

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 covers and suggest ways and means within that topic towards achieving sustainable mixed use core area development.

Legislative Frameworks

Purpose

Establish the legal situation regarding the rights and responsibilities of the various stakeholders in the current situation, and the frameworks within which development will be controlled.

Assessment of the rights and responsibilities of the stakeholders involved will certainly include the landowner and those currently living on the land but will also include the government authorities who are responsible for registering land transactions and providing services. The legislative framework will comprise opportunities and constraints imposed on development through planning regulations, building codes and zoning requirements, fire and emergency regulations, land use restrictions, plot ratios, density controls, parking standards, servicing and access requirements, overlooking/privacy requirements, conservation or urban design policies. The relevant controls need to be identified, and their potential impact upon development established.

Identifying and Understanding the Situation

Whether this work is undertaken by a government agency or an NGO, it is important that the approach taken is objective but at the same time identifies the opportunities available in existing legislation. The approach would involve careful reading and interpretation of the relevant legislation followed by interviews with key informants, undertaken as part of a stakeholder analysis.

An important aspect of this work will be to establish:

- a) The ways in which the possibilities open to the various stakeholders are legally constrained; and
- b) The extent to which co-operation between the various stakeholders might overcome these constraints.

Box 3.1: Delhi, India

Inappropriate legislative frameworks can seriously hinder and distort land markets, which can consequently constrain any action to cross-subsidise low-income accommodation in core areas through market development. There have been restrictive regulations in Delhi State, which have seriously impacted upon development pressure, within the central areas and also in outlying settlements.

In particular, the ten-year residency qualification for land allocation, the rigid land use definitions of the statutory Land-use Masterplan and the monopoly position of the public sector in development in Delhi State have limited development within the core areas of the city. The private sector has been forced to meet unfulfilled demands for property in all fields across the Capital Territory boundary where property development is relatively unregulated. This has led to significant urban sprawl; outside and around the Delhi State boundary are the States of Uttar Pradesh and Haryana on the east and west banks of the River Yamuna respectively. Considerable areas of Delhi's urban expansion have taken place within the boundaries of these two States and are under the separate control of their respective Urban Development Authorities.¹

Constraints

The process can be constrained if:

- There are inappropriate municipal controls or mechanisms that affect the viability of the scheme in the short term (e.g. planning and zoning controls that impact upon building heights, density and cost; planning blight resulting from municipal moratoriums such as development within historic quarters).
- There are inappropriate municipal controls that affect the viability of the scheme in the long term (e.g. rigid planning policy in the form of mono-use zoning constrains the development of mixed income and mixed use neighbourhoods that are economically sustainable over time).
- There are inappropriate municipal financial mechanisms (e.g. local government requirements to achieve maximum financial returns on publicly owned sites).

¹ Annex 6: Delhi City Study – Field Studies and Workshop

- There are inappropriate municipal property/tenure mechanisms (e.g. tenure regularisation mechanisms that result in increasing inequality and exploitation of the lowest income groups).
- Rigid attitudes within local government can be a major constraint to the process; in particular the presumption that core area sites should be cleared of housing.
- Local government emphasis is on physical improvement and revenue increase at the expense of detailed approaches to accommodate existing communities.
- Local government does not have adequate resources or political will to enforce developer compliance.
- Local government is not geared up to deal effectively with the development of privately owned land.
- There are not adequate mechanisms (i.e. spatial development policies) at metropolitan regional scale to contain urban sprawl effectively.
- There are inadequate controls to ensure that the new low-income provision (residential and business) remains available to the low-income groups in perpetuity, and is not subject to the forces of gentrification as adjacent land values rise.

Box 3.2: Bangkok, Thailand

There has been several land sharing projects undertaken in Bangkok, some of which have been very successful, for example Klong Toey, formerly the largest squatter settlement in Bangkok, housing 6000 families on land belonging to the Port Authority of Thailand and bordering on the Klong Toey port. Land sharing was undertaken in the early 1980's; the final agreement established the provision of 60-square-metre serviced sites to be leased to the residents for 20 years for a nominal fee. The successful land sharing projects have managed to achieve outcomes that fulfil the needs of both the landowner and the unauthorised slum dwellers.

Whilst these projects have had the full support of the Government, the National Housing Authority, and the military (who helped to ensure that bureaucratic constraints were removed), all of the projects undertaken have been implemented largely ignoring the municipal regulations. Adherence to the municipal regulations (e.g. municipal housing standards) would have rendered many of the projects unviable for the low-income communities. Further constraints include the emphasis on titled land within the system for financing housing, which makes it difficult for the low-income community to obtain capital for the construction of their dwellings, as land sharing agreements frequently involve long-term leasing of the land, not outright ownership.²

² Angel S and Boonyabanha S (1988) 'Land sharing as an alternative to eviction: The Bangkok experience', TWPR, 10 (2) 1988, pp107-127

Conclusions

The number of constraining issues relating to local or central government operation and control shows ultimately where the success of the process is potentially determined. The role and attitudes of government and the statutory authorities is crucially important in facilitating the mixed use, participatory approach to core area development, the principles of which are quite likely to be in conflict with existing frameworks and mechanisms. It is important to identify and define the existing systems and processes, in order to evaluate what course of action is appropriate or viable, and to ensure that the statutory rights of the individuals are upheld or reinforced.

In some cases it may be appropriate to undertake the approach to development advocated within this guide outside of the normal statutory system of control, as a pilot project or demonstration project, where established standards and controls are relaxed.

Box 3.3: Checklist of matters to be examined and made available to all stakeholders

1. Status of statutory plans at all levels - structure, strategic, policy, topic, local and action area.
2. Degree of enforcement and any phased programme for implementation.
3. Procedures for gaining necessary development permissions.
4. Ownership of land in area under consideration and status of occupants.
5. Availability of development finance and specific funding for example housing improvement, employment generation, urban upgrading.
6. Short and long-term plans for (and availability of) infrastructural services such as water supply, drainage and sewerage disposal, electricity supply, health, education and other community facilities.

Depending upon local or central government involvement, attitude and resources, it may be possible for a more strategic approach to be taken. This may include the designation of certain areas or sites and the production of appropriate development briefs, or the application of city-wide or area-specific 'blanket' policies (conditions or incentives) encouraging or requiring this type of development.

In both instances it is important that a review of the full hierarchy of policies and controls (acting on specific sites or across whole cities, and concerning

development, finance and tenure) is undertaken. This ensures that established policies, mechanisms or controls do not introduce conflict, not only during the planning and implementation phase, but also in the long term, which can subsequently affect the low-income community's ability to establish or maintain sustainable livelihoods.

However well intentioned different policies or mechanisms may be, there is always the potential that the system could be abused. Careful and effective monitoring and enforcement of the legislative/statutory framework and the function of the different policies (with particular regard to development, housing and finance issues) needs to be undertaken to ensure that unscrupulous individuals or organisations do not have the opportunity to take advantage of potential 'loop-holes'.