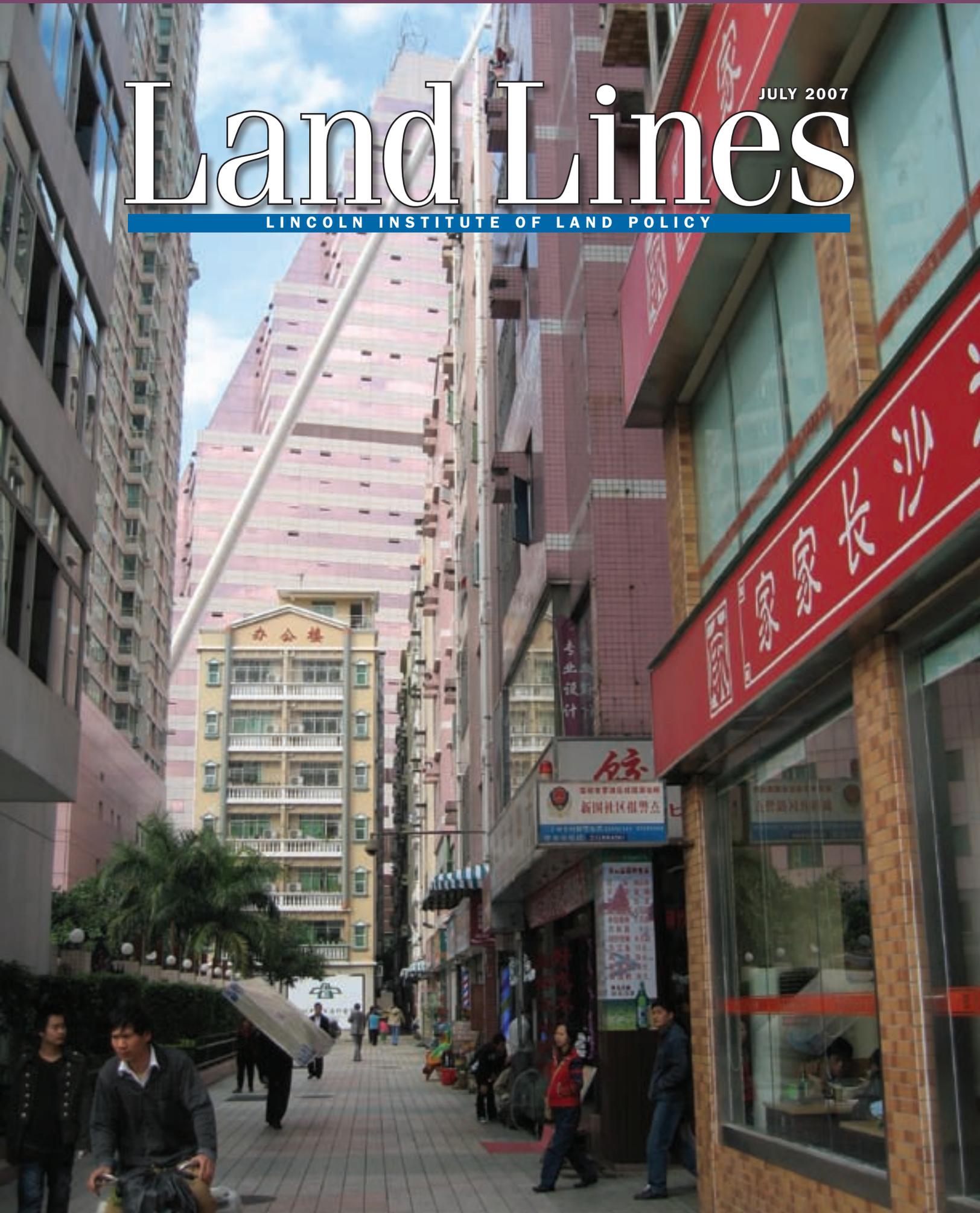


Land Lines

JULY 2007

LINCOLN INSTITUTE OF LAND POLICY



Land Lines

JULY 2007 • VOLUME 19, NUMBER 3

EDITOR

Ann LeRoy

PRESIDENT & CEO

Gregory K. Ingram

CHAIRMAN OF THE BOARD

Kathryn J. Lincoln

PUBLICATIONS ASSISTANT

Robyn F. Salbo

DESIGN & PRODUCTION

David Gerratt & Amanda Wait
www.NonprofitDesign.com

The Lincoln Institute of Land Policy is a private operating foundation whose mission is to improve the quality of public debate and decisions in the areas of land policy and land-related taxation in the United States and around the world. The Institute's goals are to integrate theory and practice to better shape land policy and to provide a nonpartisan forum for discussion of the multidisciplinary forces that influence public policy. The work of the Institute is organized in four departments: Valuation and Taxation, Planning and Urban Form, Economic and Community Development, and International Studies.

We seek to inform decision making through education, research, demonstration projects, and the dissemination of information through publications, our Web site, and other media. Our programs bring together scholars, practitioners, public officials, policy advisers, and involved citizens in a collegial learning environment. The Lincoln Institute of Land Policy is an equal opportunity institution.

Land Lines is published quarterly in January, April, July, and October to report on Institute-sponsored programs.

For More Information

The Lincoln Institute Web site (www.lincolnst.edu) provides a variety of features that make it easy for users to quickly obtain information on land and tax policy issues and on specific education programs, research, and publications. The e-commerce function permits users to order publications and multimedia products and to register for courses.

You can create your own "My Profile" to download current and past issues of *Land Lines*, more than 400 Working Papers, and other materials posted on the Web site. After you have completed your profile, you can "Log In" at any time by entering only your username and password. To create a profile, go to <http://www.lincolnst.edu/login/createprofile.asp>.

Copyright © 2007

Lincoln Institute of Land Policy

113 Brattle Street
Cambridge, MA 02138-3400 USA

Tel: 617-661-3016 or 1-800-526-3873

Fax: 617-661-7235 or 1-800-526-3944

E-mail: annleroy@lincolnst.edu (editorial content)
help@lincolnst.edu (information services)

Web: www.lincolnst.edu

L LINCOLN INSTITUTE
OF LAND POLICY



PRINTED ON RECYCLED PAPER USING SOY-BASED INKS

CONTENTS



FEATURES

2 Housing Rural Migrants in China's Urbanizing Villages

YAN SONG

The emergence and prevalence of urbanizing villages is an outcome of China's rapid urbanization, the dichotomy between rural and urban policies, and specific urban land policies.

8 Surprise! An Unintended Consequence of Assessment Limitations

RICHARD F. DYE AND DANIEL P. MCMILLEN

Early experiences with assessment limitation measures reveal an unanticipated result: some property owners seemingly targeted to benefit from lower assessments may be harmed instead.

14 Taking Land Around the World: International Trends in the Use of Eminent Domain

ANTONIO AZUELA

This tool has been used for a long time as a major instrument of land policy, but now it is subject to a number of criticisms and mounting social resistance in many parts of the world.

20 Gathering the Evidence for European Planning

ANDREAS FALUDI

The EU wants to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion.

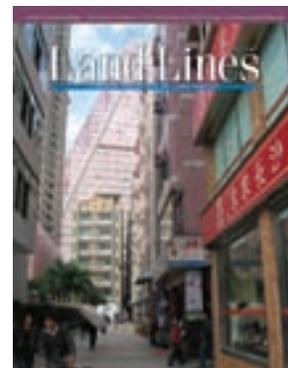
DEPARTMENTS

1 Report from the President

24 Faculty Profile: Daphne Kenyon

26 Program Calendar

29 Web-based Resources



Shenzhen, China / © Yan Song

Decentralization

The Institute's June 2007 Land Policy Conference focused on decentralization—the

degree to which local and provincial governments exercise power, make decisions about their revenues and expenditures, and are held accountable for outcomes. Because the services, regulatory constraints, and institutional environments provided by local governments are major factors in the location decisions of households and firms in urban areas, decentralization is a key determinant of policies that affect land and property taxation.

Advocates claim that decentralization will increase the efficiency and equity in the public sector because it allows customization of public services to local preferences, promotes scrutiny by citizens of expenditures, and facilitates innovation. Critics have concerns about a lack of local administrative capacity, the potential for local corruption, and the risk that local governments will be captured by local elites. The duality of these arguments provided the rationale for this conference.

The speakers addressed two main issues: to what extent has decentralization achieved its expected and related objectives; and what is the potential for and outcome of the interjurisdictional competition fostered by decentralization?

Achieving Objectives: Roy Bahl's keynote address reviewed the facts about, arguments for, and risks relating to decentralization in developing countries. He reported that the average share of general government expenditures has been virtually unchanged since 1970 for developed (33 percent) and developing (13 percent) countries, but that decentralization's costs are high and its positive impacts take a long time to be realized.

Ehtisham Ahmad, Giorgio Brosio, and Vito Tanzi reviewed the empirical evidence across countries on how well decentralization has delivered on its promises of improving efficiency, satisfying local preferences, and fostering economic growth. They found the evidence was inconclusive on all fronts. Paul Smoke similarly reviewed the empirical literature on the relationship between decentralization and local revenue performance, technical reform, governance, and capacity. He found mixed results, with stronger evidence on the linkages in studies of specific countries.



Gregory K. Ingram

Compelling evidence of an increase in decentralization in the United States was provided by Robert Nelson. He reported on the rapid growth of local service provision by private community associations, which encompassed about half of the new housing units built since 1980; their residents now number 57 million. Also using U.S. data, Daniel McMillen and Larry Singell demonstrated that constraining the options of local governments

seems to reduce their ability to customize local services: property tax limits and school finance reforms reduced the variation in per pupil expenditures across communities.

Decentralization can pose risks of undesirable outcomes. William Fischel provided evidence that fragmented metropolitan areas are likely to produce more exclusionary zoning than those with few local governments. Using cross-country data, Luiz de Mello found that local government indebtedness increased as transfers from the central government expanded. Jorge Martinez-Vazquez and Cristian Sepulveda found that increased decentralization was associated with greater income inequality across countries.

Interjurisdictional Competition: Sally Wallace's review of competition among jurisdictions for economic activity found that fiscal inducements had modest effects on location decisions that were dominated by other economic considerations. An examination of the environmental consequences of decentralization in papers by Hilary Sigman (using cross-country data) and Shelby Gerking (using U.S. data) found modest to nonexistent risks of an environmental "race to the bottom" driven by competition among local governments.

Building on his prior analytic work, Tom Nechyba explored the outcomes of competition between public and private schools in an urban area. Clifford Zinnes explored how competition can promote increased efficiency and effort among local governments. Both papers found that the outcomes were heavily dependent on the "rules of the game."

The empirical papers concluded that measures of decentralization are very weak, particularly across countries. This is an important research area for the Institute because improved understanding of how decentralization impacts local governments in different countries is necessary to formulate land policy and design local revenue and expenditure reforms. 

HOUSING RURAL IN CHINA'S URBANIZING



Yan Song

The annual rate of urbanization in China has increased rapidly from 17.9 percent in 1978 to 39.1 percent in 2002, accompanied by rural-to-urban migration on a massive scale. More than 70 million rural migrants were working and living in urban areas at the end of 2000.

This influx of population has created a unique urban form—villages within cities, also referred to as “urbanizing villages” or *ChengZhongCun* in Chinese. For example, in the city of Shenzhen, with an official population of around 9 million in 2000, approximately 2.15 million inhabitants lived in 241 urbanizing villages with a land area of almost 44 square kilometers. In the city of Guangzhou, with a population of more than 8 million, there were 277 urbanizing villages with approximately one million inhabitants in 2000.

The emergence of this new type of urban settlement contrasts with housing development in other regions. In many Latin American countries, for example, poor migrants also move to cities for better jobs and income opportunities, but generally they live in makeshift houses in new informal settlements, often on unserviced land on the urban fringe.

The physical environment in many urbanizing villages in Chinese cities is in poor condition with overcrowded buildings, narrow public stairways and pathways, and unhygienic public spaces, but basic living standards are met through the provision of fundamental utilities such as water, electricity, phone lines, and natural gas. Furthermore, many of these urbanizing villages are located near busy downtown financial districts and are accessible to employment centers.

How did these urbanizing villages develop? Why do rural migrants choose to live in these villages? And is China’s urban housing market able to accommodate these rural migrants?

Urbanizing villages are crowded, but basic utilities such as water, electricity, phone services, and natural gas are supplied for the buildings.

© Yan Song

MIGRANTS VILLAGES

Villages within Cities

The emergence and prevalence of urbanizing villages is an outcome of China's rapid urbanization, the dichotomy between rural and urban policies, and China's urban land policies.

China's annual urbanization growth rate has been two times higher than the world average over the past several decades. As Chinese cities expand beyond their administrative districts, many rural territories are surrounded and absorbed by urban development. This expansion is now encroaching on many rural villages at the original urban periphery or in rural-urban transitional areas (referred to as *ChengXiang JieHeBu*) and transforming them into villages within cities. At the same time, massive rural migration has created enormous demand for inexpensive and accessible housing units in urban areas.

Despite the reduced constraints on rural labor mobility since the late 1970s and the recent improvements in supporting institutional controls on migration, rural migrants still encounter great difficulties in acquiring urban household registration permits (*hukou*) and permanent residence status in urban areas. Due to incomplete reforms in the urban social service system, nearly all of those migrants are considered to be temporary residents in urban areas, and thus do not have access to many amenities such as education, health care, or urban housing subsidies (Zhang, Zhao, and Tian 2003; Wu 2004).

There are two main types of land ownership in China: 1) state ownership of administratively allocated land or of urban land whose land use rights can be transferred and leased to users in exchange for payment; and 2) collective ownership of rural land by rural communities. All members of rural communities are entitled to an equal share of the collectively owned land, acting *de facto* as landowners with unrestricted tenure. By function, rural land can be categorized into land for farming and land for housing (see Ding and Song 2005).



© Yan Song

This dual system of rural land ownership leads to the formation of villages within cities in several ways. First, city governments tend to avoid acquiring the land designated for housing so they do not have to make the larger compensation payments required to relocate or provide new housing to the native villagers. Instead, governments acquire and purchase the land designated for farming. Since the farmers retain their property rights on their remaining rural housing land, they can use it as long as they keep their rural *hukou*. The governments generally pay a large lump sum in compensation when acquiring farm land from the villagers, who then have the capital necessary to build new housing projects on their land to address the demand for inexpensive housing by rural migrants.

Many urbanizing villages are accessible to employment centers. Xiasha Village is close to one of the industrial employment centers in the city of Shenzhen.

Second, real estate developers who do not own urban land must pay a significant amount to city governments to obtain user rights. In comparison, native villagers who hold collective land ownership do not have to pay a fee to develop housing projects. Further, development projects in these former rural villages are not generally scrutinized by urban management regulations. Villagers are thus able to develop housing projects at much lower costs than the urban real estate developers, and even to develop substandard housing units free of regulation.

These villages within cities are generally perceived as undesirable places and are consequently dismissed by urban authorities. Since the villages are associated with unplanned land uses, very narrow streets, substandard housing units, overcrowded living conditions, and inadequate public safety, many cities have adopted policies to demolish and redevelop the villages into commercial and housing districts. Under such schemes, real estate developers are allowed to build high-rise office and residential buildings, and native villagers are compensated with new units.

However, many of these development programs have been ineffective. The demand for inexpensive housing units by rural migrants is so great that illegal, self-built units often appear soon after the old villages are demolished and before the new real estate development can be started (Zhang, Zhao, and Tian 2003).

Determinants of Housing Choice

Why do rural migrants choose to live in these urbanizing villages? To answer this question, my colleagues and I carried out a housing choice model to evaluate how factors ranging from household and income characteristics to *hukou* status would affect migrants' decisions about where to live (Song, Zenou, and Ding forthcoming 2007; 2008).

In 2005 we administered a consumer survey in the city of Shenzhen, using multistage stratified cluster sampling procedures. The 1,389 respondents, including both permanent urban residents and rural migrants, were asked about their housing choice. Did they own a housing unit; rent a public urban housing unit or employer-based housing unit; rent a private housing unit in an urban area (not in an urbanizing village); or rent a private housing unit in an urbanizing village?

The respondents were also asked about their individual and household socioeconomic and institutional characteristics. Individual socio-

demographic characteristics included age, education, gender, marital status, and expected length of stay in Shenzhen. The information on household attributes included income and composition of the household unit. Institutional characteristics included place and type of *hukou* (i.e., rural, urban, local, or nonlocal registration permits). In addition, the survey asked about employment to see if the respondent worked for a state-owned enterprise, a collectively owned enterprise, or a stock-venture enterprise, or was self-employed in a private business such as garment making, shoe repair, waste collection, domestic maid service, hair or beauty salon, or a restaurant.

Through a multinomial logit specification (MNL), we were able to estimate the effect of the *hukou* system and other household characteristics on housing choice. The findings suggest the importance of possessing an urban or a local *hukou* as a critical factor in housing choice. Respondents who hold an urban *hukou* are more likely to choose to own a housing unit, to rent a public housing or employer-provided unit, or to rent a private housing unit in urban areas, rather than to rent a unit in an urbanizing village. This indicates that urban *hukou* holders prefer to stay in urban areas outside of urbanizing villages.

For respondents who hold a local *hukou* (either urban or rural), the possibility of choosing to own a housing unit is significantly higher than the renting options. The results also indicate that when choosing among renting options, a person with a college degree is more likely to choose a public rental unit, employer-provided unit, or private rental unit in an urban area than to live in an urbanizing village. Finally, when comparing private renting options, a person with higher income is more likely to choose a rental unit in an urban area than to rent in an urbanizing village.

In evaluating housing choices for those people who have a local *hukou*, the findings suggest that individual life cycles, income, and urban *hukou* status strongly affect the choice to own a housing unit. Individuals who are between 35 and 60 years old, married, or with a child at home, those with college degrees and higher incomes, or those who hold an urban *hukou* are more likely to own than to rent in urbanizing villages. Among renting options, people at higher incomes or those who hold an urban *hukou* or work for a state-owned enterprise are more likely to choose a public rental unit or employer-provided unit than to live in an urbaniz-

ing village. Furthermore, people with higher income and an urban *hukou* are more likely to choose a rental unit in an urban area than to live in an urbanizing village.

When comparing private renting options for people without a local *hukou*, those most likely to choose to live in an urbanizing village are younger; less educated, lower-income and/or self-employed; they lack an urban *hukou*; and they are less likely to stay in Shenzhen for a long time. These rural migrants must find ways to bypass their financial problems and *hukou* status, as well as the institutional and policy constraints of urban housing provision. Urbanizing villages thus play an important role in providing shelter for rural migrants and other underprivileged groups who have difficulty gaining access to affordable urban housing options.

China's Urban Affordable Housing Policies

The housing reform carried out in China since the early 1980s put an end to the old housing provision

system, under which each work unit distributed houses to its employees as a benefit. As a result, new housing units are oriented to privatization and commercialization of housing, and are built essentially for profit by real estate developers, making them generally unaffordable for low-income groups (see Ding and Song 2005).

Acknowledging the housing needs of moderate- and low-income families, the State introduced a multilayered housing supply system in 1998. Within this framework are three programs: subsidized affordable (or economic) and functional housing units (*Jingji Shiyong Fang*); low-cost or subsidized rental units (*Lianzu Fang*); and the compulsory housing saving system known as housing provident funds (HPF; *Gongji Jin*).

Affordable Housing: Established in 1998, the policy of affordable housing involves government subsidies and profit caps for developers. The subsidies include the administrative allocation of state-

Native villagers, acting as stock shareholders, worked together to redevelop Tianmian Village in Shenzhen. Affordable units are still rented out to rural migrants.



© Yan Song



© Yan Song

Rural migrants work in the early morning for a fast-food restaurant.

owned land at no cost and the reduction of 21 different taxes, development costs, and fees paid to local government. Developer profits are limited to 3 percent. This affordable housing program is designed for middle- and low-income households in the urban housing sector, since one of its requirements specifies that the applicants must have the local *hukou* or household registration permit.

This program is less applicable in meeting the housing needs of rural migrants in urban areas. Nevertheless, there are several pilot cases where the local governments relax the requirement of local *hukou* and thus make the affordable housing units accessible by the rural migrants. For example, in Nanchang in 2005, the requirement that the applicant for such housing have a local residence

permit was substituted by the requirement that he or she must work or pay taxes in the city for three consecutive years.

Low-cost Rental Housing: China's low-cost rental program was formally established in 1999 by the National Reform and Development Commission. Under this government regulation, the price of low-rent housing considers housing maintenance and management costs and should be affordable to urban low-income families. There are two main forms of low-cost rental units that are available and affordable to most rural migrants. The first is converted former work unit apartments, which are predominant. Temporary exemptions of property and business taxes can be applied to these units that are leased at prices prescribed by the government.

The second type, new low-cost rental units, is also being constructed by local governments in several cities, mostly at the urban fringe to avoid the high cost of land in central cities. However, these low-cost rental units have poor access to employment sites, so people are not as willing to move into them. For example, in Chengdu in 2003, the vacancy rate of one low-cost rental project located far from the city center was as high as 60 percent.

This program for low-cost rental units requires a direct commitment of public investment, but the lack of available funds from most local governments explains the program's limited extent to date. Since the allocation of funds is not yet institutionalized, the implementation of these programs remains ad hoc. As one example, the local government in Changsha in 2005 invested 42 million yuan (approximately US\$5.4 million) to construct 60,000 square meters of rental space to house low-income rural migrants. Capital was raised mainly through special funds allocated from the local government's fiscal budget, donations, and the housing provident fund.

Housing Provident Fund (HPF): Implemented in cities throughout China in 1994, this is a policy-based financing system under which the State, work units, and individual buyers join together to provide funds for housing development. In 1999, the State issued its *Regulations for the Management of the HPF* to ensure that the program functions in an institutionalized and standardized way. By the end of 2003, a total of 60.45 million employees through-

out China had opened accounts for the HPF, raising a total of 556.3 billion yuan, of which 174.3 billion yuan was withdrawn from the banks by employees to buy or build their houses or for retirement. However, HPF is an employment-based housing finance scheme that excludes those who are unemployed or laid-off. The large number of rural migrants who are employed by small businesses or are self-employed are also excluded from the HPF program unless they can contribute to it directly.

Alternative Redevelopment Programs for Urbanizing Villages

It is evident that China's low-income housing policies largely neglect the housing needs of rural migrants in urban China. The affordable housing program discriminates against those who do not have local household registration permits. Although the low-cost rental program is available to the rural migrants, the scarcity of such housing limits its effectiveness in meeting their expanding housing needs. And the HPF is an employment-based housing finance system that excludes most rural migrants who are self-employed or employed by small businesses that do not contribute to the HPF. For a more thorough evaluation of China's urban affordable housing policies, see Quercia and Song (forthcoming).

In this context, urbanizing villages have played an important role in housing rural migrants by providing inexpensive shelter and freeing local governments from instituting costly programs to house migrant laborers. As such, programs aimed at eliminating urbanizing villages or improving their physical environment are likely to be ineffective and even harmful to China's economy.

Several scholars have stressed that China's urban policy toward urbanizing villages was adopted for the sake of social appropriateness rather than for economic rationality (Gu and Shen 2003; Zhang, Zhao, and Tian 2003). Programs aimed at eliminating urbanizing villages also have neglected to recognize that rural migrants have made great contributions to economic growth in urban China by taking most of the 3-D (dirty, dangerous, and demanding) jobs shunned by long-time urban workers.

As the rate of rural-urban migration is expected to increase for years to come, the demand for low-cost urban housing will also continue to grow. The current policy of demolishing and redeveloping

villages within cities can be devastating for rural migrants who cannot afford the new units. There are a few exceptions where native villagers have worked collectively as shareholders to redevelop their villages with affordable housing units rented out to rural migrants. Tianmian Village in Shenzhen is such an example of a successful redevelopment project where the interests of native villagers, rural migrants, and local governments are all met.

Overall, China's urbanizing villages are a realistic and effective solution for providing affordable housing to rural migrants in the short run. However, the current village redevelopment program will be a planning action undertaken at the expense of rural migrants, and the economy in general, unless alternative housing options can also be created for them. **L**

ABOUT THE AUTHOR

YAN SONG is assistant professor in the Department of City and Regional Planning at the University of North Carolina at Chapel Hill. Her research interests include economics of land use regulations, growth management, spatial analysis of urban form, land use and transportation interactions, and use of GIS and other computer-aided planning tools. Contact: ys@email.unc.edu

REFERENCES

- Ding, C. and Y. Song, eds. 2005. *Emerging land and housing markets in China*. Cambridge, MA: Lincoln Institute of Land Policy.
- Gu, C. and J. Shen. 2003. Transformation of urban socio-spatial structure in socialist market economies: The case of Beijing. *Habitat International* 27: 107–122.
- Quercia, R. and Y. Song. Forthcoming in Fall 2007. Housing rural migrants in urban China: Lessons from the United States, in *Urbanization in China: Critical issues in an era of rapid growth*, Y. Song and C. Ding, eds. Cambridge, MA: Lincoln Institute of Land Policy.
- Song, Y., Y. Zenou, and C. Ding. Forthcoming in Fall 2007. The role of China's urbanizing villages in housing rural migrants, in *Urbanization in China: Critical issues in an era of rapid growth*, Y. Song and C. Ding, eds. Cambridge, MA: Lincoln Institute of Land Policy.
- Song, Y., Y. Zenou, and C. Ding. Forthcoming in 2008. Let's not throw the baby out with the bath water: Suggestions to redevelopment policies of urban villages in China. *Urban Studies*.
- Wu, W. 2004. Sources of migrant housing disadvantage in urban China. *Environment and Planning A* 26: 1285–1304.
- Zhang, L., S.X.B. Zhao, and J.P. Tian. 2003. Self-help in housing and Chengzhongcun in China's urbanization. *International Journal of Urban and Regional Research* 27: 912–937.

SURPRISE!

An Unintended Consequence

Renovation and infill construction are often present in areas with rapidly rising property values, as in this Chicago neighborhood.



© Richard F. Dye

Richard F. Dye and Daniel P. McMillen

Public policy changes often have unintended consequences—side effects, feedback effects, benefits to individuals not in the target group, unexpected costs, perverse incentives, new opportunities to game the system, and the like. Early experiences with assessment limitation measures reveal an unanticipated result: some property owners seemingly targeted to benefit from lower assessments may be harmed instead.

The Appeal of Assessment Limitations

What has been the impetus for assessment growth limitations? Rapidly rising housing prices have produced property tax revolts in many areas where

assessments respond to market values. Forty-three of the 48 continental United States have some form of explicit limits on property taxes, and 20 states use assessment limits or caps (Anderson 2006). Youngman and Malme (2005) summarize various types of policy responses to property tax volatility, including direct limits on tax rates as well as limits on revenue and expenditure increases.

Many local jurisdictions have adopted or proposed specific limits on assessment increases, which typically take the form of a restriction on the annual percentage increase in a property's assessed value. The extreme form is a freeze—that is, no increase for the duration of a property owner's residence in that home. Such assessment limits are popular because they do not directly restrict

of Assessment Limitations

a jurisdiction's ability to raise revenue for desired government services, but they do provide some insurance that long-term homeowners' property taxes will not grow to exceed their ability to pay. Of course, there can be unanticipated effects from these freezes. Reassessment upon sale can make it expensive for homeowners to move, and may depress real estate markets. This is a subject of intense current debate in Florida.

Assessment limitations that do not affect total property tax collections are attractive because they can be presented as a free lunch: the limits hold down property taxes without restricting expenditures. The cost for this seemingly free lunch is hidden in the distributional effects of assessment limits. If expenditures remain constant, the limits should lower taxes for favored groups such as home-
stead properties by raising taxes for groups whose assessments are not restricted—an expected result that comes as no surprise. The surprise is that taxes also go up for many property owners in the favored groups.

The Element of Surprise

Even informed policy analysts may be surprised that assessment limits can lead to higher taxes for some property owners whose assessments had been lowered. Researchers from Colorado, Idaho, Illinois, and Minnesota presented the results of their studies showing the effects of proposed or existing limitation measures in their states at a workshop sponsored by the Lincoln Institute in November 2006. They experienced initial surprise that the assessment limitations produced higher taxes for many property owners whom they would have expected to receive tax relief. Puzzled by this counter-intuitive result, they went back and reviewed their analyses for mathematical errors. But the math was correct: assessment limits produced higher taxes for many property owners whose assessments had been reduced.

All states with assessment limitation measures

explicitly exempt some classes of properties from those limits. Single-family homes are typically favored by the caps, while assessment increases are usually left unrestricted for commercial and manufacturing properties. Not surprisingly, these measures have transferred the tax burden from favored property classes to properties that are excluded from the limits.

The more surprising result—that taxes may actually increase for homeowners who appear to be benefiting from assessment limits—is documented for Cook County, Illinois (Dye, McMillen, and Merriman 2006) and for the state of Minnesota (Minnesota Department of Revenue 2007). Dornfest (2005) estimates the effects of the shift from a proposed assessment limitation in Idaho. The common result: a portion of the tax relief for property owners in some favored groups is paid for by higher taxes among other seemingly favored owners.

The Minnesota results are representative. The rates of increase for assessments there were limited

Commercial property owners pay higher tax rates to compensate for limits on the assessment of residential properties. These buildings are located along the Chicago River.



© Richard F. Dye

for four favored property groups—residential, agricultural, seasonal recreational residential (cabins), and timberland. In their presentation at the Lincoln Institute workshop Mark Haveman and Paul Wilson reported that Minnesota’s assessment limits produced higher taxes for more than one-third of the properties in these favored groups. Indeed, 78 percent of all residential homesteads (owner-occupied homes) had to pay *higher* taxes after the limitation measure than they would have paid if assessments had remained unrestricted. This group paid higher taxes because their property values rose less dramatically than those of other taxpayers.

When the assessment limits led to significantly lower taxes for some taxpayers, this decrease had to be made up somewhere; in the Minnesota case many residential homesteads paid higher taxes. The Minnesota Department of Revenue (2007) explains this finding of a significant shift to supposedly favored properties as follows: “This seemingly counterintuitive result occurs because the limitation on these residential homestead properties was overwhelmed by proportionately larger limitations on other properties.”

This apparently surprising increase in taxes for favored groups is not really unexpected; it is a mathematical necessity. Given a lower total tax base and the same level of expenditure as before, the tax *rate* has to increase. The higher tax rate offsets some of the tax relief even for properties with lower assessments, and it leads to higher taxes for any property owner whose assessment is not limited. Within the class of favored properties, taxes will increase for properties with relatively low appreciation rates.

Examples of Tax Shifts

We use simple numerical examples to show how an assessment limitation measure produces these results. Basic algebra shows that tax payments rise for properties not eligible for the cap and for eligible properties with appreciation rates *below* the cap. The examples demonstrate that taxes can increase significantly even for properties with appreciation rates *above* the limits. The extent of the tax increase is higher as the share of favored properties with higher appreciation rates increases in the overall tax base. Naturally, actual policies are more complicated than the stylized model developed here. But the model accounts for the important features of existing policies and shows that these

TABLE 1
Tax Burden Differences with a 5-percent Assessment Growth Cap and a Fixed Tax Levy

Example A. Two Properties: Cap-eligible and Ineligible (both grow at 20 percent with 50/50 initial shares)				
	Before	After with cap	After without cap	Difference
Tax Base:				
Ineligible	500,000	600,000	600,000	0.00%
Cap-eligible	500,000	525,000	600,000	-12.50%
Sum (B)	1,000,000	1,125,000	1,200,000	-6.25%
Tax Levy (T):		20,000	20,000	0.00%
Tax Rate (t):		1.78%	1.67%	6.67%
Tax Bill:				
Ineligible		10,667	10,000	6.67%
Cap-eligible		9,333	10,000	-6.67%

Example B. Two Properties: Cap-eligible and Ineligible (both grow at 20 percent with 80/20 initial shares)				
	Before	After with cap	After without cap	Difference
Tax Base:				
Ineligible	800,000	960,000	960,000	0.00%
Cap-eligible	200,000	210,000	240,000	-12.50%
Sum (B)	1,000,000	1,170,000	1,200,000	-2.50%
Tax Levy (T):		20,000	20,000	0.00%
Tax Rate (t):		1.71%	1.67%	2.56%
Tax Bill:				
Ineligible		16,410	16,000	2.56%
Cap-eligible		3,590	4,000	-10.26%

Example C. Two Properties: Low-growth Cap-eligible (10 percent) and High-growth Cap-eligible (20 percent) (with 50/50 initial shares)				
	Before	After with cap	After without cap	Difference
Tax Base:				
Low cap-eligible	500,000	525,000	550,000	-4.55%
High cap-eligible	500,000	525,000	600,000	-12.50%
Sum (B)	1,000,000	1,050,000	1,150,000	-8.70%
Tax Levy (T):		20,000	20,000	0.00%
Tax Rate (t):		1.90%	1.74%	9.52%
Tax Bill:				
Low cap-eligible		10,000	9,565	4.55%
High cap-eligible		10,000	10,435	-4.17%

Example D. Three Properties: Ineligible (20 percent), Low-growth Cap-eligible (10 percent), and High-growth Cap-eligible (20 percent) (with 30/30/40 initial shares)				
	Before	After with cap	After without cap	Difference
Tax Base:				
Ineligible	300,000	360,000	360,000	0.00%
Low cap-eligible	300,000	315,000	330,000	-4.55%
High cap-eligible	400,000	420,000	480,000	-12.50%
Sum (B)	1,000,000	1,095,000	1,170,000	-6.41%
Tax Levy (T):		20,000	20,000	0.00%
Tax Rate (t):		1.83%	1.71%	6.85%
Tax Bill:				
Ineligible		6,575	6,154	6.85%
Low cap-eligible		5,753	5,641	1.99%
High cap-eligible		7,671	8,205	-6.51%

apparently surprising results are actually an inherent feature of any tax limitation measure that attempts to provide tax relief without curbing expenditures.

The total tax levy (T) in a jurisdiction is the product of the tax rate (t) times the total tax base (B): $T = t B$. Assume, as is usually the case, that the total tax levy is determined by the local taxing jurisdiction, the total tax base is determined by market values of property as measured by the local tax assessor, and the tax rate is set by their ratio: $t = T / B$.

There are requirements, restrictions, and practices that could constrain or complicate this simple relationship, but the basic case allows us to make some summary points about the tax burden shift associated with assessment limits using simple numerical examples. Such factors as homestead exemptions, other assessment preferences, time lags in assessing changes in market value, assessment at a fraction of market value, or different assessment fractions for different types of property would complicate the presentation, but not change the basic result. Binding limitations on tax rates could, but need not, alter our conclusions.

Point I: *When the total tax levy is fixed, any tax rate adjustments that favor some property owners by lowering assessments must raise tax burdens for others.*

All that is needed for the basic result of a tax burden shift due to assessment limitations is two classes of property, one capped and the other not. Increases in the value of capped property above the assessment limit are not included in the new tax base, but increases in the value of capped property below the limit and all of the increase in the value of uncapped property are included. Since the total tax levy (T) is the same in either case, the tax rate with the cap-restricted tax base is necessarily higher than the tax rate in the unrestricted case.

Example A illustrates this simple result. There are two properties with a value of \$500,000 in the prior period and both appreciate 20 percent. If appreciation in assessed value for eligible property is capped at 5 percent, the tax rate has to be 6.67 percent higher than it would be without the cap in order to support the local government levy of \$20,000 (see table 1-A). By assuming equal initial shares of the tax base, Example A has equal and opposite benefits and burdens. The *dollar* amounts of benefits and burdens will always be equal, but the shift as a *percentage* of tax bills depends on the

For some modest homes with low appreciation, an assessment cap will not reduce taxes, and might even increase them.



© Richard F. Dye

relative size of the tax base of the cap-eligible and ineligible properties.

Point II: *The magnitude of the benefits and burdens depends on the relative shares of total property owned by the benefited and burdened groups. The smaller is the share of the beneficiary group, the larger will be the savings per beneficiary and the smaller will be the percentage increase on those burdened.*

Example B changes the initial shares of the cap-eligible and ineligible property groups in the total tax base from 50/50 to 80/20 (see table 1-B). With a larger ineligible group on which to shift the burden, the favored group sees their tax savings increase from 6.67 to 10.26 percent while the ineligible group pays only 2.56 (instead of 6.67) percent more in taxes.

Point III. *A tax shift will even occur with an assessment cap that seemingly covers all property in the jurisdiction, if there are variations in property appreciation rates.*

For Example C, we assume all property is subject to the cap, but distinguish capped properties with low and high growth rates (see table 1-C). We go back to a 50/50 tax base share as a starting point. Any increase in property values over 5 percent is exempt from the base, but some property grows at 10 percent while other property grows at 20 percent. The low-growth owners may seem to benefit from the decrease in their taxable value, but—surprise!—the revenue-neutral increase in

tax rates of 9.52 percent will more than offset their 5 percent lower tax base. On balance, low-growth owners pay 4.55 percent higher tax bills to pay for the more generous exemption that nets high-growth property owners a 4.17 percent savings.

Point IV. *A tax shift can occur to seemingly eligible properties with low appreciation even if there is an ineligible group to bear some of the burden.*

Example D illustrates three different groups of properties (see table 1-D): ineligible (perhaps representing commercial and industrial property); low-growth (eligible residences with modest appreciation); and high-growth (residential properties in the area of town with a “hot” real estate market). The initial shares in this example are 30 percent ineligible, 30 percent low-growth eligible, and 40 percent high-growth eligible. The assessment growth cap is still 5 percent and the growth rates are 20 percent ineligible, 10 percent low-growth eligible, and 20 percent high-growth eligible.

As before, and as will always be the case, the ineligible properties pay higher tax bills because rates go up. As before, and as will always be the case, the highest appreciation eligibles are net beneficiaries because of the large fraction of their would-be taxable property value that is exempt. Given the assumptions of this particular example, the low-growth eligibles come out behind (with 1.99 percent higher taxes) since the tax rates

increase more than the exemption reduces their tax base.

Point V. *If there is a range of appreciation rates for individual properties that starts at or below the rate at which assessments are capped, there will always be a subset of seemingly eligible property owners who are worse off with an assessment cap.*

The middle group in examples like the previous one (the low-growth, cap-eligible properties) could be net beneficiaries if the ineligible properties were sufficiently large in number or if the low-growth appreciation rates were sufficiently close to the high-growth properties. If, for example, the low-growth properties experienced a 15 percent growth rate and all the other assumptions of Example D were the same, the low-growth group would see a tax cut of 1.19 percent compared to the situation with no assessment limitation. This appears to contradict our assertion that it is a “mathematical necessity” that some seemingly eligible property owners are paying higher taxes when assessments are capped, but it results from our simplification to just two or three property groups.

In a more realistic setting there are thousands of individual properties and a wide range of different appreciation rates. If the range of appreciation rates for cap-eligible property starts at or below the assessment cap, there will always be some properties above but sufficiently close to the cap for which the increase in tax rates more than offsets the small reduction in their tax base. It is obvious, but important to note, that properties in the cap-eligible group but with appreciation rates below the assessment cap will always come out behind.

The relative magnitudes of the benefits and burdens from an assessment growth limitation depend on the interaction of several factors: differences in initial tax base shares and growth rates among the groups, and how close the growth rates are to the assessment cap rate. We have shown only four specific numerical examples here, but readers interested in a more general algebraic treatment of the relationships can see Dye and McMillen (2007) or Dornfest (2005) for detailed examples and a different perspective on many of these points.

Conclusion

Assessment limitations appear to be an attractive policy option because they prevent a homeowner's property tax from rising rapidly, but do not place restrictions on expenditure growth. Caps restrict

property tax increases in rapidly appreciating areas by transferring tax burdens to exempt sectors and to homes in areas with low appreciation rates. However, to keep revenues from falling, simple algebra shows that taxes *must* rise for some properties in order to provide tax relief to others.

Many observers are surprised to find that taxes may actually rise for property groups that appear to be enjoying tax relief under an assessment cap. If a large proportion of revenue in a jurisdiction comes from properties with high appreciation rates, taxes will be higher for properties with appreciation rates that are above but close to the cap. Homeowners with appreciation rates of 7 percent in a jurisdiction with a cap of 5 percent can pay more than they would if many properties are appreciating at much higher rates. The primary effect of an assessment cap is to shift tax burdens from favored to unfavored groups and—the policy surprise—from eligible properties with high appreciation rates to those that are appreciating at a lesser rate. **L**

ABOUT THE AUTHORS

RICHARD F. DYE, a visiting fellow at the Lincoln Institute in 2007–2008, is an adjunct professor in the Institute of Government and Public Affairs at University of Illinois at Chicago and the Ernest A. Johnson Professor of Economics Emeritus at Lake Forest College. His research and publications focus on state and local government finance. Contact: dye@lfc.edu.

DANIEL P. MCMILLEN is professor in the Department of Economics and the Institute of Government and Public Affairs at University of Illinois at Chicago, and a visiting fellow at the Lincoln Institute in 2007–2008. He has published widely in urban economics, real estate, and applied econometrics. Contact: mcmillen@uic.edu.

REFERENCES

- Anderson, Nathan B. 2006. Property tax limitations: An interpretative review. *National Tax Journal* 59: 685–694.
- Dornfest, Alan S. 2005. Effects of taxable value increase limits—Fables and fallacies. *Journal of Property Tax Assessment and Administration* 2: 5–15.
- Dye, Richard F., and Daniel P. McMillen. 2007. The algebra of tax burden shifts from assessment limitations. Working Paper. Cambridge, MA: Lincoln Institute of Land Policy.
- Dye, Richard F., Daniel P. McMillen, and David E. Merriman. 2006. Illinois' response to rising residential property values: An assessment growth cap in Cook County. *National Tax Journal* 59: 707–716.
- Minnesota Department of Revenue. 2007. Limited market value report: 2006 assessment year. March 1. www.taxes.state.mn.us/taxes/legal_policy/research_reports/content/2007_lmvr_report.pdf.
- Youngman, Joan, and Jane Malme. 2005. Stabilizing property taxes in volatile real estate markets. *Land Lines* 17(3): 5–7.



Taking Land Around the World

International Trends in the Use of Eminent Domain

© Esteban Azuela

Antonio Azuela

Compulsory purchase, expropriation, eminent domain, or simply “taking” are different names for the legal institution that allows governments to acquire property against the will of its owner in order to fulfill some public purpose. This tool has been used for a long time as a major instrument of land policy, but now it is subject to a number of criticisms and mounting social resistance in many parts of the world. Campaigns for housing rights, movements for the defense of property rights, and legislative and judiciary activism are among the factors changing the conditions under which governments exercise their power of eminent domain.

In some cases this is good news. The rise of democratic regimes in many countries has reduced the arbitrary taking of land, and new forms of legal protection are helping individual homeowners or peasants adversely affected by infrastructure projects. At the same time, satisfying diverse public needs has become highly complex, precisely because the power of eminent domain has been weakened. In metropolitan areas like São Paulo, judicial decisions have forced local governments to pay exorbitant compensations with enormous financial conse-

quences. In Mexico City, conflicts over expropriation cases took the country close to a constitutional crisis due to extreme and erroneous judicial activism.

As part of the institution of private property, eminent domain attracts an ideological debate in which many observers will be for or against it as a matter of principle; but it is difficult to deny that there is a justification for the existence of this power when a public need is considered more important than the interests of those who own the land. This article explores the diversity of conditions that, in different parts of the world, are changing the shape and the reach of eminent domain (Azuela 2007). We take as a point of reference the hypothesis that legal systems around the world are converging toward the principles and rules of the takings law in the United States (Jacobs 2006; Woodman, Wanitzek, and Sippel 2004).

A Growing Discontent

Not long ago the dominant approaches in urban law, planning, and the social sciences in general saw the expropriation of land as a crucial component of any development strategy. Since the early 1980s, however, it has become evident that expropriation was imposing high social costs, as in the



© Esteban Azuela

case of dams in developing countries. In the last decade of the twentieth century, the number of displaced persons due to infrastructure projects reached between 90 and 100 million (Cernea and McDowell 2000).

Expropriation should not be confused with resettlement. The latter can take place without the former, and vice versa, but it is important to keep these two situations in mind, in order to recognize two extreme forms of social cost. On one hand, there is a social and humanitarian impact in expropriations where land is taken with low (or no) compensation and people are forced to leave the place they inhabit. On the other hand, expropriation procedures may result in high costs to society as a whole when, due to judicial decisions, governments are forced to pay exorbitant sums to landowners, as happened recently in Mexico and Brazil.

Cultural changes have also played their part. Dams, highways, and ports have lost the appeal they once had as symbols of progress. As environmental and wider social arguments gain importance in public opinion, widespread resistance against such large infrastructure projects becomes relevant. One example is the ill-fated plan for a new airport in Mexico City. After intense opposition from one of the villagers whose land was being taken, and the

later mobilization of dozens of social organizations from many parts of the country, the federal government decided to abandon the project in 2002.

In the United States both political and judicial activists have made serious attempts to put limits on eminent domain powers. The property rights movement enjoys growing support in several states and has launched initiatives to that effect (Jacobs 2007). At the same time, cases before the U.S. Supreme Court have resuscitated the issue of whether it is correct to take land from one person to give it to another person, even if the latter would promote development projects from which the community would obtain benefits. But a *cause célèbre* such as *Kelo v. City of New London* does not indicate a general trend. Can we know what is happening in practice?

Policy Changes: Facts and Trends

Insofar as expropriation is employed as an instrument of land policy, an evaluation of its use requires quantitative data. We need to know how extensively it is used, for what purposes, and how its uses change through time. However, there is a serious lack of official sources for that kind of systematic information and precise data. The main sources are the judiciary branches of governments, which

Traffic backs up regularly on a brand new highway on a long bridge over a ravine near Mexico City (left) because the highway ends in a one-lane road (above). The local government does not dare to use its eminent domain powers to widen the road for fear of losing a legal suit.

provide information with high qualitative value in helping us understand the way conflicts over expropriations are dealt with, but they do not document the number of cases that do *not* become legal conflicts.

In a project sponsored by the Lincoln Institute, it took several months to build a database with all the expropriation decrees issued by the federal government in Mexico between 1968 and 2004, and it does not include information about the amount of compensation paid (Saavedra 2006). Figure 1 shows a clear reduction in the use of expropriation for urban development and infrastructure over this period.

These data do not tell us whether the decrease has to do with structural adjustment policies that reduced funding for infrastructure or other factors such as social resistance or changing priorities within government. It is only a starting point that allows us at least to pose the question. The main point is that there is no systematic information about the dimensions of expropriation within the context of urban policies. Thus, the notion that the use of expropriation is declining appears to be a sound hypothesis, but the reasons cannot be documented easily. In fact, according to the few indications contained in the literature, trends seem to be rather heterogeneous.

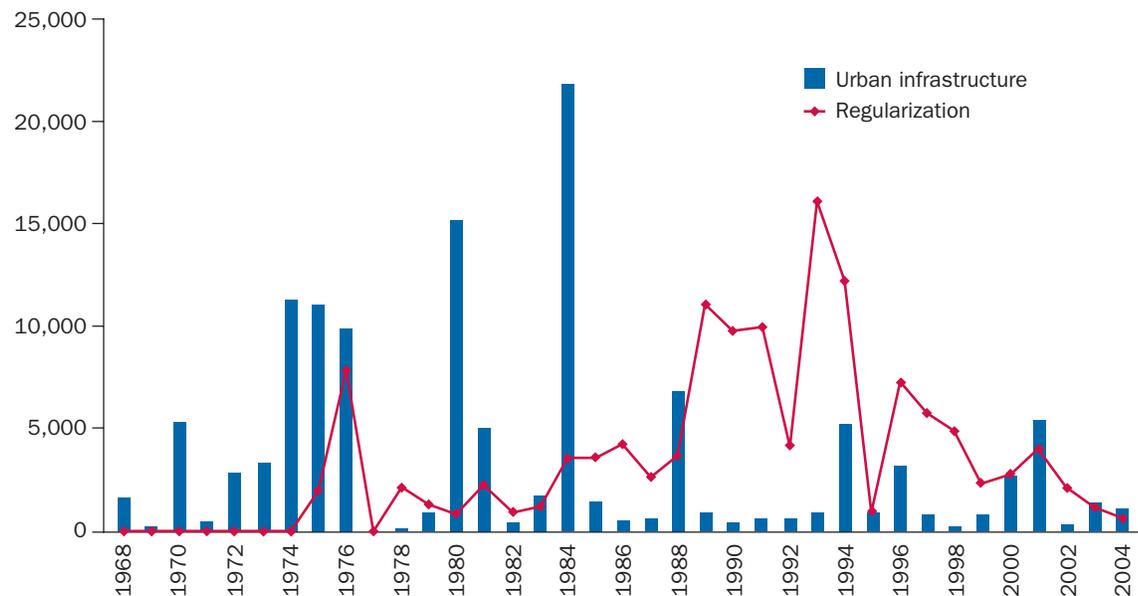
We suggest that countries can be divided into three groups regarding the use of eminent domain. In the first group are strong states with a corre-

spondingly weak rule of law that make extensive use of the power of eminent domain in the context of high economic growth rates. The most obvious case is China, along with other Asian countries such as Korea, Singapore, and Taiwan. Recent legislation on property rights, combined with growing social resistance, might change this trend in China, but that remains to be seen (China Law Blog 2007).

The second group includes countries with weakened states (and economies) where the use of expropriation has decreased. Apart from structural adjustment programs that reduce public investment and social resistance that places political constraints on projects, the judiciary is playing a growing role in many parts of the world, although this does not always mean the protection of legitimate individual interests. Brazil deserves a special mention here, as many expropriations for urban development projects are successfully challenged in courts, and judges award huge compensations that, combined with high interest rates and legal penalties, cause local governments to accumulate large judicial debts (*precatórios*). In the State of São Paulo alone, 104 intervention orders have been issued against 60 municipalities, and in one single expropriation the amount of the *precatório* was equal to five years or more of the entire municipal budget (Maricato 2000).

The third group includes highly industrialized countries where public opinion movements chal-

FIGURE 1
Area Expropriated According to Type of Expropriation, 1968–2004 (hectares)



Source: Saavedra, 2006



© Esteban Azuela



© Esteban Azuela

lenge the use of eminent domain, but do not prevent governments from using it on a regular basis as part of their urban policies. Recent debates around the *Kelo* decision might create the impression of a crisis of eminent domain in the United States. However, according to a 2003 survey that covered the 239 largest cities in the country, expropriation seems to be alive and well, and it passed the proof of equity, effectiveness, and efficiency. The study reported that the level of success in the use of eminent domain can be seen in the fact that "...only in 3 percent of the cases did litigation create an extensive delay in the development of various projects" (Cypher and Forgey 2003, 264).

In sum, there are sufficient indications that there is not a universal, let alone a uniform, decline in the use of expropriation. While there is not enough quantitative data about its actual use, trends in policy orientation are also unclear. As noted earlier, governments do not set explicit goals or generate evaluation exercises about its use. In contrast, multilateral organizations have been adopting clearer positions in this respect. In particular, the World Bank has documented the social impact of expropriations for populations displaced by in-

frastructure and urban development projects, and has adopted policy orientations in this respect, although there are no signs that things have improved in a significant way (Cernea and McDowell 2000).

Despite the lack of information that would allow us to undertake comprehensive policy analysis and evaluation, two extremes can be identified very clearly. First, human rights activism has become an important frame of reference to fight expropriations in which vulnerable people are deprived of a basic need. Second, commercial property interests have managed to put limits on the capacity of governments to satisfy public needs through eminent domain procedures. Again, Mexico City is a good example since the local government has ceased to even consider projects that require the expropriation of land, fearing that litigation will make them unviable.

Legal Changes: Issues and Contexts

When we look at legal developments we get a somewhat clearer image of general trends. The literature seems to indicate that, with few exceptions, legal changes in the last two decades have tended to reduce the power of eminent domain.

It is extremely difficult to take land for public purposes in Mexico, as in many countries. As a result, roads are often discontinued due to litigation against eminent domain.

Correspondingly, the rights of both individual and collective landowners *vis á vis* the state have been strengthened. In particular, the criteria for compensation tend to stabilize at market values, and authorities are subject to more rigorous procedures. However, this is far from being a homogeneous process. In fact, when we take a closer look at the way eminent domain law is changing in different parts of the world, we find that the specific issues depend on the institutional context in which eminent domain is discussed. For this purpose, we distinguish four different contexts: traditional law-making procedures in nation states, and three types of international cases (see table 1).

In the context of nation-states, including legislative and judiciary legal mechanisms, issues are discussed from a constitutional point of view. Of course, different issues are more salient in some countries than in others. The definition of public use, which is the substantive justification for taking land, has become the main issue in eminent domain law in the United States, particularly since the *Kelo* case. Most other countries acknowledge that the legislative and the executive branches have wide discretionary power to decide when there is a public interest that validates an expropriation.

Determining the right compensation can be a particularly difficult issue in developing countries, where far from being a mere “technical” issue, it is the core of the question. The ultimate example is the *Paraje San Juan* case in Mexico City, where the scandal created by the exorbitant compensation awarded by a Federal Circuit Court forced the Supreme Court to strike down the award, in open violation of the *res adjudicata* principle.

Such different approaches challenge the hypothesis of a global convergence in eminent domain law. Nevertheless, within national contexts, eminent

domain is a constitutional issue in the deepest sense. Changing the rules of eminent domain, or construing them in different ways, means changing the content of property rights, i.e., the balance between state power and private owners, which is one of the most salient themes in the (trans)formation of nation states.

At the other extreme, there is a type of international context in which eminent domain is discussed and negotiated. Free trade agreements and other international instruments have at their core the question of expropriation—a specter that has haunted international relations for decades. However, the issue here is not the content of rights, but the procedures to protect them. These instruments usually reiterate traditional constitutional formulae of public use and fair compensation. Legal protection against unfair expropriation is guaranteed through the creation of arbitration panels and other mechanisms. In the end, foreign investors in a given country may enjoy greater legal protection compared with nationals, not because the law gives them more substantive rights, but because of the existence of certain procedures to which only they have access.

The third and fourth contexts are less clear in their impact on the law of eminent domain, although they are quite distinct in the doctrine they sustain. One is the dominant approach within development agencies, such as the World Bank, that eminent domain is part of a doctrine that views property rights as a prerequisite for economic development. Using neo-institutional theories, the rules on expropriation are seen as part of an institutional arrangement whose main purpose is to establish the correct incentives for market growth. In short, this is a utilitarian doctrine of property rights oriented toward economic development.

TABLE 1
Contexts and Issues on Eminent Domain

Institutional Contexts	Constitutional Issues	Economic Development	Housing as a Human Right	Protection of Foreign Investors
The nation state	China, the United States		India	
Development agencies (World Bank; International Monetary Fund)		Africa, Asia		
The UN system; NGOs			India, South Africa	
Free trade agreements				North America

Countries following that doctrine have difficulty reconciling it with developments in an international context such as the United Nations system, which is supported by a network of NGOs whose main issue is human rights. When the use of expropriation is linked with the forced eviction of people who use the land as a basic need, be it for agriculture or housing, it is seen as a gross violation of a human right. The philosophical implications of this approach are rooted in strong moral ideas about human dignity and human needs. Its main contribution for the issue of eminent domain is a substantive distinction between expropriating goods that are used to satisfy basic needs and the expropriation of assets held for a profit.

While it is difficult to find the phrase human rights in the leading documents of international development agencies, it is also rare to find in the discourse of human rights any mention of the importance of market forces. These views correspond to two different and in many ways opposing legal cultures—perhaps even two different world views. By ignoring each other, however, these approaches follow the opposite route to convergence and are the most notorious divergence in the field of eminent domain today.

To illustrate the relationship between contexts and issues in eminent domain law, Table 1 presents some examples of countries that have engaged in debates over expropriation. The case of India illustrates that some countries may see changes in more than one context.

Understanding Diversity

Pointing at those four contexts is like drawing a gross road map to explore the way ideas and initiatives are processed in different ways and, in particular, to pose the question of whether or not there is convergence at the global level in the way eminent domain powers are used. Indeed, there seems to be a general trend towards a weakening of the power of eminent domain in many parts of the world—or at least a growing dissatisfaction about the way it is used. A number of factors seem to explain this trend: growing social resistance, judicial activism, public opinion, and above all changing international conditions.

However, it is not clear that all countries are following the same direction. In particular, there are signs that changes are taking place in different contexts that have an influence on the specific issues being addressed in initiatives to modify the law

and policy of eminent domain. Much more empirical research is necessary to document and understand changes that are taking place in the way it is used in practice.

This is not a purely academic question, as there are relevant implications of a decline in the use of eminent domain when more efficient mechanisms for the satisfaction of public needs are put into practice, or when the vulnerable sectors of society are enjoying broader legal protections. Surely the same trend has a different meaning when it is the result of an expansion of the power of private owners who are able to impose their interests on society as a whole—particularly when judges and other public officials are not able to explain what is happening. 

ABOUT THE AUTHOR

ANTONIO AZUELA, a lawyer and sociologist, is professor at the Social Research Institute of Mexico's National Autonomous University, where he conducts research on urban and environmental issues from a socio-legal perspective. He coordinates the International Research Group on Law and Urban Space (IRGLUS) of the International Sociological Association. This article was prepared with the collaboration of Carlos Herrera, an urban lawyer at the Autonomous Technical Institute of Mexico. Contact: lacueva@servidor.unam.mx

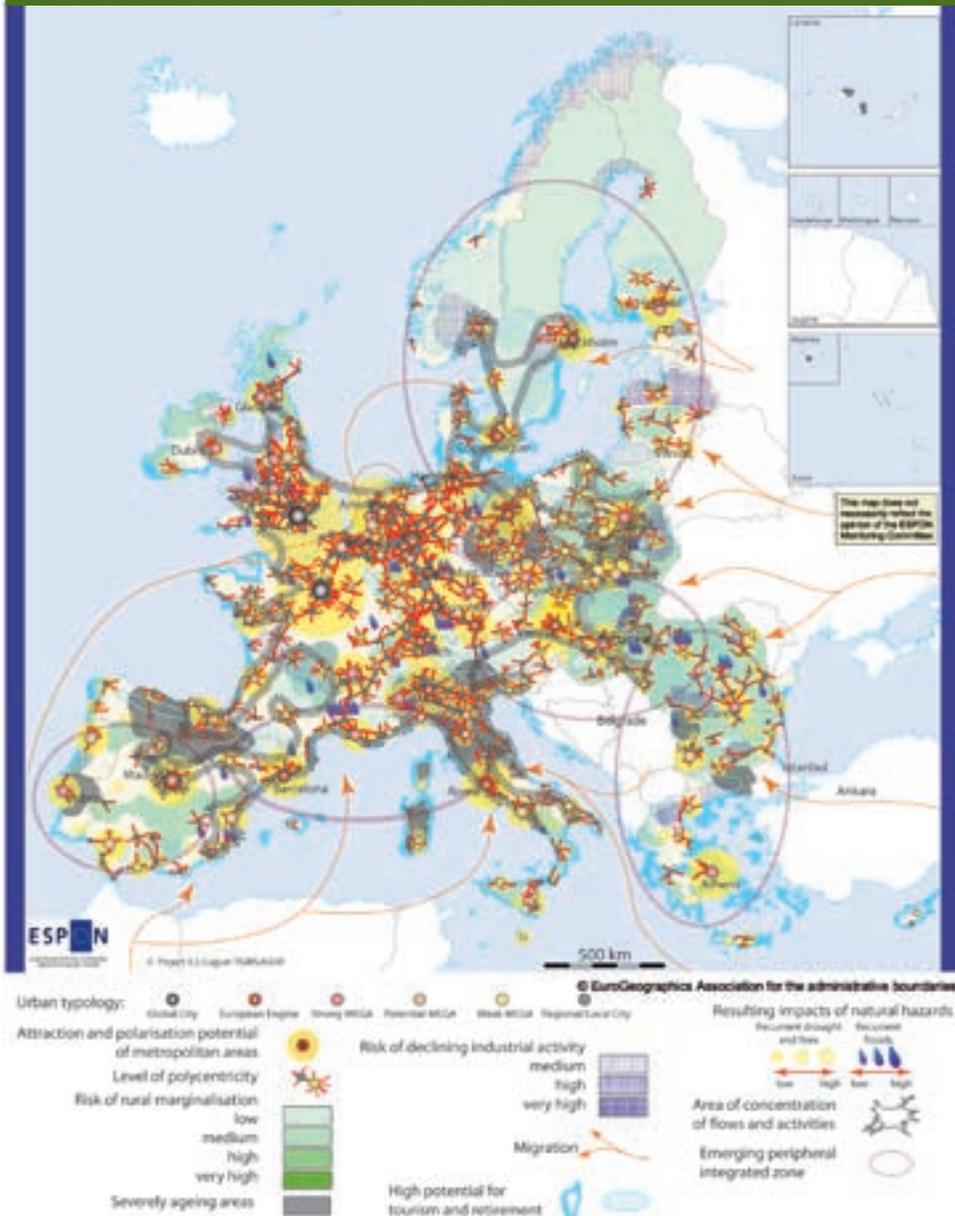
REFERENCES

- Azuela, Antonio. 2007. Taking land around the world: International trends in expropriation for urban and infrastructure projects. Working Paper. Cambridge, MA: Lincoln Institute of Land Policy.
- Cernea, Michael, and Christopher McDowell, eds. 2000. *Risks and reconstruction: Experience of resettles and refugees*. Washington, DC: The World Bank.
- China Law Blog. 2007. http://www.chinalawblog.com/chinalawblog/2007/03/chinas_new_prop_1.html
- Cypher, Mathew L., and Fred A. Forgey. 2003. Eminent domain: An evaluation based on criteria relating to equity, effectiveness, and efficiency. *Urban Affairs Review* 39(2).
- Jacobs, Harvey. 2006. The "taking" of Europe: Globalizing the American ideal of private property? Working Paper. Cambridge, MA: Lincoln Institute of Land Policy.
- . 2007. Social conflict over property rights. *Land Lines* 19(2): 14–19.
- Maricato, Erminia, ed. 2000. Urban land and social policies: Acquisition and expropriation in São Paulo. Working Paper. Cambridge, MA: Lincoln Institute of Land Policy.
- Saavedra, Camilo. 2006. Federal expropriation of urban land in Mexico, 1968–2004. Working Paper. Cambridge, MA: Lincoln Institute of Land Policy.
- Woodman, Gordon R., Ulrike Wanitzek, and Harald Sippel, eds. 2004. *Local land law and globalization. A comparative study of peri-urban areas in Benin, Ghana, and Tanzania*. Munich: Lit Verlag.

Gathering the Evidence for European Planning

Andreas Faludi

FIGURE 1
Cohesion-Oriented Scenario. Final image 2030.



In its short history, European spatial planning has been through several iterations, and the Lincoln Institute of Land Policy has supported many related activities that document that process, as well as the participating individuals and entities. Following a course held in Cambridge in 2001, the Institute published the book *European Spatial Planning* (Faludi 2002) on the movement's early years when the European Union (EU) had no particular planning mandate. Rather, the European Spatial Development Perspective (ESDP) was an initiative of the member states, supported by the European Commission.

INTERREG, a so-called Community Initiative, set up a related program specifically to elaborate on the ESDP. Under INTERREG many thousands of collaborative, hands-on exercises have been cofinanced by the EU, involving tens of thousands of practitioners throughout Europe. A diffuse but noticeable effect of this learning exercise has been the Europeanization of national, regional, and local planning—one of the objectives of the ESDP. The ESDP has also been a source of inspiration for exploratory thinking on American spatial development (Carbonell and Yaro 2005).

The European Spatial Planning Observation Network (ESPON) is another key organization set up to produce the analytical base for follow-up on the ESDP. During the first round of its operation (2002–2006), ESPON pursued many relevant themes and brought together hundreds of researchers doing innovative work in both universities and consultancies. Like the

ESDP and INTERREG, ESPON has been a remarkable learning exercise, with projects undertaken by Transnational Project Groups involving consortia from across Europe, although they are dominated by North-West European partners.

In Vienna in 2005, a second Lincoln-sponsored seminar discussed topics now collected in the book *Territorial Cohesion and the European Model of Society* (Faludi 2007). Meanwhile, developments have overtaken the ESDP, and territorial cohesion policy, too, is a somewhat uncertain proposition, simply because ratification of the Treaty establishing a Constitution for Europe—which would have given the EU a mandate for this kind of policy—has been stalled. Instead, territorial cohesion is now being pursued indirectly (see figure 1).

Europe's New Territorial Agenda

European planners are now drawing on recent evidence generated from ESPON's research work. In fact, the newly defined *Territorial Agenda* (European Union 2007a) is but the tip of the iceberg; that is, a set of political conclusions drawn from a document called *The Territorial State and Perspectives of the European Union* (European Union 2007b), based on data and insights compiled by ESPON. There are some methodological and practical problems, however. ESPON has generated hundreds of research reports (available at www.espon.eu) which require selectivity and political choices. Drawing on similar experiences of promoting "evidence-based policy" in the United Kingdom and inspired by examples from the United States, Davoudi (2006) surmises that "evidence-informed" is all that one can realistically aspire to for policy development and policy formulation on this issue.

This notion of evidence-based planning was the topic of the third in the series of Lincoln-sponsored seminars, held in early May 2007 in Luxembourg, the location of a small but effective Coordination Unit of ESPON. The program was hosted jointly by the Ministère de l'Intérieur et de Aménagement du Territoire of the Grand Duchy of Luxembourg and the Université du Luxembourg. The seminar focused in more detail on the generation and use of evidence in the ESPON framework, which in



the fullness of time may provide a stimulus for similar exercises elsewhere. Topics at the seminar included the organization and achievements of ESPON itself, key themes explored in more than 30 completed ESPON projects, and the *Territorial Agenda* formulated as a result of that research.

Context and Challenges of Evidence-based Planning

As the convener of the Lincoln seminar, I set the scene by analyzing the context within which the *Territorial Agenda* and its background document, *The Territorial State and Perspectives of the European Union*,

An American's View from Luxembourg

At a Lincoln Institute seminar in Luxembourg recently, I experienced again the value of face-to-face meeting with our European colleagues. A free-flowing discussion of papers commissioned by the Institute to review research that had been conducted under the auspices of the European Spatial Planning Observation Network (ESPON) began to reveal the policy and political debates that lie behind what constitutes European spatial planning today. In addition to learning more about the “facts on the ground” (for example, the relatively small effects of large EU investments in transport on regional economic performance compared to macro trends), we were able to pick up the thread of a colloquy on territorial cohesion policy where we had left it in 2005 (see Faludi 2007). Then, we found Europe at the point of rejection of the European Constitution by voters in France and the Netherlands. Today, Europe is perceived by some to be in the throes of a greater crisis, marked by climate change, energy insecurity, and potential demographic collapse.

From the perspective of an American planner, interesting developments in European thinking are evolving constantly. In addition to a “new empiricism,” reflected in the title of the accompanying article, there is an increasing recognition that attractive-sounding goals (“sustainable economic growth,” “territorial cohesion”) can mask important tradeoffs among specific objectives. For example, EU policies favoring higher GDP will likely increase greenhouse gas emissions, but a cohesion-oriented redistributive strategy, while resulting in lower European GDP, would favor meeting emissions reductions goals. Looking more closely at cohesion policy, we find that its consequences for spatial equity play out differently at different scales. EU cohesion policies may decrease inequality between countries, but result in increased intra-country spatial inequality, as capital cities prosper while smaller centers perish.

As Andreas Faludi notes, perhaps the greatest difference facing large-scale planners working in Europe and in the United States has to do with demography. Europe is facing a population deficit by mid-century of the same order as the expected U.S. population growth for that period. This trend, of course, leads to the difficult topic of immigration policy, which forms part of the tension between a continental vision for Europe and one that places it within a greater regional “neighborhood” and the wider world.

— Armando Carbonell
Senior Fellow and Chair
Department of Planning and Urban Form

are being debated. The *Territorial Agenda* includes the work program that the ministers of the now 27 member states of the EU responsible for spatial planning and development discussed at a May meeting in Leipzig in the Federal Republic of Germany. That meeting adopted the document whose full title is *The Territorial Agenda of the European Union: Towards a More Competitive Europe of Diverse Regions*. Its purpose is to address Europe’s competitiveness, a topic that alludes to the Lisbon Strategy, under which the EU wants to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion. The diversity of Europe’s regions may be conducive to achieving this goal (see figure 2).

The other participants at the Lincoln seminar have all been directly involved in ESPON. Cliff Hague and Verena Hachmann addressed the organization, achievements, and future of the ESPON program itself, including the concerns raised by critics within the network about pressures of time, political interference, and the sheer availability of data. Kai Böhme and Thiemo Eser—both closely involved in the work of the ESPON Coordination Unit—focused on an important substantive issue, Territorial Impact Assessment, in the context of various other assessment procedures to which new EU legislation is routinely being submitted. They also related the results of various impact studies conducted in the ESPON framework.

Janne Antikainen of Finland put polycentricity under the looking glass, relating it to the Lisbon Strategy and its pursuit of Europe’s competitiveness. Finland, home to Nokia, is seen as a model in the pursuit of competitiveness and innovation. The author differentiated between polycentricity as it pertains to urban systems and as a strategic policy concept regarding the promotion of knowledge and innovation.

Diogo de Abreu from the University of Lisbon discussed the perennial issue of planning for demographic decline in Europe, which is likely to condition spatial and social policies. This widely accepted prognosis is the exact opposite of the situation in the United States, where the expectation of massive population growth and the attendant urban expansion has occasioned concern for the shape of America in 2050. In Europe, replacing the diminishing labor force with immigrants to meet the needs of an aging population presents a possible solution. De Abreu discussed varied

levels of immigration that might be needed, as well as a variety of demographic indicators associated with numerous plausible scenarios.

Three other sets of authors draw on one or more ESPON projects that emphasize sustainability, a theme of great concern to Europeans and one in which the EU has a leading role. Michael Wegener and Klaus Spiekermann from Germany focused on accessibility, competitiveness, and cohesion as the European territory is being transformed by the accelerated speed of movement, including high speed trains. (A French train on the new Paris to Strasbourg route recently set a world record.) Accessibility at the global and European scale is seen as a core determinant of competitiveness. However, there are implications for two other major EU goals—balanced development and sustainability. Growing mobility is one of the reasons for the failure to meet the Kyoto greenhouse gas emission targets underwritten by the EU, and for the growing vulnerability to energy price shocks.

Philipp Schmidt-Thomé and Stefan Greiving discussed the implications for spatial development of natural hazards and climate change, pointing out that risk patterns are site-specific. Spatial planning can play an important role in a strategy to reduce such vulnerability. Jacques Robert and Moritz Lennert reported on the spatial scenario project, one of the integrative studies under ESPON, which explores spatial consequences of political choices considered fundamental in today's policy context in Europe. The main message is that issues seen as fundamental now may not be the ones with the greatest impact in the future. Climate change, accelerating globalization, the aging of the population, and a new energy paradigm urgently need to be taken into account. Once again it should be noted that the *Territorial Agenda* reflects these growing European concerns.

Claude Grasland and Pierre Beckouche of France discussed another challenge arising from Europe's position in the wider world. Countries like China, India, Japan, and the United States are considered competitors of Europe. One way of facing this competition would be to strengthen existing links with Europe's neighbors, in particular those on the southern shore of the Mediterranean. The population of the so-called Maghreb—Tunisia, Algeria, and Morocco—is young, has high levels of educational achievement, and represents a great resource for a Europe eager for new residents. The lure of migrating from Central and

Eastern Europe to the “old” member states of the EU is already leading to shortages of qualified labor in those transition economies.

Kai Böhme and Bas Waterhout focused on the Europeanization of planning, one of the stated aims of the ESDP and an outcome of other policies that, almost unintentionally, influence territorial development in Europe.

Thiemo Eser and Peter Schmeitz, both centrally involved in the process of preparing the documents under discussion and the research material on which they are based, presented a thematic, an institutional, and a political-strategic perspective. They also developed story lines based on each of these views that revealed both strengths and weaknesses and hidden agendas in *The Territorial State and Perspectives of the European Union*.

In summary, this seminar explored how the search for evidence to support the ESDP agenda—now going under the flag of *The Territorial Agenda of the European Union*—had taken place, and what the evidence in some key areas had been. It also demonstrated that a learning exercise like that of ESPON may contribute to shaping such a political agenda that may also serve as a source of inspiration for fellow planners across the Atlantic Ocean. 

▶ ABOUT THE AUTHOR

ANDREAS FALUDI is chair of spatial policy systems in Europe at Delft University of Technology, OTB Research Institute for Housing, Urban and Mobility Studies, The Netherlands. He has been the seminar coordinator and editor of the books in the Lincoln Institute's series on European spatial planning. Contact: A.K.F.Faludi@tudelft.nl.

▶ REFERENCES

- Carbonell, Armando, and Robert D. Yaro. 2005. American spatial development and the new megalopolis. *Land Lines* 17(2): 1–4.
- Davoudi, Simin. 2006. Evidence-based planning: Rhetoric and reality, in Andreas Faludi, editor, *Evidence-based Planning* (Special Issue), disP 165, 42(2): 14–24.
- European Union. 2007a. The territorial agenda of the European Union (http://www.bmvbs.de/Anlage/original_996736/Territorial-Agenda-of-the-EU.pdf)
- . 2007b. The territorial state and perspectives of the European Union (http://www.bmvbs.de/Anlage/original_988203/The-Territorial-State-and-Perspectives-of-the-European-Union.pdf)
- Faludi, Andreas, ed. 2002. *European spatial planning*. Cambridge, MA: Lincoln Institute of Land Policy.
- . 2007. *Territorial cohesion and the European model of society*. Cambridge, MA: Lincoln Institute of Land Policy.



Daphne A. Kenyon

LAND LINES: *How did you come to be a visiting fellow at the Lincoln Institute?*

DAPHNE KENYON: I had been putting together courses for policy makers for the Department of Valuation and Taxation for several years, and Joan Youngman asked me to write a policy focus report on school funding and the property tax. I had developed a school aid formula as one of my consulting projects, and I published a paper comparing school funding in New Hampshire and Massachusetts (Kenyon 2005). I was intrigued by the idea of working on a more ambitious project targeted to policy makers. In 2005 Joan asked me to be a half-time fellow at Lincoln House to expand my work and participate in other department activities, such as program planning and research oversight.

LAND LINES: *Why were you particularly interested in writing for policy makers?*

DAPHNE KENYON: I have always been interested in applying public finance principles to practical problems. My five years spent in Washington, DC at the U.S. Advisory Commission on Intergovernmental Relations, the Urban Institute, and the Treasury Department made me realize how gratifying and also difficult it could be to provide information and analysis to policy makers. In putting together courses for policy makers for the Lincoln Institute, I got a better sense of the types of questions state legislators and state think tank executives have about property taxes and school funding.

As a public official myself, first serving on my local school board and now on my state's board of education, I have a special perspective on academic analyses. I realize that policy makers need guidance and practical advice presented clearly and without academic jargon. One of the aspects of the Lincoln Institute that I most appreciate is its commitment to bridging the gap between academics and public officials.

LAND LINES: *Why was the Lincoln Institute interested in research on school funding and property taxes?*

DAPHNE KENYON: Since its founding in 1974, the Lincoln Institute's work has included a strong focus on the property tax, and in the United States property taxation and school finance are closely linked. About half the total property tax dollars raised each year in this country are used to finance elementary and secondary education, and nearly all the taxes raised by independent school districts are property taxes. In addition, the early school funding lawsuits were particularly concerned about disparities in per pupil property wealth among school districts.

LAND LINES: *Does your research look at school funding lawsuits?*

DAPHNE KENYON: Yes, I provide an overview of the school funding lawsuits that have swept the country since the 1960s. Only five states (Delaware, Hawaii, Mississippi, Nevada, and Utah) have not experienced school finance litigation. The nature of these lawsuits has changed over time, with the most recent suits generally focusing on the goal of providing all children with an opportunity to receive an adequate education. I also look at several case studies to examine the course of school finance litigation in more detail.

LAND LINES: *Which states did you choose for your case studies and how did you choose them?*

DAPHNE KENYON: My case study states are California, Massachusetts, Michigan, New Hampshire, New Jersey, Ohio, and Texas. Each state has faced difficult issues related to use of the property tax for school funding, but otherwise they are quite different. They range in size and socioeconomic characteristics, and represent different parts of the country. Their policy choices regarding school finance and property taxation also differ widely. For example, Michigan restructured its school

Daphne Kenyon, a visiting fellow at the Lincoln Institute of Land Policy, heads D. A. Kenyon & Associates, a public policy consulting firm in Windham, New Hampshire. She also serves on the New Hampshire State Board of Education, to which she was appointed by Governor John Lynch (D) in 2006. Kenyon is writing a policy focus report for the Institute, titled *Untying the Property Tax-School Funding Knot*, which will be available in the fall of 2007.

Before opening her own consulting firm, Kenyon headed one think tank, the Josiah Bartlett Center for Public Policy in New Hampshire, and worked at another, the Urban Institute in Washington, DC. She was an economics professor for many years, first at Dartmouth College and then at Simmons College, where she became full professor and served as department chair. She also worked as a senior analyst in the Office of Tax Policy at the U.S. Department of Treasury and at the U.S. Advisory Commission on Intergovernmental Relations. She received her B.A. in economics from Michigan State University and her M.A. and Ph.D. in economics from the University of Michigan.

Kenyon's research and consulting have focused on state and local public finance, education policy, health care policy, fiscal federalism, and taxation. She is the author of numerous articles and co-author of two books: *Competition among States and Local Governments* (Kenyon and Kincaid 1991) and *Coping with Mandates* (Fix and Kenyon 1990).

funding system without the threat of a state court mandate, whereas Ohio faced a mandate, but did not comply with it. To respond to their respective state supreme court rulings on school funding, New Jersey enacted an income tax and New Hampshire enacted a statewide property tax. In contrast, Michigan decided to replace a large part of its local property tax revenues with increased state sales taxes.

LAND LINES: *Does any state stand out as being particularly successful in its school finance restructuring?*

DAPHNE KENYON: Among my case study states, Massachusetts has been the most successful in its attempt to reform school finance. After enacting the 1993 Massachusetts Education Reform Act, school test scores rose, and in 2005 Massachusetts' fourth and eighth grade reading and math scores on the National Assessment of Educational Progress were the highest in the nation. In 2005, the state's highest court decisively terminated many years of school funding litigation. I think that part of the reason for this success is that school finance restructuring was not linked to efforts at property tax relief.

LAND LINES: *What has surprised you in your research on school funding and property taxes?*

DAPHNE KENYON: One unexpected finding was the controversial nature of policy discussions regarding school funding and property taxation. Some groups applaud and advocate for state school funding lawsuits; other groups conclude that courts are interfering in legislative decisions and harming public policy. Because of the controversy surrounding the fruits of school finance litigation, I have chosen to refer to school finance "restructuring" rather than "reform."

The use of the property tax to fund education is no less controversial. Some analysts and policy makers dislike the property tax intensely; others like it. For example, Neal Peirce and Curtis Johnson (2006) say high property taxes "represent an endless New England nightmare" while Wallace Oates (2001, 29) finds that "...if we acknowledge the need for local taxation in some form...the property tax seems the right choice."

LAND LINES: *Does living in New Hampshire give you a special perspective on school finance and property taxation?*

DAPHNE KENYON: Definitely. New Hampshire relies more heavily on property taxes than any other state, partly because of its tradition of vibrant local government and partly because of its commitment to a lean public sector. New Hampshire also has a curious school funding history. Since 1993 the legislature has been grappling with court rulings on school funding, and there is no end in sight. New Hampshire is also a wonderful example of the complexity that can be masked by simple stereotypes. New Hampshire is often considered conservative, because of its "live free or die" motto and absence of sales and personal income taxes. Yet the state faces one of the most stringent sets of school funding court mandates in the country. The latest court ruling requires the state government to pay 100 percent of the costs of a basic education for all K-12 students.

LAND LINES: *What are your conclusions that are applicable to policy makers in other states?*

DAPHNE KENYON: I try to provide some general guidance, based on a synthesis of previous research and examination of case studies, regarding what state policy makers should and should not do in restructuring their school finance and property tax systems. For example, I argue that they should not aim to provide 50 percent or any specific percentage of the total funding for K-12 education. The percentage of school funding provided by the state government can be a pretty arbitrary number depending upon whether state governments use property taxes for funding schools and whether the Census classifies the tax as a state or local tax. I argue that better goals focus on student achievement or aim at limiting household property tax burdens to some percentage of household income.

LAND LINES: *Does your paper come to any specific conclusions about the property tax?*

DAPHNE KENYON: I have found that many school finance analysts and policy makers tend to "demonize" the property tax. I argue that, while no tax is perfect, the current criticism of the property tax has

gone too far. For example, many policy makers think the tax is always regressive (that is, that low-income households pay a larger percentage of their income on property taxes than do high-income households), but research has concluded that the tax is only regressive in select cases. On the plus side, researchers have found that the property tax is a more stable source of revenue than progressive income or sales taxes.

LAND LINES: *What is the most important theme of your paper?*

DAPHNE KENYON: Over the last 50 years policy discussions have tended to tie school finance reform to reduced reliance on property taxation to an unhealthy degree. For example, policy makers sometimes use school aid to provide property tax relief or seem to equate school finance reform with reduced reliance on property taxes. I argue for unraveling the school funding-property tax connection. In my opinion it is better to employ school aid for school-related goals (such as increasing student achievement) and to focus specific tax policies, like circuit breakers, on targeted property tax relief. **I**

REFERENCES

Fix, Michael, and Daphne Kenyon, eds. 1990. *Coping with mandates: What are the alternatives?* Washington, DC: The Urban Institute Press.

Kenyon, Daphne A. 2005. A school finance reform tale—Constitutional twins but policy opposites. *State Tax Notes*. August 8.

Kenyon, Daphne A., and John Kincaid, eds. 1991. *Competition among states and local governments: Efficiency and equity in American federalism*. Washington, DC: The Urban Institute Press.

Oates, Wallace E. 2001. Property taxation and local government finance: An overview and some reflections. In Wallace E. Oates, ed. *Property taxation and local government finance*. Cambridge, MA: Lincoln Institute of Land Policy.

Peirce, Neal, and Curtis Johnson. 2006. Are New England communities too small to be governed efficiently? *The Sunday Telegraph*. January 1.

Courses and Conferences

The education programs listed here are offered for diverse audiences of elected and appointed officials, policy advisers and analysts, taxation and assessing officers, planning and development practitioners, business and community leaders, scholars and advanced students, and concerned citizens. For more information about the agenda, faculty, accommodations, tuition, fees, and registration procedures, visit the Lincoln Institute Web site at www.lincolninst.edu/education/courses.asp.

AUGUST 1–31

Rotterdam, The Netherlands
Land Management and Regularization of Informal Settlements

Martim Smolka, Lincoln Institute of Land Policy; and Claudio Acioly, Institute for Housing and Urban Development Studies (IHS), Rotterdam, The Netherlands

Designed in response to one of the UN Millennium Development Goals, which advocates improved living conditions of 100 million slum dwellers up to the year

2020 while providing policies to prevent the multiplication of slums and formation of new informal settlements, this course develops tools required to deal with slum upgrading and land tenure regularization. The program supports the development of higher-level policy intervention at the legal, institutional, financial, and program management levels. It is designed for professionals, senior executives, and researchers involved with housing and land policies in developing and transitional countries. The course is cosponsored with IHS.

Mediating Land Use Disputes Series

Land use disputes are among the most contentious issues facing communities throughout the U.S. Local officials struggle to find ways of balancing environmental protection, economic development, and private property rights. Our trainers bring a wealth of experience, drawing on both theory and practice, to help land use professionals, stakeholders and mediators in the U.S. develop the specialized knowledge and skills required to successfully mediate land use disputes.

Lawrence Susskind, Merrick Hoben, Patrick Field, and Ona Ferguson, Consensus Building Institute, Cambridge, Massachusetts; Matthew McKinney, Public Policy Research Institute, University of Montana, Helena; Ric Richardson, University of New Mexico, Albuquerque

TUESDAY–WEDNESDAY, OCTOBER 2–3

Salmon, Idaho

Resolving Land Use Disputes

This introductory course presents practical experience and insights into negotiating and mediating solutions to conflicts over land use and community development. Through lectures, interactive exercises and simulations, participants discuss and work with cases involving land development and community growth, designing and adopting land use plans, and evaluating development proposals. Questions of when and how to apply mediation to resolve land use disputes are also explored. This course qualifies for 13.25 AICP continuing education credits.

SATURDAY, OCTOBER 6

Leominster, Massachusetts

Negotiation Skills for Conservationists

Good negotiation skills are essential to the preservation of open space, habitat, and farm and ranch land across the United States. This intensive one-day negotiation skills course, tailored explicitly for those who are seeking to conserve open space, land, and habitat includes lectures on mutual gains negotiation, hands-on opportunities in negotiation exercises, and group discussion about the challenges of land trust negotiations.

FALL (dates to be announced)

Panama City, Panama and Guatemala City, Guatemala

Seminars on Legislation and Land Use Planning in Central America

Martim Smolka, Lincoln Institute of Land Policy; Álvaro Uribe, Programa Nacional de Tierras, Panamá; and Silvia García Vettorazzi, Rafael Landívar University and San Carlos University, Guatemala City, Guatemala

Two seminars on legislation and land use planning in Central America will be developed within the framework of the current discussion on legal instruments for the regulation of land use and urban planning. The seminars aim to discuss the Law on Land Use Planning and Urban Development in Panama and the Law on Land Use Planning and Housing in Guatemala from the perspective of their relationship with the regulation of land markets, public intervention, and equitable distribution of costs and benefits. Both seminars will aim to attract national legislators and other relevant practitioners and academics who will influence the debate on the situation of the land market in their respective countries.

TUESDAY–THURSDAY, OCTOBER 9–11

Brasilia, Brazil

VIII Cities' Conference—Urban Reform in Latin America: Legislative Production and the Parliament-Society Relationship

Martim Smolka, Lincoln Institute of Land Policy; and José Roberto Bassul, Federal Senate of Brazil

This conference organized with the Urban Development Commission of the Brazilian National Congress, targets members of the parliament (members of congress, assisting staff etc.) and other authorities and specialists in the area of urban development. It aims to disseminate knowledge, form partnerships, and foster discussion on land uses regulation and related urban public policies. Conference sessions will promote the exchange of experiences and techniques among governmental and private actors on topics of regulation, occupation of land, and land taxation. The conference panels, organized with representatives of Latin American countries, will address topics such as zoning, building rights, urban violence, the right to housing, and access to basic services such as water, electricity, and sewer treatment.

National Community Land Trust (CLT) Academy

The Lincoln Institute and the National Community Land Trust Network have formed a joint venture to provide comprehensive training on theories and practices unique to community land trusts taught by highly skilled and experienced instructors. The CLT Academy promotes public understanding of the community land trust model, sets a high standard for practitioner competence, and supports research and publication on evolving practices.

A community land trust (CLT) is a means to allow community-based nonprofit organizations to own land and then lease it to building owners. Future increases in the value of the land remain with the community land trust and do not affect the value of the buildings, so the housing built on CLT land can remain affordable in the long run.

WEDNESDAY, SEPTEMBER 26

Charleston, South Carolina

WEDNESDAY, OCTOBER 10

Minneapolis, Minnesota

CLT Introductory Level “101” Training

Michael Brown, Burlington Associates in Community Development, Vermont; Dannie Bolden, Gulf County Community Land Trust, Port St. Joe, Florida; Allison Handler, Portland Community Land Trust, Portland, Oregon

The introductory professional development course targets affordable housing practitioners and board members, elected legislative officials, housing program administrators, planners, lenders, and other intermediaries with little or no prior experience with CLTs. This course includes comprehensive sessions on the nuts and bolts of the ‘classic’ CLT: Why do CLTs exist? How do CLTs operate? Why do CLTs make sense as a community development strategy and as an affordable housing tool? How and why have CLTs grown from small neighborhood based efforts to large-scale city-wide initiatives in Florida, California, Chicago and Washington, D.C.? What role can the targeted audience play within the CLT framework? This course will offer participants the resources and tools to answer such questions.

WEDNESDAY, OCTOBER 10

Minneapolis, Minnesota

Financing Permanently Resale-Restricted Homes

Julie Brunner, OPAL Community Land Trust, Eastsound, Washington; Brigid Ryan, Church Community Housing, Newport, Rhode Island

This one-day technical course is intended for people who expect to be directly involved in arranging financing for the development and/or sale of CLT homes. The prerequisite for the course is a basic familiarity with the nature of the CLT approach to homeownership and the nature of CLT ground leases, and a general familiarity with housing finance. Such familiarity may be gained through an introductory level CLT training event or through direct involvement with a CLT program.

THURSDAY, OCTOBER 11

Minneapolis, Minnesota

Designing Resale Formulas and Managing Resales

Julie Brunner, OPAL Community Land Trust, Eastsound, Washington; Crystal Fisher, Orange Community Housing and Land Trust, Chapel Hill, North Carolina

This one-day technical course is intended for people who expect to be directly involved in the development of ground lease resale provisions—and of policies and procedures for the implementation of such provisions—for a new CLT, or for an older CLT that is in the process of reconsidering such provisions, policies and procedures. The prerequisite for the course is a basic familiarity with the nature of the CLT approach to homeownership, the CLT ground lease, and the types of resale provisions commonly contained in the CLT ground lease—a familiarity that may be gained through an introductory level CLT training event or through direct involvement with an existing CLT.



© Anne Battis

MONDAY–TUESDAY, OCTOBER 15–16
Philadelphia, Pennsylvania
Anchor Institutions
in the Twenty-first Century
Eugenie L. Birch, Co-director,
Penn Institute for Urban Research,
University of Pennsylvania, Philadelphia

Anchor institutions, including universities, medical complexes, arts and culture institutions, public utilities and some large corporations, are important to their home cities and regions due to their resources, especially high levels of employment and purchasing power. As a class and singly, they play central roles in their communities, contributing to their economic health and civic pride. Their significant location-based real estate investments and/or clientele anchor them in place, making their departure unlikely or difficult. They are an important, yet relatively untapped asset for metropolitan development. This conference will begin to delineate key questions related to unleashing their potential.

WEDNESDAY, OCTOBER 24
Burlington, Vermont
Visualizing Density
Julie Campoli, Terra Firma Urban Design,
Burlington, Vermont; and Alex MacLean,
Landslides Aerial Photography, Cambridge,
Massachusetts

As smart growth initiatives gain momentum across the country, one of the persistent obstacles to compact development is

the public's aversion to density. Misplaced concerns over density often prevent the construction of urban infill projects or the revision of zoning regulations that would allow for compact growth. This workshop offers planners, designers, and community development officials specific tools for understanding residential density, as well as graphic techniques for illustrating it. Using aerial photography and computer graphics, it focuses on the link between urban design and density, and explores how various design approaches accommodate different levels of density. This course qualifies for 13 AICP continuing education credits.

MONDAY–WEDNESDAY, NOVEMBER 5–7
Salvador, Brazil
Capacity Building to Improve
the Performance of the Property
Tax in Brazil
Martim Smolka, Lincoln Institute of Land
Policy; Jerry Grad, International Property
Tax Institute; Maria Cristina MacDowell,
School of Fiscal Studies (ESAF); and
Claudia M. De Cesare, independent
researcher and consultant

This seminar is organized and promoted in partnership with the International Property Tax Institute (IPTI) and School of Fiscal Studies (ESAF) in Brazil. Sessions focus on the implementation of property tax reforms; the role of agencies to support local government initiatives; innovation, modernization and practical solutions

to improve the property tax performance; the taxation of informal property and low-income families; and particularities of property tax policies and administration over world.

WEDNESDAY–FRIDAY, NOVEMBER 14–16
Baltimore, Maryland
Before It's Too Late: Community
Control and Benefits in Land Use
John Barros and Junious Williams, Center
for Community Builders, Oakland, California

This three-day national conference, jointly sponsored with the Center for Community Builders (CCB), provides an introduction to land control tools and strategies, extensively exploring three tools that rely on community building approaches: community land trusts, inclusionary zoning, community benefits agreements.

Lincoln Lecture Series

The Institute's annual lecture series is presented at Lincoln House in Cambridge, Massachusetts, beginning at 12 p.m. (lunch is provided), unless otherwise noted. Consult the Lincoln Institute Web site (www.lincolninst.edu) for information about other dates, speakers, and lecture topics. The programs are free, but pre-registration is required. Contact help@lincolninst.edu to register.

WEDNESDAY, SEPTEMBER 19
William A. Fischel, Department
of Economics, Dartmouth College
The Decline in the Number of
School Districts in the Twentieth
Century: A Bottom-Up Explanation

FRIDAY, NOVEMBER 2
Barry Bluestone, Stearns Trustee
Professor of Political Economy and Director
of the Center for Urban and Regional Policy,
Northeastern University, Boston
The Burden of Property Taxes
in Older Industrial Cities

TUESDAY, NOVEMBER 27
John Davis, Visiting Fellow, Lincoln Institute
of Land Policy; John Barros, Executive Director,
Dudley Street Neighborhood Initiative
(DSNI); and Yesim Sungu-Eryilmaz, Research
Associate, Lincoln Institute of Land Policy
The National Status of Community
Land Trusts with Local Examples:
A Panel Discussion

Research Fellowship Deadlines in September

The David C. Lincoln Fellowships in Land Value Taxation (LVT) were established in 1999 to develop academic and professional interest in this topic through support for major research projects. The fellowship program honors David C. Lincoln, former chairman of the Lincoln Foundation and founding chairman of the Lincoln Institute, and his long-standing interest in LVT. The program encourages scholars and practitioners to undertake new work in this field, either in the basic theory of LVT or its applications. These research projects add to the body of knowledge and understanding of LVT as a component of contemporary fiscal systems in countries throughout the world. The deadline for the next annual application process is **September 15, 2007**.

The Research Fellowships in Planning and Development were established in 2004 to encourage research on land planning and development topics related to the Institute's broad research agenda. The Department of Planning and Urban Form supports fellowship projects in planning and the built environment, with a particular focus on three themes: spatial externalities and multi-jurisdictional governance issues; the interplay of public and private interests in the use of land; and land policy, land conservation, and the environment. The next application deadline for these fellowships is **September 15, 2007**.

For more information, contact fellowships@lincolninst.edu or visit the Institute's Web site at <http://www.lincolninst.edu/education/fellowships.asp>.

Web-based Resources

The Lincoln Institute of Land Policy Web site has been restructured to improve navigation, searches, interactivity, and the use of databases and other online resources. Enhancements have improved access to our publications, allowed for free downloading of selected publications, and added more real-time content to the site, including announcements, updates, and a regular online column on land policy issues. A high-powered search engine allows users to search by topics or other keywords. Selected documents and articles are available in Spanish, Portuguese, or Chinese. The e-commerce function of the Web site facilitates online publications orders and course registrations. In addition, course material is posted on the Web site to support classroom courses.

RESOURCES AND TOOLS

The following subcenters of the Lincoln Institute Web site support various special projects and include an array of downloadable documents, visual tools, and other practical resources.

The City, Land, and the University

<http://www.lincolnst.edu/subcenters/CLU/>

Case studies of colleges and universities as partners in urban redevelopment.

Community Lots

<http://www.lincolnst.edu/subcenters/CL/>

A resource for those in community development including community-based organizations, nonprofit developers, practitioners, and policy makers in urban land markets.

Links

<http://www.lincolnst.edu/resources/links.asp>

Helpful links to partner organizations, joint ventures, collaborations, and related organizations.

Making Sense of Place Film Series

<http://www.makingsenseofplace.org/>

A documentary film and educational outreach project of the Lincoln Institute and Northern Light Productions: *Phoenix: The Urban Desert* and *Cleveland: Confronting Decline in an American City*.

Property Tax in Latin America

<http://www.lincolnst.edu/subcenters/PTLA/>

A comparative analysis of use of the property tax in Latin America, including cases studies, comparisons of how property tax is administered, evaluation and analysis.

Property Valuation and Taxation Library

<http://www.lincolnst.edu/subcenters/PVTL/>

Courses and resources in property taxation, valuation, legal issues, and economic analysis concerning tax policy, including international comparisons.

Resolving Land Use Disputes

<http://www.lincolnst.edu/subcenters/RLUD/>

Consensus-building techniques including mediation to resolve competing interests for public officials, planners, developers, community advocates, or residents.

Teaching Fiscal Dimensions of Planning

<http://www.lincolnst.edu/subcenters/TFDP/>

A series of exercises to provide skills for planners so they can better project and evaluate the fiscal dimension of planning initiatives and their impact on local government fiscal policy.

Visual Tools for Planners

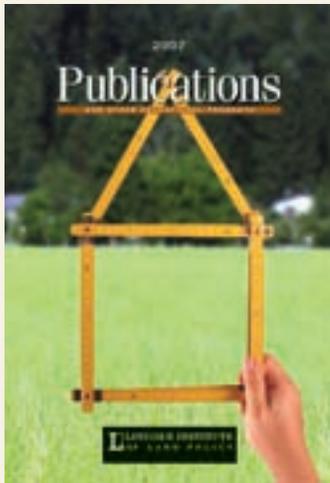
<http://www.lincolnst.edu/subcenters/VTP/>

An interactive site to provide planners with an expanded set of visual tools for communicating planning ideas in transportation, mobility, ecosystems, and disaster scenarios.

Visualizing Density

<http://www.lincolnst.edu/subcenters/VD/>

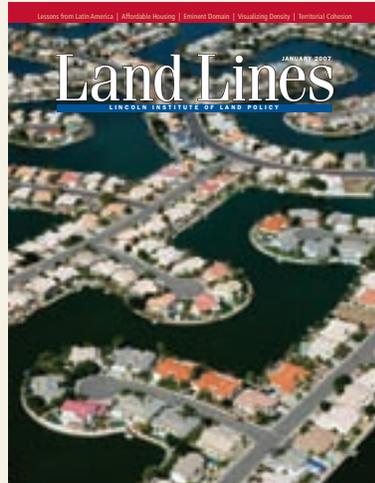
Resources for understanding the dynamics of density including case studies, an illustrated glossary, a gallery of images, and information about the book *Visualizing Density*.



2007 Publications Catalog

The Lincoln Institute's 2007 Publications Catalog features more than 85 books, policy focus reports, and multimedia resources. These publications represent the work of Institute faculty, fellows, and associates who are researching and reporting on a wide range of topics in valuation and taxation, planning and urban form, and economic and community development in the United States, Latin America, Europe, China, South Africa, and other areas.

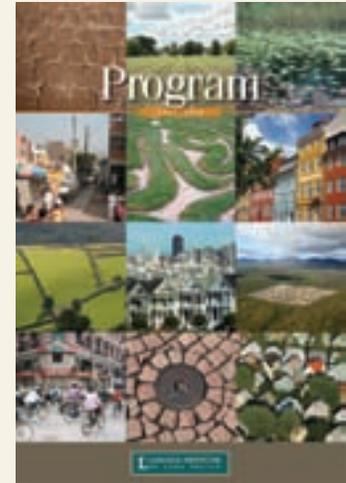
The complete catalog is posted on the Lincoln Web site. To request a printed copy, contact help@lincolninst.edu.



Online Publications

The Lincoln Institute Web site also hosts an increasing number of online publications, and the search functions have been upgraded recently to help you find the title, author, or type of publication that you want. Go to www.lincolninst.edu/pubs/index.asp to begin your search.

You will find 14 policy focus reports and more than 460 Working Papers, all of which are available for free downloading. In addition, all issues of *Land Lines*, the Lincoln Institute's quarterly magazine published since 1995, are posted in full, and each article is also posted separately.



2007-2008 Program

The Lincoln Institute's annual Program catalog presents a comprehensive overview of the Institute's mission and its expanding diversity of programs for the new academic year. It includes department descriptions; courses, seminars, conferences, and online education programs; research, demonstration, and evaluation projects; fellows and faculty; publications and films; and Web-based resources and tools.

The complete catalog will be posted on the Lincoln Web site in early September. To request a printed copy, contact help@lincolninst.edu.

www.lincolninst.edu



113 Brattle Street
Cambridge, MA 02138-3400
USA

RETURN SERVICE REQUESTED

Land Lines
JULY 2007

Non-Profit Org.
U.S. Postage
PAID
Boston, MA
Permit No. 57852