



The introduction of urban land readjustment legislation as an institutional innovation in Dutch land policy



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ABSTRACT

Cities in the Netherlands have long relied on active land policy for urban development. More recently, municipalities have started to explore new types of land policies, as they became aware of the financial risks of this policy. As an alternative to their active involvement in land development, new legislation for urban land readjustment (ULR) has been proposed. This policy supports a land assembly strategy, in which the owners swap land positions, and share (infrastructure) development costs and gains. This paper explores the motivations in the Netherlands for introducing this new land policy tool. Additionally, based on two case studies, we discuss how public and private stakeholders might respond to the introduction of ULR. We conclude that it is unlikely that the introduction of ULR legislation itself will bring forward a paradigm shift in Dutch land policy. Nevertheless, the ULR legislation may add to a redistribution of land development-related risks between the public and the private sector.

1. Introduction

Dutch cities have for a long time relied on both active land policy and ppp-based joint ventures with private developers as the more or less default land assembly strategies for urban development (Buitelaar, 2010; Van der Krabben & Jacobs, 2013; Valtonen, Falkenbach, & Van der Krabben, 2017). Defining feature of this approach is that, respectively, the municipality or the joint venture company assembles all the land needed for the proposed development. The municipality then prepares the land for further development (including all necessary infrastructure works), before it sells the serviced land to developers, housing associations, and/or final users. Often, the private developers participating in the joint venture company have obtained beforehand the first right to buy building plots. The system aims to provide both high-quality development locations and cheap land for subsidized social housing. For years, this policy has allowed Dutch municipalities to make profits with which other municipal facilities could be paid. Also, as landowners, municipalities were in a good position to negotiate with private developers about the desired development of the location (Buitelaar and Bregman, 2016). Private developers appreciated both models, because they reduced their financial risks, while still being able to make a profit, provided them with high-quality locations and helped to control competitive developments elsewhere.

Recent years have shown the downside of both active land policy

and the public private partnership constructions. Municipalities became much more reluctant to take the lead in land assembly. As a response a number of institutional innovations in land policy have been introduced that should offer less risky, but still efficient land assembly for urban development (section 2). The present paper concentrates on one of these innovations: the introduction of urban land readjustment as a new land assembly instrument. Anticipating a new land law, pilot ULR projects have been initiated in many cities. The main objectives of the paper are 1) to analyse the motivations for introducing ULR as a new land policy tool and 2) to explain the details of the (proposed) ULR legislation. Additionally, the paper aims to show some light on 3) how public and private stakeholders *might* respond to the introduction of ULR, in the perspective of Dutch planning and land policy traditions. With regard to the latter, we will use two case studies of (a selection of) the above-mentioned pilot projects.

The paper is written from a Dutch perspective and discusses cases in the Netherlands, but we believe the paper is relevant to an international audience as well. First, the paper builds on earlier international literature on fragmented landownership problems (Adams, Disberry, Hutchinson, & Munjoma, 2001b) and land policy (among others, Kalbro, 2000; Hartmann & Spit, 2015; Caesar, 2016; Valtonen et al., 2017) and aims to put the Dutch cases in an international perspective. Second, there is a growing body of literature on urban land readjustment, praising it as potentially a very effective development strategy

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Table 1
Land management strategies in the Netherlands (Source: authors).

	Public sector-led: public land development	Public Private Partnership: Joint venture	Public Private Partnership: PDA supporting private sector initiative	Private developer-led	Urban Land Readjustment (in new land law, 2018)
Initiative	Municipality	Joint venture	Landowner	Land owner	(More than two) landowners
Planning process	Blue print plan	Blue print plan	Organic bottom-up plan	Organic bottom-up plan	Blue print plan
Present land ownership structure	Prevents plan implementation	Prevents plan implementation	Prevents plan implementation	Fits with plan	Prevents plan implementation
Land purchase	Municipality	Joint venture company	PDA	No land purchase	Land exchanged amongst landowners
Infrastructure provision	Municipality	Municipality	PDA/municipality/landowners	Land owners	Landowners
Risk distribution	Municipality	Shared between public and private partners	Shared between PDA and landowners	Land owners	Shared by landowners

(see section 3). We also aim to position the results of our Dutch study in the international urban land readjustment literature.

The structure of the paper is as follows. Section 2 discusses the present institutional context for land policy in the Netherlands. Section 3 then provides a brief international literature review of urban land readjustment and its potential ‘solution’ to fragmented landownership constraints. Section 4 analyses the motivations in the Netherlands for introducing ULR as a new land policy tool. Section 5 presents the results of two case studies of ‘pilot projects’ in which an ULR strategy has been proposed to land and property owners in urban transformation projects. Finally, section 6 concludes about the potential of urban land readjustment for urban regeneration projects in the Netherlands and elsewhere.

2. Land policy in the Netherlands

Since WWII urban development in the Netherlands has been based on a kind of ‘blueprint’ or ‘end-state planning’ (Louw, Van der Krabben, & Priemus, 2003; Buitelaar, 2010). The blueprint planning and development approach used to go hand in hand with a public land development model or *active land policy*. While in many other countries occasionally local authorities do purchase land as well, mainly to support future private sector-led development in urban transformation areas, Dutch cities used to purchase and develop (almost) all (future) building land within a city ‘to guarantee building development according to public policies, to realize full cost recovery of all public works via the sale of building plots and to capture at least part of the surplus value of the land (after a change in use), to use that for public use’ (Van der Krabben & Jacobs, p. 775). As an alternative to public land development Dutch municipalities also enter into public private partnerships with private developers with regard to land assembly (also referred to as *building claim model*). The joint venture company, with the municipality and one or more private developers as shareholders, then assembles the land that is necessary for the development. The main motivation for municipalities to participate in these joint ventures is to reduce their financial risks (by sharing them with private developers); the main motivation for private developers to participate is to secure development rights (building claims): conditional to their participation in these joint ventures they require the exclusive right to buy building plots.

After the outbreak of the global financial crisis in 2008 ‘cracks in the myth’ of the Dutch public land development model occurred (Buitelaar, 2010). Many projects came to a standstill. The global financial crisis can partially be held responsible for this, but shortcomings of the development models have been suggested as a cause of the problems as well (Buitelaar, 2010; Janssen-Jansen, Lloyd, Peel, & Van der Krabben, 2012; Van der Krabben & Jacobs, 2013). The subsequent decline of commercial real estate and housing markets, as a direct effect of the financial crisis, induced a reduction in demand for new housing and building land, which brought both municipalities and private developers, both often holding substantial land banks, in financial trouble

(Van der Krabben & Heurkens, 2014).

In response to these developments, a debate regarding the need for institutional innovations in Dutch land policy has started, which has led now to preparations for a new land law, as part of a revision of the planning law (section 4). One response has been the introduction of stricter accounting rules for municipalities when they decide to invest in land positions (Valtonen et al., 2017). Another response has been the promotion of a more organic approach to area development and call for an alternative strategy based on small-scale, process-oriented developments that are user-oriented and reflect common values, and that whenever possible respects the present ownership structure in a re-development location. Public authorities sometimes still have a role in land assembly in these organic small-scale developments in order to support private sector initiatives. A third response has been the decision of Dutch parliament to introduce urban land readjustment (ULR) as a new land assembly instrument in the aforementioned new land law that is currently under preparation. Table 1 provides an overview of land management strategies that are being used in the Netherlands.

3. Urban land readjustment international

Urban land readjustment has sometimes been named a “sleeping beauty”, potentially interesting but rarely useful in practice (Alterman, 2012: 765). The basic idea behind ULR is that a re-parcelling of land takes place by way of swapping land positions between the landowners, without any transactions taking place, while part of the land will be used for public services and infrastructure. Usually it is assumed that ULR is a self-financing strategy, because all necessary public infrastructure costs will be paid from the development gain that is the result of the proposed development: re-parcelling of the land results in higher land values. Urban land readjustment also differs from alternative development strategies, because all individual land and property owners in an urban land readjustment project equally share the development gain (and the risks) of the (re)development of the area. For these reasons - the ‘self-finance’ of infrastructure costs and the fair distribution of development gain - it has been promoted by international development organizations such as UN-HABITAT (2012), the World Bank (2014) and the Lincoln Institute of Land Policy (all cited in Muñoz Gielen, 2016). The strategy has been widely adopted both in European countries (e.g. in Germany, Israel, Spain and Turkey) and in Asian countries (e.g. in India, Japan, South Korea and Taiwan). In some of these countries ULR is indeed the “sleeping beauty” and almost never used, but in a few countries around the world (notably Japan, South Korea, Germany, Israel and Spain) ULR has been and still is regularly applied. In the past decades, the mechanism has received substantial attention in the international literature (including: Doebele, 1982; Archer, 1989; Sorensen, 1999; Adams, Disberry, Hutchinson, & Munjoma, 2001a; Hong & Needham, 2007; Alterman, 2007, 2012; Mukhija, 2006; Li & Li, 2007; Muñoz Gielen & Korthals Altes, 2007; Turk, 2007; Van der Krabben & Needham, 2008; Turk & Korthals Altes, 2011; Yilmaz, Çağdas, & Demir, 2015; Muñoz Gielen, 2014, 2016).

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