

Compulsory Purchase and Compensation in Land Acquisition and Taking

This seminar was organised by FIG Commission 9, "Valuation and Management of Real Estate", in conjunction with the Baltic Valuation Conference and FIG Commission 7 "Cadastre and Land Management" and 8 "Spatial Planning and Development" on 6th to 8th September 2007, Helsinki, Finland. The goal was to intensify discussions between valuation people, surveyors, real-estate experts, financiers, urban planners, researchers, teachers and decision-makers, and to develop ideas for shaping the future.

Expropriation

Compulsory purchase (expropriation) is in most countries an important tool for land acquisition for public purposes, although this often also can be achieved by voluntary agreement. Recent discussions on expropriation are scarce and it is not known what new legislation, practice and methods for valuing compensation have been adopted and how they function. Old methods and procedures may have been ineffective or unpopular. To set light on the present situation and the potential for new practice the seminar concentrated on:

- identifying national legal structures and practices in expropriation and compensation
- studying whether compensation statutes, methods and manners of compensation lead to full and just compensation and identifying possible shortcomings
- finding possible effective solutions, especially for developing countries; what are best practices and what principles should be considered or avoided.

Seminar

FIG president Professor Stig Enemark and Finnish Minister of Housing Jan Vapaavuori gave welcoming addresses. The focus of the seminar was on expropriation systems and the need for alternatives, compensation, quality management of expropriation processes, protection of property rights, uncertainty of valuation, pro-poor approaches to compensation and expropriation in developing countries, human rights perspective, history and development of expropriation. Much attention was given to the background and context of the FAO/World Bank Initiative on Compulsory Purchase and Compensation. Finally, some special themes and cases from specific regions were discussed, such as the matter of boring a tunnel under someone's house or whether land expropriation supported innovative procurement in road projects.

Workshop

Many opinions emerged during the workshop. Acquiring authorities require a speedy timeframe and low-cost process for compensation, avoidance of external costs of expropriation and adequate resources for expropriation. On the other side, occupants, users and owners require transparency and information, avoidance of expropriation (as general rule of thumb this must be done only if absolutely necessary), a proper planning and negotiation process and fair compensation. These issues are also relevant for foreign investors. Further, there must be recognition of the interests of women/men, landlords/tenants, formal/informal and indigenous and customary; resettlement may sometimes be an option, if possible in combination with right to return. Technical expertise is required and decent salaries should avoid undesirable situations for professionals. All this can be supported by the provision of technical expertise, development of guidelines on particular issues and expropriation-related land tools such as better planning processes, compensation, enumeration, and conflict resolution. And, more specifically, by providing resources for acquisition, adequate availability of professionals, advocacy, legal support and international and national complaint mechanisms. Training remains a key issue.

When assessment and compensation enter the process they bring a need for uniformity based on (international) standards. Transparency, equity and free public access to property sales information are basic to success. Consideration should be given to increasing the amount of compensation well above any market value to speed acquisition and avoid wasting time and money on negotiations. The state should even be given a limit within which to agree on compensation, losing the right to acquire the land should it fail to do so within the given timeframe. For standardisation it is most relevant to provide a single definition for the term "value", to be amended by any country according to its own purposes. Regarding FIG/FAO co-operation, "best practices" should be analysed to enhance understanding of valuation and compensation processes. It was suggested that an international committee of experts be established to advise countries on specific problems. There should be guidelines on skills and support-organisations needed for development of skills and capacity, as well as relevant standards for compensation, assessment definition and procedures. Also discussed was the need for an authorisation or licensing system for specialist valuation and other experts, along with creation of independent and liable professional bodies to provide all parties with information. Mediation works well in practice, appeals might be skipped. Landowners should have a choice between resettlement or financial compensation and nominal values should be used here.

Conclusion

The presentations and opinions presented during the workshop form a solid basis for future developments, in co-operation with the FAO and World Bank.

