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Public land development as a strategic tool for redevelopment: Reflections on the Dutch experience

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ABSTRACT

For many decades cities in the Netherlands have made extensive use of public land development as a strategic tool for pro-active planning. This paper investigates the Dutch experience to explore its utility both in the Netherlands and in the U.S. We build upon an earlier study by Lefcoe (1977) with similar purposes. His conclusion was that American cities should be cautious in the use of this approach. This paper comes to the same conclusion, but does so taking into account the present institutional contexts and market circumstances both in the Netherlands and the U.S. It is argued that only under very specific circumstances does it make sense for municipalities to act as land developers. Furthermore, the Dutch experience with public land development since the 1990s demonstrates the many dangers there can be to this land development strategy.

Introduction

As it is applied by Dutch cities a public land development strategy, involves public purchase, ownership and servicing of land and active planning for land use before land is released for actual development to the private sector. This guarantees building developments according to public policies, it realizes full cost recovery of all public works via the sale of building plots and it captures at least part of the surplus value of the land (after a change in use). In this paper we argue that a public land development strategy should be distinguished from the internationally more common strategy of public landbanking. Public landbanking involves land assembly by the public sector and the sale of unserviced land to the private sector. Where the Dutch see public land development as a way to implement a local-authority-driven development program for a whole city, American and other cities around the world make use of landbanking strategies to acquire properties mainly on brownfield locations to enable a (re)development program for that specific area. In addition to these two development models two alternative strategies can be distinguished as well, i.e. private land development strategies and urban land readjustment strategies (see "Alternative land development models" section).

This paper investigates planning practice in the Netherlands, a country in which public land development is at the core of the municipalities' strategies to achieve their planning goals. Dutch local governments have always played an active role in acquiring agricultural land, servicing that land for future building and supplying it to home builders and other users. The main reason that they have adopted this role is that 'they want to steer development in a pro-active way and that they want to earn money to finance the costs of public works like streets, sewage systems and public space that are necessary for new urban development' (Needham, 2007, p. 181). The model is applied to both greenfield development and urban transformation (brownfield) projects and requires strategic land acquisitions, often many years prior to the implementation of a new plan for development. The development strategy supports, when successful, a very pro-active way of planning. Though other land development models are applied as well, i.e. public landbanking strategies and private development, public land development still is the dominant development strategy for Dutch cities.

The aim of this paper is to explore the continued utility of the public land development model in the Netherlands, in the present institutional context and under present market circumstances, and its utility in the U.S., as a possible alternative to current planning practice in American cities and as a strategy to plan in a more positive way. Doing this, we reference an earlier study by Lefcoe (1977). He believed – as others did as well (see below) – that local authorities in the United States did not hold effective tools to implement their urban development plans. From a European perspective planning in American cities is quite passive. The most common land use tool in the U.S. – zoning – is in essence negative. Though American

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cities – primarily in the case of urban transformation projects – make use of public landbanking as well, they do this in a different way and certainly less frequently than the Dutch do. In comparing American planning and urban redevelopment practice with the Dutch experience it is necessary to acknowledge some fundamental differences between the two countries. Compared to Dutch cities (and most other European cities), American cities hold a relatively weak position vis-à-vis land use planning and implementation (Kushner, 1993; Cullingworth, 1994). In addition, land is and always has been quite scarce in the Netherlands, thus land prices in the Netherlands are quite high compared to those in and around most American cities. In both the U.S. and the Netherlands, the global economic crisis has significantly affected planning, development and redevelopment, though more so in the U.S. as a result of the structure of housing finance in the 2000–2006 time period.

Lefcoe was not the first to either critique the limitations of zoning as a land use approach, or to explore northern European and Scandinavian alternatives – especially public land development – as an alternative to zoning. A decade earlier, in the 1960s, Reps (1964), Babcock (1966) and Delafons (1969) all contributed to an emerging consensus in the planning field about zoning's limitations. Reps (1964, p. 56) famously noted "Zoning is seriously ill and . . . what is called for is legal euthanasia, a respectful requiem . . .". As he was burying zoning, and then later in fuller exposition, Reps explicitly called for planners to advocate for public land development as a way to achieve what we would today term sustainable urban development (Reps, 1964). With this recommendation Reps was both following in a strong tradition and contributing to the further development of the idea that American planners should look across the Atlantic for viable urban development and redevelopment models, particularly that of public land development (Buttenheim, 1939; Strong, 1979).

As we will discuss more closely in "Public land development in the Netherlands and elsewhere" section, Lefcoe (1977) came to the conclusion that it would not be a wise decision for American cities to enter the land development business in the way Dutch cities do. We add to his conclusion by noting that his advice to American cities not to use the instrument can also be read – though perhaps not intended by Lefcoe – as a critique on the Dutch (and some other countries) who so frequently make use of the strategy. What we argue below is that it is striking that some of the dangers of public land development as predicted by Lefcoe actually came about in the 1990s when market circumstances in the Dutch land and housing market changed and again after 2008, when Dutch municipalities started to severely suffer the consequences of global depression and economic downturn ("Public land development in the Netherlands and elsewhere" section). Though some of the gaps in law that have contributed to the 1990s reality for Dutch municipalities have been repaired by introducing new land market regulation in the new Dutch Spatial Planning Act (TK, 2008), in fact another set of reasons have come forward that may bring Dutch cities to reconsider their traditional role in the land market.

This paper assesses the public land development model as it is used in the Netherlands, in the context of the developments that have taken place in Dutch local land markets since the 1990s. Lefcoe's argument that American cities should look for instruments that would give them the opportunity to play a more pro-active role in achieving their planning goals still seems to be valid. More recently, other authors have also criticized zoning as a mainly negative instrument, which has little relationship with stated public policy goals and ties the hands of municipal governments in pursuing a more active agenda (Beatley, 2000; Levine, 2006; Hall, 2007; Hirt, 2007). We believe, however, that the developments that took place in Dutch local land markets may yield wise lessons for local governments in the United States about embracing a public land development strategy. Only very specific circumstances may justify such a strategy.

The structure of the paper is as follows. "Alternative land development models" section starts with a brief discussion of different land development models in an international context. "Public land development in the Netherlands and elsewhere" section discusses public land development in the Netherlands: its background, goals and achievements until the 1990s. "Lefcoe's analysis of the Dutch experience with public land development" section reviews Lefcoe's analysis of the Dutch experience with public land development and its potential use for American cities, referring to a situation that lasted until the 1990s. "What happened on the Dutch land market since the 1990s" section describes the developments on the land market in the Netherlands since the 1990s and the changing roles of municipalities and private actors in this market and evaluates the effectiveness of public land development as a planning strategy. Starting from a discussion of the motives for a more pro-active role for American local planning authorities, "Concluding remarks" section critically assesses the advantages and disadvantages of this development strategy for American cities. We conclude with a challenge to the planning community.

Alternative land development models

Land development models (or: land management strategies) usually serve three main objectives. First, in the case of a desired development, land must be made available for development. Often this requires a form of land assembly, since the required subdivision for the new development (e.g. a new residential or mixed-use development) does not match up with the existing ownership structure (e.g., in the case of an urban transformation project, an obsolete industrial area). Land assembly can be interpreted as a transfer from passive to active land ownership. Active landowners are those who are willing to develop their land, while passive landowners take no particular steps to market or develop their land (Louw, 2008, p. 70). Moreover, the assembly of plots usually offers a more efficient and more profitable development opportunity. A second main objective is to make sure that the costs of the public works that are necessary for the intended development can be recovered, either completely or at least in part. The primary condition for this is a positive balance between the increment value of the land based on the new development and the costs to develop the location. The third main objective – however much less 'accepted' and in many countries subject of political debate (Alterman, 2009) – is to capture part of the unearned increment in the land value that occurs as a result of the change of the land use in the area to be developed, thus allowing higher valued uses or higher building densities.

To achieve those goals different land development models can be applied. Those development models vary by the main purpose of the strategy and its relation to planning, land assembly strategy, and cost recovery and value capturing strategy (Table 1). It is useful for the purpose of this paper to distinguish land assembly models and land readjustment models. Land assembly can both be done by public authorities and by private developers (and also in public private partnerships). For public authorities there are different ways to assemble land. Following Golland (2003; cited in Louw, 2008, p. 73) we distinguish comprehensive top-down models and planning-led quasi market models. The *comprehensive top-down models* concern a pro-active plan-led city-wide approach and involve the public purchase and development of all (future) building land within a city, to guarantee building developments 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.