

COMPARATIVE OVERVIEW of LOCAL LAND USE PLANNING:
JAPAN and BELGIUM

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1) INTRODUCTION

Comparative studies on land use planning should be concerned with how different systems attempt to reconcile FLEXIBILITY and LEGAL CERTAINTY. The main purpose of this paper is to specify the points in which the Belgian and Japanese planning systems approach a common form and content. Two areas emerge:

i) Both systems adopt some form of local planning (District Planning).

ii) Land use planning is based on physical analysis of spatial activities.

2) LOCAL PLANNING

District Planning is the basic level of land use planning in Belgium.

An administrative entity (city or commune) is divided into several planning districts, covered by Special Development Plans (Bijzonder Plan van Aanleg, BPA), which are individually approved by the King (minister of Public Works). This system of planning is physical and very detailed.

Each plan contains two separate, but legally equal documents. The first is a graphic map indicating, in a detailed manner, permitted land uses, the building line, the street line and sometimes the locations of sewage facilities. The second document is a written statement of restrictions on the physical qualities of buildings. This includes height, depth, roof pitch etc. As such both building standards and development control are determined under the same piece of legislation, the Physical Planning and Spatial Ordering Act 1962, and applications are dealt with by the same bureau in town hall.

Japan seems to move towards the District Planning System, with

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the 1980 Act, along the same general lines of the Belgian system, particularly in so far as the territorial entity and the contents of the plans are concerned. However, a great difference will still exist due to the fragmentation of planning legislation in Japan, resulting in, i.a., exercising control over construction activities through two separate offices in town hall, namely Development Control and Building Standards Control. This situation causes co-ordination problems, at the local level, for the effective implementation of the 1980 District Planning Act. In Belgium the main obstacle is co-ordination between different national and regional agencies.

3) CONTROL MACHANISMS of CONSTRUCTION ACTIVITIES

The enforcement of local planning is different. Local plans in Belgium are legal documents with the force of law. Therefore, almost every building activity should be authorised by Permission granted under the 1962 Act. In Japan, however, the planning system does not possess a general permission, as it specifies only certain activities as needing permission. Instead, under the 1968 City Planning Act, a set of Regulations operates which relate to the City Plan, which does not possess the same legal character as the Belgian B.P.A. Moreover, whereas the definition of "development" in the Belgian planning system is general, thus including planning and building control in the same BPA, and, therefore, needing one Permission, the Japanese system divides the two areas sharply under two different Acts, and allocates no statutory legal enforcement powers, in the form of a general purpose permission, to the 1980 District Planning Act. The Belgian 1962 Act defines development as "the establishment of a building or a construction, or the placing of a structure, even of non durable materials, which is built into the ground, is attached to the ground or rests upon the ground for purposes of stability, with the aim that it shall stay on

that place, even if it could be dis-and reassembled, or if it is movable"(1). In practice this means that Building Permission (Bouwvergunning) is required for almost any size and type of private development on any location.

The second mechanism for controlling building activities is the Parcelling Permission. It specifies use and physical requirements in accordance with the provisions of the BPA. An owner of a piece of land, who desires to build an house for example, has to submit his application to the City's Technical Bureau.

The Bureau will examine the application using the BPA, and then will advice the Executive Council of the City, which will then decide. However, the final approval should come from a central government officer, who belongs to the Ministry of Public works, placed at prefecture. This is a central government mechanism to ensure control on local affairs but BPAs are hard to dispute. The present definition of development in the Japanese City Planning Act 1968 is "any physical alteration or subdivision of the land aiming at building or constructing specific structures"(2). Although the definition of development is generally similar in Belgium and Japan, the enforcement of planning control is very different. To operationalise such a system a coherent and comprehensive body of locally based regulations and procedures is needed with a minimum degree of efforts aimed at co-ordination at the local level. This need has been recognised in the Japanese District Planning Act 1980 which entrusts local authorities with implementing the system. In the absense of a legal duty to comply with District Plan when carrying out urban development or redevelopment the 1980 District Planning in Japan lacks the vital statutory tools needed for implementation.

4) CONCLUSIONS

The main difference that emerges is the emphasis placed on

legal certainty, in Belgium, and on flexibility in Japan. Therefore, whereas negotiations in the Belgian system tend to concentrate on increasing development value from changing physical qualities, mostly according to the use designated in the local plan, negotiations in the Japanese system tend to focus on agreements between the local authority and the developer concerning a wider range of issues. This means that, in the Belgian context, extensive negotiations, involving all parties concerned, take place in the plan preparation stage to determine the extent of the trade offs between economic, social and environmental aspects. These trade offs are then expressed in the BPA itself, thus converting the agreement into a public legal matter, and narrowing the range of negotiations in the implementation phase. This is significantly different from Japan, where negotiations continue, before and after the approval of the plan, concerning various aspects of the proposed development. The result of negotiations is then expressed in an agreement covering that particular project. This is a very important comparison arising from the statutory character of the Belgian Local Planning System. We are of the opinion that to implement a system of District Planning successfully, such as that proposed by the 1980 Act, a project based urban land management system may have to be altered to accommodate the needs of the local urban settlement.

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