

Land Lines

Newsletter of the Lincoln Institute of Land Policy

Myths and Realities of Public Land Leasing: Canberra and Hong Kong

Yu-Hung Hong

Many scholars and analysts have suggested that public leasehold systems could allow governments to benefit from a share of future increased land value. Some have even argued that other policy objectives, including stabilizing land prices, controlling land uses and facilitating land redevelopment, could also be achieved through public land leasing. Although these proposals are persuasive at the theoretical level, there is only limited evidence to prove that governments could achieve these policy goals in practice. My research on Canberra and Hong Kong, which have two of the world's most well developed leasehold systems, examines some of the benefits and problems of public land leasing.

Land Value Capture

Legal scholars have treated property in land as a bundle of rights. According to this



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View of downtown Hong Kong with Kowloon in the distance.

perspective, the government can retain the right to own land and assign to a private party the right to use, develop, transfer, inherit and benefit from land. The private party can enjoy the land rights only for a specified time and as stipulated in the land contract. Theoretically, because the government is the landowner, it could retain a portion of the land value increments by asking a lessee to pay:

- a lump sum of money—called an initial land premium—at the beginning of the lease,
- an annual land rent,
- a premium when the lessee modifies lease conditions to acquire additional rights for land redevelopment, and
- a premium for renewing the land rights when the lease expires.

The Hong Kong leasehold system seems capable of helping the government recoup a large portion of development

windfalls from landholders. For the period 1970–1991, I found that the government recaptured, on average, 39 percent of the increased land value from selected land sites through land leasing. This captured value financed an average of 55 percent of the annual infrastructure investment during the same period.¹

More important, the money collected from leasing is not a substitute for property taxes in Hong Kong. Owners of residential properties must pay annual rates to the government that are 5 percent of the estimated rental value of their flats. Owners of commercial real estate pay a 15 percent property tax on income earned from their rental premises. Combining all land-related revenues, the Hong Kong government could recover, on average, 79 percent of the annual costs of public infrastructure investment.

See [Land Leasing](#) page 2



March 1999
Volume 11, Number 2

- 4 Land Use Expansion in Bogota
- 5 Urban Vacant Land Seminar
- 6 Property Taxation in Poland
- 7 New Board Members and Fellowship Program
- 8 New Working Papers
- 10 State Property Rights Laws
- 12 Calendar/ Spring Seminars

Land Leasing *continued from page 1*

In Canberra, by contrast, the percentage of infrastructure investment funded by lease revenues was only 5 percent. (See Figure 1.) There are at least two reasons for the difference: the abolition of land rent for residential leases and competition from other cities that weakens government's ability to collect higher rents on public land.

In the first instance, then-Prime Minister John Gorton abolished all land rent for residential leases in 1970, an action that his opponents charged was designed to rally public support for his reelection. It was estimated that the government transferred 100 million Australian dollars in equity to lessees at that time, resulting in the loss of an important source of revenue. This incident raised the broader issue of politics in public land management, although leasehold systems do not necessarily induce "rent-seeking" behaviors for private or political gain.

Hong Kong's government seems able to minimize this problem by establishing a tight internal control over the operations of leasing land. It also provides public officials with generous remuneration and fringe benefits to reduce the temptation of corruption. This demonstrates that, in designing a public leasehold system, a government must consider the need for a system of checks and balances to prevent opportunism or political maneuvering. No single person or department within a government should have the unchecked power to decide on the method and timing of allocating land resources.

The second reason for Canberra's low lease revenues is its keen competition from other Australian cities in attracting capital. If the city government charged high land premiums and rents, businesses and industry would go to other cities. Thus, competition weakens the government's bargaining position in negotiating with developers on the amount of land premiums or rent for leasing public land. Although Hong Kong also faces competition from other Asian cities, such as Shanghai, Singapore and Taipei, differences in taxation, government structure, business ethics and culture make capital flight less likely in Hong Kong.

This issue of competition is particularly important for developing economies where local governments are eager to attract investment. They may be willing to com-

promise by collecting a smaller amount of land premiums and rent from both domestic and foreign land investors. The use of land as a source of public funds may require some level of inter- or intra-regional cooperation to prevent developers from playing one government against another.

Land Speculation

In Hong Kong the government's reliance on land revenues as a source of public funds presents another problem: its financial interest in land conflicts with its public role in stabilizing land prices. The government has relied heavily on initial land premiums because demanding premiums from lessees during lease renewals has proven to be politically difficult. In addition, the assembly of land rights for land redevelopment involves high negotiation costs because most land leases in Hong Kong have multiple leaseholders. These high costs deter private developers from undertaking land redevelopment by acquiring lease rights and modifying contract conditions. As a result, the government is unable to utilize this method fully to recoup land value. As for the land rent, before 1997 the amount of annual rent paid by lessees was fixed and bore no relationship with increases in land value. Hence, the amount of land rent collected has been minimal.² (See Figure 2.)

These difficulties have encouraged the government to retain land value at the beginning of the lease. Yet, this method can work only if officials lease land slowly to private developers. A rapid disposition of land when its value is low would impede the government's ability to recoup land

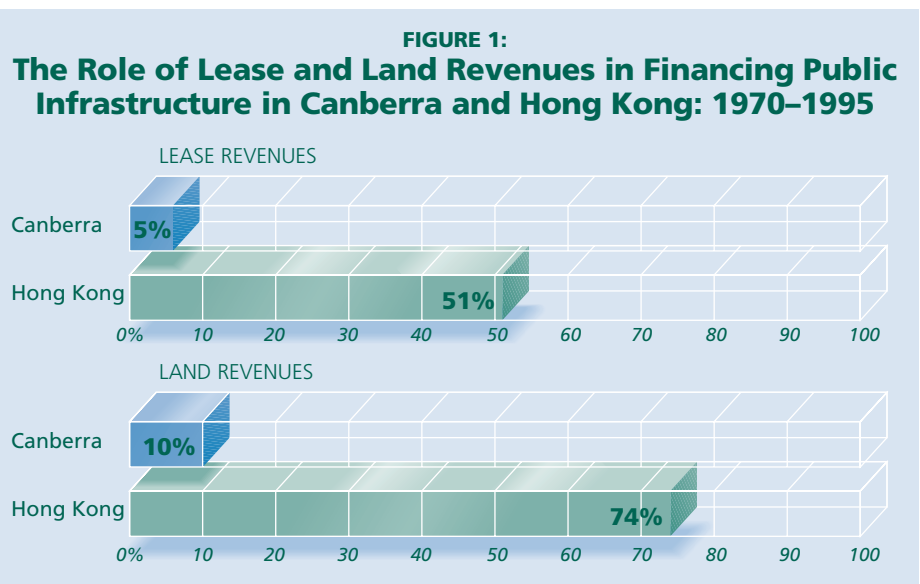
value in the future. Restrictions on land supply, however, have encouraged private land banking and property speculation, leading to high land and property prices and making Hong Kong one of the world's most expensive cities.³

Officials of other countries could avoid this problem by relying more on lease renewals, contract modifications and the annual land rent than on the initial assignment of leases to capture land value. The plausibility of doing so, however, remains an empirical question. The experiences of Hong Kong suggest that such an attempt could encounter strong public resistance and high negotiation costs.

Managing Land Uses

In principle, public leasehold systems allow the government to manage urban growth by incorporating land use regulations into land leases. If lessees do not develop their land according to the lease provisions, the government has the right to take back the land, a contractual right not available to the government when land is privately owned.

To take full advantage of this special land right, the government must be capable of enforcing the contractual agreements. Despite having the ability to repossess land, there is no evidence to show that enforcement costs under public leasehold systems are lower than those found under freehold systems. This is partly because drafting a complete land contract is impossible. Neither public officials nor the contracting party has perfect information, so they cannot account for all contingencies when they negotiate. Contract lan-



uage is imperfect and subject to interpretation, creating enforcement problems.

In 1995, a special committee was established in Canberra to review its leasehold system.⁴ Analysts found that enforcing the lease purpose clause was a major problem in a town called Fyswick because the lease conditions were too complex and ambiguous. Local officials could not evict lessees who breached their contracts. Rather, they gave lessees an amnesty period to regularize their land uses by applying for lease modifications. In the end, lessees paid their modification premiums, but analysts who conducted the study argued that their payments were far less than the fair market value of the land rights obtained by lessees.

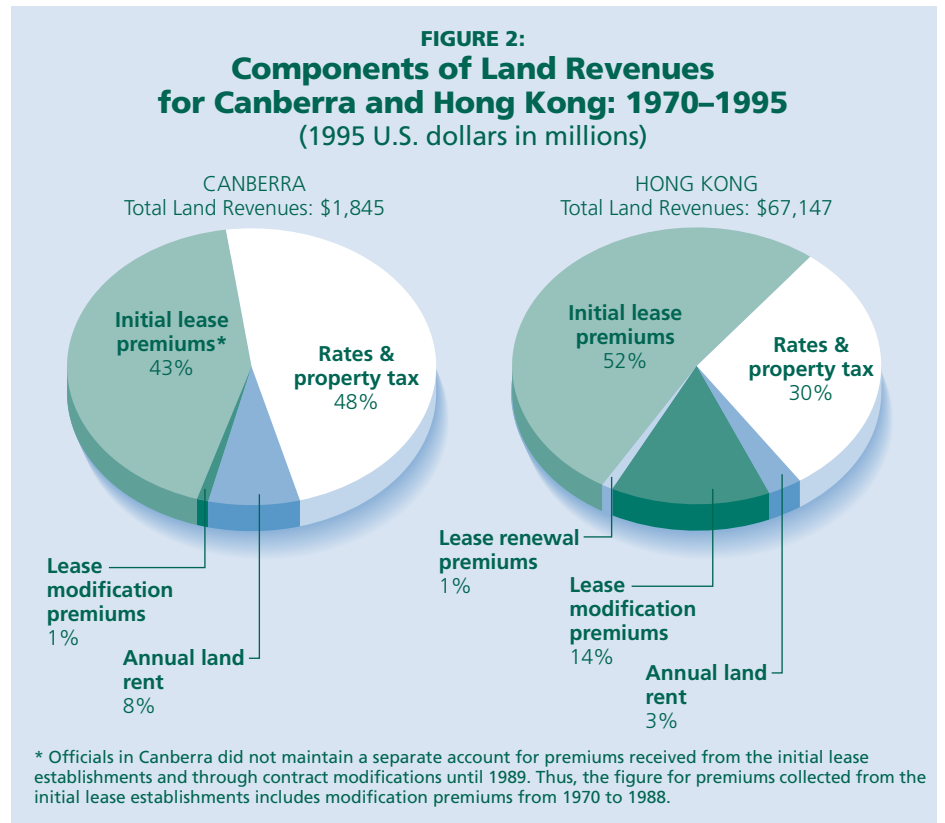
In Hong Kong, using lease conditions to control land uses has created a different problem. Although land contracting could give the government the flexibility to control land development in detail on a case-by-case basis, it is extremely inflexible in adjusting to changes in the overall zoning plan over time. As mentioned earlier, the government incorporates land use regulations into land contracts as conditions at the beginning of the lease. Unless lessees initiate a lease modification, these conditions will remain until the lease expires, which could be as long as 50 years in Hong Kong (and 99 years in Canberra).

When the government needs to update the master plan or revise land regulations to accommodate new urban development, the revised rules may be inconsistent with lease conditions established years ago. This problem has created confusion about which planning standards developers in Hong Kong should follow. To make matters worse, any regulatory changes that infringe on the lessees' contracted land rights may trigger lawsuits against the government. The legal liability has impeded the government's ability to modernize its land use plan for districts where outdated lease purpose clauses are still in effect.

Urban Redevelopment

Under public leasehold systems, the government can deny a lessee's application for lease renewal if it needs the land to rebuild the neighborhood or for other public purposes. It can then take back the land and compensate the lessee only for the building. Thus, in theory, leasing should reduce the public costs of land acquisition for urban renewal or other public uses.

The government, however, must wait



for leases to expire before it can assemble land for urban renewal. The long duration of land leases could again create a problem. Nor is there evidence that compensation negotiations for buildings are simpler than for both land and buildings. In Hong Kong, issues of holding out and disputes over compensation are as common as in countries where land is privately owned.

Conclusion

The difficulties that Canberra and Hong Kong face in leasing public land show that leasehold systems in and of themselves do not resolve land management problems. This does not mean, however, that leasing is not a viable means to manage land. In Hong Kong, the government retains a large portion of increased land value for public infrastructure investment. Canberra's public leasehold system enables the government to obtain low-cost land for building the Australian capital.

The important lesson is that policy-makers should not set unrealistic expectations on what public leasehold systems can achieve. Failure to deliver their promises could frustrate a well-intended reform and bring the effort to a halt. Because no land tenure system is perfect, the debate should not focus on the choice between leasehold and freehold systems. They are not mutu-

ally exclusive. Instead, future research should concentrate on designing specific institutions according to different political, economic and social contexts to minimize problems associated with both systems. **L**

Yu-Hung Hong is a visiting fellow of the Lincoln Institute this year. He previously taught at Hong Kong University of Science and Technology in the Division of Social Science, after earning his Ph.D. in urban planning from Massachusetts Institute of Technology. Contact: hong@lincolninst.edu

Notes

1. See Yu-Hung Hong, 1996. "Can Leasing Public Land be an Alternative Source of Local Public Finance?" Working Paper, Lincoln Institute of Land Policy.
2. See Yu-Hung Hong, 1998. "Transaction Costs of Allocating Increased Land Value: Hong Kong." *Urban Studies* 35, 9: 1577-1595.
3. See Yu-Hung Hong and Alven H.S. Lam, 1998. "Opportunities and Risks of Capturing Land Values under Hong Kong's Leasehold System." Working Paper, Lincoln Institute of Land Policy.
4. Members of the committee included Justice Paul Stein, Patrick Troy and Robert Yeomans. Findings of the review can be found in the *Report into the Administration of the ACT Leasehold*, published by the government of the Australian Capital Territory in 1995.

Land Use Expansion in Bogotá: Can It Be Controlled?

Carolina Barco de Botero and
Ralph Gakenheimer

The complex demographic, geographic and economic pressures on land use patterns make managing urban growth a difficult challenge throughout the world. This is especially evident in rapidly developing Latin American cities that are outgrowing their boundaries and must work collaboratively with surrounding towns in a political climate that is not generally conducive to metropolitan government.

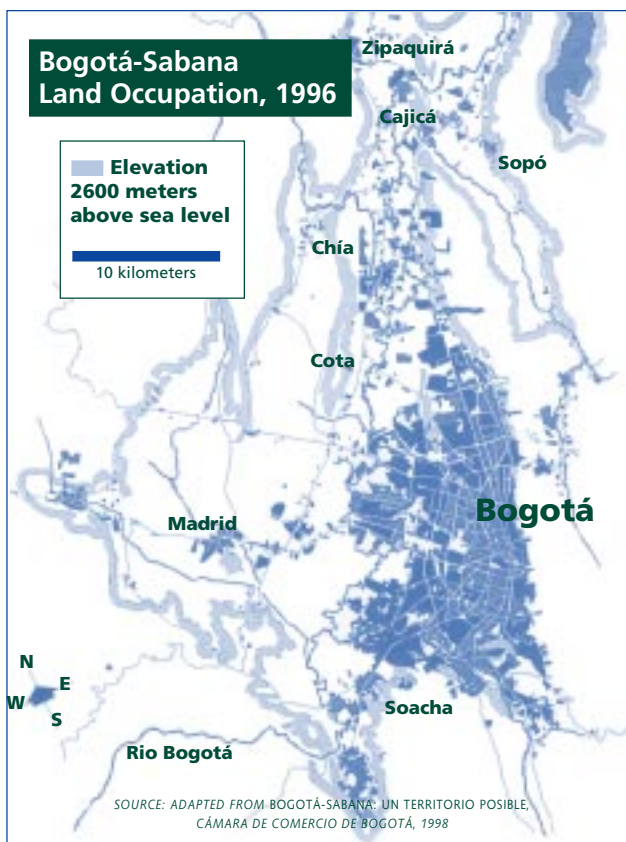
Urban researchers at the Center for Economic Development Studies (CEDE) of the University of the Andes have been studying changing land uses in Bogotá's metropolitan area in order to document current trends and develop a regional plan. In October at a Lincoln Institute-sponsored conference, participants from various cities—São Paulo, Madrid, Buenos Aires, Mexico City, Medellín, Cali and others—compared their recent experiences with regional planning and development programs. This information will help officials in Bogotá better understand existing land use problems and opportunities and begin to define policies and management strategies to control haphazard growth.

Factors Defining Land Uses

Bogotá is situated on a plateau (sabana) surrounded by mountains. The sabana is roughly divided by the Bogotá River, with the city of Bogotá on the eastern bank and eighteen small municipalities to the West. This well-defined geographic region is home to more than six million people; more than 90 percent are highly concentrated in Bogotá and only 5 percent reside in the surrounding towns. Service, industrial and commercial employment is highly concentrated in the city, while flower farms are the most important economic activity in the flatlands.

Bogotá is densely developed with only a few large tracts of underdeveloped land inside the city boundary and a trend toward

increasing density over the past 50 years. Its land use pattern is monocentric: a central business district now expanding northward contains over 42 percent of the city's employment. There are a few minor commercial centers in the far northern and western sections of the city, and an increasing amount of land is being used for low-density development in the outlying municipalities.



Throughout the conference the impact of globalization on local spatial structure was a common theme. One symptom is the appearance of companies and organizations that seek independent locations rather than integration within the established economic fabric of the metropolitan area. New communications technology has made physical proximity less necessary than in the past, reinforcing other socioeconomic trends toward decentralization.

The agricultural value of Bogotá's sabana has played an important role in controlling decentralization, and there is still remarkably little traffic between the city and the sabana. However, the conference participants were ambivalent over

whether this was good or bad. On one hand, this pattern isolates the outlying populations of the valley from the advantages of urbanization, but on the other it limits uncontrolled growth and protects agricultural land.

Concern about the ad hoc urbanization of the sabana along the arbitrary paths of numerous highways radiating from the city raises the question: Would systematic, planned guidance of decentralization around existing towns be better than more limited but unplanned expansion? There is no simple answer to the ambivalence inherent in guiding urban growth into the agricultural countryside.

Development Patterns

Residential development in Bogotá is highly segregated by income, and unfettered market mechanisms reinforce this social dynamic. Lower-income groups are concentrated in the southern and western sections of the city and the higher-income groups tend to live in an enclave north of the city center, leaving middle- and lower-middle income people in the central sector.

This segregated growth pattern is also reflected in regional growth trends. While suburban development is a relatively limited characteristic of the past decade, the higher-income groups are moving north into the sabana. Many of these low-density, North American-style developments are gated communities in former villages such as Cota, Chía, Cajicá and Sopó.

Soacha, south of Bogotá, has experienced a high growth rate of informally built low-income housing, and lower- and middle-income housing development is also occurring within the boundaries of the western municipalities. These residential market forces, in turn, are pushing the lowest-income squatter settlements to the fringes of the metropolitan area, or even further into the generally poor hillside areas, which do not receive urban infrastructure and services and are unable to provide them privately.


International Seminar on Urban Vacant Land

The Lincoln Institute and the Prefeitura da Cidade do Rio de Janeiro are cosponsoring an "International Seminar on Urban Vacant Land: New Challenges and Opportunities," to be held in Rio de Janeiro, Brazil, from April 27 to 29, 1999.

This seminar is designed for professionals in the private sector, government, academia, NGOs and grassroots organizations to share their knowledge of vacant land policies and/or their experiences with managing vacant land. Attendance is limited to ensure quality discussions among people actively engaged in vacant land issues.

During the three-day program, presenters from throughout Latin America, the United States, Europe and Asia will examine theoretical and practical considerations in the management of urban vacant land. The following key themes will be addressed through lectures, comparative research analysis, case studies and workshops:

- The state of the art in monitoring and managing urban vacant land.
- Uncovering the complex causes of vacant land, including speculation.
- New opportunities for the reuse of vacant land resulting from global economic changes and institutional reforms.
- Solutions to conflicts between market efficiency, social equity and environmental sustainability.
- Private/public partnerships, new social roles and emerging agents.
- Alternative fiscal and normative instruments: evaluating punitive vs. stimulative approaches.
- Changing spatial patterns of urban vacant land.
- Technological advances in quantifying, measuring and managing vacant land.

For more information about the application process for the seminar, send an email inquiry to vacantland@lincolninst.edu or visit the Lincoln Institute website at www.lincolninst.edu. 

The most dramatic change in Bogotá's spatial structure has been the gradual but definite shift of the central business area toward the high-income settlements north of the city. Other activities requiring large tracts of land, such as new schools, recreational facilities and cemeteries, are geared to the higher-income groups in that sector. This tendency is visible in large cities throughout Latin America. Usually beginning as regional shopping centers or other types of high-income, central district functions, commercial development tends to cluster with high-income residential development and infrastructure investment.

New industrial developments reflect a different logic. They are appearing near Bogotá's city center and along a western corridor through Madrid that links the most important highways to the coast and other regions of the country. There is also an expanding industrial cluster around an important highway intersection near the northern town of Zipaquirá.

Challenges of Planned Growth


As the conference participants searched for feasible instruments to implement land use policies in Bogotá, the use of urban growth boundaries was often raised as a solution. However, many speakers expressed doubt that this mechanism or any traditional land use planning tool would be effective in the long run, since the boundaries would have to be enforced by the individual municipalities scattered throughout the region.

Colombia has a strong political decentralization policy that encourages municipal autonomy, even in small towns with little technical or political ability to

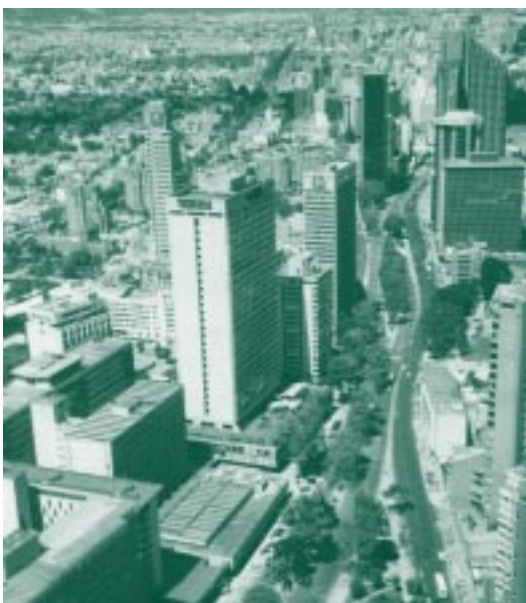
deal with large development projects. Each town makes independent decisions about land use and economic development based on its immediate needs and prevailing market forces. As a result, there is no tradition of coordinated policymaking between Bogotá and the other municipalities regarding the most appropriate locations for new industrial or residential areas anywhere in the region.

Participants from Cali, Medellín and Buenos Aires discussed their cities' plans to guide growth through the creation of clustered, decentralized centers. This approach is widely debated and is often used in academic planning exercises, but questions remain as to whether it can operate in the current fiscal and regulatory context. Some commentators asserted that cluster development could be accomplished through public leadership, with private developers reimbursing the cost of infrastructure, thus making the process self-financing.

Public/private cooperation in sectors such as highway transportation has also received considerable attention in many cities, but inducing private developers to accommodate public goals for infrastructure location and development is another obstacle to comprehensive planning.

Bogotá, then, like so many cities, is faced with conflicting trends such as high-income self-segregation in gated communities, low-income needs for serviced land, market pressures on agricultural and urban land uses, and municipal autonomy, all of which create perverse cross currents and ambivalent policy options. The state government, the environmental agency (CAR), Bogotá and the towns must work together toward regional consensus on a wide range of services, including transportation, water, sewage, and recreational and educational facilities. A mix of creative and flexible approaches is needed for sustainable and equitable development. 

Carolina Barco de Botero was recently named planning director of Bogotá. She is also a managing consultant with Ciudades, Ltda., in Bogotá and a member of the Lincoln Institute Board of Directors. She was the project director for the Bogotá-Sabana Regional Study at the University of the Andes. **Ralph Gakenheimer**, professor of urban studies and planning at Massachusetts Institute of Technology, participated in the study and the conference. Contact: cbarco@uniandes.edu.co or rgaken@mit.edu.



Introducing Value-based Property Taxation in Poland

Jane Malme and Dennis Robinson

As a next step in the economic reforms begun in the post-Soviet period, momentum is growing in Poland for the introduction of a property tax based on market value. The recently established Department of Local Government Taxes and Cadastre within the Ministry of Finance is responsible for carrying out the reforms, and has invited the Lincoln Institute and other international organizations to advise them on developing an ad valorem property tax system.

Last October several Polish officials visited the Institute to learn about property taxation in the United States, and subsequently the Polish government requested support from the U.S. Agency for International Development (USAID) to bring international advisors to Poland for a series of seminars and meetings.

In January we traveled to Warsaw to participate in a week-long program on the legal and administrative framework needed to implement an ad valorem system. We made presentations at two seminars: one at the Sejm, the Polish Parliament, for its members and local government officials; and another at the Ministry of Finance for central government officials, professional experts and other interested parties. Our meetings with department officials focused on the draft laws being prepared by the ministry for introduction to the parliament later this spring.

The proposed ad valorem tax on real property in Poland will replace three existing taxes on urban, agricultural and forest property that are based on non-value-based rates per square meter of land and buildings. These taxes were introduced originally with purely fiscal objectives to expand the tax base beyond income and to capture wealth being diverted into real property assets. After the Soviet period, property taxes were recognized as an appropriate source of revenue for local governments. Since 1991 the revenues from the three existing taxes have been assigned solely to local governments (gminas).

The economic reforms introduced in the past decade by Deputy Prime Minister

for Finance Leszak Balcerowicz have now reached such a stage of maturity that a market value-based tax on property is both feasible and desirable. There is an active and growing real estate market, including privatization of land holdings by local governments and secondary sales of residential and commercial properties. Ad valorem taxation will offer a stable source of revenue with a potentially broad and expanding tax base for local governments. It will provide the benefits of a more equitable distribution on taxes, as well as greater fiscal transparency and accountability.

An earlier USAID-funded feasibility study project in Krakow, in which the Institute also participated, resulted in legislative proposals for an ad valorem property tax in 1995. However, those efforts stalled in the face of complexities of land surveying, land registration and assessment administration.

Benefits and Obstacles

In this renewed effort, Polish officials are also focusing on the non-fiscal benefits of a value-based property tax, including its potential as a stimulus of real estate markets and mortgage credit institutions and as a tool for urban revitalization and more efficient land use. W. Jan Brzeski, president of the Krakow Real Estate Institute and adviser to the Deputy Prime Minister, has contributed to an understanding of these non-fiscal benefits through previous Lincoln Institute-sponsored research and education programs in Poland and other transition economies.

Considerable progress has been made in addressing some of the institutional obstacles to an ad valorem property tax that stalled the 1995 proposal. There is acknowledgment that a property tax information system and fiscal cadastre can be developed independently of title registries and land surveys that are as yet incomplete. Mass appraisal concepts and methods are more readily understood now and are viewed as opening new opportunities to the appraisal profession. Local governments have developed greater experience and influence to lobby for an autonomous source of revenue and greater independence in fiscal decision-making. Although local administrative

capacity and expertise remain a concern for the over 2400 gminas, a possible solution may be found in placing fiscal cadastre and mass appraisal functions in the newly created regional governments (Powiats).

Discussions with Ministry officials concerning policy issues and implementation strategy focused on how to define market valuation in the law and how to educate local officials and taxpayers on its meaning and application. Current Polish law requires that detailed descriptions of taxation methods be written into legislation and that the local elected council approve the calculations. There is concern about an appropriate appeals system that will recognize both taxpayers' rights and the government's ability to achieve defensible mass appraisal models from less mature real estate markets. There is also a growing awareness of the importance of educating the public on the benefits and responsibilities associated with an ad valorem property tax.

The need to estimate implementation costs, develop effective administrative arrangements and assess the potential impacts of an ad valorem system has led some officials to propose one or more pilot projects before full implementation. However, this approach must be weighed against the possibility of losing the political momentum to enact ad valorem taxation in this parliament if legislative action is delayed until after pilot projects are completed. □

Jane Malme is an attorney and fellow of the Lincoln Institute. She has researched and advised on property tax policy and administration for transitional economies and is preparing a series of case studies on the development of market value-based taxation in several countries. She is also a legal adviser on property taxation to USAID tax reform assistance programs in the Russian Federation. Dennis Robinson, vice president for programs and operations, has worked on fiscal cadastre systems in Central and Eastern Europe and throughout Latin America. Contact: jmalme@lincolninst.edu or drobinson@lincolninst.edu.

New Board Members

Representative Earl Blumenauer has been an elected official for over 25 years, holding positions in the Oregon House of Representatives, Multnomah County Board



of Commissioners and Portland City Council. He currently represents Oregon's 3rd Congressional District (Portland area) in the U.S.

House of Representatives. He is a member of the Transportation and Infrastructure Committee, where he sits on the Water Resources and the Environment Subcommittee and the Railroad Subcommittee. He is also the founder and co-chair of the Livability Task Force and co-chair of the House Sustainable Development Caucus, where he focuses on creating policies and partnerships to build livable communities.



Jean Hocker is president of the Land Trust Alliance, the national umbrella organization for the nation's 1,200 nonprofit land conservation

groups known as land trusts. Since 1987 when she assumed her position the amount of conservation land owned by local and regional land trusts has nearly tripled and the amount of land protected by conservation easements has more than quadrupled. Hocker also serves on the North American Wetlands Conservation Council, the advisory councils of the Jackson Hole Land Trust and the Pacific Forest Trust, and she chairs the Board of Directors of the Natural Resources Council of America.

Wallace E. Oates is professor of economics at the University of Maryland and University Fellow at Resources for the Future in Washington D.C. His principal research interests are public finance, particularly fiscal federalism and state-local



finance, and environmental economics. With support from the Lincoln Institute, he and Robert Schwab studied the effects of a two-rate tax

on land and buildings in Pittsburgh. Their findings were published as "The Impact of Urban Land Taxation: The Pittsburgh Experience," in the March 1997 *National Tax Journal*. Oates recently participated in the Lincoln Institute's roundtable discussion on property taxation, and his paper will be published in the upcoming *1999 Annual Review*.

The Lincoln Institute is pleased to welcome these individuals to the Board of Directors, and also thanks Robert M. Solow, professor emeritus of economics at Massachusetts Institute of Technology, Richard F. Perkins, senior vice president of LandVest, and Carolyn H. Denham, president of Pacific Oaks College, for their years of service on the board.

Institute Establishes David C. Lincoln Fellowships in Land Value Taxation

The Lincoln Institute is pleased to announce a new fellowship program starting in July 1999 to develop academic and professional interest in land value taxation. The program honors the contributions of David C. Lincoln, chairman of the Lincoln Foundation, who over 23 years also served as chairman of the Lincoln Institute.

One purpose of this program is to encourage scholars who have not actively researched land value taxation to undertake new work in this field. Fellows may address either questions of basic theory

or the application of land value taxation to specific areas, domestic or international. They may deal with land value taxation from the perspective of economic analysis, law, political science, administrative feasibility, valuation techniques, or other approaches relevant to a better understanding of land value taxation as a component of contemporary fiscal systems.

An advisory panel of taxation experts will evaluate applications and select between five and ten fellows per year. Each fellow will receive a stipend in the range of \$20,000 to \$40,000 annually for up to three years.

Each fellow will be asked to present a seminar at the Lincoln Institute during each year of the fellowship, and to attend an annual symposium where all fellows can share their work. The Institute encourages proposals that include a residency of one month or more at Lincoln House in Cambridge. **I**

For more information about the application process for this fellowship program, contact help@lincolninst.edu.

Abstracts of New Working Papers

The Lincoln Institute supports research by scholars and practitioners investigating a wide range of land use and taxation issues. In many cases this research is documented in the form of a working paper that is distributed as part of the Institute's working paper series.

To order the complete printed version of any of these working papers, please call 800/LAND-USE (526-3873) or use the Request Form on page 11 of this newsletter.

The Impacts of Urban Form on Travel: A Critical Review

What is the scope for using land use and urban design to reduce automobile travel? This paper reviews the recent literature on how the built environment may or may not influence travel behavior. It begins with a short summary of urban spatial theory and other conceptual frameworks explicitly linking urban structure to travel. This is followed by work that uses data on actual behavior to examine and then test several hypotheses. The paper summarizes these studies at the same time that it critically evaluates their data, methods, and conclusions. It concludes that while research on this important set of topics is improving in several respects, our current understanding of these relationships remains poor. The rational basis for using land use and urban design to change travel behavior thus appears limited.

Randall Crane is associate professor of urban planning and economics at the University of California at Irvine.

1999. WP99RC1, 46pp., \$9.00.

School Finance Litigation and Property Tax Revolts: How Undermining Local Control Turns Voters away from Public Education

The use of local property taxes to fund public schools in the United States has been under attack since the 1970s as a result of reform-minded lawsuits. Court-ordered reforms typically involve a greater proportion of state funding, more equal expenditures, and less local fiscal control. I explain in non-technical language why this movement has reduced educational quality. The more extreme cases, such as *Serrano v. Priest* in California, have contributed to tax revolts that have starved

education. The advantage of local fiscal control is that home values rise when schools get better, provided that the additional property tax bite is not excessive. All homeowners, not just those with school-age children, have an interest in efficiently run schools when education is financed locally. This fiscal feedback is lost when school funds are provided from statewide tax revenues.

William A. Fischel is professor of economics at Dartmouth College.

1998. WP98WF1, 78pp., \$14.00.

Public Spaces in Metropolitan Context: Notes on Regulation and Measurement Issues

Are public and semipublic spaces being lost or increasingly regulated in contemporary metropolitan areas as many authors suggest? This paper documents a research project where I explored this issue through several steps. First, I conducted a review of debates over the loss of public space. I develop an operational definition of public spaces as spaces that strangers are expected to enter frequently, for at most a minimal fee, with a relatively low level of regulation consistent with access for others, and that can give access to either sociability or political and economic opportunities. Second, I examined the potential for mapping and analyzing types of public spaces at a regional scale, using the Springfield (Massachusetts) and Hartford (Connecticut) regions as case studies. The paper finds that there are a number of limits at present but some potential for developing public space indicators. I collected and analyzed data on how spaces were regulated in 40 of the towns and cities studied in the previous section, and found a great deal of variety in local-level regulations.

Ann Forsyth is assistant professor in the Department of Landscape Architecture and Regional Planning at the University of Massachusetts, Amherst.

1998. WP98AF1, 114 pp., \$18.00.

Communicative Planning Approach under an Undemocratic System: Hong Kong

In recent years, the communicative planning theory has gained a wide recognition among planners and scholars in the West.

Yet, the applicability of this new planning approach to some Asian countries where democracy is not well developed remains understudied. This paper examines this issue using Hong Kong as a case. By combining Habermas's practical-discourse concept with Hirschman's exit-voice idea, the author developed an analytical framework that suggests four potential strategies—exit, voice, persuasion, and coercion—for settling policy disputes.

In applying the framework to two Hong Kong cases related to land use conflicts, the author found that involved citizens mainly chose voice as a strategy to express their discontent. In response, the government countered their tactic through coercion. The parties selected these strategies because the political structure of Hong Kong was undemocratic, and their tactical choices were path-dependent. If planners in Hong Kong want to adopt the communicative planning practice, the government and the community must work together to invent new institutional arrangements. Some arrangements could include direct election of the Chief Executive, community empowerment, mediation and education on reflectivity.

Yu-Hung Hong is a visiting fellow at the Lincoln Institute of Land Policy.

1998. WP98YH2, 34 pp., \$9.00.

Opportunities and Risks of Capturing Land Values under Hong Kong's Leasehold System

Hong Kong's land leasing system empowers the government to exercise two important land policy measures—regulating land supply and capturing development windfalls. This paper evaluates the effectiveness of this leasehold system especially in the areas of capturing development gains for financing urban infrastructure. The portion of development profits captured by the government was measured through an analysis of the official lease-negotiation cases. An average of 39 percent of the increased land value occurring between 1970 and 1991 was captured through leasing public land. These captured benefits plus other land-related revenues accounted for 79 percent of the average annual infrastructure investment for the same period.

Despite the success in capturing development windfalls, scholars and policy-makers have engaged in a series of debates over the implications of this land leasing method on property prices. The dual role of the government in regulating land use and negotiating land premiums may have created an institutional setting that has generated imperfect competition in the real estate market and encouraged property speculation. By undertaking an institutional analysis, the authors establish a causal relationship between the land value capture experience and high land and property prices in Hong Kong. The institutionally oriented explanation of high housing costs—which many analysts have neglected—would have important implications on policy recommendations for capturing development windfalls by leasing public land in Hong Kong and elsewhere.

Yu-Hung Hong is a visiting fellow and **Alven H.S. Lam** is a fellow at the Lincoln Institute of Land Policy.

1998. WP98YH1, 42 pp., \$9.00.

Resolving Land Use Conflicts through Mediation: Challenges and Opportunities

This publication contains eight brief case studies concerning mediation efforts to resolve land use conflicts. It was completed by the Institute for Public Policy with the support of the Lincoln Institute and in concert with the Consensus Building Institute.

The cases describe the context and substance of the conflicts. They also describe the different approaches used by the mediator to resolve the conflict. Lessons learned about mediation are summarized in the introduction to the case studies and in the lessons learned section of each case study. Clearly, mediation is perceived as a net plus by most of the parties to the conflicts covered in each study. Just as clearly, there is not one approach to mediation that fits all land use conflicts. Sometimes, for example, the mediator tilts toward focusing on process (e.g., ground-rules for discussions) in carrying out his or her assigned mediation responsibilities; conversely, sometimes, the mediator joins an emphasis on process with a focus on the content or substance of the dispute (e.g., presentation of options). The case studies define the variables generating the success of mediation efforts. They also suggest that more work needs to be done to clarify the role of mediators and facilitators. While

interested professional groups often sharply allocate attributes to one role or the other, the terms are often used interchangeably by participants to conflicts.

David Lampe is a research associate of the Institute for Public Policy, Graduate School of Public Affairs, University of Colorado at Denver and **Marshall Kaplan** is executive director of the Institute.

1999. WP99DL1, 90 pp., \$14.00.

The Influence of New Flexibility and Technology Requirements on Central City Land Use Devoted to Office and Industrial Property

This paper explores change in land use demands and the context for the re-use of central city office and industrial properties stemming from increasing emphasis on flexibility in the organization of manufacturing production and in the delivery of producer services. The research method is that of case studies and secondary data analysis of Atlanta and Chicago office and industrial land use between 1992 and 1996.

Key questions explored in the case studies include: How significant is the technological upgrade potential for a property's redevelopment (office or industrial)? To what extent is the correlation between employment growth in finance, insurance and real estate and the demand for office/commercial land use changing due to technological changes in the office work space? Within manufacturing, are plant floor footprints and warehouse space needs decreasing? Is increasing automation (and corollary decreasing employment) influencing space and demands? Are there specific actions Atlanta and Chicago have taken or could take to strengthen central city office and industrial land use?

Nancey Green Leigh is associate professor in the Graduate City Planning Program at the Georgia Institute of Technology.

1999. WP99NL1, 75 pp., \$14.00.

The Debate over Future Density of Development: An Interpretive Review

Projections for rapid population growth by the year 2020 have increasingly focused planners' attention on the future density of development. This paper offers an interpretive review of major positions taken within the debate over future density, adopting a temporal, as well as spatial, perspective. While the debate is frequently conducted in factual terms, the literature

on density is highly subjective, involving alternative views of the future as well as a fundamental divergence between long- and short-term, and collective and individual economic orientations. This review contrasts the positions held by proponents of compact development and sprawl, with a special section dedicated to a discussion of the various meanings of these two terms. Subsequent sections examine dueling reports on future development in California produced by the Bank of America and Wells Fargo Bank; the relationship of the new urbanism to density; and the tension within developers' interests relating to sprawl on the one hand and compact development and the new urbanism on the other.

Dowell Myers is professor of urban planning and demography in the School of Policy, Planning, and Development at the University of Southern California, Los Angeles. **Alicia Kitsuse** is a graduate student in planning in the School.

1999. WP99DM1, 40 pp., \$9.00.

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The Impacts of State Property Rights Laws

During the 1990s, a new conservative land use movement has emerged to promote the interests of private property owners. The leaders of this movement are disaffected with their perception of the success of the land use and environmental movements generally, and land use and environmental policy and regulation in particular. Their primary critique is that the erosion of private property rights, through such land policy and regulation, undermines a fundamental social contract upon which the country was established, and thus represents a serious threat to the future of our democratic society.

This movement has pursued a vigorous legislative agenda at all levels of government, but has found its greatest success at the state level. Every one of the 50 state legislatures has introduced bills to protect private property rights, and 26 states have passed such laws since 1991.

In a new Lincoln Institute policy focus report, *State Property Rights Laws: The Impacts of Those Laws on My Land*, Harvey M. Jacobs describes three primary types of state-based private property rights laws:

- **Assessment Laws**, based on the concept of environmental impact assessments, require government to undertake a “takings impact assessment” (TIA) study prior to the adoption of any rule, regulation or law to determine its impact on private property rights. They are promoted as “look before you leap” laws.

- **Compensation Laws** require government to pay compensation to landowners whose property values are lowered due to regulation. The extent to which regulation affects landowners is predetermined and defined in the law, ranging from 10 to 50 percent of the value.

- **Conflict Resolution Laws** require a formal dialogue process to resolve conflicts between a regulatory agency and affected landowners. The terms of dialogue—who gets to participate and the bases for discussion and resolution—are defined by the law. These laws are promoted as a “let’s all sit down together and talk about it” approach.

As of November 1998, eighteen states had adopted assessment laws, six states had adopted compensation laws, two states had adopted conflict resolution laws, and many of these states had adopted some combination or variation of property rights legislation. Nevertheless, the specific impacts of these laws have been minimal, in part because many of them are quite new, and they

are often passed over the objections of governors, attorneys general and administrative agencies who are given the responsibility for their implementation. But, these laws and their supporters have succeeded in reshaping public perceptions about property rights and the balance between private and public rights in land.

The promoters of property rights legislation are strongly committed to their cause and will continue to pursue it with fervor. The future will see continued legislative activity at the state level, though it will probably shift in focus from past efforts. Advancement of assessment and compensation laws can be expected to decrease and new bills will instead follow Florida’s model of conflict resolution and the definition of regulatory burden as something less than a formal takings. Following Arizona’s experience, state legislative activity will also increasingly focus on revisions to the details of existing laws on state-local relations over land use and the rights of landowners within the regulatory process.

Opponents of these legislative efforts need to recognize the strong cultural appeal of private property rights and the ambivalent attitudes of many Americans about land regulation. In crafting responses to property rights proposals, opponents need to acknowledge that land use laws sometimes do ask too much of landowners, and that creative, responsible alternatives can and should be designed to address these situations.

The real challenge is to establish a middle ground in this debate—a middle ground that recognizes the need to regulate private property (as has been done since colonial times) while respecting the core concept of private property rights. Americans care about private property rights because these rights are such a central element in our history and culture. If we believe in the necessary role that private property plays in both establishing and continuing democratic societies, the political debate about the future of private property will be engaged enthusiastically. **L**



State Property Rights Laws is a 32-page, illustrated report by Harvey M. Jacobs, professor in the Department of Urban and Regional Planning and the Institute for Environmental Studies, and director of the Land Tenure Center at the University of Wisconsin at Madison.

This new publication is available from the Lincoln Institute at \$14 per copy, plus shipping and handling. A 25 percent discount is granted on orders of 10 or more copies for course adoptions and other group uses. To place your order, please complete the Request Form in this newsletter or call 800/LAND-USE (800/526-3873).


International Tax Conference

The Fifth International Conference on Local Government Taxation, cosponsored by the Institute of Revenues, Ratings and Valuation (IRRV) and the Lincoln Institute, will be held in Cambridge, Massachusetts, in late May.

IRRV has been a leading organization in the United Kingdom since 1882 for those in the public and private sectors working in local taxation and valuation. This is the first conference in IRRV's biennial series established in 1991 to be held outside of Europe, and it will use the full resources of both cosponsors: the practical knowledge of IRRV revenues and valuation practitioners and the research-based insights and scholarship of the Lincoln Institute.

Plenary sessions focus on eight themes:

- Decentralization and the redefining of government roles across the globe, including the balance between the private and public sectors.
- Political and economic unions and alliances, including the creation of the single European currency and the enlargement of the European Union.
- Use of tax instruments to recover for community benefit some portion of the increase in land value following public investment and growth.
- Property valuation in a turbulent economic environment, as in Asia.
- Use of land and building taxes as a means of infrastructure finance.
- Environmental awareness and the tax tools available to encourage better use of natural resources and to reclaim contaminated land.
- Tax collection procedures and best practices.
- Valuation of utilities, such as electricity, gas, rail and communication lines, in increasingly privatized economies.

Presentations and discussions will cover the latest valuation and appraisal practices, technological support and policy implementation, with an emphasis on both analysis of policy options and detailed practical information and advice. 

For more information or to register for the conference, contact IRRV at 41 Doughty Street, London, England WC1N 2LF, or email to enquiries@irrv.org.uk.

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Princeton, New Jersey
Contact: Robert Yaro, Regional Plan Association, 212/253-5799

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Cambridge, Massachusetts
Contact: enquiries@irrv.org.uk

New Investment Strategies for Urban Redevelopment

MAY 24
Chapel Hill, North Carolina

Infill Development and the Redesign of Suburban Centers

Audio Conference Training Series cosponsored with American Planning Association (APA)
MAY 26
Contact: Carolyn Torma, APA, 312/431-9100

Programs in Latin America

Value Capture Policies to Provide Land for the Urban Poor

MARCH 8-10
Toluca, Mexico
Contact: jalvar@cmq.colmex.mx

International Seminar on Urban Vacant Land: New Challenges and Opportunities

APRIL 27-29
Rio de Janeiro, Brazil
Contact: vacantland@lincolninst.edu

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Property Taxation Series

These seminars begin at 12 noon and include an informal lunch.

MONDAY, MARCH 29

Property Tax Limitation Measures: Can They Be Good Policy?

Therese McGuire, Institute of Government and Public Affairs, University of Illinois at Chicago

TUESDAY, APRIL 20

Property Taxation and Education Finance Reform

Robert M. Schwab, Department of Economics, University of Maryland

MONDAY, MAY 10

The Homevoter Hypothesis: How Home Ownership Motivates Local Government Taxation, School Finance and Land Use Policies

William A. Fischel, Department of Economics, Dartmouth College

Land Use Series

These seminars begin at 4 pm, followed by a reception.

MONDAY, APRIL 12

Megaproject Politics: A Fifty-year Perspective

Alan Altshuler and David Luberoff, Taubman Center for State and Local Government, John F. Kennedy School of Government, Harvard University

THURSDAY, MAY 20

When Cities Lose Jobs: The Costs and Benefits of Employment Deconcentration

Wim Wiewel and Joseph Persky, Great Cities Institute, University of Illinois at Chicago

FRIDAY, JUNE 11

Smart Growth at Century's End: The State of the States

Patricia Salkin, Albany Law School

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