# SECURING LAND TITLE IN RELATION TO LAND READJUSTMENT

# Ph.D, Bolormaa B.<sup>1</sup>, Ph.D, Myagmartseren P<sup>1</sup>, MSc.Buyandelger M.<sup>2</sup> NUM, School of Arts and Science, Department of Geography<sup>1</sup> MSUA, School of Agro ecology, PhD student<sup>2</sup>

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# Abstract

Currently there are number of issues facing urban region, such as population densification, deterioration in living environment, prevention from fire and other disasters, road traffic, buildings that do not meet quality requirements, unorganized urbanization etc. The most common solution to such issues is land re-planning. Land owners start participating in the land re-planning project by protesting /Sorenson 1999/. As a result of re-planning they give share from their land as well as many buildings, houses and businesses are required to move, thus land possessors want to estimate the benefits of re-planning project by the size of land contributed. To make it possible those impacted need to have secure land tenure for related land area.

# Justification

Rapid urbanization in developed countries and population growth have been for many years the pressing issue, thus urban expansion has become a problem that needed urgent addressing for the last twenty years. (Devas and Rakodi 1993) Considering the current urbanization process in Ulaanbaatar city, extensive centralization creates long term unresolved issues. Therefore, it is possible to apply re-planning of land to ensure more effective use of current resources for social needs derived from increasing centralization, to prevent Ulaanbaatar city development in coming 10-20 years from delaying future social and economic development and to resolve other problems caused by rapid development. Although this method has number of advantages, in current situation, the issue related with securing land title is causing some limitations. Having hashaa (fence) and housing without official land title document means that property and business is not legally registered, its value cannot be estimated officially, nor sold out or serve as collateral for loan. /Soto 2004/ In this case those affected cannot even legally protest thus cannot receive benefits of replanning. In other words, researchers have already identified that official property enables the owner to use it as collateral, exchange it for investment shares, is used for identifying address for acquisition of loan, tax and fees, and serves as location reference for trade, court and civil actions respectively /Good land administration-sustainable development 2011/. An efficient use of current resources is becoming a pressing need now, thus resolving the above mentioned limitations and implementing land re-planning will balance urban social needs and reduce poverty.

#### **Research methods**

Due to different situations in global cities, cultural differences of nations with regards to land relations, variations in political and institutional structure, there is no uniform type of land replanning methodology that can be successfully applied globally. However, the main principles of land re-planning were used and adopted to local peculiarities to re-plan the selected land area. In order to identify main problems related with land re-planning, comparative analysis were made on collected national and international research materials, articles and presentations, Mongolian laws and legislations and other related documents. Land re-planning should be conducted in order to improve the living environment and conditions of local residents, thus to consider feedback from local residents the total of 640 people from 250 households, who represent the local population of 1400 people from 618 households were involved in a survey. Qualitative and quantitative analysis were made on result of questionnaire. This methodology was important as additional information like specific views, suggestions and recommendations with regards to land re-planning were collected. Moreover, during the survey, these recommendations were reasonably documented and verified.

### **Research methodology**

Land readjustment may be defined as an instrument used when developing land for modern urban use. The process aims to take rural or unplanned urban land, usually irregularly subdivided, and reallocate it, in the required balance, for public and private use according to town planning requirements (Yomralioglu and Parker, 1992) In other words, all land parcels within a project area are grouped together and a percentage of each parcel calculated to determine a contribution to public areas. This percentage depends on the size of the project area and the total size of required public-use areas. The remaining land is reallocated within the site blocks defined by the zoning plan (Muller, 1992)

International experience shows that urban re-planning is based on implementation of the following urban development and land management activities to ensure favorable living environment for residents. (JICA, 2008) Such as:

- 1. Renewed land management activity
- 2. Demolish old residential blocks that do not meet requirements and build new ones
- 3. Organize unsystematic settlements

Every country has its own land policy system, thus land re-planning documents are not globally standardized. Therefore, when applying one country's experience of land re-planning in other country, certain adaptations are made depending on local land related legal regulations. However, once the main principles are adapted to local traditions and peculiarities, the current land replanning can be applied in every country. Sato (1986), Seele (1982), Chou and Shen (1982) Based on land re-planning process, its steps and main principles, the methodology is identified in the following way.

- 1. Selection of project area
- 2. Retrieve permission to implement the project from city authority
- 3. Inform the public about project
- 4. Study main issues related to land re-planning in the project area
- 5. Draft detailed plan of the master plan
- 6. Calculations
- 7. Land exchange, land amalgamation
- 8. Land distribution, its registry
- 9. Develop land re-planning
- 10. Ensure community participation
- 11. Introduce the report to government institution
- 12. Define new boundaries, make cadastral mapping
- 13. Conduct new registry of land title
- 14. Final report

# Table 1. Urban land re-planning steps

In urban development, land readjustment helps to eliminate small parcels, irregular plots and land unsuitable for economic use. It creates usable site lots by consolidating, dividing and re-distributing land parcels back to the original land owners. During the land readjustment procedure, it also provides an opportunity to simply and inexpensively resurvey the land and demarcate new boundaries. Therefore, the practice of land readjustment can be considered as a method of strengthening the cadaster. Chou and Shen (1982) This requires calculations. In certain conditions, land re-planning calculation is based on the following three steps (Figure 1). Such as:

- 1. All land parcels are merged into one piece. This is calculated mathematically and not included in land registry.
- 2. Public use land such as road, square, green area, school and hospital area is excluded from this merged piece.
- 3. Project reserve area is divided again for development area and main land owners.

In order to apply these steps, the project area boundaries are identified using detailed base land map. According to the set boundaries, the size of all land parcels in project area is identified as defined in law. By this time, information such as immovable property parcel number, location, registration number, owner's name, address and other types of information required in the future should be collected.

Regarding project boundaries, if local land area is covered by the project in whole, the size is estimated as in the registry. Sometimes land parcels are divided into two or more pieces depending on the project area boundary. In such cases, only the parts that are within the project boundary is included.

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Land participation solution is made according to apartment estimations. Using this variable measurement, each land donation<sup>1</sup> ratio is estimated according to Figure 2 formula (2.1). This ratio represents the percentage of land donation by each land owner. The donation percentage is used for each land parcel that defines independent donation area.



Figure 2. Land re-planning calculation

CP= 1- ([B]/[P])	[2.1]
RP= 1- CP	[2.2]
CR <sub>j</sub> =CP*P <sub>j</sub>	[2.3]
NP <sub>i</sub> =P <sub>i</sub> - CR <sub>i</sub>	[2.4]

СР	=	Donation percentage to the project		
[P]	=	Total area of cadastral parcels		
[B]	=	Total area of new parcels		
RP	=	Percentage of land to be returned to land owners		
P <sub>i</sub>	=	Area of land parcels		
CR <sub>i</sub> N	=	Parcel donation area		
P <sub>i</sub>	=	Land area to be returned owners		
i=1,2,,n(n=total number of land parcels included in the project)				

# **Research results**

The research covered the total area of 6.5 hectares located in Ulaanbaatar city Bayangol district's 2<sup>nd</sup> khoroo territory, east of Railway college 16 story apartment block, with Piece avenue on the south

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<sup>&</sup>lt;sup>1</sup>Land area of citizens and economic entity within land re-planning boundary

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and west mountain channel on the north. This area was selected for re-planning project because it has apartment blocks with 1-5 stories, which were mainly built in 1950 and 1960s. In the process of research, the total of 618 household apartments were counted in the area. Considering the average number of household members in Mongolia (4.28) it is considered that the total of approximately 2645 people live in project area. According to the plan, by the year of 2030 the total population is estimated to be 3140 or 872 households. 7 out of 12 residential blocks with 388 household residents are estimated to be demolished to have apartment blocks for 640 households newly built. Within the re-planning project, it is considered that the total of 10 buildings including old apartments and buildings that do not meet re-planning spatial requirements, need to be demolished. This includes apartment blocks 7-1, 7-2, 7-3, 7-5, 7-6, 7-7, and 18a, kindergarten N66, Humun hospital and Mongol Business University. The total budget for demolishing these 10 buildings and implementing land acquisition works is estimated to be 14.2 billion MNT, including 7.1 billion for public building compensation, and 7.1 billion for building demolishing and temporary re-settlement expenses. This way the re-development area will be cleared to enable the construction of 4 block buildings in 3 sections.



In relation to demolishing of 7 buildings to build new apartment blocks, the security of land titles of building users were studied to reveal that out of total 22 buildings, 10 or those except public apartments had secure land titles. /Table 1/

State land title registry data								
N	Parcel number	Name citizen, legal entity	Registration number	Resolution number, date	Term /year/	Area size /m2/	Land use	Title type
	2	3	4	6	7	8	9	10
1	1619/0013	Sod-OnisCo.,Ltd	2608502	2013.10.30 A/977	5	485,3	Residential, service	Possession
2	1619/0011	66th kindergarten	9089926	2003.07.08 283	15	3858,4	Kindergarten	Possession
3	1619/0025	Humun med Co.,Ltd	2745593	2010.12.28 877	5	2151,2	Hospital	Possession
4	1619/0095	GurvanmunkhkhaanCo.,Ltd	2890801	2011.04.07 293	5	1260,8	Trade, service	Possession
5	1619/0028	TBD AnduudCo.,Ltd	2041251	2014.08.14 A/703	10	1479,5	Trade, service	Possession
6	1617/0088	AnuunsuvdCo.,Ltd	5160375	2008.06.13 295	5	135,5	Trade, service	Possession
7	1619/0128	P.Amartuvshin	NYU76013117	2013.04.16 A/397	5	126,3	Private housing	Possession
8	1619/0071	Mongol Business University	5200016	2013.09.05 A/828	5	3250,3	University	Possession
9	1617/0114	Nazu construction Co.,Ltd	5090199	2011,09,19 A/828	5	359,5	Residential, service	Possession
10	1619/0003	BiggoldCo.,Ltd	5782295	2015,01,20 A/53	2	1829,9	Services	Use

# Хүснэгт 1. Security status of land titles

The table shows that residents of apartment blocks are to be affected the most, because all service building owners have their titles secured. According to the detailed master plan, apartment blocks from 1 to 7 are planned to be demolished for new development, therefore, there's a need to estimate the protection of titles of 1400 people of over 400 households and related project compensations. According to the current land related set of laws, the Tenants' Association use land only for the purpose of maintenance, thus residents of the above apartment blocks have the only possibility to participate in the re-planning project by the area of apartment owned. In other words, their rights are limited by the size of apartment area. With this respect, the survey collected from the local residents show that 85% of total households prefer to receive new apartment in the same location, 10% exchange with other apartment and 5% receive compensation. In brief, due to the fact that land title of these residents is not secured, they are not entitled to receive post land re-planning benefits.

Therefore, it is important to ensure that residents impacted by the re-planning project receive the benefits and to secure the rights to implement the project. The way to resolve this issue is to have the land owned by these residents. International experience show that in countries like Japan and Germany, the land under and surrounding the building is owned in corresponding percentage by building owners. Thus, in order to mitigate negative impacts of land re-planning in Ulaanbaatar city and increase the benefits received by citizens, the proposal was developed to have land under apartment blocks owned by residents in accordance with the current laws and legislations of Mongolia.

# Review of current legislations regulating land under public purpose residential blocks:

"Construction law" chapter 3, provision 3.1.4 states: "Building, construction"- means 1. apartment blocks, buildings for public, private and industrial purpose, utilities and engineering networks such as power, communication lines, road, bridge, sewage and damns.

2. "Housing law" chapter 3, provision 3.1.1 states: "housing" means public and private **building**, dwelling and ger used for residential purpose;

"Law on Tenants Association's legal status and shared ownership property of public 3. purpose housing blocks" chapter 4, provision 4.1.1; "Housing privatization law" article 3, provision 1 states: "public purpose housing building" means building wholly or partially composed of four or more apartments;

4. "Law on Tenants Association's legal status and shared ownership property of public purpose housing blocks" chapter 4, provision 4.1.6 states: "surrounding area" means an area dedicated for tenants and owners of the related housing block such as green area, children's playground, shade arbor, pedestrian road, parking area, and equivalent other public use area.

5. "Law on Tenants Association's legal status and shared ownership property of public purpose housing blocks" chapter 15, provision 15.6 states: tenants when executing their rights to commonly own housing building shared ownership property and rights to possess and use housing block area and surrounding area, are prohibited to cause any interference to professional institutions in charge of engineering utility networks, equipment use, maintenance and services.

6. "Law on allocation of land to Mongolian citizens for ownership" chapter 5, provision 5.1.6.1 states: if land is possessed by a *citizen* according to a decision made by an authorized organization in accordance with procedures provided by legislation on land, and on the basis of a contract... for privatised buildings; and if this land belongs to the category of land provided in subparagraph 1.2. of this Article to be allocated for ownership; and the citizen in question wishes to own the land, the land must be sold to him/her for ownership;

"Law on allocation of land to Mongolian citizens for ownership" chapter 5, provision 7 5.1.2 states: allocation of land to Citizens for ownership shall consider and be based on total size and location of land provided for allocation by the Master and Detailed Urban Development Plans, General Land Management Plans of the city, urban district annual land management plans, decisions of Citizens Representatives Hurals made at respective levels of centers of region, regional base cities, aimag and soum centers and villages, as well as the number of citizens willing to own land;

"Law on allocation of land to Mongolian citizens for ownership" article 19, provision 8. 19.1.5 states: purchase of land stated in provision 5.1.6.1 of this law by its price;

9. "Law on allocation of land to Mongolian citizens for ownership" article 26, provision 26.1 states: general relations on land ownership by a citizen shall be regulated by Civil Code, and special relations shall be regulated by this law.

10. Appendix "Guidelines for implementation of Law on allocation of land to Mongolian citizens for ownership" section 2, item "x" of Government note N 22 of 2003 states: land under buildings and constructions allocated for public purpose housing /building fundament and public possession area/ shall not be privatized to a citizen; this provision content is interpreted as public purpose housing land shall not be owned by one citizen.

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Appendix "Guidelines for implementation of Law on allocation of land to Mongolian 11. citizens for ownership" section 2, item " $\pi$ " of Government note N 22 of 2003 states: If building has shared ownership by citizens, the land under such building shall be sold to these citizens for private ownership;

"Law on allocation of land to Mongolian citizens for ownership" chapter 5, provision 12. 5.1.6.1 that states "if land is possessed by a *citizen* according to a decision made by an authorized organization in accordance with procedures provided by legislation on land, and on the basis of a contract... for privatised buildings; and if this land belongs to the category of land provided in subparagraph 1.2. of this Article to be allocated for ownership; and the citizen in question wishes to own the land, the land must be sold to him/her for ownership" can be interpreted that land under public purpose housing /building construction/ shall be first possessed by a citizen, and then once land is possessed it can be sold for ownership to that citizen by its price as priority right. This indicates that allocating land under housing building for ownership for household purposes once, free of charge or for those who have already exercised this right once, purchase land by its price, is legally possible. The Constitution of Mongolia or Civil Code of Mongolia does not have any provisions that prohibit or limit this regulation.

In addition to legal factors, another issue is the size of land area to be allocated to apartment owners. Land under public housing buildings is not owned by any legal body but only the state, thus this factor creates burden to process of land re-planning. Moreover, legal violations occur with regards to protecting the rights of all tenants. Therefore, it is proposed to calculate the allocation of land under public housing buildings according to the following formula and register it in the state registration database.

Land under housing building should be calculated and allocated to the residents by the following formula.

$$S_i = S_j (\frac{S_t}{S_1 + S_2 + S_3 \dots + S_n})$$

 $S_{i^{-}}$  land area allocated to 1 apartment possessor ( $M^{2}$ )

 $S_1$ -housing building area ( $M^2$ )

 $S_{t}$ -housing building land area (fundament,  $M^{2}$ )

 $S_{i^{-}}$  i possessor's apartment area ( $M^{2}$ )

#### Model 1.

N	Apartment number	Entrance	Apartment size	Total land area	Size of balcony
1	Block 1 apartment 47	1	26.9	9.1	2.2
2	Block 1 apartment 48	1	31.2	10.6	3.1
3	Block 1 apartment 49	1	31.2	10.6	3.1
4	Block 1 apartment 50	1	33.3	11.3	1.8
5	Block 1 apartment 59	1	28.0	9.5	1.8
6	Block 1 apartment 52	1	28.0	9.5	1.8
7	Block 1 apartment 53	1	27.0	9.2	2.2
8	Block 1 apartment 70	1	26.9	9.1	2.3
9	Block 1 apartment 11	2	29.6	10	2.9
10	Block 1 apartment 21	2	29.4	10	4.7
11	Block 1 apartment 22	2	51.1	17	8.3
12	Block 1 apartment 24	2	32.8	11.2	2.4
13	Block 1 apartment 28	2	29.4	10	absent
14	Block 1 apartment 81	2	23.1	7.9	2.8
15	Block 1 apartment 31	2	45.6	15.5	2.4
16	Block 1 apartment 33	2	29.8	10.1	3.1
17	Block 1 apartment 34	2	31.6	11	3.0
Total		534.7		47.8	
Five floor area		2673.5			
Total building area		925.1			
	Corridor area		390.4		
	Land allocated for 1 M	12	0.34		

#### Survey sample area information

Conclusion

Based on the results of land re-planning done on the total area of 6.5 hectares located in the Capital city Bayangol District 2<sup>nd</sup> khoroo territory, the following conclusions are made. Such as:

- Considering urban development history, land management planning, urban planning, • population distribution and density, Ulaanbaatar city is estimated to the total population of 2 million in near 20 years. Therefore, based on the research results, the land re-planning is considered as the most effective method for managing urban development issues caused by the growth of population.
- Land ownership title of residents in housing blocks within the project boundary is not secured.
- The research shows that allocating land under public housing buildings to its tenants for ownership will not require any new laws or legislations to be adopted and can be implemented within the scope of existing laws, Government resolutions and guidelines.

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- Securing the title of land under public housing blocks enables the implementation of land re-• planning projects, and residents to get the benefits of the project.
- The model for allocating land equivalent to the apartment size owned by the tenants was developed using the formula for calculating the area of land for each possessor. This way, even if housing lifetime is exhausted, the tenant have legal capacity to participate in land replanning.

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