



Developing a framework to appraise the critical success factors of transfer development rights (TDRs) for built heritage conservation



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ABSTRACT

Although the transfer development rights (TDR) is not a new concept in the context of built heritage conservation in cities around the world, it requires a well-integrated management system to implement the TDR programs. In densely populated cities like Hong Kong, it has been demonstrated that there is certain a potential for the use of TDR to preserve the built heritage. However, TDRs have only been used as a case-by-case method to deal with the privately built heritage conservation, which is not a sustainable approach. Internationally, especially in the U.S., many researchers have addressed TDR from the policy and programming perspectives. Some authors have proposed a range of factors that affect the TDR success, based on the empirical data from farm land projects or environmentally sensitive areas. However, a successful framework for using TRDs for built heritage conservation is lacking, in particular in densely built and populated cities, such as Hong Kong, due to the high land price. This study aims to overcome these shortcomings by developing a framework that can be applied to appraise the factors affecting the TDR pertaining to built heritage conservation. Using the theoretical basis, an initial framework is developed, and is subsequently refined through the Hong Kong case study. The study adopts a qualitative method to select the most important factors, identified through expert interviews, while quantitative analysis is conducted to ascertain the ratings of the selected factors. This approach has yielded 22 critical success factors under seven criteria that are most relevant to the success of TDR programs for built heritage conservation. The framework, together with the identified factors and criteria, provides valuable reference for city government to formulate policy pertaining to the use of TDRs for built heritage conservation in densely populated cities.

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Introduction

Numerous countries face the issues of limited usable land and growing population, which threaten the preservation of privately owned built heritage. For major densely populated cities, such as Hong Kong, the scarcity of land for development results in continuous and very strong market pressure for redevelopment of existing structures and neighborhoods. Thus, historical buildings with high architectural and social value are increasingly being replaced by modern developments. For many cities, the administrative grading system for built heritage has no statutory status and the grading does not confer statutory protection to the buildings. In the case of Hong Kong, if the owner decides to demolish his/her building, the government has no means to stop the process (e.g., Ho

Tung Garden <http://www.hotunggardens2011.hk/en/index.php>), unless the building in question is declared a monument. The protection of the property rights and the narrow scope of legislative framework make it difficult to ensure conservation of privately built heritage. In Hong Kong, the government has promulgated its heritage conservation policy in 2007.

The *Policy address 2007–2008* stated, “Promoting the protection of privately-owned historic buildings is a complex issue which involves balancing interests such as safeguarding private property rights, the prudent use of public money, and meeting public expectations.” It thus clearly recognized the need for new arrangements to provide economic incentives for private owners. The transfer of development rights (TDR) could be used as an incentive, as one of the potential market-based solutions that addresses the financial issues, creating a “win–win” situation. Numerous studies have been conducted on TDRs all over the world. Although their findings suggest that TDRs are feasible in conserving farmland, agricultural land, environmentally sensitive land and historic buildings (Kaplowitz, Machemer, & Pruetz, 2008; Machemer &

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Kaplowitz, 2002; Pruetz, 2007), it has some drawbacks, such as inadequate receiving areas and lack of program leadership (Aken, Eckert, Fox, & Swenson, 2008). Thus, some researchers proposed the factors that affect the success of TDR, based on a large number of cases observed in different countries (Kaplowitz et al., 2008; Machemer & Kaplowitz, 2002; Pruetz, 2007). Most of such works have focused on factors affecting the use of TDRs in dealing with farmland, agricultural land, and environmentally sensitive land in the United States. However, the characteristics of built heritage conservation and other forms of conservation differ with respect to, for example, the optimal location, value, and the area surrounding the built heritage. Thus, it remains unclear how TDRs can be successfully used in the conservation of built heritage. In this context, privately-owned built heritage is particularly problematic. In Hong Kong, in December 2012, there were 101 declared monuments, 43 of which were privately owned and 48 were located in New Territories (AMO, 2013). The total number of graded historic buildings on AMO's list was 1444, 1059 of which were privately owned (GHK, 2013). These statistics confirm that privately owned built heritage plays an important role in Hong Kong. TDRs, a market-tool that can be adopted to involve the private sector in the project, has a great potential for widespread usage in order to make contributions to the built heritage conservation, if it is well developed.

Using TDRs, the owners of historical buildings will keep their existing buildings and sell the unused development rights. The community will benefit from the preservation of built heritage without incurring any expenses (Tsang, 2001). As illustrated in Fig. 1, TDR helps to strike a balance among conservation, development and property rights.

TDRs were first introduced in Hong Kong in 1960 and have been practiced ever since. The government implemented a land redemption certificate system for rural land resumption, known as "Letter A & Letter B". Lai (2000) argued that this system had the benefit of settling compensation for resuming rural land in the new territories for small house development with minimal government spending. Cody (2002) suggested resurrecting the Letter B system and proposed TDRs as an incentive for historic preservation in Hong Kong. TDRs and similar concepts (e.g., land exchange) were proposed for several cases in Hong Kong, such as King Yin Lei (<http://www.heritage.gov.hk/en/kyl/background.htm>), Sheng Kung Hui compound (http://www.devb.gov.hk/en/publications_and_press_releases/press/index_id_6645.html). However, thus far, it has always been implemented on a case-by-case basis, as no legal framework specifically governs the TDR. Due to this lack of uniformity, the public perceives the government's attitude to the heritage conservation as reactive, rather than proactive. The prevalent view is that the government takes action only when the heritage suffers significant damage.

Therefore, this study aims to develop a successful TDR framework for built heritage conservation projects to fill the gap in the

extant research and practice. This paper presents a systematic analysis performed to develop an initial theoretical framework, as well as identify and evaluate the factors crucial to the TDR success, which is subsequently refined through interviews with the experts in the field.

Literature review

Rationale behind the TDR

Development rights transfer offers an alternative market-based instrument that can be utilized by the local government (McConnell & Walls, 2009) to conserve land with public benefits (Aken et al., 2008). Under this framework, the difference between the existing and permissible plot ratio of the land can be transferred and traded in the open market. The proceedings from these sales could be used for preservation, maintenance or improvement of the built heritage (Li, 2008). This eases the burden of the limited governmental funding and provides an incentive to private owners to maintain their buildings. Most importantly, the community benefits from the conservation without having to purchase or resume the properties. The purpose of a TDR scheme is to create a "win–win" solution (Tsang, 2001).

Factors affecting the TDR success

Many researchers have studied the factors affecting the TDR success based on the famous TDR programs implemented in the U.S., such as Montgomery county, MD (aimed at preserving the agriculture), New Jersey Pinelands (forest, farms and scenic towns) (Machemer & Kaplowitz, 2002), Dade county, Florida, and Livermore, California (Pruetz and Pruetz, 2007).

Aken et al. (2008) proposed five factors as key elements in highly successful programs, based on the evidence in Washington State. They are (1) ensure zoning compatibility, (2) support market studies to fine-tune TDR programs, (3) facilitate TDR transactions, (4) consider both carrots and sticks to achieve local participation, and (5) coordinate closely with GMA goals.

Machemer and Kaplowitz (2002) developed a framework for evaluating transfer of development rights programs using iterative grounded theory based on 14 U.S. TDR case studies. It includes the following 13 elements: (1) political foundation, (2) consistent regulatory process, (3) sense of place, (4) resources in area seen as valuable, (5) rapidly growing area, (6) public acceptance, (7) appropriate receiving areas, (8) TDR leadership, (9) mandatory programs, (10) TDR bank, (11) TDR compatible with PDR, (12) simple and cost efficient, and (13) knowledge of development, local land use demands and patterns.

Kaplowitz et al. (2008) employed a self-administered, mail survey to collect information from U.S. planning officials overseeing 109 TDR programs in order to identify the key characteristics associated with TDR success. Their findings revealed that complementary PDR programs, TDR banks, and background studies are central to a successful TDR program. Other factors, such as who initiates TDR programs, the number of initiators, the type of development demand in TDR program area and housing demand, were also shown to affect the TDR success.

Pruetz and Pruetz (2007) argued that, although for every TDR rule, there are typically several exceptions, many successful TDR programs have some common traits. The authors divided the common traits into three major aspects, namely (1) sending area success factors (e.g., development constraints; down zoning; infrastructure requirements), (2) receiving area success factors (e.g., rezone the TDR receiving area; developers can apply for changes to a higher density by choosing TDRs; inter-jurisdictional

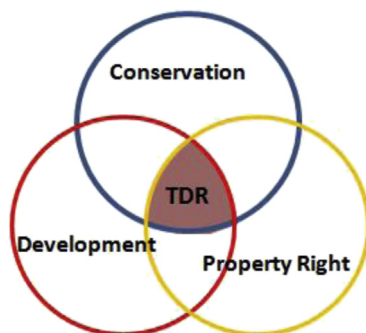


Fig. 1. TDR—striking a balance among conservation, development and property rights.

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