

Good Practice Guidelines

Participatory Approach to Core Area Development A Guide to Good Practice

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These Fact Sheets set the current urban scene for the specific topic each cover and suggest ways and means within that topic towards achieving sustainable mixed use core area development.

Exploring Community Organisation

Purpose

Enabling the local community to participate effectively within the development process by strengthening their claims to protect their rights of use or ownership of an area of land or property they occupy and to influence its future development.

The community occupying land ripe for commercial development is usually the least informed in the process of what is planned for them, too often this situation results in the arbitrary displacement of the urban poor to the city periphery and a gradual gentrification of core areas into a range of commercial uses.

To overcome these problems, individuals and communities need to strengthen their rights to land or property and identify from the different types of legal housing institutions that which could be established to manage their long-term residential and livelihood interests.

Introduction

In many urban environments the interests of low-income individuals are often marginalized. This is especially true in the core areas of many cities where increased commercial competition for well-located land often forces the relocation of poor residents. Those residents with statutory rights to land can often make large profits selling their land to interested developers or government. However, those without long-term legal rights of occupancy (e.g. short term tenants or end of lease holders or even those illegally occupying land) and wishing to stay in their existing locations can find that getting secure rights of use, occupancy, re-accommodation or compensation can prove difficult.

To increase the chances of an individual or community getting secure occupancy rights, the most usual course of action is for them to create an organised institution that can represent their long-term interests. Whilst this usually takes the form of a registered legal entity many disadvantaged communities throughout the world also mobilise themselves into organised groups on an informal basis (i.e. civic and other social movements) to pursue similar goals. Although only one form of organisation is legally registered both forms are equally effective.

Box 5.1: Legal Entity	
Stakeholders	What it can mean
<i>Individual</i>	It increases the purchasing power of the individual. It supports an individual's constitutional rights. It strengthens an individual's bargaining power. It can legally represent an individual's interests in a court of law.
<i>Government/private owner</i>	It represents the interests of a community and is therefore easier to identify and work with towards a solution. It provides government with a vehicle through which it can legitimise individual/collective rights to a piece of land or property. In so doing it may then be able to recoup previously uncollected tax from say illegal squatters. Once a legal right of use or ownership has been agreed with a community group on squatted land, the government and the community will benefit from it being re-integrated back into the formal land market.

Reasons for Establishing a Legal Entity

The main advantage of establishing a legal entity (as opposed to any other form of organisation) is that it provides a group of concerned individuals with a 'legal' identity that can be used to strengthen a claim or provide clarity on the legal rights of an individual or community. This can be of particular importance to under-represented and marginalized sections of the community who may be landless and destitute. The creation of a recognised community organisation can also be used to strengthen the interests of poor communities who want to enter into property or land sharing agreements with the private sector and/or government. Box 5.2 gives definitions of land sharing, land readjustment/pooling and transferable development rights/incentive zoning). A legal entity made up of a number of individuals is able to use the collective wealth of its members to attract finance from aid donors and financial institutions, which can then be used to secure rights to land or property. In this way the financial capacity of each member is increased.

Once an organisation is established, it is required by law to operate in a certain way. With professional management and agreed direction, the organisation may be eligible for a number of tax benefits and can access finance to support the interests of individuals and/or the community it represents.

Box 5.2: Summary Table of Different Land Mechanisms

Land sharing: is an agreement between the illegal occupants of a piece of land and their landlord. It essentially involves illegal occupants moving off high value land in return for being allowed to either rent or buy a part of the land below its market value.

Land pooling: land is legally consolidated through the land-pooling agent before it is returned to the owners.

Land readjustment: land is notionally consolidated by the land readjustment agency before it is redesigned and returned to the landowners who effectively exchange old title documents for newly developed plots of land. 'Making Common Ground, public-private partnerships in land for housing' by Payne GK (1999) is a good source for further information.

Transferable development rights/incentive zoning: landowners involved in transferring the development rights of a piece of land they own first surrender the land to the local government. In return, they receive monetary compensation or the development rights to another piece of land, equal to that surrendered, in another area of the city.

Types of Legal Entity

There are a wide variety of options for those wishing to form a legal entity. These include companies, communal property associations, co-operatives and community land trusts. Within an existing community, there may already be active community groups or organisations, some of which may be informal and only known about within the actual communities. It may be appropriate for the community to engage in the development process through these existing organisations, building on the already established, collaborative experience of the groups. This involves a clear understanding of what groups or organisations are in existence, and the relationship between them¹. Whether a community mobilises its involvement through existing groups or through a newly established formal organisation or legal entity is something that should be considered with reference to the nature of the project, the statutory and political context and the level of interest and commitment within the community. Support and advice from an NGO or voluntary organisation could be crucial in helping the community decide what course of action is achievable, realistic and appropriate.

¹ World Bank, 'The World Bank Participation Sourcebook, Chapter IV: Practice Pointers in Enabling the Poor to Participate, Building Community Capacity' [Online]. World Bank, Washington D.C. <http://www.worldbank.org/wbi/sourcebook/sb0403t.htm> [accessed 13 November 2001]

Box 5.3: Bangkok²

The strength of community leadership and the capacity to mobilise and maintain community commitment are crucial factors within a participatory approach to the development process. The Ban Manangkasila area, close to the city centre of Bangkok, is an example of a land-sharing initiative that managed to fulfil the needs of the existing residential community and the commercial development company, which was largely organised and administered by the community organisation. A few key members of the community were instrumental in mobilising the existing residents, obtaining outside support, planning the site, undertaking the land-sharing negotiations and management and administration. Staff from the National Housing Authority and other voluntary organisations gave technical support.

The community organisation formed a credit union that enabled them to access funding (a long-term housing loan) from CEBEMO in the Netherlands administered through the Credit Union League of Thailand.

Companies

In choosing to form a company, a group of individuals may elect to establish either a 'not for profit' or 'public' company, or a 'Pty limited' (Ltd) or Share Block company. In general, a company is defined according to the way in which it raises capital. There are two kinds of company: those that raise capital by issuing shares and those that raise capital by issuing guarantees. Share holding companies can be either private or public companies, whilst issue guarantee companies are public and non-profit making whose board of directors enter into an agreement to pay an agreed amount of the company's losses should it close. Each type of company adheres to specific criteria (see summary table: box 5.4). A final decision on what kind of organisation should be established will depend on the specific needs and desires of the group concerned and the Company law in the country in which it is to be set up.

² Adapted from Angel S and Boonyabanha S (1988) 'Land sharing as an alternative to eviction: The Bangkok experience', TWPR, 10 (2) 1988, pp112-113

Box 5.4: Summary Table - Legal Entities

Organisation	Advantages	Disadvantages	Conflicting issues
Private company	Better able to raise finance through financial institutions.	Not exempt from tax. Limitations on shares traded. Limited by number of members.	May keep its financial end of year statements private.
Public company	Must make its financial end of year statements public.	Not exempt from tax.	No shares.
Pty (Ltd) company	Possible to redirect profits generated back into the organisation.	Individual has little involvement in management of their (e.g.) housing. Not easily exempt from tax.	Limited number of shareholders/members. Limitations are placed on shares.
Not for Profit company	Exempt from tax. Members do not have to contribute financially and are not liable if company becomes bankrupt.	With no shareholders has little collateral and therefore difficult to raise finance from other sources other than through aid agencies and donors.	Limited number of shareholders/members. Limitations are placed on shares.
Communal Property Associations	Exempt from tax. Communally owned. Targeted at disadvantaged groups. Individuals receive benefits of belonging to the association (i.e. possible advanced credit facilities, general management & maintenance of living areas)	Cannot privately own property since only granted rights of occupancy on signing long lease.	If a household decides to sell its property it is resold to the association. The household only receives the amount it initially contributed towards a property and a share of the profits.
Co-operatives	Tenants own the co-operative corporation through stock ownership. They therefore have a financial stake in the co-operative. Community participates in decision making. As the co-operative own the land on which the housing units are built tenants only pay for the right of occupancy which should theoretically make it easier for poor communities to access affordable housing. Individuals receive benefits (i.e. possible advanced credit facilities, general management & maintenance of their living areas etc).	Not exempt from tax. Cannot privately own property since only granted rights of occupancy on signing long lease.	If a household decides to sell its property it has to be resold to the co-operative. The household only receives the amount it initially contributed towards a property and a share of the profits.
Community Land Trusts	Usually tax-exempt. As co-operative above.	As co-operative above.	As co-operative above.
Informal Organisations	Not taxed. Freedom of expression. Can be effective at lobbying for a particular cause.	Difficult to attract funding. As the organisation is not legal members' rights are more difficult to secure.	Not legally registered. Life span can be limited.

Communal Property Associations

Establishing a communal property association will allow a community to own a piece of land collectively. The rights of individual members are determined through a democratic process of negotiation with all members and the

association can accommodate a wide variety of different tenure options. Although predominantly a mechanism used in a rural context there is no reason why the concept cannot also be used in an urban context.

Co-operatives

Co-operatives allow a participatory form of ownership where a co-operative corporation owns residential buildings and then leases them on to their owners (tenants). Each tenant purchases shares in the co-operative and in turn each receives a unit. Whilst the corporation is responsible for managing the financial aspects each tenant is able to participate in the decision-making process. Aside from equity participation, tenants are able to choose from a large variety of tenures.

Community Land Trusts

Another way in which poor households may be able to secure access to affordable land and housing is through the establishment of a community land trust. The trust purchases a tract of land and houses on that land. It then sells houses on a long lease to qualifying members of the trust whilst maintaining ownership of the land on which the houses sit. When an owner wants to sell their property they must sell it back to the trust. In this way the trust is able to keep the price of houses at an affordable level and reduce speculation because the trust owns the land on a communal basis and there are no individual titles.

Conclusion

It must be acknowledged that the creation of a successful legal entity (able to improve the rights of poor communities in urban areas) largely depends on the presence and extent of traditional forms of community organisation. Cultures with a rich history of community action for instance, are more likely to succeed in securing their particular interests than cultures without. But perhaps the most influential factor governing the success of any initiative depends on the political environment within which they operate and whether individuals have constitutional rights to land. It should therefore be acknowledged that even the most organised community structures might not necessarily be able to operate in a government system that is very centralised and authoritarian. However, many governments, authoritarian or not, operate within constitutions that give both non-land owning occupiers and owners prescribed rights.

Box 5.5: What Makes Community Organisations Work?³

The group addresses a felt need and a common interest. When people share a common problem that can be addressed by group action (such as a lack of water supply, a security problem, or a degraded natural resource), they are more likely to mobilise themselves and work with support agencies to change the situation than if the problem only applies to only a few members. Social cohesion tends to break down as groups grow or spread over large areas and monitoring the behaviour of individuals becomes more difficult. For this reason, as groups expand, they either create subgroups or formalise regulations and delegate decision making to smaller working groups.

The benefits of working together outweigh the costs. Benefits may be economic (cash savings, increased production, income, and time savings), social capital formation (increased ability to collectively solve problems), increased individual capacity (knowledge and skills), psychological (sense of belonging and confidence), or political (greater access to authority, greater authority, and reduced conflict).

The group is embedded in the social organisation. Community organisations are most successful when based on existing relationships or groupings or when members share a common identity such as kinship, gender, age, caste, or livelihood.

The group has the capability, leadership, knowledge, and skills to manage the tasks. As noted above, special attention needs to be given to ensuring groups have the necessary capacities for the tasks at hand. Those in leadership positions need to be put in place to ensure that these leaders are accountable to the group's members.

The group owns and enforces its rules and regulations. All successful groups and associations are characterised by internalised rules and regulations that are known by its members. Group members should be able to participate in determining the rules and the enforcement mechanisms.

³ Extract from: Deepa Narayan (1995) 'Designing Community-based Development', Participation Series, Environment Department Paper No.7, World Bank, Washington D.C. quoted in: World Bank, 'The World Bank Participation Sourcebook, Chapter IV: Practice Pointers: Intermediary NGOs' [Online]. World Bank, Washington D.C. <http://www.worldbank.org/wbi/sourcebook/sb0404t.htm> [accessed 13 November 2001]