“Being a migrant worker for 13 years, I have longed to own a home and live a normal family life here in Shenzhen,” said Mr. Wang, a former farmer from Sichuan Province who now earns 3,100 yuan (US$500) per month in the manufacturing sector of this sprawling city in South China. Wang recently purchased what is known as “small property rights” (SPR) housing—an illegal but widespread type of residential development built by villagers on their collectively owned land in peri-urban areas and urban villages, rural settlements surrounded by modern development in many Chinese cities. While no official statistics are available, the number of SPR units is estimated at 70 million—perhaps one-quarter of all housing units in urban China (Shen and Tu 2014). “Small property rights housing fulfills my need,” continued Mr. Wang. “It’s affordable. It is the best choice for me,” he says.

Sold primarily to individuals without local household registration, or hukou (box 1), SPR housing violates China’s Land Administration Law, which stipulates that only the state, represented by municipal governments, has the power to convert rural land into urban use. Unlike buyers of legally built homes, buyers of SPR housing do not receive a property rights certificate from the housing administration agency of the municipal government; they sign only a property purchase contract with the village committee. Because Chinese laymen often see the state as the “big” institution, housing units purchased from village committees are popularly called “small” property rights housing.

The widespread development of SPR housing raises a number of legal, political, social, and economic concerns that have prompted academic study and heated public policy debates (Shen and Tu 2014; Sun and Ho 2015). Why has SPR housing emerged in China where administrative control is generally considered tight? What drove the village committees to develop SPR housing in violation of the Land Administration Law? Do SPR housing buyers worry about their tenure security? Why has the government so far tolerated SPR housing ownership? To find answers, one has to look at a number of factors contributing to the rise of SPR housing, including China’s land management system, municipal finance, and public attitudes toward laws and regulations.

The Rise of Small Property Rights Housing

The pace of China’s urbanization is unprecedented. Between 1978 when economic reform began and 2014, the urban population more than quadrupled from 173 million to 749 million, with average annual growth of 16 million. In official statistics, about 270 million people (37.5 million households) did not move from the countryside to the city. Many of them still live in the urban village, a rural settlement surrounded by the modern development of urban China. Thus, the contemporary configuration of urban China is characterized by the presence of urban villages, formerly rural settlements where thousands of people from all over China have come to work since the 1990s. Because of their unique characteristics, urban villages have become a center of public attention in the last two decades. As of 2015, the official number of urban villages is estimated at 80,000. Urban villages are at the heart of China’s modernization process. Many businesses are established in urban villages, and large and small factories are located around them. By the same token, they are in close proximity to the rapid growth of urban China. In addition, the presence of urban villages alongside urban China has raised many questions about rural-urban interactions, the division between city and countryside, and the different ways of living in China. Urban villages are a place where the modern and traditional worlds coexist. As the population is increasing, traditional Chinese culture is being placed under pressure. Urban villages are a part of the modern city and a part of the traditional countryside. They are a reflection of the tension between the two worlds. By the same token, urban villages are a reflection of the tension between the modern and traditional worlds.

Box 1

China’s Hukou System

China is phasing out its household registration system, called hukou, which dates to the 1950s. Hukou identifies a citizen as a resident of a particular locality and entitles the hukou holder to the social security, public schools, affordable housing, and other public services provided by their district, township, or village. Many urban public services are available only to urban hukou holders. Because most migrant workers hold rural hukou, they are ineligible for many public services in the cities where they work and live. Moreover, they have to return to their registered places of residence to apply for marriage certificates, passports, personal ID card renewals, and other documents—a requirement that comes at significant cost and inconvenience.

Pinghe Village in Shenzhen has many small property rights (SPR) housing units, built and sold illegally on collectively owned land in this rapidly developing city. Credit: Zhang Xili

The number of SPR housing units is estimated at 70 million—perhaps one-quarter of all housing units in urban China.
counts, the urban population includes residents with hukou and, in recent years, migrants who stay in a city for more than six months. Amid such explosive growth, the government’s institutional capacity to manage urbanization has often lagged behind, at best barely responding to emerging issues. “The informal development of SPR housing is regarded as an extra-legal practice and a type of spontaneous urbanization,” wrote Dr. Liu Shouying, a senior researcher with the Development Research Center of the State Council, in his newly published book, Land Issues in the Transitional China (Liu 2014). “There is no law explicitly addressing the emerging issues of SPR housing,” said Peking University Professor Zhou Qiren, a well-known property rights scholar in China (Zhou 2014).

**LEGAL AND ECONOMIC FACTORS**

Under China’s dual land management system, urban land is owned by the state, and rural land is collectively owned by the villages (figure 1). There is no private ownership. Only the state has the legal power to expropriate rural land and convert it to urban use. Villages have no land development rights. Compensation to villages for expropriated rural land is based on the land’s agricultural production value rather than its higher market value. When the state expropriates rural land for urban use, it allocates it to residential and commercial uses through concessions to real estate developers, who pay a fee for land use rights. This system allows municipal governments to expropriate rural land for industrial and urban development at low costs, and to generate handsome revenues from land concessions. The municipal governments’ ability to expand the urban land supply is heavily limited, however, by China’s strict farmland preservation requirements. Under this policy, 1.8 billion mu (equivalent to 1.2 million sq. km) of high-quality agricultural land nationwide must be reserved for food security. The Ministry of Land and Resources annually approves the amount of urban land for

Most of the residential construction in Shenzhen’s urban villages (rural settlements surrounded by modern development in Chinese cities) is SPR housing. Credit: Zhi Liu

Because Chinese laymen often see the state as the “big” institution, the housing units purchased from village committees are popularly called “small” property rights housing.

Each city, and the municipal government then allocates this supply to various purposes, leaving a small fraction (usually around 30 percent) for residential development. Given the limited supply of residential land in the major cities, prices are bid up very high. By contrast, most cities offer industrial land to manufacturing firms at very low and subsidized prices in order to compete for investment and employment. They expect these firms to yield jobs, economic growth, and tax revenues for the municipality, and then for those new jobs to generate increased demand for housing and services—in turn creating more jobs, economic growth, and tax revenues. As a result, the price for residential land is up to 15 times higher than the price of industrial land (figure 2). Over the last few years, concession fees from commercial and residential land were typically as high as 40 to 60 percent of municipal tax revenues. With these revenues, municipal governments not only subsidize industrial land, but also fund public investment in infrastructure and other services. Because farmers’ compensation was only a tiny fraction of the value created from the state-monopolized development rights, they were keen to find ways to share in these revenues, setting the stage for SPR housing. There are three types of rural land in China: one is used for agriculture, one is used for construction, and the third is unused. SPR housing units are usually built on rural construction land, which allows for villagers’ residential plots and public facilities. While strict enforcement of the national farmland preservation policy generally prevents conversion of agricul-
SPR housing units are typically 40 to 60 percent cheaper than comparable formal housing in the same location.

When urban housing prices started to soar in the mid-2000s, the villages saw opportunities to make handsome profits from building and selling homes. Each year from 2008 to 2014, house prices climbed about 20 percent in Beijing, 18 percent in Shanghai, 17 percent in Shenzhen, and 11 percent in Chengdu (PLC-HLCRE 2014). The rapidly rising prices of residential land drove part of these increases.

Demand for home ownership in China remains strong, thanks to the growing urban population, rising household incomes, high savings rates among urban households, and lack of alternative housing options. And SPR housing units are much less expensive than comparable formal housing units in the same location. Indeed, their prices are typically 40 percent to 60 percent cheaper, because villages do not pay land concession fees as the urban real estate developers do, and the administrative costs of providing SPR housing are also lower. Thus, SPR units became the rational housing choice for many migrant households, and even for some urban households with hukou in their city of residence.

SOCIAL AND CULTURAL FACTORS The village committees understood that building and selling SPR housing violated the Land Administration Law and the associated local land regulations, but the lure of profits drove them to test the legal limits. And once a few villages started selling SPR housing, others were quick to follow. The central government responded by issuing a series of administrative circulars calling for a halt, but took little action due to the lack of legally effective and socially acceptable measures to put an end to the practice.

Meanwhile, given the lack of legal protections, one might ask why SPR housing buyers do not opt for rental housing. The answer is that the rental market in urban China is poorly regulated, and contract enforcement is weak. Tenants often face the risk of unexpected rent hikes and premature termination of leases. In addition, participation in the affordable housing programs run by the municipal governments is not an option for migrant workers because they do not have local urban hukou.

At the same time, Chinese households strongly prefer home ownership for a number of social and cultural reasons. Most households consider a stable home essential to their lives. As Dr. Sun Yet Sen (1866–1925) famously said: “Every household ought to have a home.” The Chinese word for “family” (jia) is literally the same as the word for “home,” both in written form and speech. Most Chinese think that an ideal home is a secure place for the family, and the most secure home is a self-owned one. One SPR housing buyer in Shenzhen said, “With my newly purchased SPR housing unit, I don’t have to worry about being forced out of the rented unit any more, and I could make my own place a real home.”

Because healthcare and educational opportunities are better in cities than in rural areas, many migrant workers purchase SPR housing units so that their families can take advantage of these services. And for young men, buying SPR housing units is a way to improve their chances in the highly competitive marriage market, where men outnumber women by 34 million, according to the National Bureau of Statistics. Moreover, herding behavior—where everyone wants to do what everyone else does—is a significant factor, and the housing purchases of some buyers heavily influence the purchase decisions of others. As some newspaper interviews and Internet surveys reveal, buyers generally do not worry about being prosecuted for living in SPR housing. They do not believe that the government would attempt to enforce the law on millions of citizens. There is a popular saying in the Chinese legal enforcement tradition: fa bu ze zhong (the law does not punish everyone). If many people violate a law or a regulation in China, people often consider the law itself flawed.

Indeed, over the history of economic reform in China, there are celebrated cases in which mass violation of a law drove change, resulting in legalization of formerly prohibited activities. Based on this history, many SPR housing buyers expressed confidence that the government would not evict them from their homes. This confidence is evident from the fact that SPR housing owners often spend a substantial amount of their incomes, savings, or borrowed money on home improvements such as interior decoration and furnishings. Many SPR housing owners feel that they are already a large enough group to defy any government actions that penalize them. Eviction is highly unlikely, given that the Chinese government’s top priority is maintaining social stability. One SPR housing owner in Beijing said, “I am sure that the government will not evict us from our homes. If it happens, where should we live? In front of the municipal hall?”

A Major Challenge to Government

Enforcing the law against SPR housing development on millions of households would indeed be politically unwise. Doing so would likely trigger social unrest—the last thing the government wants to see. However, amending the law is not easy, and for some time the central government seemed unable to come up with a land management system suitable for an urbanized China. Without a clear solution, the central government thus tended to tolerate SPR housing.

Local governments, however, were more uncomfortable with the growing numbers of SPR housing units because they reduced demand for government-supplied residential land and therefore revenues from land concessions. But again, the fear of social unrest left most local governments with nothing to do but repeat the central government’s rhetoric about its legality. Government tolerance also reflects the fact that SPR housing development offers shelter for many lower- and middle-income groups that the government and the market have been unable to provide. In the public debate, the argument for SPR housing is that it serves an important social function by housing the large number of migrant workers essential to China’s rapid urban economic growth.
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REFERENCES


Community Land Trusts Grown from the Grassroots

Continued from P. 25

understand what forming a CLT would mean and to explore their concerns about resale restrictions. Attendees voted in favor.

Community Justice CLT is set up as a program of WCRP, which has its own in-house development and organizing expertise, including an entire department devoted to organizing.

But as WCRP’s executive director Nate Lichtash warns, “Sometimes you lose relationships when you’re organizing… Sometimes people don’t like being pushed to do the right thing.” Indeed, WCRP apparently pressured its local council person enough on certain issues that she declined to give the CLT vacant land it had hoped to secure for its first development. In the end, however, the council person helped the group establish a citywide land bank (Feldstein 2013–14), which furthers some of the same goals as the land trust.

Despite potential tensions like these, Lichtash believes that organizing and CLT functions should stay closely related. “It’s important to remember that organizing and building affordable housing fit together,” she says. “Your funders think you should be doing one or the other, but it’s not good for CLTs to be separated from organizing. You’re building your capacity for present and future work. When you organize, you’re respected because you have people power.”

To Develop or Not to Develop: A Big Decision

Affordable housing development is a complicated and expensive business that no community organization should take lightly if it is thinking about starting a CLT. As DNI’s Smith says, “If you do development work, it will take time away from organizing, which is cumulative. It takes time and a lot of sacrifice to form a truly representative, neighborhood-based organization. If you cut corners, you risk jeopardizing a lot of the power you’ve built up over the years.”

The Boston experience, for example, begins with a cautionary tale. DSNI stopped in when the original developer for the CLT’s first project backed out of the deal. It was “traumatic” for staff and board, says Smith. “It took so much time. It distracted DSNI from its core functions.”

The idea of controlling development resources and accessing developer fees can be seductive to grassroots groups, says WCRP’s Lichtash. But they should proceed with extreme care. “Becoming a developer can muddy the waters,” she says. “You have to focus on every detail in million-dollar deals. It takes you away from educational work.”

“The real estate work is very hard, speculative,” Lichtash continues. “You think you’re getting one thing and instead you get another. I tell people plan for the worst from the get-go. It’s hard to keep both tenants and funding sources happy.”

Patterson of Sawmill agrees and adds that it’s particularly difficult “to meet all the deadlines and reporting requirements on funding [for development]. I’m always shocked by the amount of administrative overhead that’s required.” He also advises that if you can’t make the numbers work, “it’s important to know that you can pull out of a project.”

T.R.U.S.T. South LA’s McNeill says, “Development definitely has its own language. It’s complex stuff. Nonprofits that do it have large budgets and tend to have sizable staffs, I respect the skill it takes to pull off these deals. It’s a very different skillset from what we do.”

Another consideration is that affordable housing development is not an easy industry to break into these days. In the current funding environment, many of the subsidies that CLTs have traditionally used to develop and steward their units are being slashed, and mortgages for potential CLT home buyers are harder to find. McNeill says, “We’ve gone through enormous shifts in the housing industry. The reality is that there isn’t an opening now for new organizations to get into the development business. It’s definitely not the time.”