ways of obtaining land for the construction of buildings for affordable housing, through analysis of different projects.

Keywords: affordable housing, housing market, legislation, ownership

Affordable housing provision for a growing senior population: A planning challenge at the nexus of municipal land policy and social policy

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The growing percentage of seniors as a demographic trend presents significant societal challenges, impacting various aspects of urban life, including housing policy and spatial development. On one hand, changin housing needs—such as accessibility features, smaller units, and affordability—demand housing redevelopment (Luciano et al., 2020). On the other hand, there is an increasing mismatch between the rising demand for elderly care and society's limited capacity to provide it, creating a widening care gap, particularly for low- and middle-income groups (Black, 2020). Age-appropriate housing addresses the material basis for the changing demographics at the intersection of land and social policy to ensure the availability, accessibility and affordability (Huang 2015). This paper adopts a planning perspective to explore how municipal land policy addresses the affordable housing needs of the growing senior population. Through a multiple case study of three housing cooperatives in the Canton of Bern, Switzerland, we examine how housing provision for the elderly emerges as a municipal land policy challenge in response to the

growing care gap. Our findings indicate that housing cooperatives pursue different strategies to provide affordable housing while organizing the spaces for elderly care to alleviate the care gap. Depending on how and to what extent elderly care is accepted and prioritized as a community responsibility, organization of the spaces of care varies according to the municipal land policy priorities. Furthermore, despite being provided at cost rent, affordable age-appropriate housing remains relatively expensive, limiting access for seniors with restricted financial means. These findings raise important questions about the responsibility and capacity of municipal social policy and private actors such as housing cooperatives in making both care and housing more accessible and affordable in a rapidly ageing society.

"Keeping Tabs on Places": How An Uruguayan Housing Provider Helps Transition Its Residents from Renters to Owners

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How do you house the rural poor at a national scale? This question drove one of the most audacious planning initiatives in late twentieth-century Latin America. Guided by the slogan "to see it rain from inside without getting wet", Uruguay's Movement for the Eradication of Unhealthy Rural Housing (MEVIR) was founded in 1967 to provide dignified living for rural laborers residing in precarious mud and straw dwellings. A parastatal institution premised on mutual aid construction, MEVIR has since built over 33,000 homes and exists in nearly every small town across Uruguay. A *sui generis* effort to bring housing policy, urban planning, formal homeownership, and a sense of community to remote areas, MEVIR keeps the rural working poor rooted in places they call home and away from informal settlements on the periphery of cities. In the predominantly urban field of social housing, MEVIR is a rare case of best practices in a rural setting. One factor explaining MEVIR's effectiveness is a time-tested methodology of policy implementation as a process of social growth. MEVIR serves as planner, builder, and landlord. This last ends approximately 20 years after the completion of homes, when participating families who have fulfilled their rent payments gather in a ceremony to sign deeds and become homeowners.

This paper looks at MEVIR's landlord stage, studying how the institution follows up on residents' well-being after construction, and how it prepares families to become property owners. MEVIR's post-construction efforts help to cement the mutual trust and respect between service provider and recipient. This happens both through official interactions across the country linking MEVIR employees, participants, and allies (such as local politicians), and through incidental encounters between people MEVIR has brought together. Underpinning this constructive relationship between a national institution and rural communities is the high degree of likelihood that MEVIR will eventually return to any given town to build new homes. Drawing on my interviews and ethnographic observation of MEVIR technicians (namely architects, social workers, and agronomists), and using concepts in humanistic geography, I illustrate how "keeping tabs on places" can contribute to the sustained effectiveness of social housing initiatives.

C7: Law and Information

Time: Thursday, 06/Mar/2025: 2:00pm - 3:45pm · *Location:* 0.22-23
Session Chair: Neil Harris

Information steering in land policy: identifying sources of legitimacy

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Legitimacy is considered a cornerstone and key evaluation criteria of democratic land policies. Land policy objectives are pursued by applying instruments of varying nature, each of which draws their legitimacy from different sources. Extant land policy literature has mostly focused on regulative or economic instruments, with much less attention given to informative ones – such as customized guidance, direct contacting of landowners, or stakeholder events. Consequently, we have very little knowledge of the legitimacy of informative land policy instruments. Previous research has shown that the use of informative instruments in land policy remains in many cases unregulated and unsystematic, with great differences between local governments in which policy instruments are applied, and how. Additionally, partly due to the usual secondary or metapolicy role of informative instruments in instrument mixes, we have a weak understanding of their contribution to overall land policy legitimacy. Thus, the aim of this study is to explore where do informative land policy instruments derive their legitimacy from, and how their contribution to overall land policy legitimacy is perceived by local government officials. To this end, we conduct a qualitative study utilizing a sample of five most planning-intensive Finnish municipalities. The primary data collection method are semi-structured interviews of municipal land policy experts, complemented with the land policy strategy documents of sample municipalities. One of the focuses of our analysis is on calibrations, i.e., the "micro-dimensions of policy design." Calibrations have received proper attention in policy studies only recently, despite them occupying a significant role in establishing, among other things, the legitimacy of policies. Overall, by increasing our understanding on the sources of legitimacy of informative land policy instruments, our study contributes to an improved and more inclusive formulation of land policies.

Freedom of Information Acts as tools for research a comparison between Sweden and State of Victoria Australia

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This paper presents a comparative analysis of the Freedom of Information (FOI) laws in Sweden and Victoria, Australia, focusing on their legal frameworks and practical application at the municipal level of government. Sweden's FOI law, *Offentlighets- och sekretesslag* (2009:400), rooted in a long tradition of transparency starting 1746, contrasts with Victoria's Freedom of Information Act 1982, which represents a more recent commitment to public access to information. This study is also a tentative exploration of how FOI laws can serve as a valuable tool for researchers seeking to access government-held data. By submitting FOI requests to a sample of municipalities in Sweden, and via a detailed desktop analysis of the law in Victoria, the study not only assesses the responsiveness and thoroughness of the information provided but also demonstrates the potential of FOI systems to facilitate academic inquiry. The results of this investigation provide insight into the effectiveness of FOI laws in supporting research, while also highlighting challenges such as inconsistencies in the application of exemptions and delays in response times. These findings suggest that FOI laws, when applied effectively, can contribute to enhancing transparency and providing researchers with access to otherwise inaccessible public sector information. The study involves a detailed examination of the scope, exemptions, and appeal processes within each legal system, alongside an empirical investigation from Sweden in which FOI requests were submitted to a sample of municipalities. These requests aimed to assess response times and the comprehensiveness of the information provided. The study highlights the strengths and weaknesses of both FOI systems, suggesting that while Sweden excels in promptness, Victoria provides more thorough content at the cost of speed. The paper concludes with recommendations for improving transparency and consistency in both jurisdictions, emphasizing the need for more globally standardized guidelines, streamlined processes, and regular training to enhance the effectiveness of FOI laws in promoting more open and accountable government.

The role of social media in community-corporate engagement over land in Richtersveld, South Africa.

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Land dispossession is still a major challenge for historically dispossessed South Africans. It has been realised that the situation continues to persist despite the existence of global and national protocols to restore and protect community land rights. Communities that are struggling to secure their land from large corporate companies experience increased barriers to negotiate the restoration of their land. This study has found that the failure by the policy makers to implement and enforce policies and frameworks that are supposed to assist in resolving the historic land dispossession undermine the communities' efforts. The study uses social media to highlight the importance of technology on assisting disposed communities negotiate and defend their land rights. Social media platforms enable communities raise their voices by enabling them to participate in different debates, increasing access to developments in their land cases, highlight their plight to the world and increasing their awareness on information about their land claims, The paper uses the case study of the Nama community in the Northern Cape in South Africa. Through the monitoring of Facebook and YouTube, the study highlights how social media provides communities with education and advocacy tool to know more of their land rights and how mining companies negatively affect them in relation to their land, assist communities know different developments on the status of the company and how social media serves an update for citizens on inviting them to different meeting, updating them on the appointment of the CPA etc. The study illustrated the potential role of social media as well as the limits of the platforms for communities struggling to secure their land. So, the study also aims to assist communities in efficiently using these platforms for better use.

Keywords: South Africa, Indigenous, social media, land dispossession, advocacy.

Appeal and Review of Planning Decisions in the United States

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Planning law in the United States is not a monolith. Each state and territory has its own independent system, although there are many similarities, stemming from the circulation during the 1920s of draft “Standard Acts” for zoning and planning respectively. Except for enforcement mechanisms and review of two certain kinds of decisions, these acts were silent as to the role of the courts regarding planning decisions.

This paper explores decision making in planning along the lines of an administrative law model that separates rulemaking (analogous to comprehensive plans, zoning, and other land use regulations), from “ministerial” decisions that involve no discretion, and from administrative or quasi-judicial decisions, in which fact-finding and application of law to facts occur. The classification of these decisions implicates separate judicial review processes, each of which has its own standard and scope of review.

The administrative model has been adopted by some, but not all states. Some states allow courts to consider evidence never presented to the planning body; others allow for a complete retrial of the planning issues before a judge. Still others allow for different burdens of proof.

This paper will focus on common issues that come before courts as they review planning decisions – jurisdiction, constitutionality, gross errors in procedure, evidentiary disputes, and application of the law to facts. Moreover, it deals with typical issues courts face in any case that comes before it – standing, timelines for decisions, burdens, waiver, exhaustion, use of precedent, deference to the planning agency, reversal versus remand, and further judicial review.

The paper concludes by advocating the use of the administrative law model through the use of an administrative agency, rather than a court, to decide planning law disputes, suggesting that this model will be more speedy, efficient, and complete than the judicial model, especially as it will generally confine itself to the record of the planning agency decision and have standards for the evaluation of evidence and policy application.

D7: Land Market and Developer Obligations

Time: Thursday, 06/Mar/2025: 2:00pm - 3:45pm · *Location:* 0.24-25
Session Chair: Eliška Vejchodská

Horizontal integration in housing development markets: motives for mergers and acquisitions in the opaque housing development industry

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Housing development markets in Western Europe and the USA seem to become more and more concentrated in the last decades (Cosman & Quintero, 2019). This increasing concentration can be problematic, given the potential negative effects of market concentration such as price control, inefficiency and unequal distribution of power (Coiacetto, 2009). Little is known about the motives for mergers in the housing developers industry. Scientific insights that are available tend to focus on the construction industry and housing associations. This research gap contributes to the general opaque character of the real estate development industry, while these actors play a crucial role in the production of housing.

This contribution presents a research design to better understand motives behind mergers and acquisitions in the housing development industry and, more specifically, the role of the spatial planning regime in it. The traditional motive for mergers and acquisitions is synergy in order to achieve competitive advantage (Porter, 1985). Campbell & Goold (1998) define six types of synergy that can lead firms to mergers and acquisitions: shared know-how, shared resources, pooled negotiating power, coordinated strategies, vertical integration and combined business creation. Applied to housing development firms, several of these motives are closely related to the role of the spatial planning regime in the housing development process. This raises the question how this spatial planning regime influences the merger and acquisition strategy of housing development firms.

Patient paper: The enforcement of developer obligations in times of crisis

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Two-thirds of newly planned urban quarters in Germany are currently being realized predominantly by private developers. In terms of planning instruments, it is the zoning plan that forms the legal basis for neighborhoods. Around half were developed with the help of cooperative procedures between municipalities and private capital. (Bundesinstitut für Bau-, Stadt- und Raumforschung (BBSR) 2021). In this context, the recent past has shown increasing momentum in the adoption of building land models for quality assurance (Pätzold und Bunzel 2023). In the process, public concerns in urban planning, the environment, soil conservation, affordable housing, and design, to name a few, are being shifted to the contract level in terms of quality assurance. In many cases, the comprehensive regulations in the contracts are the result of political demands, and the outcome of the negotiations is presented to the public as an instrument for taming real estate economic logic. However, the high complexity of the contractual framework requires subsequent monitoring of compliance with contracts. While concrete reports and handling exist in the United Kingdom for example (The National Archives of UK Government 2019), the topic is hardly exposed in the German planning context.

What really happens when contracts are not adhered to, when regulations are implemented differently or not at all? In view of the current tense market situation and insolvencies of project development companies, special attention should be paid to the possibility of sanctions in the event of non-compliance. Vacancies and half-finished building ruins as a result of insolvency have catastrophic effects on the urban fabric, and it is unclear whether contractual penalties are effective in the case of insolvency.

This article therefore aims to give a picture of the recent sitution of larger development projects in times of crisis. Added will be a complementary qualitative analysis based on recently published government reports how the monitoring of contractual obligations of third parties is carried out in the first place. Some examples will point out how municipalities remain able to act in the event of insolvency.

Footing the bill for sustainable accessibility; changing trends in developer contributions via land value capture to funding transport infrastructure in England

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Accessibility and sustainable mobility to and from new property are important place making components to reducing car dependency (Banister, 2005). Financing such a modal shift towards cleaner forms of transportation is however often expensive, and land value capture (LVC) has been identified as a mechanism for funding the required new transport infrastructure (OECD, 2022). Within England, planners have traditionally used negotiated section 106 (s106) agreements to extract contributions from developers to fund transport infrastructure (Smith, 2023). Data however suggests transport funding from such agreements has fallen dramatically in England during recent years; from 11% of the total sum of all contributions in 2011/12 to just 2% in 2018/9, while the £294m received in 2018/19 is less than half the £630m received for transport measures back in 2006/07 (Lord et al., 2020).

This paper reports an investigation into the apparent decline in contributions since 2010 to first understand the reasons behind it and also considers the resulting implications for policy and LVC techniques as part of a vicious or virtuous circle of improvement (Lord et al., 2019). In so doing, the paper reflects upon the roll out of the community infrastructure levy (CIL) as an alternative LVC mechanism to s106 and the dynamics of running two different LVC mechanism alongside one another. The investigation draws on testimony from local authority planning officers in England interviewed in 2022. Our analysis is based on a qualitative synthesis which evaluates a new conceptual framework for exploring how complex policy interventions can result in different outcomes by examining the linkages between context, intelligence and behaviour. This work has been published in Planning Practice and Research (see Smith, 2023).

Adaptability in German Land Use Planning. Juggling Between Flexibility, Certainty and Public Planning Influence.

Simon Meyer, Agnes Förster
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Land use planning is a long-term endeavour, yet needs, demands, and urban planning paradigms are constantly changing. In particular, the challenges of inner city densification, but also climate adaptation, industrial structural change or demographic change, require increased adaptation of urban structures. It is therefore important to explore the role of legal rules in the constant adaptation and reorganisation of the urban fabric. An important theoretical reference is the field of tension between flexibility and (legal) certainty (Booth 1996; Buitelaar and Sorel 2010; Feiertag and Schoppengerd 2023; Van Den Hoek, Spit, and Hartmann 2020). This research examines how this tension is becoming evident in German land use planning using qualitative interviews, literature review and analysis of legal codes and documents. The focus is set on German development plans (*Bebauungspläne*), which regulate land use concludingly on the lowest level. Of particular interest is how municipalities are dealing with older development plans that no longer correspond to ideas of contemporary urban design but are still legally valid. To this end, the possibility of exemptions from development plans is studied in more detail.

Regarding the tension of flexibility and certainty the German system tends towards certainty. This is true in particular from a procedural perspective. On the one hand the procedure for drawing up new development plans is extensive. If a plan is outdated in terms of content, procedures for setting up a new development plan are only initiated for projects that are sufficiently large to justify the expense. On the other hand, there are few options for amending or deviating from the contents of a development plan, exemptions can only be used for small deviations. In granting exemptions planning officials are balancing the wish to realise the project, legal requirements and broader public interests. In this process, outdated plans sometimes can be a negotiating tool to enter into a dialogue with the developer and to influence a project to some extent. The tension between flexibility and certainty is thus complemented by a third, public perspective, namely the possibility of influencing development.

A8: Why Land Matters for Climate Adaptation? (1/3)

Time: Thursday, 06/Mar/2025: 4:15pm - 6:00pm · *Location:* 0.04
Session Chair: Peter Davids
Session Chair: Ayça Ataç-Studt

Special Session

Climate adaptation needs land! Many climate adaptation and mitigation measures require access to private land or changes in land use, such as implementing nature-based solutions, constructing flood defences, and adopting drought-resistant agricultural practices for resilient cities. This session explores the critical link between climate adaptation on one side, and planning, law, and property rights on the other. This lens is essential for framing how land can be used and managed effectively to combat climate challenges. We will discuss how planning regulations, legal guidelines, and property rights policies can facilitate access to necessary land, making climate adaptation efforts more effective. Join us as we explore these intersections and discover strategies for balancing property rights with effective planning to address climate challenges.

Gardens: previously uncharted, but now promising terrain for regulation via planning law?

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There's increasing evidence that small-scale nature, such as (private) gardens, deliver various ecosystem services. Gardens contribute to biodiversity, climate mitigation and adaptation and foster human mental wellbeing. The proposed presentation would **discuss the extent to which Flemish planning law** has embraced these insights by **putting the creation, conservation, design and management of gardens higher on the list of priorities** in recent years. It maps evolutions in the policy and regulatory framework, but also in the case law, and identifies lacunas and opportunities. It e.g. demonstrates how traditional concepts of planning law (such as the compulsory test for planning authorities to assess if applications meet the criterion of 'good spatial planning') have recently been applied to protect the value of gardens. It then **compares Flanders to the Netherlands**, which is also characterized by a high population density, to identify good practices. The issue of enforcement receives particular attention, since gardens in Belgium enjoy constitutional protection as part of 'the home', meaning that strict rules apply with respect to inspections. The focus is on planning law, not environmental law, nature conservation law or civil law, even though the interplay with these areas of the law will be discussed sporadically. Given the lack of a clear definition under Flemish planning law, gardens – for the purpose of this research - are defined as 'the space on private land in residential or commercial zones that remains unbuilt and where natural elements dominate'.

The presentation discusses **ongoing research** on the basis of a draft paper. It builds on a paper presentation given in March 2024 at the 'Living Environmental Law' conference in Wageningen (the Netherlands) entitled 'Activating the potential of private nature: a regulatory challenge'. Whereas that paper offered a 'bird's-eye view' on the protection of small-scale, especially private, nature, under *various* areas of the law, the PLPR presentation would focus specifically on (1) gardens only (not e.g. small privately-owned and isolated woodlands) and (2) planning law specifically.

Exploring Property Rights and Housing Market Behaviour in Areas of Coastal Erosion

Malachy Buck
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In the UK alone 2,200 properties are at risk of coastal erosion by 2040, with climatic changes increasing this risk. This paper explores the experiences of households affected by coastal erosion. It focuses upon how institutional frameworks regarding the management of coastal erosion effects residential decision-making, a topic which to date has received limited attention. It does so through presenting the findings of a series of interviews with residents on the Holderness coast in the UK, the fastest eroding coastline in Europe. It seeks to explore residential decision-making when a decision is made to not defend a coastline against erosion. Its key scientific contribution is in providing an understanding of the experience and impacts of coastal erosion upon communities and how this affects risk perceptions and residential mobility decision-making. The research finds that erosion was associated with blight of neighbourhoods, loss of amenity and significantly reduced the value of homes. This influenced the balance between benefit and risk resulting from a residential move into or out of the study area. For some, the benefit of a discounted home served to encourage a move into the area, despite the presence of risk. For others, the range of benefits associated with living in the study area meant they were unwilling to move away, despite the risk. However, the balance between risk and benefit did not explain the situation completely. In some cases, the low value of homes meant some household's financial resources could not support a move away from risk. This underlined how the absence of compensation from the effects of erosion means the impacts of erosion fall disproportionately on lower-income households. The paper goes on to consider the policy and practice implications, exploring the fairness of compensation regimes, the role of different stakeholders in manging coastal risk as well as understanding how changes in institutional frameworks for land management at the coast can be fairly and smoothly implemented. By doing so, the paper draws connections between climate adaption, land and property rights, public perceptions, and residential decision-making.

Data-driven Urban Modelling: The Case of Explainable Detection of Urban Heat Island

Nasim Eslamirad[1,2], Mahdi Rasoulinezhad[2], Francesco De Luca[2], Kimmo Sakari Lylykangas[2], Frencesco Pilla[1]
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This study presents a data-driven framework to address the Urban Heat Island (UHI) effect, focusing on sustainable urban development and thermal resilience. As urbanization accelerates, cities face escalating challenges, including rising temperatures, diminished thermal comfort, and reduced urban livability. To tackle these issues, the research introduces the CLEAR model (Capture, Learn, Extract, Apply, Repeat), integrating urban spatial, meteorological, and Surface Urban Heat Island (SUHI) data into a comprehensive geoprocessed dataset. Leveraging advanced Machine Learning (ML) techniques, including predictive and explainable models such as LIME and SHAP, the study develops ML models to forecast UHI levels and identify key contributors to UHI intensity. Findings reveal that urban design features—such as building shape, area, and density—significantly influence the UHI effect, with denser built environments amplifying thermal stress. A critical output is the creation of

a geospatial dataset that integrates building-scale and neighborhood-scale features alongside meteorological and SUHI data, forming the foundation for a robust predictive ML model. Transparent ML models further elucidate the interactions between urban features, such as the combined effects of building footprint size and density, providing actionable insights for urban planning. The CLEAR model offers a globally adaptable, iterative framework for UHI mitigation strategies, validated through its application in Tallinn. By highlighting the role of variables such as building volume, height, and proximity in intensifying UHI, the study equips urban planners and policymakers with data-driven insights to enhance thermal comfort and urban livability. This research underscores the transformative potential of ML-driven approaches in addressing urban environmental challenges, advancing sustainable urban development, and improving quality of life.

Balancing Urbanization and Flood Resilience in the St. Pius Quarter

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Climate change, marked by intensified rainfall and downpours in countries like Germany, has heightened conflicts between urban development, flood risks, and adaptation needs. This paradox is evident in the Ahr Valley, where, following the catastrophic 2021 floods, authorities approved the reconstruction of most buildings and continued with new development projects in flood-prone areas. The St. Pius Quarter, an affordable housing project approved just before the floods in Bad Neuenahr-Ahrweiler, exemplifies this dilemma. Despite its location in a high-risk flood zone, the project was allowed to move forward, reflecting the tension between addressing flood risks and meeting urbanization demands.

The pressures of urban growth and economic needs often outweigh long-term flood resilience, as seen in the "lock-in" situation of the St. Pius Quarter. The likelihood of halting or altering the project for flood risk management is minimal due to entrenched zoning plans, a lack of political will, and the project's importance in providing affordable housing with high ecological standards. Financial challenges further complicate the issue, as revenue from the land sale has been earmarked to finance a local swimming pool. Stopping the project would impose significant compensation obligations on the municipality, discouraging any efforts to reconsider the development.

While technical solutions help mitigate flood risks, long-term safety requires spatial planning that controls development in vulnerable areas. Although legal tools to restrict and control development exist, hesitation persists due to the intricate interplay of policies, property ownership, individual rights, and financial pressures. Downzoning or restricting development is a crucial strategy for reducing long-term flood risks, yet policymakers have been slow to adopt it.

The case of the St. Pius Quarter highlights the complexities of land ownership and spatial planning, revealing how various factors act as both drivers of change and obstacles to progress in flood risk governance. To build flood-resilient regions, an integrated policy approach that balances spatial planning with property rights is essential.

Flooded Flanders. Planning and downzoning to prevent worse.

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Increased flood risks require spatial planning interventions in urban and peri-urban areas all over Europe. Interventions such as increasing flood buffer capacity, reallocation of building land in flood-prone areas, demolishing of property in flood-prone areas, rezonings etc. hightlight the tension between landowners and intervening governments.

Also, in the Belgian region of Flanders (a region with strong property ownership rights) floods have increased rapidly in recent years, increasing to several incidents yearly. The Flanders region is particularly vulnerable due to the interplay of several factors: it has a flat relief that allows water to stand for a long time and cause damage, an exceptionally high degree of dispersed building and soil sealing, a high compacting of agricultural land, insufficient buffering capacity and rapid discharge to the river valleys by sewerage. The wake-up call came with the July 2021 flood that struck Belgium, costing 39 lives and €2.4 billion. The Flemish region is preparing the necessary measures but is slow compared to the increasing urgency. One of these measures is the downzoning of about 700 ha of developable land in water-sensitive areas, which took the Flemish government 15 years to implement. This procedure was carried out successfully but will now, after all the planning work, impact some 2,000 owners and the value of their land. At the same time, the regional government has increased compensation rights for landowners. To achieve its No Net Land Take objectives, the Flemish region would have to downzone at least 30,000 ha of buildable land. In other words, this small, first intervention by the Flemish government will be the litmus test of the new, more expensive compensation scheme. In this session, we will discuss these rezonings, the conflicts with municipalities that continue to issue permits, and the discussions with landowners about private loss and public compensation.

B8: Planners and the Planning System

Time: Thursday, 06/Mar/2025: 4:15pm - 6:00pm · *Location:* 0.16
Session Chair: Anita De Franco

The Planning Crisis You Cannot Grow From

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In recent years, urban planning in Israel has come under sharp criticism from professionals and policymakers both inside and outside the system. Findings from a series of interviews with planners across various bodies and positions reveal a deep crisis of trust in the planning system and its operations. While crises can often spark innovation and fresh thinking, these interviews suggest that Israel's planning apparatus is resistant to criticism, suppressing potential innovation and clinging to outdated patterns and problematic outcomes.

At the heart of the crisis lies the public-governmental ownership of the majority of land in Israel, which is both a source of many failures and a barrier to resolving the crisis. Four key themes consistently emerged from the interviews: Fixation (ideological, practical, and administrative), which stifles diversity and growth; Confusion of Responsibilities between planning institutions and decision-makers, leading to inability to cooperate; Abandonment of Moral Principles in planning, replaced by a focus on case-based efficiency and economic interests; Neglect of Social, Environmental, and Welfare Commitments, further eroding public trust.

The research concludes that meaningful reform in Israel's planning and development processes is unlikely to emerge from within the system. Only external intervention or a significant event could initiate the necessary change, as the system appears incapable of evolving from its current crisis.

Building blocks of legitimacy for municipal land policy? The legitimacy perceptions of Finnish municipal officials

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Municipal land policy has a potentially critical role to play in addressing a wide range of issues from climate change to housing affordability. The intervention to land market is more likely to be effective and efficient if it is considered as appropriate and acceptable – i.e., legitimate – by the public. The literature suggests that similarly to many other policy contexts, legitimacy of municipal land policy can be evaluated against the normative criteria of inclusive interest representation (input legitimacy), the quality and fairness of governance processes (throughput legitimacy) and the output effectiveness (output legitimacy). However, there is limited understanding of how the different stakeholder groups of land policy perceive the construction of legitimacy for the land market intervention. This study asks which values, norms, and practices do municipal officials, who as administrators have a central role in land policy formulation, implementation and evaluation at municipal level, view as the key sources of legitimacy. We draw upon a rich data set consisting of interviews with 30 Finnish municipalities and a country-wide survey targeting all municipalities (N=104) to generate a comprehensive, nuanced depiction of the legitimacy perceptions of municipal officials. We show that the officials accentuate the role of transparency of the governance processes in legitimacy building. They furthermore pointed out several issues that challenge the legitimacy of governance processes. A key challenge concerns transparency and fairness in applying negotiable land policy instruments. The study contributes to debates about the sources of legitimacy for municipal land policy. The findings can moreover assist local governments in formulating legitimacy-producing land policies.

Analysis of Plan Changes in Turkey from the Perspective of High Court Decisions

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The current planning system in Turkey is characterised by a 'plan-based system'. Plans, which are prepared within the legal framework and have binding force, are prepared within the framework of the principle of binding force associated with the facts of certainty, clarity and immutability. The prescriptive approach in the plans provides certainty to the system and the planning process shows a rigid functioning. However, in this respect, the existing planning system is insufficient to respond to the problems arising from the rapid development of urban areas. This leads to the frequent use of plan changes. The frequent and numerous use of plan changes brings the plan-based system closer to the project-based system. The emerging project-based system experiences make the planning system hybrid in the Turkish planning system. In such a hybrid structure, the approach of the higher judiciary to evaluate plan changes is important. However, there are not enough studies analysing plan changes from the perspective of the higher judiciary. This paper focuses on analysing how plan changes are evaluated by the higher judiciary in Turkey. This study analyses the high judicial decisions in the last 10 years in terms of certainty, plan hierarchy and plan-implementation integrity, which are the basic elements of the regulatory planning system. The results of the analysis show that the lawsuits aimed at affecting the basic elements of the plan-based system are intensive both in terms of quantity and quality. Although high judicial decisions act to protect the elements of the plan-based system, they mostly serve the transformation of project-based approaches into hybrid ones.

Please Hold: A Study of Swedish Municipalities' Application of the Planning Monopoly

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In the Swedish planning system, based on a municipal planning monopoly, the municipalities are responsible for both comprehensive and detailed planning. This has a long tradition and was established in 1947 through provisions on municipal planning monopoly in the Building Act of 1947. The planning monopoly also reflects municipal self-government, which grants municipalities autonomy as long as they operate within the law; i.e. Local Government Act.

Municipal self-governance provides an opportunity for municipalities to plan long-term and determine how local resources should be managed. It also allows them to control the growth and development of the municipality, with the comprehensive plan as the primary guiding document. The limitation, however, is the municipal investment budget, which define the financial scope for planning. In a municipality where the local authority is the only entity with ambitions to plan and develop, this system works. However, the municipality is neither the only landowner nor the only one with development ambitions.

In practice, the application of the planning monopoly has led many municipalities to the necessity of prioritizing planning efforts, as resources in terms of personnel and investment funds are insufficient. Municipalities therefore prioritize the order in which plans will be processed. But under which legislation is this prioritizations justified?

A tentative study indicates that the reasons for prioritization vary across municipalities and are drawn from different pieces of legislation or are not justified at all.

An approved planning application must specify the date by which a draft plan will be ready for consultation before its eventual adoption. However, to initiate the planning work, whether under the municipality's own direction or independently, a decision on the plan start is required. This can be delayed.

This study investigates how Swedish municipalities manage the planning monopoly and how the prioritization in the planning process is legally justified. The study analyses "planning queues" from three legal perspectives: the Planning and Building Act (PBL), the Administrative Procedure Act (FL), and the Local Government Act (KL). The aim is to identify possible solutions to reduce delays and increase efficiency in the planning process.

C8: Specific Property Rights

Time: Thursday, 06/Mar/2025: 4:15pm - 6:00pm · *Location:* 0.22-23
Session Chair: Malgorzata Barbara Havel

A stitch in time: the role of collective customary land tenure relations in sustaining urban green commons in Ghana

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This paper examines the contribution of collective management approaches within customary systems to perpetuating urban green commons in dense and heterogeneous urban environments in Sub-Saharan Africa (SSA). Although customary property systems have been problematised in discourses surrounding land management and administration, these institutions remain crucial in resource allocation across much of the region. This, combined with changing political, economic, and social conditions in urban areas, has spurred the emergence of complex governance 'arenas' for collective social and environmental value resources. Despite recognising local resource management systems, such as the commons, as viable solutions for addressing this complexity in scholarship, comprehensive empirical investigations and theoretical reflections on the resilience and responsiveness of urban commons within 'collectively-oriented' customary systems are lacking. Using an institutional analysis approach and qualitative case study methodology, this paper analyses how customary practices of tenure relations contribute to the survival of urban commons in the context of green spaces. The findings reveal that customary tenure arrangements promote resource sustainability by managing use conflicts through customs, social cohesion, and bonding traditions. Nevertheless, weak cooperation between planning and the customary tenure practices upon which the commons rely renders urban green commons vulnerable to the dissipative forces of the market. Given the limitations of exclusive reliance on customary approaches to green space governance, this paper suggests pathways for intervention that may lead to a compromise between planning and customary systems, thereby promoting the long-term survival of urban green spaces in Ghana.

Who owns a space rock that landed in a private forest in Sweden?

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In 2020, an iron meteorite landed on privately owned forest land in Sweden. Two geologists entered the land, located the meteorite, and removed it. The landowner did not challenge the geologists' right to enter his land, but he believed they illegally removed the meteorite.

Sweden's customary right of public access (allemansrätt) provides non-owners the right both to access private land and collect and remove natural resources from it, like wild berries or mushrooms. A visitor cannot take cultivated crops or items that belong to the landowner.

What about a meteorite? It is not a cultivated crop. Neither is it a wild-growing berry. Is it the landowner's property? It did not belong to the landowner before it landed on their property. Did it become the landowner's property by landing there?

The Uppsala, Sweden, district court held that, under allemansrätt, the meteorite's geologist finders could remove the meteorite because it was a moveable object, not part of or attached to the land —thus more like wild berries than cultivated crops.

The Svea Court of Appeals overturned the lower court holding that "such rocks should be considered 'immovable property' and part of the land where they are found." This meant the geologists were *not* entitled to remove the meteorite. This court said that because the iron meteorite landed on property that happened to contain iron, it could not easily be separated from the land.

This article will consider whether a meteorite that falls onto private property *should* be the immovable property of the landowner, whether it should be considered moveable and thus available to be taken by visitors, or whether another theory of property ownership should apply. It will analyze classic theories of property ownership and current legal practices for determining the ownership status of space-derived objects that arrive onto private land. As humans send more objects into space, scientists expect those objects to collide with natural objects and that natural objects (as well as human made space debris) will land on Earth, sometimes on private land. It is important to consider the ownership status of these financially and scientifically valuable objects.

A case of contested legal and governance space: Resource extraction, local government and spatial development planning legislation in South Africa

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The arrival of mining around 160 years ago in what would later become South Africa not only fundamentally transformed the economy of 'the country to be' and the ways of life and making a living of its people, but also fuelled and enabled the creation of first the Colonial, and thereafter the Apartheid State. Given the need to both break the grip of this exploitative, racist, and segregationist past, while still maintaining the bedrock of the national economy, i.e., resource extraction, one of the first steps of the first democratic government was to prepare policy and legislation to that would radically transform, yet still sustain and grow the country's mining industry. At the same time, policy and legislation had to be prepared to create new forms of local government and put in place the necessary plans, programs, frameworks, and strategies to ensure the crucially important spatial, social, and economic transformation. All of this was duly done, thereby putting in place a suite of sectorally-based regulatory and enabling instruments that all culminate in the municipal space.

Three decades have now passed since the introduction of this new array of legislative, policy and planning instruments. Over the course of the last two decades, the authors have undertaken and led research in mining towns and regions in South Africa, including research into the factors that enable and frustrate actors in these spaces from undertaking their respective regulatory, facilitatory and enabling tasks. Using this research as base, the authors, in this paper, provide a critical analysis of the working and efficacy of the legal, policy and planning frameworks put in place since 1994, not for the sake of critique, but with a clear desire to assist in ensuring an improvement on the pursuit of the country's clear transformative post-Apartheid agenda. Areas of

focus engaged in the paper include (1) legal and governance frameworks, (2) enforcement, (3) monitoring and reporting arrangements, and (4) provision for multi-sectoral, multi-actor and cross-boundary collaborative and integrative planning, budgeting, and implementation.

the French long term lease ”bail réel solidaire” : do households really benefit from the land discount ?

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Context and question: The research aims at understanding how the French long term lease (Bail reel solidaire - BRS) linked to a land trust for affordable housing (Organisme foncier solidaire - OFS) can contribute to a “smart share” of land value between the land trust and the homeowners. The system is inspired by shared equity homeownership systems, particularly the Community Land Trust. It distinguishes the perpetual ownership of land and building. On the one hand, the OFS buys land and takes it definitively out of the market. On the other hand, households buy their dwellings as their primary residence and accept to pay a rent on the ground and to relinquish ownership according to specific resale formula. The proposal focuses on the financial conditions of the system: are they determined by the market or by some financial objectives of the OFS? In other words, does the homeowner benefit from a long term discount on property price, due to the fact he does not buy the land, or does he contribute to support some high land prices?

Method: Our research focuses on the Paris region, where the market is very tight and many households cannot afford to buy their home, with several spatial differences that allow comparisons. Our methodology is based on an interdisciplinary approach, combining economics, sociology and geography. We consider the global land value process, from the former land owner to the final homeowner. We analyse 16 case studies, located in different contexts. We collect first-hand information (documents, data and experience feedback) from OFS and from households by interviews and survey. In addition, we collect information on the 21 OFS in Île-de-France from the ministry in charge of the follow-up of OFS activities (annual reports), and from a network of OFS that gathers data and shares methods and ideas.

Results: The proposal raises the point that the original social objectives could be diverted by financial interests. It levels and discusses several issues: the diversity of OFS models, territorial constraints and public subsidies, and households' financial commitments in relation to their residential path.

Living on Dolomite: A case study of Katlehong, South Africa.

Jabu Hlatshwayo, Gaynor Paradza

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In formalized settings, the land uses and housing densities of areas underlaid by dolomite in South Africa are to be classified and approved based on a range of dolomitic hazard levels, with the aim of providing, acceptable levels of "living with risk" to communities in such areas. However, building on dolomite has proven to be a dangerous task as there are constant threats of dolomite sinkholes that have resulted in the loss of property and lives. Moreover, a majority of such developments begin before communities and developers had a full comprehension of risks associated with development on dolomite. About four to five million people currently reside on dolomite land, with some residing in high-risk areas that are may not suitable for residential development.

Despite the risks associated with settling on dolomitic land, settlements are increasing as a result of the increased population and land delivery bottlenecks. Therefore, there is need to assess the awareness and understanding that exists among community members regarding dolomite sinkholes formation and dolomite risk management. This paper uses a case study of Katlehong North in Ekurhuleni which has a has the highest density of people settled on land characterized by dolomite and sinkholes in the Municipality.

The study draws from ethnographic methods to assess extent of residents' awareness and understanding on reasons for settling on the land, their assessment of the risks and the measures they put in place to manage the risks of living on dolomitic land. Through this study, a better understanding of the risks faced by the community and how losses caused by dolomite can be mitigated might emerge. Ultimately, it seeks to call for the need for the intensification and prioritization of accessible dolomite sinkhole risk awareness campaigns and information by the municipality's decision-makers to the community of Katlehong North .

D8: Unintentional Land Policies (1/2)

Time: Thursday, 06/Mar/2025: 4:15pm - 6:00pm · *Location:* 0.24-25
Session Chair: Fabian Wenner

Special Session

Land policies encompass state and municipal interventions affecting land value, use, and distribution, including land use planning and public land ownership strategies. In practice, policies influencing land are often uncoordinated and emerge from various policy fields, following diverse aims often unrelated to land. Impacts of such policies on land may be expected and tolerated as side effects, or entirely unexpected by policymakers. This Special Session aims to explore these "unintentional land policies", which may profoundly impact urban and rural areas, socio-economic dynamics, and environmental sustainability.

Beyond Conformance: Evaluating Policy Side Effects

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Policy evaluation in planning and land policy often relies on conformance-based assessments, which focus on how well the outcomes of a policy align with its original objectives. While such evaluations are important, they are insufficient on their own, as they fail to account for the unintended side effects that policies may generate. This paper argues that to provide a more comprehensive evaluation, it is crucial to move beyond mere conformance and consider the broader impacts of policies, including their effects on efficiency and equity. Policies influence not only the outcomes they intend to achieve but also generate unforeseen consequences that can affect the distribution of benefits and resources across different social groups, thus impacting equity, as well as the overall functionality of the system, affecting efficiency. This paper proposes an integrated approach to policy evaluation that incorporates both the intended outcomes and the side effects, with a particular focus on the interplay between efficiency and equity. It highlights the trade-offs that can arise between these objectives, as improvements in one may sometimes come at the expense of the other. However, certain policy interventions can mitigate or avoid these trade-offs. By adopting a holistic framework, policymakers can better understand the trade-offs and synergies between these two key purposes of policy interventions, leading to more effective and just planning and land policy decisions.

When compensation changed the city

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In this paper, we examine how compensation, or the fear of compensation claims, can influence the planning process and system as a whole.

To do so we concentrate on an extreme case study, the city-wide conservation plan of Tel Aviv, Israel. In 2008, the city approved its conservation plan, which simultaneously afforded heritage protection to more than one thousand buildings. In this paper we take an in-depth look at this plan, addressing how issues of compensation have affected, and in many cases driven, decision making during the approval and the implementation process of the plan. As a result, issues of compensation not only changed the city's landscape and planning system, but affected the way Israel addresses its build heritage.

The paper highlights the notion that the 'tail wags the dog'. We look at how, 15 years after the approval of the plan, the issue of compensation still hangs over the city, creating a ripple effect that influences its planning and design. Claims for compensation can bury a city under the current compensation system, even if the plan has good intentions. The greater the size of the statutory plan, the greater the risk that compensation claims generate. As the interpretation of compensation rights continues to expand, the impact of the claims will increase. Consequently, cities may not desire large-scale programs that promote citywide issues, such as climate change management.

The paper demonstrate how, in countries with broader compensation regime, the planning system may turn on its head and reorient its planning efforts to address the economic aspects of the compensation claims, at the expense of other planning issues. Furthermore, the preoccupation with compensation claims creates an economically focused dialogue with the public and contributes to creating a discriminated implementation process.

Do Developer Obligations Stimulate or Stifle Housing Supply? The Case of Community Infrastructure Levy in England

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New housing development should be complemented with new and/or improved local infrastructure, requiring a delicate balancing act by local authorities so that the cost of providing such infrastructure does not discourage development and stifle housing supply. Available land value capture tools can exacerbate housing supply constraints when their design, implementation and synergies with other policy tools are lacking. There is a notable gap in the literature studying the impact of new land value capture tools on housing supply. To address this gap, we analyse the introduction of a new land value capture tool, Community Infrastructure Levy, in England. As housing supply, land value capture tools and affordable housing provision are interrelated, modelling their relationship requires careful consideration of endogeneity, which we comprehensively address in our models by specifying a dynamic panel estimator. We find that the provision of exceptional circumstances relief within the CIL policy is a key differentiating factor highlighting the importance of flexibility in land value capture tools.

Forgotten Intentions: When Only Money Counts in Land Policy

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Taxes typically follow twofold goals: the filling of public funds and the achievement of governmental objectives. For the case of the French “Versement pour Sous-Densité” (VSD; Payment for Under-Density), the latter was the main argument when it was introduced in 2010; it aimed at a more efficient use of urban land and a limiting of urban sprawl (Legifrance, 2021). It was a land policy instrument that allowed municipalities to impose a tax on land that stayed below the foreseen density of the local land use plan based on a percentage of the value of the land.

However, in the years after its implementation, most assessments of the tax were based on its economic effects: be it the analysis of effects on land values (Avner et al., 2013) or the expected tax-revenue for municipalities it generated (Wahl et al., 2014). Finally, the VSD was repealed in 2021 because of its weak tax revenue and the fact that it was only applied by 39 of France’s approximately 35.000 municipalities in 2014 with a declining number afterwards (Coquière, 2020).

While generating public funds is legitimate, the effects on the law’s original intention of limiting urban sprawl seem to have been forgotten. Therefore, this contribution follows the research question “Can the intentions of the VSD be traced in the built urban form?”

For this, a large-scale geo-data analysis approach is pursued that quantifies the built-up areas, floor-area-ratios and land use rate in the municipalities that have implemented the VSD. Besides the assessment of these municipalities, comparable municipalities that have not implemented the tax are identified and evaluated. For this, national statistics on population and an accessibility study are combined with a difference-in-difference regression. The open availability of large-scale building footprint and height information in combination with building age in France allows for such a precise dissemination at the building level.

The applied approach shows a difference in the built urban form being produced in some of the municipalities that implemented the tax. However, it also shows a short period of application which can be linked to the declining tax revenues once owners start densifying.

The Origin, Structure and Consequences of Unintentional Land Policy in Ahmedabad, Gujarat

Venugopal Agrawal

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Nearly 18% of the world’s population lives on only 2.4% of the world’s land in India. Such a scenario places extreme pressures on urban and rural land, and yet land in India is not governed through a single institutional structure but through multiple and sometime competing laws, policies and rules. This research shows how, despite not being defined through a single institution or legal framework, operationally, a coherent policy of land development emerges in urban areas of the state of Gujarat, India. Based on data collected during 3 months of field research in Ahmedabad, Gujarat, including interviews with multiple stakeholders such as landowners, town planners, private developers and residents, it identifies how statutory processes and legal instruments and categorizations from different institutional settings combine in the context of market forces to form one of 2 potential development pathways for urban and peri-urban land.

The research finds that while this “unintentional” land policy is instrumentalized through the urban planning mechanism, it results in the goals of the same mechanism being subverted in favour of privatized, capital driven land development. The roots of the way this policy plays out seem to lie in the socio-political conditions and market pressures in the context of which this policy is implemented. The evidence also suggests that the 2 pathways that emerge out of such “unintentional” land policy leads to deepening inequalities in the quality of the built environment in Ahmedabad city.

A9: Why Land Matters for Climate Adaptation? (2/3)

Time: Friday, 07/Mar/2025: 8:30am - 10:15am · *Location:* 0.04
Session Chair: Peter Davids
Session Chair: Ayça Ataç-Studt

Special Session

Climate adaptation needs land! Many climate adaptation and mitigation measures require access to private land or changes in land use, such as implementing nature-based solutions, constructing flood defences, and adopting drought-resistant agricultural practices for resilient cities. This session explores the critical link between climate adaptation on one side, and planning, law, and property rights on the other. This lens is essential for framing how land can be used and managed effectively to combat climate challenges. We will discuss how planning regulations, legal guidelines, and property rights policies can facilitate access to necessary land, making climate adaptation efforts more effective. Join us as we explore these intersections and discover strategies for balancing property rights with effective planning to address climate challenges.

Avoiding Development in High Wildfire Risk Areas: A struggle in California

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The effects of wildfires are not limited to "wild" areas where there is little or no human development. In fact, wildfires are having increasing impacts on areas where humans live. In part, this is a function of land use patterns characterized by people, from a wide range of income groups, moving into exurban areas.

What do we do to address this risk? A variety of activities are being undertaken. "Structure hardening" through the use of more appropriate building materials and design, improved evacuation routes, vegetation management (e.g., through the maintenance of "defensible space" near structures), and developing better notification systems, are all examples of efforts to reduce the risk of wildfire for people living in wildfire prone areas.

But what about limiting or prohibiting development in areas of higher wildfire risk? Sometimes referred to as "avoidance," this strategy is frequently raised but also often dismissed.

California has begun to address avoidance, though without a clear consensus on how best (and if) to proceed. This paper will consider: 1) the land use planning approaches established to date; 2) those that have been proposed but not yet embraced; 3) policy and philosophical underpinnings for existing and potential legislation; and, 4) property rights considerations associated with implementing avoidance strategies.

This paper will focus on decisions regarding new development. Existing development in higher risk areas presents a significant issue, as well. As with flooding and sea level rise, solutions may come from "managed retreat" and other strategies and is the topic for another paper.

Playing for time: planning and the challenges of managing ‘end-of-life’ minerals extraction in a climate emergency

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Planning is an activity conducted in the past and the present that anticipates and attempts to control an imagined future. This article provides a critical analysis of the capacity of a planning system to manage and control land-uses and the impacts of development. The conceptual framing of the article is around time, timing, and temporalities as key themes of recent and ongoing interest in debates in planning. These concepts are examined in the context of a controversial case study of the extraction of coal at an opencast mine located in south Wales in the United Kingdom. The case study relays significant weaknesses in the planning system in acting on the unauthorised extraction of coal even in the context of declarations of climate emergency. The empirical and conceptual dimensions of the paper focus on the importance of time and timing in planning activity, the planning system’s limitations in delivery of what has been imagined in the past, and the significance of third parties in efforts to secure compliance with planning decisions.

How to adjust environmental compensation planning for infrastructure projects in light of climate change?

Marianne Darbi[1], Nora Schnidt[1], Juliane Albrecht[2], Marius Werner[2], Raphael Süßenbacher[3], Susanne Glatz-Jorde[3], Robert Meier[4], Talisa Bandelmann[4]
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As part of the impact mitigation regulation under the nature conservation legislation of Germany, Austria and Switzerland (D-A-CH countries), developers have to implement measures to compensate for unavoidable impairments of nature and landscape resulting from development projects such as highways and railways. Compensation measures are an important instrument for countering global biodiversity decline. However, climate and landscape change pose enormous challenges for the long-term preservation of their functionality. The future-proof orientation of compensation measures is therefore in line with the central European objectives for safeguarding biodiversity in the light of climate change (EU Green Deal, EU Biodiversity Strategy 2030). Among others, heat waves, drought and water scarcity and the associated consequences for groundwater levels and the landscape water balance must be taken into account in environmental compensation planning.

Effective implementation of compensation measures includes i.a. the following aspects:

1. adaptive management, i.e. adjusting the compensation planning when implementing the areas in order to take account of changing environmental conditions. This can include flexible monitoring and management approaches, to ensure the long-term success of compensation measures. For example, the location of compensation areas (site selection) and the selection of plants must be rethought.

2. water protection measures, i.e. the integration of measures to mitigate the effects of water scarcity on habitats and species. This could include restoring wetlands and improving water retention in the landscape.

3. new pathways need to be explored. To date there is a high degree of uncertainty and at the same time a high degree of regulation in the three countries studied. However, current practice may fail in the future due to changing conditions. Therefore, more exploration and more flexibility (including potential adjustments of the legal conditions) should be fostered.

The suggested recommentations are the outcome of the transnational research project "Compensation areas in transition" which has been carried out by an interdisciplinary and international project team from practice and science in the D-A-CH countries. The project aims for a presentation of the status quo and the development of recommendations for a future-proof compensation planning.

Regulations 'under the weather': Legal factors of stability and change for the implementation of natural stormwater management in Finland

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The implementation of natural stormwater management (SWM), namely SWM carried out through nature-based solutions (NBS), is still limited and problematic despite their benefits in climate change adaptation. Private landownership is commonly cited as the factor limiting extensive NBS. However, the Finnish model demonstrates that, regardless of whether the needed land is private or public, implementing actors face numerous legal challenges in efforts to carry out SWM using NBS.

We study the Finnish SWM and land use planning frameworks to uncover the legal barriers to and drivers of NBS implementation as well as the interaction of the frameworks with the wider governance setting. By doing so, we highlight the need for a regulatory approach to NBS that will facilitate their uptake. We first explore how the Finnish legal framework regulates natural SWM. Secondly, we use the Policy Arrangement Approach (PAA) and the framework on stability and change in flood risk management to combine the results of the legal analysis with the findings from a series of interviews with urban planners from several Finnish municipalities. This in turn enables us to visualise how the law interacts with the broader governance system to limit and shape the options for implementing natural SWM.

The main factors of stability (namely, keeping the status quo) for NBS include the lack of regulations and unclear and fragmented SWM responsibilities. The main factors encouraging change include cities' acquisition or ownership of public land, the Green Area Factor (GAF), pilot projects and stormwater working groups.

Cultural Heritage and Sustainable Land Practices - A Norwegian Perspective

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This paper underscores the importance of social and cultural dimensions in achieving sustainable land-use and planning practices. In a meta-study of experiences from various projects within climate change-, cultural heritage-, and land-use aspects, it examines if management and implementation of legislation address climate change impacts adequately. Land resources face increasing challenges from climate change and environmental degradation, thus an exploration of the interplay between social and cultural dynamics in high-pressure areas is necessary. This research suggests integrating socio-economic, cultural, and ecological aspects of landscape in a holistic development of land-use.

This study's interdisciplinary framework emphasizes sustainable use and management of cultural environments prone to land-use challenges. The relationship between cultural heritage, landscape- and land-use practices, is enlightened. Through an analytical approach, the research examines interconnections between climate change-induced challenges, environmental demands, and the cultural fabric of landscapes. The project transcends academic boundaries, highlighting that effective solutions require collaborative transdisciplinary efforts.

In a Norwegian context, the study addresses issues unique to the country's socio-ecological dynamics, highlighting how sustainable land-use practices contribute to the discourse on environmental stewardship and resilience-building, while exploring social and cultural implications. The research posits that a slow implementation of legislative development lacks collaboration across sectors/scales, exacerbating climate change impacts. Modern technology is seen as *the* problem solver, while both adaptive and mitigating solutions are found in cultural historical planning, land-use, and building practices. An established municipal governance practice involves interaction between the Planning and Building legislation and the Cultural Heritage Act. Overarching municipal climate change risk and vulnerability assessments is lacking, thus attending to these factors and avoiding suboptimal planning practices is challenging.

Preparing for future climates depend on mitigating and adapting to changes, but also on altering attitudes. Local adaptation is crucial, as climate change effects partly are due to adaptation failure. Currently, economic considerations often override most solutions. The study enquires as to who controls the impact of municipal practices in legislative administration, emphasizing the need for a balanced approach considering economic, social, and cultural factors and a collaborative approach.

B9: Land policies for affordable housing: multi-scalar governance (4/5)

Time: Friday, 07/Mar/2025: 8:30am - 10:15am · *Location:* 0.16
Session Chair: Josje Anna Bouwmeester
Session Chair: Gabriela Debrunner
Session Chair: Jessica Verheij

Special Session

This special explores global perspectives on the role of land policy in addressing the affordable housing crisis in different countries, regions, and cities. The session aims to start a multidisciplinary dialogue among scholars working on the intersection between land policy, property rights, and affordable housing provision from diverse geographical regions across the world. Contributions focus on different planning instruments on the national, regional, and local levels available to steer affordable housing outcomes and reflect on the role of public and private actors in housing provision. Insights from various international case studies highlight innovative approaches and best practices in affordable housing provision, covering cases characterized by different planning systems (discretionary vs plan-led), housing tenure systems (tenant vs owner-occupied), and land policy approaches (active vs passive). Contributors to this special session have the opportunity to contribute a chapter to an upcoming book (edited volume) on land policies for affordable housing.

Regulating or managing the land market? The shifting balance between passive and active land policy in England

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The UK's ongoing affordable housing crisis has reignited the political debate on state intervention in the land market and housing development process. This paper explores how evolving ideologies around housing provision and land values have the potential to reshape the role of the state in addressing the crisis.

Since the 1980s, UK land policy relating to affordable housing provision has been characterized by a relatively passive approach, where the state operates as a regulator of market activity through negotiated developer agreements aimed at ensuring the provision of a proportion of affordable housing in private developer-led schemes. However, it became apparent that full policy requirements were not being fully capitalized into land prices due to the flexibility of negotiations, coupled with the 'hard limits' imposed by development viability assessments. This ultimately led to policy adjustments aimed at reducing landowner returns (within viable limits) and increasing affordable housing provision.

This has led to growing political support for more active land policies, where the state takes a stronger role in controlling landowner returns and assembling land for development. This shift has been marked by the revival of New Towns and reforms to compulsory purchase legislation aimed at empowering the state to acquire land at prices that exclude speculative 'hope value', theoretically enabling the delivery of more affordable housing.

This paper analyzes the tensions between passive and active land policies, exploring how these approaches reflect broader political and ideological shifts prompted by the injustices of the current land and housing settlement. The movement towards a more interventionist state represents a potential reorientation from the neoliberal policies that have dominated since the 1980s, recognizing that market mechanisms alone are insufficient to address the housing crisis. This shift positions land policy as a critical tool for redistributing land value and addressing social needs, particularly housing affordability.

By examining these ideological changes, the paper offers insights into the future direction of UK land policy, focusing on how the balance between passive regulation and active intervention is likely to shape land values and housing outcomes.

Housing, Law and the public/private divide in Brazil

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According to literature, housing in Brazil is too much attached to a model of homeownership. Among the problems identified within this model are gentrification, the possibility to freely sell the apartment/house, the distance to people's jobs, and the bankruptcy of the small commerce.

People's claims surpass what the data are capable to show. Many people say they "felt trapped" in the buildings and were "unable to sell the things they sold in the favelas". The research gap identified is that innovative architectural and legal changes were made in the projects that alleviated but didn't solve entirely the problems due to the lack of a pluralist approach on land.

Property is a peculiar, occidental, model of land appropriation, in which researchers identify a kind of "animistic" relation between the autonomous object and the subject (David-Ménard), and a geometrical representation of land (Le Roy). We should add, from deductive and bibliographical research, that public property and private property are very close in structure and complementary by essence. Only, public property is owned by a fictious person, the State, who organizes the use of public land.

In contrast, Brazilian sociological classics already identified that public and private spheres, the division between houses and the street, are much more fluid than in Europe or in the US. Conducting archival analysis, data collection and some field incursions could confirm those aspects of Brazilian society. It became quite clear that it is not just a matter of informal markets – that certainly have influence on land – but of the ways people relate to the city and to public spaces. Spaces are not regulated only through rules and walls, but by other instances of land "juridicity".

If we look at some urbanistic solutions on housing, on the other hand, they are both legally and architecturally attached to the legal forms of public/private divide. They reconstruct the public/private divide in the way official law sees it, and many legal transformations are based on changes of rules. In conclusion, ignoring the plurality of land appropriation certainly contributes to the feeling that the housing programs doesn't "fit" people's needs.

Land policies for affordable housing in urban Ghana

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With rapid urbanization, securing access to affordable and quality housing is becoming a key challenge for urban populations in Western Africa. In Ghana, the state retreated from direct housing provision in 1980s, favoring liberal measures aimed at enabling real estate markets. While these policies have led to a real estate boom in Ghana, it has mainly catered to upper-income groups, while low- and even middle-income groups have struggled with reliably securing a dwelling through market means. Besides construction costs, the largest hurdle in accessing affordable housing is to secure land. Access to Land in Ghana is regulated by both customary and statutory institutions, which resulted in the emergence of vernacular markets as one of the primary means of acquiring land, especially in urban centres. This complex institutional configuration results in ambiguous property rights and insecure tenure due to informational asymmetry, high transaction costs, and power imbalances. Although the Ghanaian state has recognized these challenges, there are yet no effective urban planning and development policies that address these issues. This fragmented policy framework, coupled with weak, siloed interventions in urban planning, highlights the need for a more strategic combination of political and legal instruments, rather than relying solely on planning, to uncover potential solutions to the affordability crisis in Ghana.

C9: Transformation of Administrative Law (2/3)

Time: Friday, 07/Mar/2025: 8:30am - 10:15am · *Location:* 0.22-23
Session Chair: Paul Hahnenkamp

Special Session

The climate and biodiversity crises require fundamental changes in planning and land use. As legal scholars we observe that the current legal systems in Europe do not provide the necessary means to manage transformative actions or even hinder them. We thus want to pose the question if a social-ecological transformation in planning and land use entails a transformation of the legal system itself. Inputs on the current state of the fundamental right to property, on new forms of administrative action and on aspects contributed by general applications should constitute core aspects of this special session and guide the further discussion on the function of law in the social-ecological transformation.

Transformation of the Building Stock - Transformation of Administrative Law?

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For cities, to become climate neutral, it will be particularly also necessary to transform their existent building stock, i.e. to renovate and decarbonize it. In line with the concept of the Enabling State ("Gewährleistungsstaat" in German doctrine, where it comes from), this process of transformation of the building sector is so far primarily regulated by economic instruments. Built on a strong belief in the logic of the market, they merely provide a framework for self-regulation (eg through sustainable building certifications) or incentivize the market to undertake the necessary steps: positively, through eg subsidies or negatively by eg expanding the emission trading system. Existent planning instruments in this field (eg urban heat plans of cities) are only strategic or informative, but not legally binding. There have been attempts, both at the EU level and in Member States, to define clear and legally binding deadlines for the conversion of the buildings and their heating systems, but these failed.

The paper argues that the existent instruments with regard to the building stock will not suffice to successfully transform the sector, particularly if it shall be done at a district or neighborhood level as city planners propose. It examines which regulatory interventions into the markets would be necessary to achieve the goal of a climate neutral building stock by 2040 or at least 2050 and to guarantee at the same time affordable housing. This is partly done by legal historic research on the urban renewal processes in Vienna under the Austrian Urban Renewal Act, starting in the 1970s. The paper asks whether and under what conditions such interventions would be compatible with fundamental property rights of building owners or tenants. Finally it elaborates (based on the Austrian example), whether changes in the administrative law system will be necessary and what kind of changes to properly equip the administration with the tasks that lie ahead of them.

Transformative public administration: A comparative analysis of the German-speaking and Anglo-American administrative law doctrines

Charlotte Damböck
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As public administration is the branch of government executing planning, one fact becomes clear in face of the climate crisis: In order to make the social-ecological transformation happen, public administration has to lower hindrances and find ways to enable the necessary actions. In many cases, public administration even has to take on the role of the transformation manager, especially if long-term planning and many actors are involved. Looking at administrative action in the German-speaking world, especially in Austria and Germany, the traditional way of thinking about administrative law seems somewhat restraining. The doctrine of Anglo-American administrative law was in itself disputed for a long time and is now conceptually very different from the civil-law system found in German-speaking countries. Beginning with the comparatively narrow understanding of "administrative law" as such, to negating different branches of courts for public and private cases, there are many differences and therefore reasons for differences in handling the transformation to be found.

This paper aims to give an overview of the diverging concepts of administrative law in the common-law (specifically UK and USA) and civil-law (specifically Austria and Germany) traditions and find an answer to the question if one of them is better equipped to provide the public administration with the tools it needs to support the social-ecological transformation.

Relational Contract Theory and planning: exploring the minutiae of contractualised planning decision-making processes in England

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English planning has been no exception to the broader trend of contractualization of the public sphere initiated during the Thatcherite era. The use of contract in planning decision-making has become an everyday occurrence, although one that remains understudied.

Planning scholarship has extensively and critically engaged with forms of privatisation and marketisation of planning processes. Rightly suspicious references to the emergence of Kafkaesque spheres of 'contract-makers' and lawyers abound. However, the minutiae of contractual relations are rarely subjected to detailed analysis.

While legal scholarship does offer tools to carry out such detailed analysis of contractual instruments, namely via relational contract theory as I will argue, it has largely passed by the use of contracts in planning and its implications.

Consequently, a crucial aspect of planning decision-making processes remains largely unaddressed, precluding a precise understanding of such processes.

Thus, the question: how can relational contract theory be used to address the implications of contractualised planning decision-making processes?

Relational contract theory, as developed by Macneil, enables analyses of power dynamics in contractual relations or relations more generally, showing whether one party accepts to adopt a more relational (e.g. adaptive, flexible) or discrete (no flexibility,

strict implementation of contractual terms) behaviour to the advantage or disadvantage of the other party and vice-versa. It also posits that an ideal mix between these behaviours is necessary for a contractual relation to succeed.

While some authors have used relational contract theory to analyse the detailed workings of contractual relationships between planning authorities and developers, I will argue that it can be used slightly differently still. One can expand the reach of analysis to surrounding stakeholders and interests by viewing decision-making processes as constituted of a web of interconnected relations between planning authorities, developers and other stakeholders. This can help shed light on how the specific legal form of 'contract' relates to surrounding relations and the resulting articulation between competing interests, including environmental and social ones.

Finally, I will show the overlaps and differences between the use of 'relationality' in relational contract theory and planning literature. This should kindle a productive dialogue between these two strands of scholarship.

Unlocking the Future of Urban Spaces: Challenges in the Legal Framework of Land Readjustment in Germany

Laura Mato Julcamoro

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To achieve the goal of reducing the use of new land and transforming existing urban areas into more resource-efficient and resilient environments, new requirements for reorganizing ownership and tenure relationships have emerged. Land readjustment plays a crucial role in this process, as it enables the equitable distribution of benefits and burdens among property owners affected by private urban developments. However, the successful implementation of these redevelopment requirements necessitates adjustments to the existing land readjustment framework.

To thoroughly address this topic, a systematic approach was employed, consisting of three key steps. (I) Challenges were identified and analyzed, (II) potential solutions were developed and (III) these proposed solutions were validated and assessed for feasibility.

This paper presents the findings from step (I), accomplished by using a mixed-method approach. An intensive literature review identified key needs in urban development, including the implementation of infrastructure for climate adaptation and protection, as well as the development of social housing. A subsequent survey explored the specific challenges of land readjustment, revealing issues such as uncooperative landowners, insufficient political support, and lengthy implementation timelines. After categorizing these challenges and analyzing their interconnections, three core issues emerged: an insufficient legal foundation, the complexity of the land readjustment process itself, and high development costs hindering its execution.

In the final phase, experts were interviewed to validate these relationships, prioritize the challenges, and assess specific gaps in the legal framework. The interviews followed a four-step process: (1) the interviewees were asked about their experience with a specific challenge, (2) they discussed the difficulties encountered, (3) they explained how they addressed these difficulties, and (4) they were asked to identify any deficiencies in the legal framework related to these challenges. The key insights gained from the expert interviews, along with the findings of the mixed-method approach employed, are thoroughly discussed in this paper.

The Policy Protection of Heritage in the Jurisdiction of England & Wales – Time for a Rethink?

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The Policy Protection of Heritage in the Jurisdiction of England & Wales – Time for a Rethink? *Is the negative heritage test in the guise of 'less than / substantial harm' the most appropriate means by which heritage significance can be examined and assessed?*

Abstract

One of the central tenets of heritage protection in the United Kingdom, consistent internationally, is preserving heritage significance. This can be traced to the 'conserve as found' philosophy espoused by John Ruskin and William Morris in the 1840s in the English & Welsh system, which forms the same legal jurisdiction, and differs slightly from the Scottish and Northern Irish systems. A consensus of values framing what is conserved and the processes facilitating conservation has evolved. This paper examines those processes in land-use planning regulation. After examining several cases selected for their high profile, revisions are suggested. A methodology is developed to promote a new way of applying the legal tests of preservation to heritage assets. These include the development of a new methodology to assess cumulative heritage impacts, the removal of any artificial divide between tests of heritage harm, and greater harmony between heritage policy and heritage legislative duties when confronting the delivery of preservation and enhancement within conservation practice. We argue that there is a need for a greater alignment within the English planning system, especially between the legal tests that seek the preservation of heritage assets and the subsequent policy pronouncements that strive to deliver this. The concepts of living heritage, oral history and intangible cultural heritage form part of the discussion and are included within the case studies on non-designated heritage assets. This research is timely as, to date, no real examination of the relationship between legal strictures and policy detail has been undertaken when assessing the rigours of heritage significance and its protection.

D9: Unintentional Land Policies (2/2)

Time: Friday, 07/Mar/2025: 8:30am - 10:15am · *Location:* 0.24-25
Session Chair: Sina Shahab

Special Session

Land policies encompass state and municipal interventions affecting land value, use, and distribution, including land use planning and public land ownership strategies. In practice, policies influencing land are often uncoordinated and emerge from various policy fields, following diverse aims often unrelated to land. Impacts of such policies on land may be expected and tolerated as side effects, or entirely unexpected by policymakers. This Special Session aims to explore these "unintentional land policies", which may profoundly impact urban and rural areas, socio-economic dynamics, and environmental sustainability.

Upheavals in land ownership and resulting legal frameworks

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The classic historical narrative for major upheavals in the distribution of English land goes something like this: After 1066 vast swathes of land accrued to William the Conqueror and roughly 200 of his closest associates; the Black Death diminished labour and land supply, thereby increasing wages and land ownership opportunity for the labouring class; the Dissolution of the Monasteries seized vast quantities of land from the church and put it into the hands of the Crown for redistribution, increasing its speculative value; and during WWI and more so during WWII the state requisitioned large swathes of land for military use, displacing many in supposedly temporary but often permanent ways.

In the simple story, these upheavals caused shifts in how land was valued, owned, and sold. What really happened in effect was more complicated; land policy was enacted in response to major events or upheavals, sometimes in anticipation of them, sometimes in reaction to them, sometimes to restore the status quo, or to provide legal cover for an essentially illegal land grab.

This research revisits the existing literature of these key upheavals in English land ownership, tracking the dialectic swings as historians debate cause and effect. Using digitized data sets of historic land transfers, the research assesses both the scale of land transfer at key events and the legal mechanisms that enact and justify it.

The first preliminary finding shows that upheavals with the greatest lasting effect tend to originate in top-down and premeditated edicts driven by powerful personalities. When upheaval comes from an unplanned disruption, follow-on legislation or legal frameworks are introduced in subsequent years to dampen broadscale shifts or acceleration of ongoing changes that might have otherwise occurred (especially if the changes threaten existing systems that benefit those with law-making power).

The second preliminary finding demonstrates that unplanned historic upheavals can allow for a greater concentration of centralized power that effects substantial changes in land ownership, rights, and financialization. And finally, the research shows that when upheaval creates broader opportunities to access land, often only those already well off are able to take advantage.

Toward a More Just System of Land Tenure

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This research addresses the equity and viability of Transfer of Development Rights (TDRs) to preserve farmland. The first phase of this research is a yet unpublished literature review which concludes that evaluating success of a TDR program should expand to specifically include racial equity analysis.

Here, I use Montgomery County, MD as a case study and evaluate TDRs and other easements alongside alternatives that the county or another jurisdiction might consider for a more just system of land access and land tenure for agriculture.

Montgomery County, just outside Washington, DC, is known for its 1980 use of TDRs along with downzoning to create a protected Agricultural Reserve (AR). This plan has been lauded as a success in many articles about TDRs, and other jurisdictions still consider the use of TDRs to preserve farmland and manage growth. TDRS were seen as a "win-win": 1) protecting agricultural land which they thought would preserve agriculture *qua* agriculture; 2) directing growth to other areas to avoid sprawl; 3) avoiding financial cost to the government and taxpayer; and 4) addressing "equity" to downzoned landowners.

However, since early 2023, two county offices have raised questions of another kind of equity--specifically, racial inequity in land ownership in the AR. They highlighted that the AR is almost completely owned by white residents, that spending more money on agricultural easements does not further racial equity in the county, and questioned the continued use of TDRs.

Given the extractive nature of land ownership in America, the proportionate role TDRs played in causing racial disparity should be the subject of further research. However, neither academia nor local government seems to have begun the process of assessing racially disparate effects of TDRs and similar easements which would, on their face, seem to be race neutral land use policy.

This research invites discussion on a range of relevant questions: whether this is an unintentional land policy or one that should have been considered at the outset; whether there can be "win-win" solution to "wicked" planning problems (Rittel & Webber, 1973); and what can be done now to repair the situation.

Landowners policies? Analysing the role of landowner strategies in the transformation of land in the FUA of Marseille (France)

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Recent years have seen increasing concern over land-use issues, driven by factors such as the global ecological crisis, which necessitates a comprehensive rethinking of land-use planning, and the dependence of urban development on private interests. In the context of urban production, studies have highlighted the role of private actors—especially real estate investors and

operators—in shaping land and property policies (Pollard 2023). However, the influence of landowners, who play a crucial role in the early stages of land transformation, remains underexplored (Casanova Enault, Bocquet, and Boulay 2023).

This research seeks to fill this gap by investigating how land policies may depend on the strategies of public and private landowners, whose motivations often diverge from those of public regulatory authorities. Using a mixed-methods approach focused on the Functional Urban Area (FUA) of Marseille, France, this study demonstrates that, even in a country where urban planning is traditionally state-driven (Berisha et al. 2021), land policies often arise unintentionally and uncoordinated through the actions of landowners.

The study adopts a two-stage approach. First, it examines how urban production is prepared operationally by analysing landowners' use and management of buildable land prior to and during its transformation. This involves identifying areas of land activity using an innovative method that draws on a comprehensive public database of land ownership ("fichiers fonciers"). Key criteria for identifying these areas include the frequency of land transactions, the monetary value of these transactions, the concentration of property, and the volume of housing produced.

Second, the study refines its analysis through semi-structured interviews with landowners involved in a selected sample of these areas. These interviews reveal that landowners' decisions are not solely motivated by speculation, such as retaining land for financial gains, but also by symbolic factors, such as fulfilling social objectives or family aspirations. Consequently, this research provides a foundation for a more comprehensive understanding of the role of landowners in shaping unintentional land policies.

Detailed land use plans and neighboring liability in Denmark

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Detailed land use planning is an essential tool for enabling development and balancing various societal interests. At its best planning balances all interests in a holistic approach. However, a detailed land use plan in urban development, which provide opportunities for the properties in the planned area, can also unintentionally effect on the neighboring properties and the owners' property rights can be violated. In Danish law a concept of neighboring liability applies, and it also embrace this kind of unintentional violation of property rights. In this paper we present the Danish case of detailed land use planning's connection to neighboring liability through case law. We analyze when detailed land use planning causes unintentional neighboring liability issues, and why it happens, to give suggestions to municipal planners on how to avoid it happening. We conclude that Danish detailed land use planning only to a very limited degree needs to take neighbors into account, and that violation of neighbors' property rights is not a limitation for planning, but sometimes cause that they must be compensated.

Urban planning and property development's hurdles of complexity traps – a series of unintended chicken and egg problems

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During the time and resource consuming series of hurdles from overarching ideas for urban development, via municipal master plans, area zoning plans, property development projects with development of detailed zoning plans, design processes for buildings and outdoor areas and applications for building permits, to completed buildings, the involved municipal politicians, municipal planners and property developers have to grapple with a series of chicken and egg problems. Some of these are unintended. Since 1992 and St.meld. nr. 31 (1992-93), the prevailing land use policy in Norway has been densification, including, but not limited to, transformation of urban brownfield areas and public transport hubs. Green transition, sustainability and reduction of urban sprawl are the names of the game. However, there are numerous examples in Norway where the completed buildings and their built environments deviate substantially from the initial ideas that 'sold' the projects to the decision makers.

This paper is motivated by some empirical observations. Firstly, why do several new urban transformation and development projects seemingly and unintendedly disintegrate the urban web? Secondly, why do projects that initially were presented as development of new and cosy urban neighbourhoods end up as something resembling Le Corbusier's La Ville radieuse? Thus, the research question: Are the complexities in urban planning and property development a consequence of the planning and building legislation, or is the planning and building legislation an attempt to manage and mitigate the complexities? The analytical apparatus is based on institutional theories.

As observed elsewhere, land-use planning legislation has over decades become a struggle over legal complexity. One of the major puzzles in the current 2008 Norwegian Planning and Building Act, including associated norms and regulation, is the very detailed and almost all-encompassing willingness to provide prescriptive and thus pre-qualified solutions to piecemeal and divided individual challenges. Hence, is the piecemeal and prescriptive (and "the best") the enemy of the good? Many urban planning and property development projects carried out when the former 1924 Building Act established the rules of the game led to outcomes that today often are perceived as highly attractive urban neighbourhoods.

B10: Land policies for affordable housing: decommodification (5/5)

Time: Friday, 07/Mar/2025: 2:00pm - 3:45pm · *Location:* 0.16
Session Chair: Josje Anna Bouwmeester
Session Chair: Gabriela Debrunner
Session Chair: Jessica Verheij

Special Session

This special explores global perspectives on the role of land policy in addressing the affordable housing crisis in different countries, regions, and cities. The session aims to start a multidisciplinary dialogue among scholars working on the intersection between land policy, property rights, and affordable housing provision from diverse geographical regions across the world. Contributions focus on different planning instruments on the national, regional, and local levels available to steer affordable housing outcomes and reflect on the role of public and private actors in housing provision. Insights from various international case studies highlight innovative approaches and best practices in affordable housing provision, covering cases characterized by different planning systems (discretionary vs plan-led), housing tenure systems (tenant vs owner-occupied), and land policy approaches (active vs passive). Contributors to this special session have the opportunity to contribute a chapter to an upcoming book (edited volume) on land policies for affordable housing.

Public land leases as potential affordable housing vehicles: Swedish experiences

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The city of Stockholm has been land banking for 150 years and today owns most of the land that is developed for housing within its jurisdiction. Land leases for rental housing projects is seen as one of the main tools to achieve affordable housing policy goals. Land banking was historically made to steer city development and to create affordable housing through land at reduced (initial) cost. However, the city as major land owner has a dual – and sometimes contradictory – role of optimizing city income and promoting housing provision. Land is therefore usually leased at market rate, however based on a valuation of expected future income streams from rental housing (which is usually lower compared to ownership and intermediate tenures). Further, affordability is sometimes addressed through land allocation demands on innovative housing development concepts by both public and private developers, such as a serial housing concept developed by municipal housing companies or inclusionary housing schemes by private developers.

This paper investigates how land leases are framed in Swedish law and city fiscal policy and link this to how land allocation and planning is used to steer towards affordable housing goals. The paper then discusses the pros and cons of active land policy and the various incentives of the city and how these effect policy formulation and outcome.

The study is planned to be based on document studies and interviews with politicians and city civil servants that work with a revision of the city's housing provision program.

The author also would like to extend an invitation to other participants to make comparative studies as this might increase understanding of the role of land leases in affordable housing provision today.

From niche to hip: Swiss housing cooperatives in transition

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Cooperative housing provision has a long-standing history in Switzerland but declined during the second half of the twentieth century before resurfacing in recent decades. Cooperatives in Switzerland operate as non-profit developers, renting at operating costs and limiting speculative behavior through restricted equity. Although cooperatives remain niche providers, with about 5% of the total housing stock in Switzerland, their popularity is increasing, especially in large urban centers. Many Swiss citizens are turning to housing cooperatives for economic but also social and cultural reasons, while municipalities sees in them a cost-effective solution to affordable housing shortages. However, with urban land becoming increasingly scarce and construction costs rising, housing cooperatives, especially younger ones, struggle to compete with commercial housing providers. In response, a diverse range of policy instruments at the federal, state, and municipal levels have been adopted to promote the construction of cooperative housing, including funding facilities, fiscal incentives, but also planning and building regulations. As housing cooperatives are gaining ground not only in Switzerland, but Europe more generally, research is lacking on the conditions favoring the development of the sector. Drawing on socio-technical transition studies, this presentation outlines the modalities of this potential regime shift in housing provision, emphasizing the strategies deployed by cooperatives to adapt to a changing institutional landscape and navigate multiple levels to garner support and resources.

Social housing in Germany – a relic of the past or ready for renewal?

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Germany has a long-standing tradition of what was used to be known as *social housing*, now more commonly referred to as *public* or *state-subsidized housing*. Today, social housing is in decline, with only about 1 million units remaining nationwide. At the same time, this sector is undergoing significant changes in terms of its image, target audience, and its intersection with other spatial challenges, such as climate change, demographic shifts, and debates about rural development and urban density. In several cities and regions of Germany, housing costs continue to rise, affecting both rents and house prices. As a result, housing affordability remains one of the dominant issues and has led to adjustments and extensions of various land policy instruments (Hartmann and Hengstermann 2020). Despite these efforts, there is still a considerable need for more affordable housing.

This paper examines social housing through the lens of planning, law, and property rights and critically assesses whether and under what circumstances, social housing in Germany could have a promising future. As the Federal Ministry of Housing, Urban Development and Building states, there are some "good reasons for public housing" (BMWSB 2024: 23-24), including the growing

demand for affordable housing and social equity and integration. However, there are also critical voices calling for alternative problem assessments (Schier and Voigtländer 2016).

This paper focuses on North Rhine-Westphalia, Germany's most populous federal state. After a critical discussion of current challenges and opportunities, the paper addresses the following questions: In which areas of North Rhine-Westphalia is social housing currently located? What influence does the availability of land have on the realization of new projects? To what extent can social housing be integrated with other (land policy) instruments and programs?

The answers are based on a document analysis of national, regional, and local reports on social housing, together with the author's findings from a two-year series of workshops conducted with municipalities and experts in the field (Kolocek 2024). The discussion concludes with a critical overall assessment and implications for the future of social housing in Germany.

Exploring Cooperative Housing – a Conceptual framework applied to selected jurisdictions

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Most of us have a vague perception of cooperative housing because this term is often used loosely, or romantically. Different usages of the term "cooperative" may obscure what exactly is being shared in law, in what legal or financial manner, who is eligible to participate, etc. For example, a widespread presumption in the literature is that coop housing is one more form of affordable housing, but in fact, cooperative housing may, in some jurisdictions, target affluent households. The invisible determinant of coop housing is the legal structure. It binds together each special type of tenure, institutional, financial and demographic modes

Through the past 20 years the cooperative housing topic is increasingly engaging researchers. They often focus on social, psychological, economic, or architectural aspects[1]. However, legal research is still rare. Especially lacking is a systematic comparative investigation of the similarities and differences in legal details across jurisdictions. To enable our study, we first developed a conceptual framework for comparison of the laws and regulations pertaining to cooperative housing. The framework is composed of 12 dimensions representing general subjects assumed to be applicable to every jurisdiction. For each dimension, we propose a set of variables, hypothesized to differ across jurisdictions. The number of variables differs across the dimensions – some approaching ten.

To test the framework, we applied it to five jurisdictions selected as pilot studies: Sweden, France, Canada, USA, and Israel. The initial findings show significant differences in important variables, for example: Are there legal criteria for membership, such as preference for specific social groups? What is the legal status and composition of the coop board? Are there restrictions on the coowners' right to sell or bequeath their housing unit? For example, do they need the approval of the coop or the other co-owners? Who or what controls the financial transaction? Does the coop have the legal powers to control social behavior or presumed nuisance? How does maintenance operate? The paper will present the detailed comparison and some of the lessons that may be drawn from the pilot study, for further research.

C10: Transformation of Property Law (3/3)

Time: Friday, 07/Mar/2025: 2:00pm - 3:45pm · *Location:* 0.22-23
Session Chair: Oliver Peck

Special Session

The climate and biodiversity crises require fundamental changes in planning and land use. As legal scholars we observe that the current legal systems in Europe do not provide the necessary means to manage transformative actions or even hinder them. We thus want to pose the question if a social-ecological transformation in planning and land use entails a transformation of the legal system itself. Inputs on the current state of the fundamental right to property, on new forms of administrative action and on aspects contributed by general applications should constitute core aspects of this special session and guide the further discussion on the function of law in the social-ecological transformation.

The Transformation of Property Rights in Climate Protection: A New Approach on Regulatory Takings?

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In the last decade a more pronounced state interventionism is reported in property law, contract law and other areas. It is certain that traditional legal institutions will be redefined to some extent and that the autonomy of legal subjects will be restricted in the public interest. This applies in particular to the way in which certain subjective property rights are exercised. The fight to prevent pollution and to mitigate its consequences should be a responsibility for all the inhabitants of a country, as is the right to a healthy environment, expressed in its universal nature. Traditionally, environmental law has been the instrument employed to lay down the requirements and the limits of the right to private property for environmental protection. The collision between private property owners and the objective of sustainable development seems to be the central point of the fair transition. Current trends point to greater state intervention and an increasingly restrictive approach to the exercise of subjective private rights. This position is also reflected in the role of the courts in the transformation of property rights. The paper concludes that the view that the right to property can be limited for the protection of the most important interests of the society prevails in contemporary European legal theory and jurisprudence. One of the reasons for introducing restrictions and for establishing a special legal regime lies in the potential problems caused by climate change.

The fundamental right of property: scope of protection, interference and justification in times of transformation

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The social-economic transformation to a sustainable way of living entails manifold measures leading to conflicts with private property and its legal regime. The fundamental right of property protects free usage and disposal of individual property or other financially valuable rights, in Austria and many other states. From an Austrian legal perspective, one can observe an enlargement of property rights' protection by courts in the last decades. Furthermore, the legal protection features an abstract concept, thus includes rights on scarce resources like land and also extends to the general right to build.

The scope of protection of the fundamental right of property does however not establish an unlimited right, rather the state can interfere in private property rights in the public interest in a proportionate manner to justify the interference. This trias of *scope of protection-interference-justification* constitutes the classical legal examination on whether state measures – including planning laws and administrative acts – might violate the fundamental right of property.

In the light of transformation and individual property I want to question three essential – in the legal discourse mostly unchallenged but actually contingent – elements of the current protection of the fundamental right of property with focus on land use in Austria. Methodologically, I want to apply a jurisprudential interpretation of the three following aspects in the relevant legal sources:

At first, one could already reconsider the mentioned abstract concept of the protection concerning land use. Especially the historical origins of the fundamental right in the 19th century do not appear uniform but open for a graduated protection tailored to specific public and individual need.

Secondly, nowadays interferences in the fundamental right of property are already constituted by state regulations restricting (potentially) future property rights, also on land use. This functional interpretation of the fundamental right by courts seems to be linked to ahistorical concepts of property being one cornerstone of personal development.

Eventually on the justification level, rising public interest in land use in times of transformation should be examined for *positive* planning measures.

The results might lead to a decreased legal property regime in favor of societal transformation.

Property as a complex system: insights from public law and policy

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The meaning of private property is changing, overwhelmed by emerging social and climate demands. Concerted efforts at the international level impose new responsibilities on landowners to address the climate crisis by reducing the share of land available for development or establishing new building standards. Likewise, the growing recognition of human rights in the context of urban development has called upon landlords and financial entities to get involved in the realization of the right to housing of vulnerable citizens.

Integrating urban development within the environmental limits of our planet while observing social justice pose significant legal and political challenges. The social obligations that this new paradigm imposes on property owners broadens the margins of the "social function of property" as traditionally conceptualised. This paper argues that the current legal-theoretical framework of property fails to successfully address the complex interactions of different interdependent social and environmental interests,

leading to social and political polarization and institutional distrust. Urban development in the 21st century requires a deeper understanding of private property based on empirical knowledge that can accommodate these new social and climatic demands.

To address this challenge, this paper proposes analysing property as a complex system. This alternative analytical framework allows to transcend “linear” or binary preconceptions of property, particularly for the adjudication of rights in a context of multiple and interdependent competing interests. Complexity was proposed by Henry E. Smith (2015; 2020) as a descriptive theory of property from a private law perspective. This paper holds that this framework and some of its analytical tools, like the concept of modularity can also be incorporated in a public law normative theory of property for improving regulatory and policy design.

Recognising the legal challenges arising from this reconceptualization, the paper aims to establish a novel methodology for analysing private property and the development of public policies (urban planning, housing regulations, and sector-specific approaches) that impact on property rights or judicial review. This paper aims to provide a new understanding of private property as an evolving institution in a transformative context.

D10: Why Land Matters for Climate Adaptation? (3/3)

Time: Friday, 07/Mar/2025: 2:00pm - 3:45pm · *Location:* 0.24-25
Session Chair: Ayça Ataç-Studt
Session Chair: Peter Davids

Special Session

Climate adaptation needs land! Many climate adaptation and mitigation measures require access to private land or changes in land use, such as implementing nature-based solutions, constructing flood defences, and adopting drought-resistant agricultural practices for resilient cities. This session explores the critical link between climate adaptation on one side, and planning, law, and property rights on the other. This lens is essential for framing how land can be used and managed effectively to combat climate challenges. We will discuss how planning regulations, legal guidelines, and property rights policies can facilitate access to necessary land, making climate adaptation efforts more effective. Join us as we explore these intersections and discover strategies for balancing property rights with effective planning to address climate challenges.

The implementation of the sponge city concept in the German Federal Building Code: Regulations in the context of climate adaptation, planning, law and property rights

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The consequences of climate change are becoming increasingly noticeable. Long periods of heat lead to health and ecological burdens in many places, and drought is also increasing in many regions. At the same time, climate change is increasing the risk of heavy rainfall and flooding. The effects of climate change must therefore be taken into account in urban and settlement development. Although aspects of climate adaptation have already been taken into account in Germany through amendments to the Federal Building Code in 2011, 2013 and 2017, these still do not appear to be sufficient to meet the future task of climate adaptation. The German government has therefore submitted a proposal to further develop the Federal Building Code in terms of climate adaptation. The focus is on strengthening the sponge city concept, which aims to absorb and store as much rainwater as possible on site instead of simply channeling and draining it away. Key elements of the sponge city are blue-green infrastructures such as ponds or green roofs. These can store rainwater (nature-based or technically supported), make it usable, evaporate, seep away or drain it away in a throttled manner. The construction of blue-green infrastructure is a challenge in view of the scarcity of land in many cities. It cannot only be built on public land, but must also be installed on private land. The most important instrument for new development areas is urban land-use planning, which can prepare the implementation of green infrastructure through various requirements and stipulation options. In addition, also existing buildings must be adapted to the changing climate, which proves to be particularly difficult with regard to the interests of property owners in keeping their existing buildings and land uses. The article presents the options under the Federal Building Code and explains them in the context of climate adaptation, planning, law and property rights.

Dealing with (excess) rainwater on public or private lands?

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The newest climate scenarios indicate that the Netherlands will experience more and more rainfall. While summers are expected to become drier, the intensity of rainfall will probably increase. In contrast, winters will probably bring long(er) periods of rain. In response, Dutch governments are strongly striving to develop rainproof cities, aiming to reduce rainwater runoff into surface water and sewage systems. Instead, there is a growing emphasis on promoting rainwater infiltration into the soil, and on storing rainwater on private land.

Under the law, landowners are primarily responsible for managing rainwater on their properties. However, historically, (excess) rainwater has often been discharged into municipal sewer systems, inadvertently shifting the responsibility from private landowners to municipalities. Despite this, municipalities can use rainwater ordinances to oblige private landowners to manage rainwater on their own properties. With the introduction of the new Environment and Planning Act, which took effect on January 1, 2024, municipalities can now apply these ordinances even more broadly to enforce this obligation.

This research outlines the scope of rainwater ordinances and systematically analyses if and how municipalities are implementing them. The results of this legal analysis show that approximately one-third of municipalities have adopted such ordinances. Under these ordinances, municipalities are increasingly requiring landowners to manage rainwater on-site. To illustrate, private landowners are being required to disconnect from combined sewer systems or install water storage solutions on their properties. As a result, sewer systems are increasingly viewed as a safety net, reserved for managing extreme rainfall events.

However, rainwater ordinances are primarily applied to new developments and redevelopment projects. Regulating rainwater management on private land within the existing built environment is far more challenging due to land scarcity, property rights and human right concerns. The paper concludes that while private landowners can be required to manage rainwater on their properties, municipalities must assume responsibility when private land offers limited opportunities for rainwater management, as is often the case in the existing densely built environment.

Impacts of post-disaster resettlement on property owners in Turkey

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After a major flood event in Turkey, the government enacted a forced resettlement as a local climate adaptation measure, affecting the ownership rights of 546 people through urgent expropriation. While this measure aimed to facilitate rapid disaster recovery, it has had severe consequences for vulnerable groups. Property owners from these groups are particularly affected, as their ownership ties make them less mobile and more susceptible to such interventions compared to tenants.

The aim of this research is to explore the impact of a specific climate adaptation measure, in this case rapid resettlement on property owners, focusing on injustices caused by its implementation. A qualitative case study, including 11 semi-structured

interviews with public authorities and 40 narrative interviews with property owners is conducted in the Bozkurt district of Turkey. The findings show that the top-down approach adopted by state authorities, driven by the urgency of post-disaster recovery, resulted in a mismatch between the goals of the adaptation measure and its actual impact, particularly on economically and socially disadvantaged property owners.

Many resettled property owners face financial uncertainty, as they must partially cover new housing costs without knowing their total debt to the government. Inadequate compensation, delayed payments losing value due to high inflation, and a lack of differentiation in compensation for varying levels of property damage have intensified feelings of injustice. Additionally, promises made by bureaucrats—such as maintaining neighborhood ties or respecting building floor preferences—were not fulfilled, leading to dissatisfaction. These issues highlight how vulnerable property owners—those with low income, those who are elderly, and those with lower education levels—are disproportionately affected by such rapid resettlement policies, leaving them less resilient and with diminished ownership rights until their debts are repaid.

The case study shows how climate adaptation measures, such as resettlement, can unintentionally exacerbate inequalities when implemented hastily without sufficient deliberation. Despite aiming to provide new housing, the intervention led to social, economic, and legal challenges, showing the cost of prioritizing speed over inclusive planning. The research suggests that while rapid disaster responses are important, a more transparent and equitable approach is needed to avoid further marginalizing vulnerable property owners.

Implementation of NBS on private land – Pursued land policy instruments and strategies in different European countries

Sophie Holtkötter, Thomas Hartmann

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Nature-based solutions (NBS) hold significant potential to reduce the impacts of climate change. Nevertheless, NBS are at large-scale still underutilised. To generate more space for NBS, access to private land is needed.

Acquisition and expropriation are expensive and unpopular strategies to obtain land, therefore, planners require access to private property to implement NBS at a large-scale. However, persuading landowners to make their land available presents a significant challenge, necessitating the development of suitable approaches. To comprehensively address this challenge, it is crucial to first identify and compare strategies that planners use to get access to land across different countries, considering the existing diverse property rights laws and regulations. This leads to the research question: "What land policy strategies and instruments are currently employed across different European countries to encourage the implementation of NBS on private land, and what are potential success factors and barriers associated with them?"

Qualitative interviews are being conducted with planners and other key stakeholders in the study areas to gain insights into the current land policy strategies and instruments in use. The study areas, located in six European countries, were chosen based on criteria related to the multiplicity of climate risks and the issue of securing land for NBS, as administrations in all these regions are working to access private land for NBS implementation.

The first results illustrate how the challenges of implementation lie not only in bureaucratic processes and a high amount and diversity of landowners but also in a lack of landowners trust in authorities. Lacking evidence of effectiveness of the NBS on the contrary play a comparatively minor role.