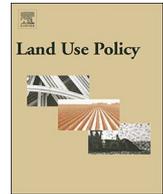




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Urban land readjustment: Necessary for effective urban renewal? Analysing the Dutch quest for new legislation

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ABSTRACT

Dutch municipalities have four instruments to actively assemble landownership. Using these instruments, municipalities have been capable to steer land use developments in both rural and urban areas into the desired directions. Despite the available instruments to assemble land, the necessity for a new act that enables urban land readjustment (ULR) has been discussed several times in the past decades. In 2015, the decision has been made to implement a new act for ULR. Given the situation that ULR will be added to the Dutch land policy instruments, this study explores the main conditions and features that the ULR act needs, to concede to expectations of urban planners, who currently consider the use of ULR. To do this, eleven cases in which ULR is considered as land policy instrument, were analysed. The results show that the expected added value of ULR is mainly related to its ability to share financial costs, gains and risks; to effectively relocate owners and reshape parcels; and to decrease the development costs that occur during active land acquisition. This implies that the main characteristics of regulation on ULR are to enable: 1) the financial division of risks and costs amongst owners, 2) a facilitative role for public parties, and 3) ways to reach agreement on adjusting the property and parcel structuring amongst land owners. Given the current Dutch situation, in which ULR is perceived as an instrument that can be especially valuable in urban renewal tasks with low financial profits, legislation that enables mandatory exchange under strict circumstances is argued to be necessary, to ensure an added value of the instrument upon existing instruments for land assembly.

1. Introduction

Traditionally, Dutch municipalities have used ‘active land policy’ to realise spatial developments. During active land policy, municipalities assemble property rights of land that is needed for development, rezone the land for development, service the land, and then sell it to developers, profiting from the increased price level (Needham, 1997; Groetelaers, 2004; Buitelaar, 2010; Van Straalen et al., 2015). Assembling the land, brings all land in hands of one owner, which enables the smooth readjustment of the parcels (De Wolf and Bregman, 2012). Municipalities have used active land policy to maintain control on spatial developments and to ensure the quality of the physical environment. Moreover, active land policy was used for its financial profits (Buitelaar, 2010). Dutch municipalities have four instruments to assemble land ownership: voluntary land purchase, expropriation, pre-emption rights, and land consolidation. Apart from realising planning goals by (actively) assembling landownership, municipalities can also (passively) steer land developments by several other instruments including public cost recovery, imposing obligatory maintenance, providing subsidies, and starting public-private partnerships. Using these

instruments, municipalities have been capable to steer land use developments in both rural and urban areas into the publicly desired directions in the past century (Needham, 1997; Van der Krabben and Jacobs, 2013). The global economic crisis of 2008 showed the financial risks of the Dutch active land management. During the crisis, urban developments have stagnated and municipalities were left with the financial burdens of land ownership. The crisis has changed the Dutch active land use policy towards a more facilitative land use policy (Buitelaar and Bregman, 2016). However, the available instruments are – especially in urban areas – mainly suitable for active land use policy. Therefore, several Dutch planning practitioners felt a need for a new act that should enable urban land readjustment (ULR). This has resulted in various debates and studies on the added value and necessity of ULR. In 2015, this led to the political decision to implement a new act on land readjustment in 2019.

During land readjustment, the original landowners form the basis of the renewal process. Generally, ULR exists of the transfer of all ownership rights to one party, the redistribution of the parcels and ownership rights, and the return of equivalent new rights to the original landowners (Turk and Korthals Altes, 2010). Several countries have

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their own conception of a legal instrument for ULR (Larsson, 1997; Muñoz-Gielen, 2010; Turk and Korthals Altes, 2010).

Parallel to the Dutch debates in practise, ULR has regained interest in academic literature in the last years (Muñoz-Gielen, 2016). ULR has been described in literature as a successful method to initiate urban developments with several advantages compared to other land policy instruments. ULR facilitates increased involvement of local owners and leads to more democracy through this involvement (Muñoz-Gielen, 2014; Turk and Korthals Altes, 2010; Van der Krabben and Needham, 2008; Yau, 2012). ULR also enables a facilitative role of public parties and helps to share risks amongst all parties, rather than leaving the risk to the government alone (Van der Putten and Wolff, 2004; Bregman and De Wolff, 2011). Moreover, ULR enables development in areas with fragmented property structures (Van der Putten and Wolff, 2004). Simultaneously, there is an opposite development in literature that argues for a shift from passive toward more active planning procedures (Gerber, 2016).

Studies that analyse ULR generally focus on its suitability for urban planning tasks, rather than analysing in what form and under what conditions the instrument will be most effective, efficient, democratic and just (Needham and Hong, 2007; Muñoz-Gielen, 2016). This study adds to the current literature by focussing on the preconditions for ULR legislation to become effective in practise. Moreover, it adds to the existing literature by focussing on the use of ULR in urban renewal tasks, rather than for greenfield developments. Given the situation that ULR will be added to the Dutch land policy instruments, the study explores the main conditions that are essential for the Dutch ULR legislation to concede to the problems for which ULR is currently considered. The aim of this study is to deduce preconditions for ULR legislation that enables the implementation of urban renewal tasks. To do this we explore the characteristics of eleven cases of urban renewal in which ULR is currently used, or has been used as land policy instrument. Urban renewal is defined as all regeneration and redevelopment within the built-up area whereas at least three parties are involved. Two guiding questions help to identify the underlying rationales of the current expected added value of ULR upon active land policy or upon the various instruments that can be used to steer urban renewal. The answers to these questions enable us to systematically analyse the eleven cases on the conditions that the new act on ULR would need to enable the effective development of these tasks. These conditions are debated and compared to the academic literature in the last section of this paper. Although the research focusses on the context and situation in the Netherlands, the study may be valuable for other countries in which the use of ULR for urban renewal tasks is considered.

2. Dutch context – the design of a new act for ULR

Since the 1970's, active land policy has been used in existing urban areas, especially by large municipalities (Muñoz-Gielen, 2010). During this time demolition and rebuilding were often considered as the only suitable solution for under maintained houses. In between 1968 and 1972, a large wave of housing demolition occurred, leading to various protests (Priemus, 2004). As a response, the focus shifted towards renovation of social housing neighbourhoods. Despite successful results, these renovations were only possible due to high governmental subsidies (Priemus, 2004). While the approach of urban renewal changed over time, the focus upon social housing remained within the housing sector. Until 2015, governmental funds were available to financially support these urban developments. After 2015, national funds for urban renewal have stopped.

The debate on the need for an act on ULR has started after the Second World War, after ULR had been used to renew urban areas that were destroyed or damaged during the Second World War (Van Schilfgarde, 1984; Van der Krabben, 2011). In the seventies, the debate on ULR regained attention and the usefulness of ULR was

studied by action-planning in a shopping street in Groningen¹ (Botman, 1984). The ULR process in Groningen was challenging and complex, and did not lead to the recommendation to create legislation on ULR. In 2001, the instrument was again proposed in a national report on land policy (Groot Nibbelink, 2001). However, the research that was conducted because of this proposal did not lead to a new act for ULR (Van der Stoep et al., 2013). After the economic crisis that started in 2007, ULR came back on the agenda due to: decreasing financial means for urban renewal, a political desire to take a more facilitative role in urban developments, and the increasing number of planning tasks in urban areas (Holtslag-Broekhof, 2016). Cases in which the instrument of ULR is currently explored can be characterised by either depopulation or urban restructuring tasks (Commissie Stedelijke Hervestering, 2014b). The possibilities for ULR in the Netherlands have been explored in several research reports (Van den Hazel et al., 2007; Bregman and De Wolff, 2011; Commissie Stedelijke Hervestering, 2014a).

Van den Hazel et al. (2007) argued that many urban development projects stagnate, due to owners that are unwilling to participate in the redevelopment, the lack of guidance, and shortage of finances. Van den Hazel et al. proposed a new legislation for 'mutual private urban development'. Within mutual private urban development, owners within a deteriorated area are grouped into a common organisation. This organisation would be responsible to develop plans for regeneration and to share the costs amongst all owners.

Bregman and De Wolff (2011) compared five different scenarios to implement ULR on their effectivity, efficiency, and legitimacy. They conclude that ULR can have added value for urban developments. Moreover, they argue that the best way to realise ULR, would be in an entirely new legislation that could be based upon the German variant of ULR: Umlegung. Another alternative that would be suitable according to Bregman and De Wolff would be to arrange legislation that adds to the legislation on public costs recovery ('kostenverhaal'). A last option could be to intensify the 'building claim model' that is often used during active land policy. Within this model, developers sell their land to the government for a low price, under the agreement that they receive both the right to buy the land again and a building permit, after the government has serviced the land. According to Bregman and De Wolff (2011) the main advantage of the implementation of ULR according to the 'building-claim model' is that there would be no need for new legislation. The scenario to add to the existing legislation on land consolidation is rejected by Bregman and De Wolff, as this regulation is designed for very different practise, and as a result should be adapted significantly. The scenario to use the conceptual idea of mutual private urban development (as proposed by Van den Hazel et al., 2007) was rejected by Bregman and De Wolff, because this does not enable the exchange of property rights.

In 2013, the 'Commissie Stedelijke Hervestering' was installed by the Ministry of Infrastructure and Environment to advise on a legal regulation on ULR. Their report was offered to the ministry in 2014. The committee concluded that ULR is missing within the Dutch instruments for land policy. Moreover, the committee stated that especially in the situation of owners that are unwilling to cooperate in urban development, a legislation for ULR would be necessary. Within this regulation, the possibility to impose ULR – under strict circumstances – would be essential (Commissie Stedelijke Hervestering, 2014a,b).

On November 25th 2015, the Dutch Minister Schultz-van Haegen-Maas Geesteranus declared in a letter to the Second Chamber to implement a new act for ULR in 2018 (Schultz Van Haegen, 2015). The design of the act is presently being finalised by a small group of officials at the National Ministry of Infrastructure and Environment. In 2015, the Ministry organised three sessions for expert consultation in which

¹ Groningen is a city in the north of the Netherlands. The ULR experiment was executed in the Folkingsstraat.

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