

The Development of Land Management:

Two important contributions

Erik Stubkjær

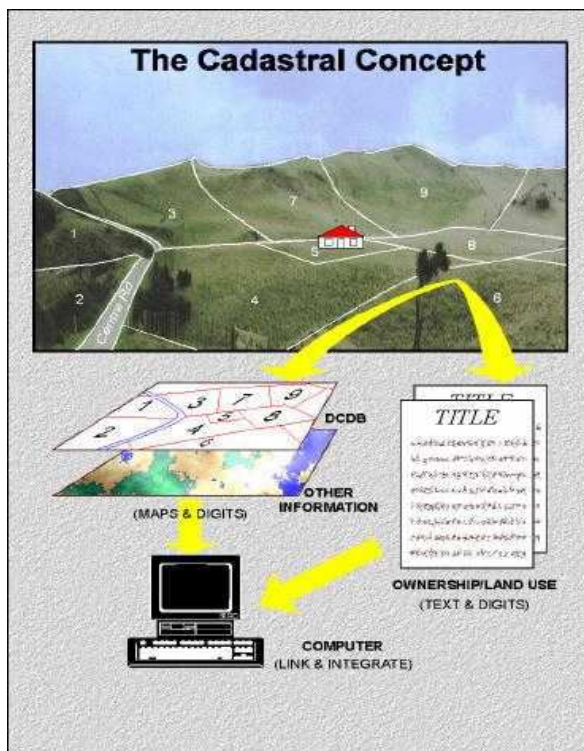
Department of Development and Planning, Aalborg
University, DK

Institute of Real Estate Studies,
Helsinki University of Technology, October 2003

Overview: Development of Land Management

1. Components needed for Land Management
2. De Soto: Why does capitalism triumph in the West
.. ?
3. Douglas C North on economic performance
4. Summary

1. Components needed for Land Management



The International Federation of Surveyors (FIG) 1995

"A Cadastre is normally a parcel based, and up-to-date land information system containing a record of interests in land (e.g. rights, restrictions and responsibilities).

It usually includes a geometric description of land parcels linked to other records describing the nature of the interests, the ownership or control of those interests, and often the value of the parcel and its improvements.

It may be established for fiscal purposes (e.g. valuation and equitable taxation), legal purposes (conveyancing), to assist in the management of land and land use (e.g. for planning and other administrative purposes), and enables sustainable development and environmental protection."

FIG, 1995

The notion of Cadastral System

In continental Europe, cadastre and legal land registers were born separately. Generally, the cadastre evolved as an instrument for land taxation, while the legal process of land registration was dealt with separately by lawyers and the records entered in land books, e.g. the German *Grundbuch*.

Cadastre: A systematic and official description of land parcels, with parcel identifier and records on parcel attributes, .. including a large-scale map and information on parcel boundaries.

Cadastral system: The combination of the cadastre - with its spatial focus, and a land register - with its legal focus

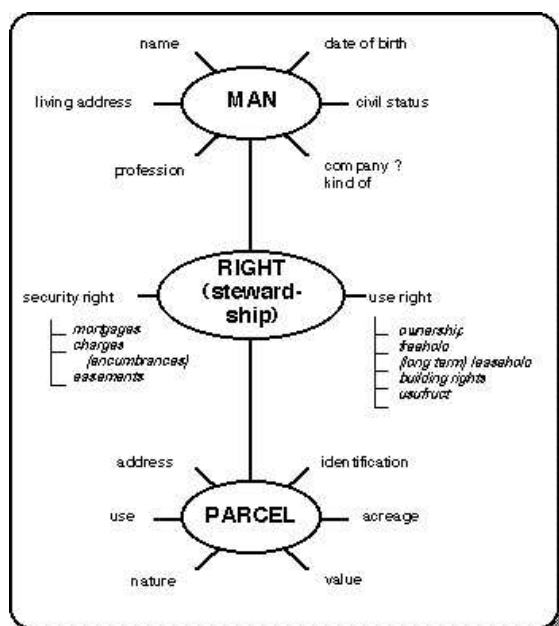
cf. Silva & Stubkjær, 2002

The notion of real property right

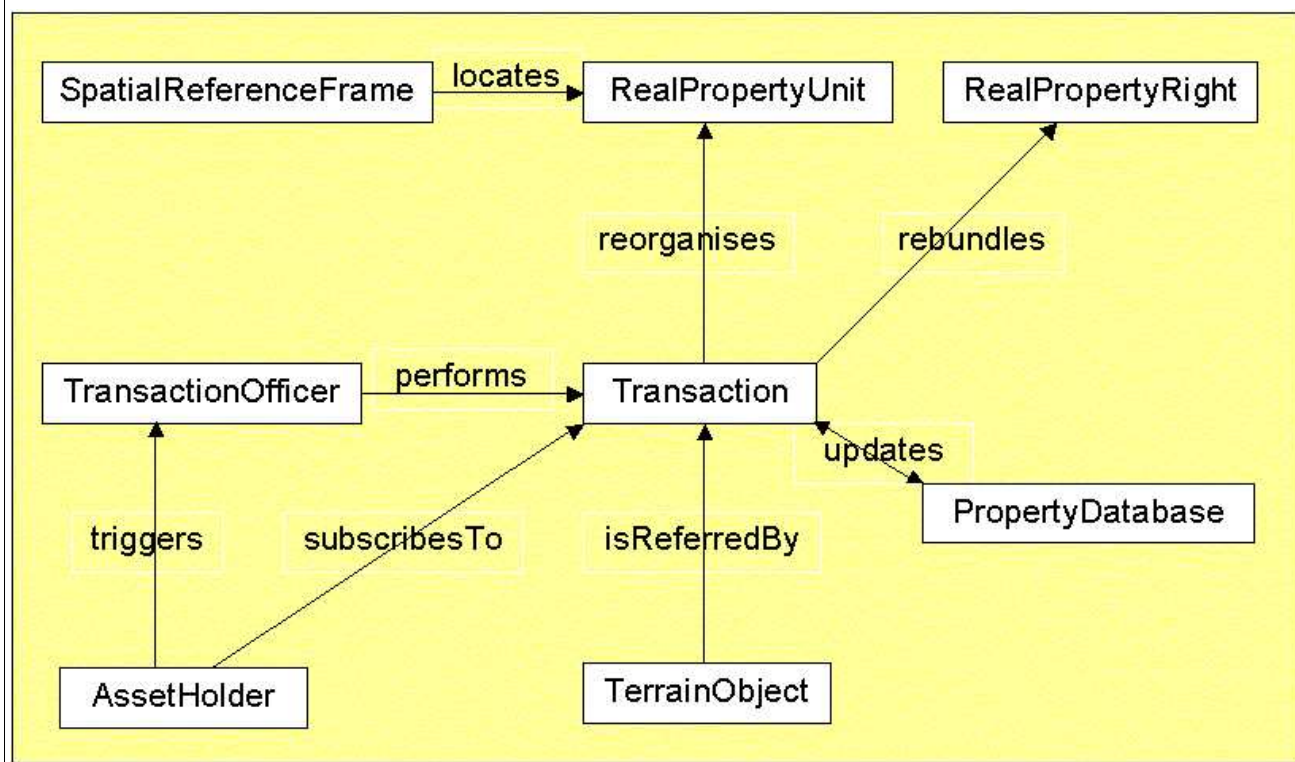
The content of RPR	The object of RPR
<ul style="list-style-type: none"> Physical dispositions Legal dispositions 	<ul style="list-style-type: none"> Legal doctrine Statutory definitions
The context of RPR	
Restrictions on RPR (Ex.s)	Infrastructure of RPR
<ul style="list-style-type: none"> Expropriation Statutorily imposed easements 	<ul style="list-style-type: none"> Compulsory sale Cadastral system

Owner - Right and ??

- A first approach: Owner - Right - Parcel
- An alternative: Core 'packages' of a Cadastral System

A first approach

J. Hensen, Delft, 1995

Cadastral Core Packages

Discerning static and change situation

The Owner- PropertyRight- Parcel structure holds in the situation, where no legal or spatial changes are made. In such situation, the cadastral system is out of focus.

However, when Owner makes changes, either in the 'bundle of rights', which s/he is entitled to dispose of, and thus affects RealPropertyRights, or in the boundaries of the property unit, and thus affects RealEstateObject, or in both together, then the cadastral system comes into focus.

Owner's legal dispositions demand a *ritual*

When Owner wants to change Rights or Object, the Owner may not be allowed 'direct access' to his RealPropertyRights, because this might compromise the rights of other parties.

For this reason, in every society the reorganisation of real property rights is socially mediated; it is performed as an elaborated ritual.

This ritual is formalised into the cadastral system. In the figure, this is expressed by introducing Transactions between Owners and RealPropertyRights.

Deininer book: Tasks

- Re-interpret traditions (read: change institutions of property rights)
- Implement statutory law / put into practise
- Improve land administration systems

ILM: Course Introduction

Conclusion: Organisations

1. Improvement of land management depends on change at several layers of abstraction:
 - Institutional (land tenure)
 - Organisational (government units, etc)
 - Procedural (transfer of unit, subdivision, ...)
 - Physical (marks, plates, terrain objects)
2. Cadastral development is an organisational affair (Greece)

ILM: Theory of Organisations

Levels of abstraction = Scope for change

- Institutional (land tenure, market, rule of law)
~ = "Re-interpret traditions. K. Deininger"
- Organisational (government units, professions, etc)
~ = New legislation and education
- Procedural (routine sales, subdivision,...)
~ = Development of Information Systems
- Physical (marks, plates, terrain objects)
~ = Marking of street names

2. De Soto: Why does capitalism triumph in the West ..

?

- "The reason .. is because most of the assets in Western nations have been integrated into one formal representational system" (p. 44)
- "It is an implicit legal infrastructure hidden deep within their property systems — of which ownership is but the tip of the iceberg" (p. 7)
- "The Western nations have so successfully integrated their poor into their economies that they have lost even the memory of how it was done, how the creation of capital began .." (p. 9)
- ".. That history must be recovered." (p. 8)

De Soto (2000) The Mystery of Capital. Bantam

De Soto's findings and suggestion

- Ordinary people have collected enormous assets, e.g. in terms of dwellings
- These assets are 'dead capital', because they are not formalized and mortgaged
- Analyses of the history of Western nations contribute towards a solution
- Technicians and lawyers are not in a position to make changes

Suggestion: Go for politicians that show leadership: "It is a political task to persuade technocracy to make itself over and support change" p. 187

De Soto on technicians and lawyers

So far,

- technicians have spent moneys on maps, which show no owners ("Property is not really part of the physical world" p. 185)
- layers are considered the "natural enemy" by reformers. "No group - aside from terrorists - is better positioned to sabotage capitalist expansion. And .. lawyers know how to do it legally" 180." Reformist lawyers' "work tends to go unnoticed in the higher reaches of government.. pushed to the margins of political decision-making" 180, 182

What can we learn from De Soto ?

Look for the informal sector, because it handles assets quite formally

Look for, how to integrate the formal and the informal sector

but be aware that formalization presupposes law and order
(= police and court protection of property rights)

3. Douglas C North on economic performance

North explains differences in economic performance (growth) by reference to institutional factors (111 f):

- Polity (government, hierarchies, Magna Charta 1215, Constitutions in 1800s)
- Markets (in goods, capital, services)
- "Polity specifies and enforces property rights that shape the incentive structure of a [market] economy (112)"
- Gains to be obtained by organisations and entrepreneurs direct their acquisition of skills and information and constitute the source of incremental change

North (1990) Institutions, Institutional Change, and Economic Performance. CUP

Relation between career incentives and economic performance

Example: Nobilities' sons in DK

- Career before Reformation: University -> Bishopric
- Career after Reformation: Formation journey in Europe -> Chancellery -> County revenue officer

Interpretation: More focus on material wealth

Implication for LM development: Look for creating career opportunities that will enhance LM development

North: Model of economic change

Example: South America vs. North America

- Religion: Uniform, or diversity of denominations
- Political control: Central, or influenced by assemblies, local bodies, and associations
- Administration: Bureaucratic, or liberal
- Culture: Colonialists and indigenous, or homogeneous

but Denmark: Uniform, central to local, bureaucratic, and homogenous

Suggestion: What matters for (LM) development is the cost of creating associations

North: Suggestions for conclusions

What can we learn?

Look for

- creating career opportunities that will enhance LM development
- creating associations, or branches of existing, that will enhance LM development

But find opportunity to read the book yourself/ find course

4. Summary on Development of Land Management

- Technology (maps, information systems) is needed, but not the key
- New legislation must relate to the way ordinary people behaves
- LM development must include investigations of behaviour (De Soto)
- LM development must include investigations of associations, NGOs
- LM development should include career and university programme analyses

est@land.auc.dk